

**FIRST DAY - JULY 30, 2002**

**LEGISLATIVE JOURNAL**

**NINETY-SEVENTH LEGISLATURE  
SECOND SPECIAL SESSION**

**FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, July 30, 2002

**PRAYER**

The prayer was offered by Senator Dierks.

**ROLL CALL**

Pursuant to a proclamation by the Honorable Governor of the State of Nebraska, Mike Johanns, the Ninety-Seventh Legislature, Second Special Session of the Legislature of Nebraska, assembled in the George W. Norris Legislative Chamber of the State Capitol, at the hour of 3:00 p.m., Tuesday, July 30, 2002, and was called to order by President Heineman.

The roll was called and the following members were present:

Aguilar, Raymond	Erdman, Philip	Preister, Don
Baker, Thomas C.	Foley, Mike	Price, Marian L.
Beutler, Chris	Hartnett, D. Paul	Quandahl, Mark
Bourne, Patrick J.	Hlava, Fred	Raikes, Ronald E.
Brashear, Kermit	Hudkins, Carol L.	Redfield, Pam
Bromm, Curt	Janssen, Ray	Robak, Jennie
Brown, Pam	Jensen, Jim	Schimek, DiAnna R.
Bruning, Jon	Johnson, Joel T.	Schrock, Ed
Burling, Carroll	Jones, James E.	Smith, Adrian
Byars, Dennis M.	Kremer, Bob	Stuhr, Elaine
Chambers, Ernie	Kruse, Lowen	Suttle, Deborah S.
Connealy, Matt	Landis, David M.	Synowiecki, John F.
Coordsen, George	Maxwell, Chip	Thompson, Nancy
Cudaback, Jim D.	McDonald, Vickie D.	Tyson, Gene
Cunningham, Douglas D.	Pedersen, Dwite	Vrtiska, Floyd P.
Dierks, Merton L.	Pederson, Don	Wehrbein, Roger R.
Engel, L. Patrick		

**DECLARATION**

Pursuant to a proclamation issued by the Honorable Mike Johanns, Governor of Nebraska, we are here and now assembled in the

Ninety-Seventh Legislature, Second Special Session of the Nebraska Legislature. I, as President of the Legislature, declare that we are now open for the transaction of business.

(Signed) Dave Heineman  
President of the Legislature

### PROCLAMATION

WHEREAS, BY VIRTUE OF THE AUTHORITY VESTED in the Governor by Article IV, Section 8, of the Constitution of the State of Nebraska, I, Mike Johanns, as Governor of the State of Nebraska, believing that an extraordinary occasion has arisen, DO HEREBY CALL the Legislature of Nebraska to convene in extraordinary session at the State Capitol on July 30, 2002, at 3 p.m. for the purpose of considering and enacting legislation on only the following subjects:

1. To reduce or eliminate appropriations and reappropriations approved by the 97<sup>th</sup> Legislature;
2. To transfer cash funds to the State General Fund;
3. To eliminate or reduce certain transfers from the State General Fund;
4. To authorize, increase or make certain transfers to the State General Fund or the Nebraska Capital Construction Fund;
5. To increase or decrease certain cash fund, revolving fund, and federal fund appropriations;
6. To appropriate funds for the necessary expenses of the extraordinary session herein called;
7. To adopt statutory modifications to authorize the State Treasurer to transfer funds from Nebraska Environmental Trust Fund to an administratively created Department of Natural Resources Interstate Water Rights Cash Fund;
8. To adopt statutory modifications to authorize the State Treasurer to transfer funds from Nebraska Environmental Trust Fund to the Low-Level Radioactive Waste Cash Fund;
9. To authorize the State Treasurer to transfer \$4,100,000 from the General Fund to the Low-Level Radioactive Waste Cash Fund;
10. To adopt statutory modifications to change the scheduled amount of monthly payments for TEEOSA in FY2002-03;
11. To adopt statutory modifications to change the General Fund payment schedule for Educational Service Units;
12. To adopt statutory modifications to change certain Nebraska Educational Telecommunications Commission duties;
13. To adopt statutory modifications to limit educational expenditures for wards of the State or wards of the court and to establish requirements for educational programs within institutions;
14. To adopt statutory modifications to transfer the excess balance from the School Technology Fund, redirect receipts to the General Fund, and to provide other changes to the School Technology Fund and the School Weatherization Fund;

15. To adopt statutory modifications to the Nebraska Medicaid program, Nebraska Kids Connection program, Medicaid Managed Care program, and other medical and public assistance programs that will reduce General Fund appropriations;
16. To adopt statutory modifications to eliminate a reporting requirement prior to the adoption of rules and regulations governing a schedule of premiums, co-payments, and deductibles or limits as to the amount, scope, and duration for goods and services under medical assistance programs;
17. To adopt statutory modifications to create the Professional and Occupations Cash Fund, repeal other statutorily created cash funds for certain professions and occupations, transfer amounts from these funds to the newly created fund, and authorize the transfer of funds to the General Fund;
18. To adopt statutory modifications and an appropriation cap to the County Jail Reimbursement Assistance Program;
19. To modify intent language and earmarks accompanying appropriations approved by the 97<sup>th</sup> Legislature;
20. To adopt statutory modifications to allow a one-time fund transfer of \$500,000 from the Nebraska State Patrol Cash Fund to the General Fund;
21. To amend Laws 2000, LB 1216, Section 3 to authorize a transfer from the State Building Revolving Fund to the General Fund and to outright repeal Laws 2000, LB 1216, Section 6;
22. To adopt statutory modifications to the Information Technology Infrastructure Fund to permit the Supreme Court to expend \$716,800 of one-time costs from the fund, for projects already appropriated by the Legislature, in order to reduce current General Fund appropriations, and to authorize expenditure of these earmarked cash funds in FY2002-03 without the need for further administrative reviews or approvals;
23. To adopt statutory modifications to the State Building Renewal Assessment Fund to authorize a one-time transfer of \$4,894,200 from the fund to the Nebraska Capital Construction Fund (Fund 3800) to be appropriated to the Department of Correctional Services, for Program Number 916 - Nebraska Center for Women-York Construction and Expansion Project, in lieu of completing the project with General Funds;
24. To allow the statutory establishment or increase of court fees for the specific purpose of reducing current General Fund appropriations in Agency 5 - Supreme Court, and to deposit such new or increased court fees into a new cash fund, which may be statutorily created;
25. To allow increased transfers of \$128,400 from the State Employees Insurance Fund and \$21,600 from the Flexible Spending Trust Fund to the Health and Life Benefit Administration Cash Fund in order to finance a deficit appropriation approved in the 2002 regular legislative session;
26. To adopt statutory modifications changing certain budget submission and prioritization date requirements.

I direct that members of the Legislature of the State of Nebraska be notified of the convening of this extraordinary session by presenting to each of them a copy of this Proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand, and cause the Great Seal of the State of Nebraska to be affixed this twenty-fourth day of July, in the year of our Lord Two Thousand Two.

(Signed) Mike Johanns  
Governor

Attest:

(Signed) John A. Gale  
Secretary of State

### RESIGNATION

April 22, 2002

Governor Mike Johanns  
PO Box 94898  
Lincoln NE 68509-4898

Dear Governor Johanns:

Effective April 30, 2002, I hereby resign as the representative of the 49<sup>th</sup> District of the Nebraska Legislature.

Sincerely,  
(Signed) Wm. R. Wickersham  
49<sup>th</sup> District Senator  
Nebraska Legislature

c: Speaker Doug Kristensen  
Senator George Coordsen  
Patrick J. O'Donnell

### MESSAGE FROM THE GOVERNOR

June 6, 2002

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

Dear President, Speaker Kristensen and Members:

I hereby appoint Frederick E. Hlava to fill the vacancy in the 49<sup>th</sup> Legislative District created by the resignation of Senator Bob Wickersham.

This appointment will take effect immediately.

Sincerely,  
(Signed) Mike Johanns  
Governor

say/

### **GUBERNATORIAL APPOINTMENT**

Greetings To All Who Shall See These Presents Know Ye, that I, Mike Johanns, on behalf of the State of Nebraska and as Governor, do hereby appoint Frederick E. Hlava, Jr. as Senator for Legislative District #49.

Reposing special trust in your ability, integrity and patriotism, I do authorize and empower you to discharge the duties of said appointment, according to law.

This appointment shall take effect on June 6, 2002, and continue until January 7, 2003, provided you shall satisfactorily perform all the duties imposed by law.

(Signed) Mike Johanns  
Governor

(Signed) John A. Gale  
Secretary of State

### **MESSAGE FROM THE SECRETARY OF STATE**

July 22, 2002

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

Dear Mr. O'Donnell:

I hand you herewith the official appointment and oath of Fred Hlava, as a Member of the Legislature from the Forty-ninth Legislative District for the unexpired term of Wm. R. "Bob" Wickersham, resigned.

Sincerely,  
(Signed) John A. Gale  
Secretary of State

Enclosures

### **CERTIFICATE**

State of Nebraska

United States of America, )  
 ) ss. Department of State  
 State of Nebraska )

I, John A. Gale, Secretary of State of the State of Nebraska do hereby certify that Fred Hlava has been appointed as a Member of the Nebraska Unicameral Legislature from the Forty-ninth District for the unexpired term of Wm. R. "Bob" Wickersham. The term beginning June 6, 2002, shall continue until January 7, 2003, or such time as he shall satisfactorily perform all the duties imposed upon such officer by law, and until a successor is duly elected and qualified.

I further certify that the foregoing appointment was made by Governor Mike Johanns under the authority granted by the Constitution and by Section 32-566 of the Revised Statutes of Nebraska.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this Twenty-second day of July in the year of our Lord, two thousand and two.

(SEAL) John A. Gale, Secretary of State

**OFFICIAL OATH**

STATE OF NEBRASKA )  
 ) ss.  
 County of Lancaster )

"I, Fred E. Hlava, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Nebraska, and will faithfully discharge the duties of Member of the Legislature, District 49 according to the best of my ability, and that at the election at which I was chosen to fill said office, I have not improperly influenced in any way the vote of any elector, and have not accepted, nor will I accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company or person, or any promise of office, for any official act or influence (for any vote may give or withhold on any bill, resolution, or appropriation)."\*

(Signed) Fred E. Hlava

Subscribed in my presence and sworn to before me this 6<sup>th</sup> day of June, 2002.

(Signed) Greg Lemon  
 Deputy Secretary of State

(SEAL)

\*Constitution of the State of Nebraska, Article XV, Section One. For Executive, Judicial Officers and Members of the Legislature

**RESIGNATION**

June 17, 2002

The Honorable Mike Johanns  
Governor, State of Nebraska  
State Capitol  
Lincoln, Nebraska 68509

Dear Governor Johanns:

I resign my seat as the senator of the 37<sup>th</sup> Legislative District and as Speaker of the Nebraska Unicameral Legislature effective Sunday, June 30, 2002.

It has been an honor to serve Nebraska as a Senator and Speaker of the Legislature.

Sincerely,  
(Signed) Douglas A. Kristensen

**MESSAGE FROM THE GOVERNOR**

July 1, 2002

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

Dear Mr. President, Interim Speaker, and Members:

I hereby appoint Joel T. Johnson to the vacancy in the 37<sup>th</sup> Legislative district created by the resignation of Senator Kristensen. This appointment will take effect immediately.

Sincerely,  
(Signed) Mike Johanns  
Governor

say/

**GUBERNATORIAL APPOINTMENT**

Greetings To All Who Shall See These Presents Know Ye, that I, Mike Johanns, on behalf of the State of Nebraska and as Governor, do hereby appoint Joel T. Johnson, M.D. as a member of the Senator for Legislative District #37.

Reposing special trust in your ability, integrity and patriotism, I do authorize and empower you to discharge the duties of said appointment, according to law.

This appointment shall take effect on July 1, 2002, and continue until January 7, 2003, provided you shall satisfactorily perform all the duties imposed by law.

(Signed) Mike Johanns  
Governor

(Signed) John A. Gale  
Secretary of State

**MESSAGE FROM THE SECRETARY OF STATE**

July 22, 2002

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

Dear Mr. O'Donnell:

I hand you herewith the official appointment and oath of Joel T. Johnson, as a Member of the Legislature from the Thirty-seventh Legislative District for the unexpired term of Doug Kristensen, resigned.

Sincerely,  
(Signed) John A. Gale  
Secretary of State

Enclosures

**CERTIFICATE**

State of Nebraska

United States of America, )  
  ) ss.   Department of State  
State of Nebraska                )

I, John A. Gale, Secretary of State of the State of Nebraska do hereby certify that Joel T. Johnson has been appointed as a Member of the Nebraska Unicameral Legislature from the Thirty-seventh District for the unexpired term of Doug Kristensen. The term beginning July 1, 2002, shall continue until January 7, 2003, or such time as he shall satisfactorily perform all the duties imposed upon such officer by law, and until a successor is duly elected and qualified.



I further certify that the foregoing appointment was made by Governor Mike Johanns under the authority granted by the Constitution and by Section 32-566 of the Revised Statutes of Nebraska.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this Twenty-second day of July in the year of our Lord, two thousand and two.

(SEAL)

John A. Gale, Secretary of State

**OFFICIAL OATH**

STATE OF NEBRASKA )  
 ) ss.  
 County of Lancaster )

"I, Joel Johnson, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Nebraska, and will faithfully discharge the duties of Member of the Legislature, District 37 according to the best of my ability, and that at the election at which I was chosen to fill said office, I have not improperly influenced in any way the vote of any elector, and have not accepted, nor will I accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company or person, or any promise of office, for any official act or influence (for any vote may give or withhold on any bill, resolution, or appropriation)."\*

(Signed) Joel Johnson

Subscribed in my presence and sworn to before me this 1<sup>st</sup> day of July, 2002.

(Signed) John A. Gale  
 Secretary of State

(SEAL)

\*Constitution of the State of Nebraska, Article XV, Section One. For Executive, Judicial Officers and Members of the Legislature

**CERTIFICATE**

State of Nebraska

United States of America, )  
 ) ss.  
 State of Nebraska )

Department of State

I, John A. Gale, Secretary of State of the State of Nebraska do hereby certify that the attached is a true and correct copy of the Official Roster of members of the Nebraska Unicameral Legislature elected or appointed to serve in the Ninety-Seventh Legislature, Second Special Session, 2002.

Further, I hereby certify that the members so listed on the Official Roster attached hereto are the duly elected or appointed members of the Unicameral Legislature in the State of Nebraska for the Ninety-Seventh Legislature, Second Special Session, 2002.

Finally, I hereby certify that all election returns, abstracts, canvass and appointment records with reference to said members are on file in the office of the Secretary of State and are a matter of public record.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this Twenty-second day of July in the year of our Lord, two thousand and two.

(SEAL)

John A. Gale, Secretary of State

DISTRICT/NAME	ELECTED
1 Floyd P. Vrtiska	November 7, 2000
2 Roger R. Wehrbein	November 3, 1998
3 Jon C. Bruning	November 7, 2000
4 Kermit Brashear	November 3, 1998
5 Don Preister	November 7, 2000
6 Pam Brown	November 3, 1998
7 John F. Synowiecki	Appointed January 7, 2002
8 Patrick J. Bourne	November 3, 1998
9 Chip Maxwell	November 7, 2000
10 Deborah S. Suttle	November 3, 1998
11 Ernie Chambers	November 7, 2000
12 Pam Redfield	November 3, 1998
13 Lowen Kruse	November 7, 2000
14 Nancy Thompson	November 3, 1998
15 Ray Janssen	November 7, 2000
16 Matt Connealy	November 3, 1998
17 L. Patrick Engel	November 7, 2000
18 Douglas D. Cunningham	November 7, 2000
19 Gene Tyson	November 7, 2000
20 Jim Jensen	November 3, 1998
21 Carol L. Hudkins	November 7, 2000
22 Jennie Robak	November 3, 1998
23 Curt Bromm	November 7, 2000
24 Elaine Stuhr	November 3, 1998
25 Ronald E. Raikes	November 7, 2000
26 Marian L. Price	November 3, 1998

27	DiAnna R. Schimek	November 7, 2000
28	Chris Beutler	November 3, 1998
29	Mike Foley	November 7, 2000
30	Dennis M. Byars	November 3, 1998
31	Mark Quandahl	November 7, 2000
32	George Coordsen	November 3, 1998
33	Carroll Burling	November 7, 2000
34	Bob Kremer	November 3, 1998
35	Raymond Aguilar	November 7, 2000
36	Jim D. Cudaback	November 3, 1998
37	Joel T. Johnson	Appointed July 1, 2002
38	Ed Schrock	November 3, 1998
39	Dwite Pedersen	November 7, 2000
40	Merton L. Dierks	November 3, 1998
41	Vickie D. McDonald	Appointed August 10, 2001
42	Don Pederson	November 3, 1998
43	James E. Jones	November 7, 2000
44	Thomas C. Baker	November 3, 1998
45	D. Paul Hartnett	November 7, 2000
46	David M. Landis	November 3, 1998
47	Philip Erdman	November 7, 2000
48	Adrian Smith	November 3, 1998
49	Fred Hlava	Appointed June 6, 2002

**MOTION - Election of Officers**

Senator Coordsen moved that the following officers, recommended by the Executive Board, be elected to serve for the Ninety-Seventh Legislature, Second Special Session:

Clerk of the Legislature	Patrick J. O'Donnell
Assistant Clerk of the Legislature	Richard K. Brown
Sergeant at Arms	Lynne Haas

The motion prevailed.

**MOTION - Election of Speaker**

Senator Bourne moved to proceed to the election of the Speaker of the Legislature.

The motion prevailed.

Senator Bromm placed his name in nomination.

Senator Coordsen moved the nominations closed and a unanimous vote be cast for Senator Bromm.

The motion prevailed.

Senator Bromm was duly elected Speaker of the Legislature.

**MOTION - Escort Chief Justice**

Senator Hudkins moved that a committee of five be appointed to escort the Chief Justice of the Supreme Court to the Legislative Chamber for the purpose of administering the oath of office to the Speaker of the Legislature.

The motion prevailed.

The Chair appointed Senators Baker, Engel, Landis, Quandahl, and Price to serve on said committee.

The committee escorted the Chief Justice to the rostrum to administer the Oath of Office to the newly elected officer.

**OFFICER'S OATH OF OFFICE**

STATE OF NEBRASKA )  
                               ) ss.  
LANCASTER COUNTY )

I do solemnly swear (or affirm) that I will support the Constitution of the United States, the Constitution of the State of Nebraska, and faithfully discharge the duties of my office to the best of my ability, so help me God.

Speaker

Curt Bromm

The committee escorted the Chief Justice from the Chamber.

**MOTION - Notify Governor**

Senator Schimek moved that a committee of five be appointed to notify the Governor that the Legislature is now convened, organized, and ready for the transaction of business and to return with any message the Governor may have for this, the Ninety-Seventh Legislature, Second Special Session of the Nebraska Legislature.

The motion prevailed.

The Chair appointed Senators Brown, Jensen, Janssen, Stuhr, and Smith to serve on said committee.

The committee returned and escorted Governor Mike Johanns to the rostrum where he delivered a message to the members.

The committee escorted Governor Johanns from the Chamber.

**MESSAGES FROM THE GOVERNOR**

April 15, 2002

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

Dear Mr. President, Speaker Kristensen and Members:

Contingent upon your approval, the following individual has been reappointed to the Nebraska Information Technology Commission.

APPOINTEE:

L. Merrill Bryan Jr., 16302 Page St, Omaha NE 68118

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

say/

May 1, 2002

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

Dear Mr. President, Speaker Kristensen and Members:

Contingent upon your approval, the following individual has been appointed to the Tax Equalization and Tax Review Commission.

APPOINTEE:

William R. Wickersham, PO Box 156, Harrison NE 69346

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

say/

May 1, 2002

President, Speaker Kristensen,

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

Dear Mr. President, Speaker Kristensen and Members:

Contingent upon your approval, the following individuals have been appointed to the Commission for the Deaf and Hard of Hearing.

APPOINTEES:

\*Eleanor Propp, 7931 Lillibridge, Lincoln NE 68506

\*Marian Reyburn, 1450 102<sup>nd</sup> Ave, Omaha NE 68114-1120

Daniel Darnall, 115 N 33<sup>rd</sup> St # 2, Omaha NE 68131

The aforementioned names are respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

say/

\*Reappointment

May 6, 2002

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

Dear Mr. President, Speaker Kristensen and Members:

Contingent upon your approval, the following individuals have been appointed to the Nebraska Advisory Commission for Compulsive Gambling.

APPOINTEES:

Sherrie A. Geier, 5306 Tipperary Trail, Lincoln NE 68512

Lisa Madson Jones, 1110 West 4<sup>th</sup> St, North Platte NE 69101

Steven R. Jung, 2610 S 60<sup>th</sup> St # 11, Lincoln NE 68506

The aforementioned names are respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

say/

June 25, 2002

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

Dear Mr. President, Speaker Kristensen and Members:

Contingent upon your approval, the following individual has been appointed to the Nebraska Ethanol Board.

APPOINTEE:

Mark McColley, 8510 N 46<sup>th</sup> Ave, Omaha NE 68152

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

say/

June 21, 2002

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

Dear Mr. President, Speaker Kristensen and Members:

Contingent upon your approval, the following individual has been appointed to the Environmental Trust Board.

APPOINTEE:

Robert F. Krohn, 1427 S 85<sup>th</sup> Ave, Omaha NE 68124

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

say/

July 26, 2002

President, Interim Speaker,  
and Members of the Legislature  
State Capitol Building

Lincoln, NE 68509

Dear Mr. President, Interim Speaker, and Members:

Contingent upon your approval, the following individual has been appointed to the Nebraska Educational Telecommunications Commission.

APPOINTEE:

Michael S. Kneale, 83 Ponderosa Dr, Grand Island NE 68803

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

say/

July 26, 2002

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

Dear Mr. President, Interim Speaker, and Members:

Contingent upon your approval, the following individual has been appointed to the Board of Emergency Medical Services.

APPOINTEE:

Diane L. Yetter, 909 N 150<sup>th</sup> St, Omaha NE 68154

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

say/

#### **ATTORNEY GENERAL'S OPINION**

Opinion #02017

DATE: July 10, 2002

SUBJECT: LB 687, Vesting Requirements for Members of the  
State Employees Retirement System of the State of  
Nebraska



REQUESTED BY: Anna J. Sullivan, Director  
Nebraska Public Employees Retirement Systems

WRITTEN BY: Don Stenberg, Attorney General  
Fredrick F. Neid, Assistant Attorney General

In connection with your responsibilities as Director of the Nebraska Public Employees Retirement Systems, you have requested an opinion of the Attorney General addressing the vesting requirements for members participating in the State Employees Retirement System following enactment of LB 687. The specific question you appear to ask is whether the twelve months of service (employment), required of members for participation in the retirement system, is included within the three year vesting period established in Neb. Rev. Stat. §84-1321 as amended by 2002 Neb. Laws LB 687, §28.

By way of background, LB 687 was enacted during the 2002 second session of the Legislature and signed by the Governor on April 17, 2002. Among other things, LB 687 amended provisions of the State Employees Retirement Act, Neb. Rev. Stat. §§84-1301 to 84-1331 (1999, Cum. Supp. 2000, Supp. 2001, and as amended by 2002 Neb. Laws LB 687)(the Act) concerning eligibility and vesting requirements. The State Employees Retirement System is the retirement benefit plan established for Nebraska state employees created under the provisions of the Act. The eligibility, participation, and vesting requirements for members are set forth in provisions of the Act. Thus, the issue presented by your question is one of statutory construction. As with any question of statutory construction, we begin with the language of the legislative acts.

### LB 687 AMENDMENTS

The vesting requirements for members participating in the retirement system are reposed in §84-1321. Following amendment by LB 687, § 84-1321 states in relevant part:

- (3) Members of the retirement system shall be vested after a total of three years participation in the system, including eligibility and vesting credit.

(Emphasis added).

Prior to amendment, § 84-1321 in part stated:

- (3) Members of the retirement system shall be vested after a total of five years of (a) participation in the system, plus (b) eligibility and vesting credit.

(Emphasis added).

In addition to changing the vesting period, LB 687 also changed the eligibility requirements for employee participation in the retirement system. The requirements are set out in Neb. Rev. Stat. § 84-1307 as amended by 2002 Neb. Laws LB 687, §20 in the following respects:

- (1) The membership of the retirement system shall be composed of all persons who are or were employed by the State of Nebraska and who maintain an account balance with the retirement system.
- (2) The following employees of the State of Nebraska are authorized to participate in the retirement system:
  - (a) All permanent full-time employees who have twelve continuous months of service shall begin participation in the retirement systems; and
  - (b) All permanent full-time or permanent part-time employees, who have twelve months of service within a five year period and who have attained the age of twenty, may exercise the option to begin participation in the retirement system...

Before amendment, the eligibility requirements were set out in § 84-1307 as follows:

- (1) The membership of the retirement system shall be composed of (a) all permanent full-time employees who have twenty-four continuous months of service and who have attained the age of thirty, and (b) all permanent full-time or permanent part-time employees who have twelve months of service within a five-year period, who have attained the age of twenty, and who may exercise the option to join the retirement system...

### **APPLICATION OF STATUTORY PROVISIONS**

The LB 687 amendments changed the vesting period to three years. To determine whether the twelve month eligibility period is included within the three year vesting period, it is necessary to ascertain the meaning of the phrase, "eligibility and vesting credit," as that term is meant and used in § 84-1321. The term is defined in Neb. Rev. Stat. § 84-1301 (Cum. Supp. 2000) which in part states:

- (4) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska governmental plan for purposes of determining membership in the system and vesting the employer account.

The term, "eligibility and vesting credit" is defined in § 84-1301 to include the twelve month eligibility period. The statutory language describes the credit as participation in a Nebraska governmental plan for the purpose

of determining membership in the retirement system as well as for the purpose of determining vesting. And, the retirement system is a Nebraska governmental plan. Accordingly, we conclude that the twelve month eligibility period is included within the three year vesting period established in § 84-1321 as amended by LB 687.

The language used in § 84-1321 before and after amendment, considered in its plain and ordinary sense, supports the conclusion that the eligibility and vesting credit is intended to be part of the three year vesting requirement. In discerning the meaning of statute, a court must determine and give effect to the purpose and intent of the Legislature, as ascertained from the entire language of the statute considered in its plain, ordinary, and popular sense, as it is the court's duty to discover, if possible, the Legislature's intent from the language of the statute itself. *In re Referral of Lower Platte South Natural Resources Dist.*, 261 Neb. 90, 621 N.W.2d 299 (2001); *Creighton St. Joseph Regional Hospital v. Nebraska Tax Equalization and Review Com'n*, 260 Neb. 905, 620 N.W.2d 90 (2000).

The word, "plus," was used in § 84-1321 with reference to the eligibility and vesting credit prior to amendment. The word, "plus," is commonly understood to mean "an added or extra quantity or thing." After amendment, the word "including," is used with reference to the eligibility and vesting credit. The word, "include," considered in its plain and ordinary sense, means "to have as a part of a whole; to contain, comprise." See Webster's New Universal Unabridged Dictionary (2d Ed. 1983).

### LEGISLATIVE HISTORY

It is appropriate to review the legislative history to ascertain the meaning of a statute. Of course, a statute is open to construction when the language used requires interpretation or may reasonably be considered to be ambiguous. *Kimball v. Nebraska Department of Motor Vehicles*, 255 Neb. 430, 586 N.W.2d 439 (1998); *State ex rel. City of Elkhorn v. Haney*, 252 Neb. 788, 566 N.W.2d 771 (1997). And, the legislative history of the act in question may be examined to ascertain the intent of the Legislature. *State ex rel. Stenberg v. Moore*, 258 Neb. 199, 602 N.W.2d 465 (1999); *Omaha Public Power District v. Nebraska Department of Revenue*, 248 Neb. 518, 537 N.W. 312 (1995).

The legislative history of LB 687 resolves any doubt as to the vesting requirement and legislative intent. The Legislative Retirement Systems Committee's records include the following as a statement of purpose for the Bill:

Explanation of amendments, if any:

... We further added a provision that will accelerate the vesting schedule to a total of 3 years rather than the current 6 years.

## Section By Section Summary:

Section 14: Vesting is shortened from five years to three years, including both eligibility and vesting credit.

Committee on LB 687, 97th Neb. Leg., 2d Sess., Nebraska Retirement Systems Committee Statement, 2, 4.

Statements made during the floor debates are also instructive and reflect that the vesting period is to be three years which includes the one year eligibility period. The Committee records include the following statement:

Currently, employees must work for one year before they are eligible to participate in the retirement plan. After they have contributed to the retirement plan for five years, they vest in both their employee and employer accounts. In essence, all state and county employees now must work for six years before vesting. Under LB 687, the employees would vest in the total of three years. They would work one year and then could vest after contributing for two years rather than the current five.

Floor Debate on LB 687, 97th Neb. Leg. 2d Sess. 11461 (March 12, 2002) (Statement of Sen. Schrock).

For these reasons, it is our opinion that the three year vesting period of § 84-1321 following amendment by LB 687, includes the twelve month eligibility period and two years of participation in the retirement system as a contributing member. It is further our view that the vesting period established by the LB 687 amendments should be implemented by the Public Employees Retirement Systems from the date of passage of LB 687 into law.

A legislative act passed with an emergency clause goes into effect the day following its approval by the Governor. *Jaksha v. State*, 241 Neb. 106, 486 N.W.2d 858 (1992). LB 687 was passed with the emergency clause and therefore, went into effect the day following its approval by the Governor, April 18, 2002.

Sincerely,  
DON STENBERG  
Attorney General  
(Signed) Fredrick F. Neid  
Assistant Attorney General

21-203-09

## REPORTS

The following reports were received by the Legislature:

**Athletic Commission, State**

Revised Rules and Regulations Chapter 3 "Fee Schedule"

**Auditor of Public Accounts**

Audit reports for the following:

- Banking and Finance, Department of, FY 2001
- Blind and Visually Impaired, Commission for the, FY 2001
- Economic Development, Department of, FY 2001
- Engineers and Architects, Board of, FY 2001
- Environmental Trust Board, FY 2001
- Fire Marshal, State, FY 2001
- Game and Parks Commission, FY 2001
- Health and Human Services, Department of, Program 33 - Administration, FY 2001
- Health and Human Services Finance and Support, Department of, Program 341 - Administration, FY 2001
- Health and Human Services System - Program 374 - Kearney Youth Rehabilitation and Treatment Center, FY 2001
- Investment Council, FY 2001 and Period 7/1/01 - 1/31/02
- Real Estate Commission, FY 2001
- Rural Development Commission, FY 2001
- Advisory Letter of the Health and Human Services System - Fixed Assets - Statewide Inventory System (SWIS) - 7/1/00 - 11/20/01 and Computer Asset Management System (CAMS) - 7/1/00 - 2/15/02

**Education, Department of**

School Finance Review Committee 2002 Annual Report

**Health and Human Services System**

- Community Service Program Employable General Assistance Recipients Annual Report
- Medicaid Managed Care Program Annual Report
- Office of the System Advocate Quarterly Report, January - March 2002 and April - June 2002
- Report - Number of adults declared ineligible for cash assistance under Section 68-1723
- Report - Status of a federal state plan amendment to the Medicaid Program

**Investment Finance Authority**

- 1999 Series A-1, A-2, B-1, B-2, C-1, C-2, D-1 and D-2 Community Development Loan Notes (City of Lincoln Program-1999), Quarterly Reports for April and July 2002
- 2002 Multiple Series Community Development Loan Notes (City of Lincoln Program-2002)
- Single Family Housing Revenue Bonds Series 2000 EFG and General Obligation Bonds Series 2000 G.O.-11
- Single Family Housing Revenue Bonds Series 2002 ABC and General Obligation Bonds Series 2002 G.O.-14

**Legislative Fiscal Office**

- Biennial Budget Report for FY2001-02 and FY2002-03 (Revised during 2002 Legislative Session)
- Certification of General Fund net receipts for fiscal year beginning July 1,

2002. Monthly receipt estimates derived from the annual net receipt estimate of the Economic Forecasting Advisory Board produced February 22, 2002. (Prepared jointly by the Department of Revenue and Legislative Fiscal Analyst)

**Motor Vehicles, Department of**

2001 Annual Report, January 1, 2001 to December 31, 2001

**Policy Research Office, Governor's**

Municipal Natural Gas Regulation Revolving Loan Fund Quarterly Report, January 1, 2002 through March 31, 2002 and April 1, 2002 through June 30, 2002

**Retirement Systems, Public Employees**

County Equal Retirement Benefit Fund, Actuarial Valuation Results as of January 1, 2002 for Fiscal Year Ending June 30, 2003

State Equal Retirement Benefit Fund, Actuarial Valuation Results as of January 1, 2002 for State Fiscal Year Ending June 30, 2003

**Revenue, Department of**

Auditor of Public Accounts Audit Report for Fiscal Year ended June 30, 2001

Certification of General Fund net receipts for fiscal year beginning July 1, 2002. Monthly receipt estimates derived from the annual net receipt estimate of the Economic Forecasting Advisory Board produced February 22, 2002. (Prepared jointly by the Department of Revenue and Legislative Fiscal Analyst)

**Roads, Department of**

Board of Examiners for County Highway and City Street Superintendents Annual Report, January 1, 2001 to December 31, 2001

Board of Public Roads Classifications and Standards Minutes for March, April, May, and June 2002

State Highway Commission Quarterly Report for period ending March 31, 2002

## COMMUNICATION

Received a copy of Senate Joint Resolution 3, Enrolled Joint Resolution 2 from the State of Wyoming relating to an amendment to the Constitution of the United States on the subject of judicial taxation.

## BILLS ON FIRST READING

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

**LEGISLATIVE BILL 1.** Introduced by Speaker Bromm, 23; at the request of the Governor.

A BILL FOR AN ACT relating to state government; to amend section 81-2004.02, Reissue Revised Statutes of Nebraska, section 81-15,174, Revised Statutes Supplement, 2000, section 81-188.01, Revised Statutes Supplement, 2000, as amended by Laws 2002, LB 1310, section 13, section 81-1195, Revised Statutes Supplement, 2000, as amended by Laws

2002, LB 1105, section 297, section 9-812, Revised Statutes Supplement, 2001, as amended by Laws 2001, First Special Session, LB 3, section 1, Laws 2002, LB 1105, section 418, and Laws 2002, LB 1310, section 3, and Laws 2000, LB 1216, section 3; to provide for, change, and eliminate transfers of funds; to eliminate a cash fund; to harmonize provisions; to repeal the original sections; to outright repeal section 83-905.01, Reissue Revised Statutes of Nebraska, and Laws 2000, LB 1216, section 6; and to declare an emergency.

**LEGISLATIVE BILL 2.** Introduced by Speaker Bromm, 23; at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2001, LB 539, sections 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19; Laws 2001, LB 540, section 1; Laws 2001, LB 542, sections 30, 31, 32, 39, 41, 46, 50, 54, and 55; Laws 2001, LB 543, sections 46, 100, 108, 114, 115, 140, 165, 175, and 240; Laws 2001, First Special Session, LB 1, sections 15, 23, 24, 34, 35, 44, 52, 55, 66, 68, 77, 115, 122, 125, 134, 138, and 147; Laws 2002, LB 1062A, section 2; Laws 2002, LB 1309, sections 16, 19, 23, 24, 25, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 155, 157, 158, 161, 163, 164, 165, 166, 167, 168, 169, 171, 172, 173, and 174; and Laws 2001, First Special Session, LB 1, section 49, as amended by Laws 2002, LB 898A, section 1, and Laws 2002, LB 1309, section 52; to define terms; to appropriate and reappropriate funds; to state intent; to change appropriations as prescribed; to change transfers; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 3.** Introduced by Speaker Bromm, 23; at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the expenses incurred during the Ninety-seventh Legislature, Second Special Session, 2002; and to declare an emergency.

**LEGISLATIVE BILL 4.** Introduced by Speaker Bromm, 23; at the request of the Governor.

A BILL FOR AN ACT relating to state aid; to amend section 79-1022, Revised Statutes Supplement, 2000, as amended by Laws 2002, LB 898, section 12; to change provisions relating to state aid payments; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 5.** Introduced by Speaker Bromm, 23; at the request of the Governor.

A BILL FOR AN ACT relating to educational service units; to amend section 79-1241, Revised Statutes Supplement, 2000; to change provisions relating to distribution of core services funds; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 6.** Introduced by Speaker Bromm, 23; at the request of the Governor.

A BILL FOR AN ACT relating to schools; to amend section 81-1634, Reissue Revised Statutes of Nebraska, and section 79-1310, Revised Statutes Supplement, 2001; to change provisions relating to and provide for termination of the School Technology Fund; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 7.** Introduced by Speaker Bromm, 23; at the request of the Governor.

A BILL FOR AN ACT relating to educational telecommunications; to amend section 79-1316, Revised Statutes Supplement, 2000; to change provisions relating to broadcast production facilities; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 8.** Introduced by Speaker Bromm, 23; at the request of the Governor.

A BILL FOR AN ACT relating to public assistance; to amend section 68-1019.01, Reissue Revised Statutes of Nebraska, sections 68-1019, 68-1037, and 68-1713, Revised Statutes Supplement, 2000; and section 68-1020, Revised Statutes Supplement, 2001; to change provisions relating to medical assistance and health care services as prescribed; to harmonize provisions; to repeal the original sections; to outright repeal section 68-1019.03, Reissue Revised Statutes of Nebraska; and to declare an emergency.

**LEGISLATIVE BILL 9.** Introduced by Speaker Bromm, 23; at the request of the Governor.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 44-32,180 and 44-4726, Reissue Revised Statutes of Nebraska, section 77-912, Revised Statutes Supplement, 2000, and section 77-908, Revised Statutes Supplement, 2001; to change insurance premium tax provisions; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 10.** Introduced by Speaker Bromm, 23; at the request of the Governor.



A BILL FOR AN ACT relating to health and human services; to amend sections 71-1,132.48, 71-3,173, 71-1336, 71-1760, 71-1786, and 71-6101, Reissue Revised Statutes of Nebraska, sections 11-201, 71-121.01, 71-157, 71-158, 71-1,227, 71-1,235, 71-1,238, 71-1,239.01, 71-1,240, 71-1,278, and 71-1727, Revised Statutes Supplement, 2000, sections 28-406, 28-410, 69-305, 71-162, 71-1,107.26, 71-1,143.01, 71-1,147.42, 71-1,147.64, 71-1,194, 71-1,344, 71-1,345, 71-2819, and 71-7420, Revised Statutes Supplement, 2001, section 71-382, Revised Statutes Supplement, 2000, as amended by Laws 2002, LB 241, section 21, and Laws 2002, LB 1021, section 40, section 71-1735, Revised Statutes Supplement, 2000, as amended by Laws 2002, LB 1021, section 62, section 71-6061, Revised Statutes Supplement, 2000, as amended by Laws 2002, LB 1062, section 60, and section 71-101, Revised Statutes Supplement, 2001, as amended by Laws 2002, LB 1021, section 4, and Laws 2002, LB 1062, section 11; to create and eliminate funds; to provide for fund transfers; to change the distribution of funds; to harmonize provisions; to repeal the original sections; to outright repeal sections 71-1,132.22, 71-1,132.47, 71-384, 71-4718, and 71-6116, Reissue Revised Statutes of Nebraska, sections 71-1,206.13, 71-1,237, 71-1,243, 71-1,283, 71-1,288, and 71-1,334, Revised Statutes Supplement, 2000, sections 71-1,150 and 71-1,350, Revised Statutes Supplement, 2001, section 71-381, Revised Statutes Supplement, 2000, as amended by Laws 2002, LB 241, section 20; and to declare an emergency.

**LEGISLATIVE BILL 11.** Introduced by Speaker Bromm, 23; at the request of the Governor.

A BILL FOR AN ACT relating to county jails; to amend section 47-121.01, Reissue Revised Statutes of Nebraska, and section 47-119.01, Revised Statutes Supplement, 2001; to change provisions relating to county jail reimbursement for state prisoners; to provide duties for the Department of Correctional Services; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 12.** Introduced by Speaker Bromm, 23; at the request of the Governor.

A BILL FOR AN ACT relating to the state budget; to amend sections 81-132, 81-1113, 81-2227, and 85-1416, Reissue Revised Statutes of Nebraska, and section 2-15,106, Revised Statutes Supplement, 2000; to change filing dates; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 13.** Introduced by Brashear, 4.

A BILL FOR AN ACT relating to courts; to amend section 29-2709, Revised Statutes Supplement, 2001, as amended by Laws 2002, LB 876, section 63; to create a fund; to assess a fee for each court proceeding; to change provisions relating to uncollectible costs; to appropriate funds; to

reduce appropriations; to provide an operative date; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 14.** Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to education; to amend section 79-101, Revised Statutes Supplement, 2000, and section 79-215, Revised Statutes Supplement, 2001, as amended by Laws 2002, LB 1105, section 503; to provide for interim education schools; to provide duties for the Department of Health and Human Services and the State Department of Education; to define terms; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 15.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to public transportation; to amend section 13-1210, Reissue Revised Statutes of Nebraska; to change state funding for public transportation; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 16.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to the Highway Trust Fund; to amend section 81-2004.02, Reissue Revised Statutes of Nebraska, and section 39-2215, Reissue Revised Statutes of Nebraska, as amended by Laws 2002, LB 989, section 7; to change allocation of the fund; to provide an operative date; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 17.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to cigarette tax; to amend section 37-351, Reissue Revised Statutes of Nebraska, and section 77-2602, Revised Statutes Supplement, 2001, as amended by Laws 2002, LB 1085, section 1; to change cigarette tax distribution; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 18.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to motor vehicle license plates; to amend section 60-311.01, Revised Statutes Supplement, 2000; to eliminate a sticker requirement; to harmonize provisions; to repeal the original section; and to declare an emergency.

**EASE**

The Legislature was at ease from 4:02 p.m. until 4:49 p.m.

**REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB 1	Appropriations
LB 2	Appropriations
LB 3	Appropriations
LB 4	Education
LB 5	Education
LB 6	Education
LB 7	Education
LB 8	Health and Human Services
LB 9	Revenue
LB 10	Health and Human Services
LB 11	Judiciary
LB 12	Appropriations
LB 13	Judiciary
LB 14	Education
LB 15	Transportation and Telecommunications
LB 16	Transportation and Telecommunications
LB 17	Revenue
LB 18	Transportation and Telecommunications

Bryan Jr., L. Merrill - Nebraska Information Technology Commission -  
Transportation and Telecommunications

Darnall, Daniel - Commission for the Deaf and Hard of Hearing - Health  
and Human Services

Geier, Sherrie A. - Nebraska Advisory Commission on Compulsive  
Gambling - General Affairs

Jones, Lisa Madson - Nebraska Advisory Commission on Compulsive  
Gambling - General Affairs

Jung, Steven R. - Nebraska Advisory Commission on Compulsive  
Gambling - General Affairs

Kneale, Michael S. - Nebraska Educational Telecommunications  
Commission - Education

Krohn, Robert F. - Nebraska Environmental Trust Board - Natural  
Resources

McColley, Mark - Nebraska Ethanol Board - Natural Resources

Propp, Eleanor - Commission for the Deaf and Hard of Hearing - Health and Human Services

Reyburn, Marian - Commission for the Deaf and Hard of Hearing - Health and Human Services

Wickersham, William R. - Tax Equalization and Review Commission - Revenue

Yetter, Diane L. - Board of Emergency Medical Services - Health and Human Services

(Signed) George Coordsen, Chairperson  
Legislative Council  
Executive Board

### NOTICE OF COMMITTEE HEARINGS

#### Appropriations

Room 1524

LB 1	Thursday, August 1, 2002	9:00 a.m.
LB 2	Thursday, August 1, 2002	9:00 a.m.
LB 3	Thursday, August 1, 2002	9:00 a.m.
LB 12	Thursday, August 1, 2002	9:00 a.m.

Thursday, August 1, 2002 9:00 a.m.

AGENCY 14 - Public Service Commission  
AGENCY 27 - Dept. of Roads  
AGENCY 18 - Dept. of Agriculture  
AGENCY 29 - Dept. of Natural Resources  
AGENCY 31 - Military  
AGENCY 21 - State Fire Marshal  
AGENCY 23 - Dept. of Labor  
AGENCY 33 - Game & Parks Commission  
AGENCY 52 - State Board of Agriculture  
AGENCY 84 - Dept. of Environmental Quality  
AGENCY 90 - Nebraska Railway Council

Thursday, August 1, 2002 1:30 p.m.

AGENCY 5 - Supreme Court  
AGENCY 11 - Attorney General  
AGENCY 15 - Board of Pardons  
AGENCY 28 - Dept. of Veterans' Affairs  
AGENCY 34 - Nebraska Library Commission  
AGENCY 46 - Correctional Services  
AGENCY 54 - State Historical Society  
AGENCY 64 - State Patrol  
AGENCY 69 - Nebraska Arts Council  
AGENCY 78 - NE Commission on Law Enforcement  
AGENCY 94 - Comm. on Public Advocacy

(Signed) Roger R. Wehrbein, Chairperson

**ADJOURNMENT**

At 4:50 p.m., on a motion by Speaker Bromm, the Legislature adjourned until 10:00 a.m., Wednesday, July 31, 2002.

Patrick J. O'Donnell  
Clerk of the Legislature



**SECOND DAY - JULY 31, 2002****LEGISLATIVE JOURNAL****NINETY-SEVENTH LEGISLATURE  
SECOND SPECIAL SESSION****SECOND DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, July 31, 2002

**PRAYER**

The prayer was offered by Senator Jones.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., President Heineman presiding.

The roll was called and all members were present except Senator Bruning who was excused.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the first day was approved.

**NOTICE OF COMMITTEE HEARINGS****Judiciary**  
Room 1507

LB 11	Thursday, August 1, 2002	9:00 a.m.
LB 13	Thursday, August 1, 2002	9:00 a.m.

(Signed) Kermit A. Brashear, Chairperson

**Revenue**  
Room 1507

LB 9	Thursday, August 1, 2002	1:30 p.m.
LB 17	Thursday, August 1, 2002	1:30 p.m.

Thursday, August 1, 2002	1:30 p.m.
William R. Wickersham - Tax Equalization and Review Commission	

(Signed) George Coordsen, Vice Chairperson

**Health and Human Services**

Room 1510

LB 10	Friday, August 2, 2002	9:00 a.m.
LB 8	Friday, August 2, 2002	9:00 a.m.

Room 2102

Friday, August 2, 2002	1:15 p.m.
Diane L. Yetter - Board of Emergency Medical Services	
Daniel Darnall - Commission for the Deaf and Hard of Hearing	
Eleanor Propp - Commission for the Deaf and Hard of Hearing	
Marian Reyburn - Commission for the Deaf and Hard of Hearing	

(Signed) Jim Jensen, Chairperson

**Education**

Room 1525

LB 4	Friday, August 2, 2002	1:30 p.m.
LB 5	Friday, August 2, 2002	1:30 p.m.
LB 6	Friday, August 2, 2002	1:30 p.m.
LB 7	Friday, August 2, 2002	1:30 p.m.
LB 14	Friday, August 2, 2002	1:30 p.m.

Friday, August 2, 2002	1:30 p.m.
Michael S. Kneale - Nebraska Educational Telecommunications Commission	

(Signed) Ron Raikes, Chairperson

**Natural Resources**

Room 2102

Friday, August 2, 2002	9:15 a.m.
Robert F. Krohn - Nebraska Environmental Trust Board	
Mark McColley - Nebraska Ethanol Board	

(Signed) Ed Schrock, Chairperson

**Transportation and Telecommunications**

Room 1507

LB 18	Monday, August 5, 2002	9:00 a.m.
LB 15	Monday, August 5, 2002	9:00 a.m.
LB 16	Monday, August 5, 2002	9:00 a.m.

(Signed) Jim Jones, Vice Chairperson



**ATTORNEY GENERAL'S OPINION**Opinion #02019

DATE: July 30, 2002

SUBJECT: Arrest Powers of Security Personnel

REQUESTED BY: Senator Ray Aguilar  
District No. 35

WRITTEN BY: Don Stenberg, Attorney General  
George R. Love, Assistant Attorney General

You have asked whether a security guard is required to arrest someone who has committed a crime. Neb. Rev. Stat. § 29-401 allows that "Every sheriff, deputy sheriff, marshal, deputy marshal, security guard, police officer, or peace officer as defined in subdivision (15) of section 49-801 shall arrest and detain..." If read strictly, the wording of Neb. Rev. Stat. § 29-401 appears to give security guards the power of arrest. However, such a literal interpretation is inconsistent with Nebraska statutes and case law. Therefore, Neb. Rev. Stat. § 29-401 should not be interpreted to convey powers of arrest, whether obligatory or voluntary, upon security guards. Neb. Rev. Stat. § 29-401 should instead be read with the understanding that security guards "could" have the power of arrest if such power was specifically granted to security guards by the State Legislature.

The origin of Neb. Rev. Stat. § 29-401 can be traced back to the Nebraska General Statutes of 1873, c. 58, § 283, p. 789. In 1873, the statute read that "Every sheriff, deputy sheriff, constable, marshal, or deputy marshal, watchman, or police officer shall arrest and detain any person found violating any law of this state, or any legal ordinance of any city or incorporated village, until a legal warrant can be obtained." While watchman is defined as someone who is assigned to watch or guard, it is unclear why the term was included in the original statute.

The language of the original 1873 statute was basically the same until 1967, when Law Bill 864 included the national guard to the list of those who had powers of arrest. All of the amendments to the statute since have involved the juvenile portion of the statute, which requires officers to notify the parents of juveniles when they are arrested. In 1994, Law Bill 451, which also dealt with the juvenile portion of the statute, changed the term "watchman" to "security guard". No explanation for this change is found within the Law Bill, committee records, or floor debate. What occurred, more than likely, is that the word watchman was replaced with the more modern term of security guard without consideration of why the language was included in the statute to begin with. There is nothing to indicate that the Legislature has ever consciously delegated arrest power to security guards.

Because legislative history does not indicate why "security guard" was included in Neb. Rev. Stat. § 29-401, one must not assume that security guards have independent authority to arrest simply because the statute says so. In order to interpret the statute and determine if security guards have power to arrest, it is necessary to consider other sources of Nebraska law.

It is interesting to note that every individual listed in Neb. Rev. Stat. § 29-401 as well as those individuals defined as a "peace officer" according to Neb. Rev. Stat. § 49-801(15), with the exception of security guards, have been given the power of arrest in other Nebraska statutes. For example, the power of arrest is given to police officers in every jurisdiction in Nebraska, making it clear that a police officer has the power of arrest. Neb. Rev. Stat. § 14-606 provides that police officers in cities of the metropolitan class have the power of arrest. Neb. Rev. Stat. § 15-326 gives marshals, chiefs of police, and their officers the power to arrest in cities of the primary class. Neb. Rev. Stat. § 16-323 gives the chiefs of police and their officers the power to arrest in cities of the first class. Neb. Rev. Stat. § 17-118 gives police officers of second class cities and villages the power to arrest.

Other statutes give the power of arrest specifically to those named as "peace officers." Neb. Rev. Stat. § 23-1701.02 states that it is the duty of every sheriff to arrest violators of the law. Neb. Rev. Stat. § 23-1811 allows a county coroner to order the arrest of an individual. Neb. Rev. Stat. § 28-109(14) states that peace officer shall mean any officer or employee of the state or a political subdivision authorized by law to make arrests, and shall include members of the National Guard on active service by direction of the Governor during periods of emergency or civil disorder. Neb. Rev. Stat. § 81-2005 gives the power of arrest to members of the Nebraska State Patrol. Neb. Rev. Stat. § 50-108 authorizes a jailer to arrest and detain an individual under certain circumstances.

While Neb. Rev. Stat. § 81-1373 does not apply to Neb. Rev. Stat. § 29-401, it is a key example in which the Legislature contrasted those with the power to arrest and those without the power to arrest. Neb. Rev. Stat. § 81-1373(1), a part of the State Employees Collective Bargaining Act, defines in relevant part:

- (f) Protective Service, which unit is composed of institutional security personnel, including correctional officers, building security guards, and similar classes;
- (g) Law Enforcement, which unit is composed of employees holding powers of arrest, including Nebraska State Patrol officers and sergeants, game wardens, fire marshal personnel, and similar classes. Sergeants, investigators, and patrol officers employed by the Nebraska State Patrol as authorized in § 81-2004 shall be presumed to have a community of interest with each other and shall be included in this bargaining unit notwithstanding any other provision of law which may allow for the contrary.

This statute clearly distinguishes between quasi law enforcement personnel who do not have the power to arrest, such as security guards, and law enforcement personnel who have the power to arrest. See *White v. State*, 248 Neb. 977, 540 N.W.2d 354 (1995) (Department of Correctional Services employees are not law enforcement officers with power to arrest).

As mentioned, all of these statutes show that everyone listed in Neb. Rev. Stat. § 29-401, including all peace officers, have somewhere in Nebraska statutes been given the power to arrest. No where in Nebraska statutes, with the exception of Neb. Rev. Stat. § 29-401, are security guards given the power to arrest based only upon their status as security guards.

Nebraska case law also recognizes that security guards do not have the same powers as other law enforcement personnel. In *State v. Wilen*, 4 Neb. App. 132, 539 N.W.2d 650 (1995), a duly sworn law enforcement officer, who was in her full police uniform, was working in a secondary employment capacity as a security guard at a restaurant. While investigating a car accident, the officer was nearly run over by Wilen's vehicle. Wilen was subsequently charged with attempted second degree assault on a police officer. At issue in the case was whether or not the officer was acting as a police officer when the incident occurred. While the district court found that the State presented "no evidence to support" the fact that Officer Whitney, who is a peace officer, was engaged in her official duties at the time of the incident, the Nebraska Court of Appeals reversed, holding that an official uniform implies an official status, and a defendant will be charged with knowledge of the uniformed officer's official status where circumstances warrant. The court gratuitously reasoned that the public expects that a uniformed law enforcement officer has the power to enforce the law and to arrest where necessary, "powers which a private security guard generally does not possess." *Id.* (emphasis added).

In *Bishop v. Bockoven*, 199 Neb. 613, 260 N.W.2d 488 (1977), a supermarket customer brought action against the owner of the supermarket and the independent contractor, which supplied security services for the supermarket, to recover damages for false arrest pertaining to an incident wherein the security guard asked the customer to return to the supermarket and her packages were inspected. The Nebraska Supreme Court held that neither the independent contractor, which provided security services for the supermarket, nor the security guard employed by the contractor and assigned to the supermarket were a "peace officer, or a merchant's employee" within the statute providing in effect that "A peace officer, a merchant, or a merchant's employee," who has probable cause for believing that goods have been unlawfully taken and that he can recover them by taking the person into custody, may take him into custody and detain him without being rendered liable for slander, libel, false arrest, false imprisonment or unlawful detention. Specifically, the Court held that under § 29-402.01, R.R.S.1943, the words "a merchant's employee" do not include a merchant's agent who is not an employee. Simply because the individuals were security guards did not give them powers of arrest.

Despite the wording of Neb. Rev. Stat. § 29-401, Wilen, Bishop, and Nebraska statutes indicate that security guards do not have the same powers as peace officers or law enforcement officers, namely, the power of arrest. There are only two instances in which security guards currently have the power to arrest under Nebraska law. Security guards, like all other private citizens, have the power to arrest as given by Neb. Rev. Stat. § 29-402, where a felony or a petit larceny has been committed in their presence. Security guards who are employees of merchants also have the power to arrest and detain an individual suspected of shoplifting under Neb. Rev. Stat. § 29-402.01.

Sincerely,  
 DON STENBERG  
 Attorney General  
 (Signed) George R. Love  
 Assistant Attorney General

29-01-10

### COMMITTEE ON COMMITTEES REPORT

Senator Dw. Pedersen offered the following Committee on Committees report:

Senator Schrock has been selected to serve as a District 3 representative to the Committee on Committees replacing Senator Doug Kristensen.

Senator Dw. Pedersen moved to approve the Committee on Committees report.

The motion prevailed.

### BILLS ON FIRST READING

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

**LEGISLATIVE BILL 19.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to the Highway Cash Fund; to amend section 66-4,100, Reissue Revised Statutes of Nebraska; to transfer funds to the General Fund; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 20.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to the Nebraska Telecommunications Universal Service Fund; to provide for a transfer of funds.

**LEGISLATIVE BILL 21.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to state government; to amend section 84-612, Revised Statutes Supplement, 2001, as amended by Laws 2002, LB 1310, section 20; to transfer money from the Cash Reserve Fund to the General Fund; and to repeal the original section.

**LEGISLATIVE BILL 22.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to state wards; to amend section 43-118.01, Revised Statutes Supplement, 2000; to change provisions relating to adoption assistance payments; and to repeal the original section.

**LEGISLATIVE BILL 23.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 13-518, Revised Statutes Supplement, 2001, as amended by Laws 2002, LB 259, section 6, and Laws 2002, LB 876, section 3; to repeal the County Property Tax Relief Program; to harmonize provisions; to repeal the original section; to outright repeal section 77-3618, Revised Statutes Supplement, 2000, as amended by Laws 2002, LB 994, section 27; and to declare an emergency.

**LEGISLATIVE BILL 24.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to public assistance; to amend sections 68-1723, Reissue Revised Statutes of Nebraska, and section 68-1713, Revised Statutes Supplement, 2000; to change provisions relating to welfare reform; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 25.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to private detectives; to amend sections 71-3204 and 71-3209, Reissue Revised Statutes of Nebraska, and section 71-3205, Revised Statutes Supplement, 2000; to change provisions relating to fees; to provide an operative date; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 26.** Introduced by Jensen, 20.

A BILL FOR AN ACT relating to public health; to eliminate the Native American Public Health Act; to outright repeal sections 71-7615 to 71-7622, Revised Statutes Supplement, 2000; and to declare an emergency.

**LEGISLATIVE BILL 27.** Introduced by Jensen, 20.

A BILL FOR AN ACT relating to medical assistance; to amend sections 68-1019 and 68-1019.02, Revised Statutes Supplement, 2000; to restrict dental services for individuals twenty-one years of age and older as prescribed; to harmonize provisions; and to repeal the original sections.

**EASE**

The Legislature was at ease from 10:20 a.m. until 11:04 a.m.

**BILLS ON FIRST READING**

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

**LEGISLATIVE BILL 28.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to funds; to amend section 2-4324, Reissue Revised Statutes of Nebraska; to transfer money from the Liming Materials Cash Fund to the General Fund; and to repeal the original section.

**LEGISLATIVE BILL 29.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to funds; to amend section 81-1558, Reissue Revised Statutes of Nebraska; to transfer money from the Nebraska Litter Reduction and Recycling Fund to the General Fund; and to repeal the original section.

**LEGISLATIVE BILL 30.** Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to roads; to amend sections 39-2223 and 77-27,132, Reissue Revised Statutes of Nebraska, and section 39-2215, Reissue Revised Statutes of Nebraska, as amended by Laws 2002, LB 989, section 7; to change provisions relating to the Highway Trust Fund and road bonds; to change the allocation of certain sales tax revenue; to provide an operative date; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 31.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to cigarette tax; to amend section 77-2602, Revised Statutes Supplement, 2001, as amended by Laws 2002, LB 1085, section 1; to change cigarette tax distribution; to harmonize provisions; to provide an operative date; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 32.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2708 and 77-4014, Reissue Revised Statutes of Nebraska, and section 77-2703, Revised Statutes Supplement, 2000, as amended by Laws 2002, LB 1085, section 11; to change a sales and use tax collection fee; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**NOTICE OF COMMITTEE HEARINGS**

**Appropriations**

Room 1524

Friday, August 2, 2002 9:00 a.m.  
AGENCY 3 - Legislative Council  
AGENCY 7 - Governor  
AGENCY 8 - Lieutenant Governor  
AGENCY 9 - Secretary of State  
AGENCY 10 - Auditor of Public Accounts  
AGENCY 12 - State Treasurer  
AGENCY 16 - Dept. of Revenue  
AGENCY 32 - Bd. of Educational Lands-Funds  
AGENCY 65 - Dept. of Administrative Services  
AGENCY 72 - Dept. of Economic Development  
AGENCY 77 - Comm. of Industrial Relations  
AGENCY 87 - Account. & Disclosure Comm.  
AGENCY 93 - Tax Equalization & Review  
AGENCY 95 - Rural Development Commission  
AGENCY 96 - Property Assessment & Taxation

Friday, August 2, 2002 1:30 p.m.  
AGENCY 35 - Liquor Control Commission  
AGENCY 68 - Mexican American Comm.  
AGENCY 70 - Foster Care Review Board  
AGENCY 76 - Nebraska Indian Commission  
AGENCY 81 - Blind & Visually Impaired  
AGENCY 82 - Comm. Deaf & Hard of Hearing  
AGENCY 20 - HHS -- Regulation & Licensure  
AGENCY 25 - Health & Human Services  
AGENCY 26 - HHS--Finance & Support

Monday, August 5, 2002 9:00 a.m.  
AGENCY 51 - University Systemwide  
AGENCY 13 - Dept. of Education  
AGENCY 47 - Educational Telecommunications  
AGENCY 48 - Postsecondary Education  
AGENCY 50 - State College System  
AGENCY 83 - Community College Aid

(Signed) Roger R. Wehrbein, Chairperson

**COMMITTEE ON COMMITTEES PRELIMINARY REPORT**

Senator Dw. Pedersen offered the following Committee on Committees preliminary report:

Senator Schrock has been appointed to the Education Committee and no longer serves on the Agriculture Committee and General Affairs Committee.

Senator Baker has been appointed to the Revenue Committee and no longer serves on the Judiciary Committee.

Senator Hlava has been appointed to the Natural Resources Committee and Transportation and Telecommunications Committee.

Senator Johnson has been appointed to the General Affairs Committee, Urban Affairs Committee, and Judiciary Committee.

Senator McDonald has been appointed to the Agriculture Committee and no longer serves on the Urban Affairs Committee.

### EASE

The Legislature was at ease from 11:12 a.m. until 11:50 a.m.

### REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB 19	Appropriations
LB 20	Appropriations
LB 21	Appropriations
LB 22	Health and Human Services
LB 23	Revenue
LB 24	Health and Human Services
LB 25	Business and Labor
LB 26	Health and Human Services
LB 27	Health and Human Services
LB 28	Appropriations
LB 29	Appropriations
LB 30	Transportation and Telecommunications
LB 31	Revenue
LB 32	Revenue

(Signed) George Coordsen, Chairperson  
Legislative Council  
Executive Board

### NOTICE OF COMMITTEE HEARINGS

**Revenue**  
Room 1507

LB 23	Thursday, August 1, 2002	1:30 p.m.
LB 31	Thursday, August 1, 2002	1:30 p.m.
LB 32	Thursday, August 1, 2002	1:30 p.m.

(Signed) George Coordsen, Vice Chairperson



**Transportation and Telecommunications**  
Room 1507

LB 30            Monday, August 5, 2002                            9:00 a.m.

Monday, August 5, 2002                                 9:00 a.m.  
L. Merrill Bryan Jr. - Nebraska Information Technology Commission

(Signed) Jim Jones, Vice Chairperson

**VISITORS**

Visitor to the Chamber was Shane Potter from Weston.

**ADJOURNMENT**

At 11:51 a.m., on a motion by Senator Dierks, the Legislature adjourned until 8:30 a.m., Thursday, August 1, 2002.

Patrick J. O'Donnell  
Clerk of the Legislature



**THIRD DAY - AUGUST 1, 2002**  
**LEGISLATIVE JOURNAL**  
**NINETY-SEVENTH LEGISLATURE**  
**SECOND SPECIAL SESSION**

**THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, August 1, 2002

**PRAYER**

The prayer was offered by Senator Engel.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 8:30 a.m., Speaker Bromm presiding.

The roll was called and all members were present except Senators Chambers, Landis, Schimek, and Vrtiska who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the second day was approved.

**MESSAGE FROM THE SECRETARY OF STATE**

July 17, 2002

Mr. President, Mr. Speaker and  
Members of the Legislature  
State Capitol  
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment on June 15, 2002:

Kim Quandt, Sidney, Nebraska 69182, to the Nebraska Accountability and Disclosure Commission to complete an unexpired six year term ending June 30, 2005.

This appointment was made by me pursuant to the provisions of Sections 49-14,105, 49-14,110, 49-14,112 and 49-14,114 and is respectfully submitted for your consideration.

Sincerely,  
(Signed) John A. Gale  
Secretary of State

SZ

### MESSAGE FROM THE GOVERNOR

July 25, 2002

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

Dear Mr. President, Interim Speaker, and Members:

Contingent upon your approval, the following individual has been appointed to the Accountability and Disclosure Commission.

#### APPOINTEE:

Deborah Bacon, 1518 Lake Ave, Gothenburg NE 69138

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

say/

### NOTICE OF COMMITTEE HEARINGS

**General Affairs**  
Room 2102

Wednesday, August 7, 2002 8:00 a.m.  
Sherrie A. Geier - Nebraska Advisory Commission on Compulsive Gambling  
Lisa Madson Jones - Nebraska Advisory Commission on Compulsive Gambling  
Steven R. Jung - Nebraska Advisory Commission on Compulsive Gambling

(Signed) Ray Janssen, Chairperson

**Health and Human Services**  
Room 1510

LB 22	Monday, August 5, 2002	1:30 p.m.
LB 24	Monday, August 5, 2002	1:30 p.m.

LB 26	Monday, August 5, 2002	1:30 p.m.
LB 27	Monday, August 5, 2002	1:30 p.m.

(Signed) Jim Jensen, Chairperson

### BILLS ON FIRST READING

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

**LEGISLATIVE BILL 33.** Introduced by Wehrbein, 2; Beutler, 28; Engel, 17; Kruse, 13; D. Pederson, 42; Thompson, 14.

A BILL FOR AN ACT relating to the Nebraska Senior Companion Volunteer Program Act; to eliminate the act; and to outright repeal sections 81-2273 to 81-2283, Revised Statutes Supplement, 2000.

**LEGISLATIVE BILL 34.** Introduced by Appropriations Committee: Wehrbein, 2, Chairperson; Beutler, 28; Bourne, 8; Cudaback, 36; Engel, 17; Foley, 29; Kruse, 13; D. Pederson, 42; Thompson, 14.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-908, 77-2715.07, 77-2717, 77-2734.03, and 77-3806, Revised Statutes Supplement, 2001, and section 77-2701, Revised Statutes Supplement, 2001, as amended by Laws 2002, LB 57, section 2, and Laws 2002, LB 947, section 3; to eliminate a child care tax credit; to harmonize provisions; to repeal the original sections; and to outright repeal section 77-27,222, Revised Statutes Supplement, 2001, as amended by Laws 2001, First Special Session, LB 4, section 1.

**LEGISLATIVE BILL 35.** Introduced by Appropriations Committee: Wehrbein, 2, Chairperson; Beutler, 28; Bourne, 8; Cudaback, 36; Engel, 17; Foley, 29; Kruse, 13; D. Pederson, 42; Thompson, 14.

A BILL FOR AN ACT relating to the Light-Density Rail Line Assistance Revolving Fund; to amend section 74-1420.01, Reissue Revised Statutes of Nebraska; to authorize transfers to the General Fund; and to repeal the original section.

**LEGISLATIVE BILL 36.** Introduced by Wehrbein, 2; Bourne, 8; Cudaback, 36; Engel, 17; Foley, 29; D. Pederson, 42; Thompson, 14.

A BILL FOR AN ACT relating to the Rural Economic Opportunities Act; to amend section 77-5536, Revised Statutes Supplement, 2001; to repeal the act; to harmonize provisions; to repeal the original section; to outright repeal sections 77-5401 to 77-5414, Revised Statutes Supplement, 2000; and to declare an emergency.

**COMMITTEE ON COMMITTEES REPORT**

Senator Dw. Pedersen moved to approve the Committee on Committees report found on pages 39 and 40.

The Committee on Committees report was approved with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

**EASE**

The Legislature was at ease from 8:50 a.m. until 9:40 a.m.

**SENATOR DIERKS PRESIDING****BILLS ON FIRST READING**

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

**LEGISLATIVE BILL 37.** Introduced by Appropriations Committee: Wehrbein, 2, Chairperson; Beutler, 28; Bourne, 8; Cudaback, 36; Engel, 17; Foley, 29; Kruse, 13; D. Pederson, 42; Thompson, 14.

A BILL FOR AN ACT relating to the Nebraska Telecommunications Universal Service Fund; to provide for certain transfers; and to declare an emergency.

**LEGISLATIVE BILL 38.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-27,132, Reissue Revised Statutes of Nebraska; to change distribution of certain sales and use tax proceeds; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 39.** Introduced by Jensen, 20.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-1340, Revised Statutes Supplement, 2000, as amended by Laws 2002, LB 994, section 15, and section 13-519, Revised Statutes Supplement, 2001, as amended by Laws 2002, LB 259, section 7; to change and eliminate provisions relating to assumption of the county assessment function; to harmonize provisions; to repeal the original sections; to outright repeal sections 77-1340.01 to 77-1340.03, Revised Statutes Supplement, 2000; and to declare an emergency.

**LEGISLATIVE BILL 40.** Introduced by Appropriations Committee: Wehrbein, 2, Chairperson; Beutler, 28; Bourne, 8; Cudaback, 36; Engel, 17; Foley, 29; Kruse, 13; D. Pederson, 42; Thompson, 14.

A BILL FOR AN ACT relating to schools; to amend section 79-810,

Revised Statutes Supplement, 2000; to change provisions relating to the Professional Practices Commission Fund; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 41.** Introduced by Appropriations Committee: Wehrbein, 2, Chairperson; Beutler, 28; Bourne, 8; Cudaback, 36; Engel, 17; Foley, 29; Kruse, 13; D. Pederson, 42; Thompson, 14.

A BILL FOR AN ACT relating to schools; to eliminate the School Finance Review Committee and the Education Roundtable; to harmonize provisions; to outright repeal section 79-759, Revised Statutes Supplement, 2000, and sections 79-1032 and 85-9,183 to 85-9,189, Revised Statutes Supplement, 2001; and to declare an emergency.

**LEGISLATIVE BILL 42.** Introduced by Wehrbein, 2; Bourne, 8; Cudaback, 36; Engel, 17; D. Pederson, 42; Thompson, 14.

A BILL FOR AN ACT relating to the Nebraska Venture Capital Forum Act; to amend sections 81-12,115 and 81-12,116, Revised Statutes Supplement, 2001; to change the termination date; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 43.** Introduced by Wehrbein, 2; Bourne, 8; Cudaback, 36; Engel, 17; D. Pederson, 42; Thompson, 14.

A BILL FOR AN ACT relating to state government; to amend sections 81-188.04 and 81-188.06, Revised Statutes Supplement, 2000, as amended by Laws 2002, LB 1310, sections 16 and 18, respectively, and section 81-188.02, Revised Statutes Supplement, 2001, as amended by Laws 2002, LB 1310, section 14; to change the depreciation charge for capital improvement projects; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 44.** Introduced by Wehrbein, 2; Bourne, 8; Cudaback, 36; Engel, 17; D. Pederson, 42; Thompson, 14.

A BILL FOR AN ACT relating to cigarette tax; to amend section 77-2602, Revised Statutes Supplement, 2001, as amended by Laws 2002, LB 1085, section 1; to change distribution of cigarette tax revenue; and to repeal the original section.

**LEGISLATIVE BILL 45.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to constitutional amendments; to amend section 49-202.01, Reissue Revised Statutes of Nebraska; to change provisions relating to the requirement of an explanatory statement on the ballot; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 46.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to the cigarette tax; to amend section 77-2608, Revised Statutes Supplement, 2000; to change provisions relating to a discount for stamps; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 47.** Introduced by Wehrbein, 2; Beutler, 28; Bourne, 8; Engel, 17; Foley, 29; Kruse, 13; D. Pederson, 42; Thompson, 14.

A BILL FOR AN ACT relating to ethanol; to amend sections 66-1344, 66-1344.01, and 66-1345.04, Revised Statutes Supplement, 2001, and Laws 2001, LB 536A, section 1; to prohibit new agreements for production incentives; to change funding provisions related to production incentives; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 48.** Introduced by Appropriations Committee: Wehrbein, 2, Chairperson; Beutler, 28; Bourne, 8; Cudaback, 36; Engel, 17; Foley, 29; Kruse, 13; D. Pederson, 42; Thompson, 14.

A BILL FOR AN ACT relating to fees; to amend sections 33-106.03, 43-1906, 71-612, 71-617.15, 71-627, and 71-628, Revised Statutes Supplement, 2002; to change provisions relating to distribution of certain fees as prescribed; to provide for a transfer by the State Treasurer as prescribed; and to repeal the original sections.

**LEGISLATIVE BILL 49.** Introduced by Appropriations Committee: Wehrbein, 2, Chairperson; Beutler, 28; Bourne, 8; Cudaback, 36; Engel, 17; Foley, 29; Kruse, 13; D. Pederson, 42; Thompson, 14.

A BILL FOR AN ACT relating to the Commission for the Deaf and Hard of Hearing; to amend section 71-4728.04, Revised Statutes Supplement, 2000; to change duties related to the telehealth system; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 50.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to the Employment and Investment Growth Act; to amend sections 77-4101 and 77-4104, Revised Statutes Supplement, 2000, and section 77-27,119, Revised Statutes Supplement, 2000, as amended by Laws 2002, LB 989, section 19; to provide for public access to information; and to repeal the original sections.

**LEGISLATIVE BILL 51.** Introduced by Chambers, 11.

A BILL FOR AN ACT relating to criminal procedure; to amend section 29-110, Reissue Revised Statutes of Nebraska; to eliminate the time limitation on prosecution for sexual assault of a child as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 52.** Introduced by Chambers, 11.



A BILL FOR AN ACT relating to postsecondary education; to amend section 85-1412, Reissue Revised Statutes of Nebraska; to eliminate the Postsecondary Education Award Program Act; to harmonize provisions; to repeal the original sections; and to outright repeal sections 85-9,140 to 85-9,155 and 85-9,157 to 85-9,162, Reissue Revised Statutes of Nebraska.

## RESOLUTIONS

### LEGISLATIVE RESOLUTION 1. Introduced by Foley, 29.

WHEREAS, Chapman Scarborough has earned the rank of Eagle Scout in the Boy Scouts of America, that organization's highest rank; and

WHEREAS, Chapman Scarborough is a member of Boy Scout Troop 54 of the Cathedral of the Risen Christ; and

WHEREAS, in achieving this rank, Chapman Scarborough advanced through five ranks and earned 44 merit badges when only 21 are required; and

WHEREAS, for his Eagle Scout project, Chapman Scarborough built and installed a matching hand rail for the Holy Trinity Episcopal Church; and

WHEREAS, fewer than four percent of all boys who join the Boy Scouts attain the rank of Eagle Scout; and

WHEREAS, Chapman Scarborough has achieved great success as an exemplary member of the Scouting program and has represented his troop and community with excellence; and

WHEREAS, a Court of Honor will be held for Chapman Scarborough on Sunday, July 28, 2002, at Holy Trinity Episcopal Church at which time Chapman will be presented with the Eagle Scout Badge.

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

1. That the Legislature commends Chapman Scarborough for his dedication, perseverance, and hard work in obtaining this distinguished rank.

2. That a copy of this resolution be sent to Chapman Scarborough.

Laid over.

### LEGISLATIVE RESOLUTION 2CA. Introduced by Schimek, 27; Beutler, 28; Janssen, 15.

THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SPECIAL SESSION, RESOLVE THAT:

Section 1. At the general election in November 2002 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 24:

III-24 "(1) Except as provided in this section, the Legislature shall not authorize any game of chance or any lottery or gift enterprise when the consideration for a chance to participate involves the payment of money for

the purchase of property, services, or a chance or admission ticket or requires an expenditure of substantial effort or time.

(2) The Legislature may authorize and regulate a state lottery pursuant to subsection (3) of this section and other lotteries, raffles, and gift enterprises which are intended solely as business promotions or the proceeds of which are to be used solely for charitable or community betterment purposes without profit to the promoter of such lotteries, raffles, or gift enterprises.

(3) The Legislature may establish a lottery to be operated and regulated by the State of Nebraska. The proceeds of the lottery shall be appropriated by the Legislature for the costs of establishing and maintaining the lottery and for other purposes as directed by the Legislature. No lottery game shall be conducted as part of the lottery unless the type of game has been approved by a majority of the members of the Legislature.

(4) Nothing in this section shall be construed to prohibit (a) the enactment of laws providing for the licensing and regulation of wagering on the results of horseraces, wherever run, either within or outside of the state, by the parimutuel method, when such wagering is conducted by licensees within a licensed racetrack enclosure or (b) the enactment of laws providing for the licensing and regulation of bingo games conducted by nonprofit associations which have been in existence for a period of five years immediately preceding the application for license, except that bingo games cannot be conducted by agents or lessees of such associations on a percentage basis.

(5) For purposes of this section:

(a) Gaming means any game of chance played with cards, dice, equipment, or a machine for money, credit, or any representative of value if the game is not included within the definition of Class I or Class II gaming under the federal Indian Gaming Regulatory Act as of January 1, 2002; and

(b) Interdiction gaming zone means an area of the state that lies within two miles of an adjoining state which allows gaming, except that (i) no such zone may contain lands within the limits of a federally recognized Indian tribe's Indian reservation in Nebraska recognized as of October 1988, or real property in Knox County and Boyd County held by the Secretary of the Interior in trust for the benefit of the Ponca Tribe, and (ii) if an adjoining state no longer has gaming conducted in its jurisdiction for ten years, the interdiction gaming zone or gaming in such portion of the zone that adjoins such state shall be discontinued.

(6) Except if an agreement is reached under subsection (7) of this section, nothing in the statutes or Constitution of Nebraska shall be construed to prohibit or restrict gaming operated by a federally recognized Indian tribe in Nebraska on lands within the limits of the tribe's Indian reservation recognized as of October 1988, or on real property in Knox County and Boyd County held by the Secretary of the Interior in trust for the benefit of the Ponca Tribe, and over which the tribe has jurisdiction when such gaming is conducted in accordance with federal law.

(7) Nothing in the Constitution of Nebraska shall be construed to prohibit or restrict gaming as authorized in this section in an interdiction gaming zone created by the Legislature pursuant to this subsection. The Legislature may make laws creating one interdiction gaming zone and authorizing up to five gaming facilities within the zone. The Legislature may provide for

regulation and taxation of gaming activities in the interdiction gaming zone. Any such gaming activities shall be operated by the State of Nebraska or one or more federally recognized Indian tribes in Nebraska. The Legislature may grant one or more federally recognized Indian tribes in Nebraska the authority to conduct gaming activities in one or more facilities within the interdiction gaming zone if the tribe or tribes agree not to conduct gaming activities on the reservation land of the tribe or tribes in Nebraska or upon land in Knox County or Boyd County held by the Secretary of the Interior in trust for the benefit of the Ponca Tribe."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to define gaming, to authorize creation of an interdiction gaming zone, and to permit gaming on Indian lands and in the interdiction gaming zone.

For

Against".

Referred to the Reference Committee.

### EASE

The Legislature was at ease from 9:48 a.m. until 10:38 a.m.

### REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB 25	Government, Military and Veterans Affairs (rereferred)
LB 33	Health and Human Services
LB 34	Revenue
LB 35	Appropriations
LB 36	Revenue
LB 37	Appropriations
LB 38	Revenue
LB 39	Revenue
LB 40	Appropriations
LB 41	Education
LB 42	Banking, Commerce and Insurance
LB 43	Appropriations
LB 44	Appropriations
LB 45	Government, Military and Veterans Affairs
LB 46	Revenue
LB 47	Appropriations
LB 48	Health and Human Services
LB 49	Health and Human Services
LB 50	Revenue



**FOURTH DAY - AUGUST 2, 2002**  
**LEGISLATIVE JOURNAL**  
**NINETY-SEVENTH LEGISLATURE**  
**SECOND SPECIAL SESSION**

**FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, August 2, 2002

**PRAYER**

The prayer was offered by Senator Price.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 8:30 a.m., Speaker Bromm presiding.

The roll was called and all members were present except Senators Baker, Brashear, Brown, Burling, Chambers, Janssen, Jones, Landis, Dw. Pedersen, Raikes, and Vrtiska who were excused.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the third day was approved.

**NOTICE OF COMMITTEE HEARINGS**

**Education**  
Room 1525

LB 41	Monday, August 5, 2002	9:00 a.m.
LB 52	Monday, August 5, 2002	9:00 a.m.

(Signed) Ron Raikes, Chairperson

**Banking, Commerce and Insurance**  
Room 2102

LB 42	Monday, August 5, 2002	9:00 a.m.
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(Signed) David M. Landis, Chairperson

**General Affairs**

Room 1510

LR 2CA      Monday, August 5, 2002      9:00 a.m.

(Signed) Ray Janssen, Chairperson

**Appropriations**

Room 1524

LB 40      Monday, August 5, 2002      9:00 a.m.

LB 19      Monday, August 5, 2002      1:30 p.m.

LB 20      Monday, August 5, 2002      1:30 p.m.

LB 37      Monday, August 5, 2002      1:30 p.m.

LB 28      Monday, August 5, 2002      1:30 p.m.

LB 47      Monday, August 5, 2002      1:30 p.m.

LB 21      Monday, August 5, 2002      1:30 p.m.

LB 44      Monday, August 5, 2002      1:30 p.m.

LB 29      Monday, August 5, 2002      1:30 p.m.

LB 35      Monday, August 5, 2002      1:30 p.m.

LB 43      Monday, August 5, 2002      1:30 p.m.

(Signed) Roger R. Wehrbein, Chairperson

**Health and Human Services**

Room 1510

LB 33      Monday, August 5, 2002      1:30 p.m.

LB 48      Monday, August 5, 2002      1:30 p.m.

LB 49      Monday, August 5, 2002      1:30 p.m.

(Signed) Jim Jensen, Chairperson

**Government, Military and Veterans Affairs**

Room 2102

Monday, August 5, 2002      1:30 p.m.

Deborah Bacon - Nebraska Accountability and Disclosure Commission

LB 25      Monday, August 5, 2002      1:30 p.m.

LB 45      Monday, August 5, 2002      1:30 p.m.

(Signed) DiAnna R. Schimek, Chairperson

**Revenue**

Room 1507

LB 34      Monday, August 5, 2002      1:30 p.m.

LB 36	Monday, August 5, 2002	1:30 p.m.
LB 38	Monday, August 5, 2002	1:30 p.m.
LB 39	Monday, August 5, 2002	1:30 p.m.
LB 46	Monday, August 5, 2002	1:30 p.m.
LB 50	Monday, August 5, 2002	1:30 p.m.

(Signed) George Coordsen, Vice Chairperson

## RESOLUTION

**LEGISLATIVE RESOLUTION 3.** Introduced by Erdman, 47.

WHEREAS, Chelsea Foust of Ogallala earned the Girl Scouts' highest award, the Girl Scout Gold Award; and

WHEREAS, Chelsea has served in Troop 1 in Ogallala since 1989, and for her Girl Scout Gold Award project, she planned and organized the "First Annual Seniors' Senior Prom" in Ogallala; and

WHEREAS, Chelsea, a graduate of Ogallala High School, also holds the Girl Scouts' Silver Award; and

WHEREAS, few Girl Scouts achieve this honor; and

WHEREAS, Chelsea Foust has achieved great success as an exemplary member of the Girl Scout program and has represented her community and troop with excellence.

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

1. That the Legislature congratulates Chelsea Foust on her achievement of the elite Girl Scout Gold Award and recognizes her outstanding community service efforts in Ogallala.

2. That a copy of this resolution be sent to Chelsea Foust and her family.

Laid over.

## REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of August 2, 2002, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

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

American Communications Group, Inc.  
Teamsters Local Union 554

Anderson, Shannon M.  
Alegent Health

Arfman, Christy

Working Moms, Safe Kids

Boldt, Randy

Blue Cross & Blue Shield of Nebraska (Withdrawn 07/19/2002)

Brown, Vincent D.

Petroleum Institute, American (Withdrawn 04/29/2002)

Bydalek, Dave

Family First

Cady, Steven W.

Pork Producers Association, Nebraska (Withdrawn 04/22/2002)

Cavanaugh Sr., John

Cavanaugh, James P.

Cavanaugh, James P.

District Court Judges Association, Nebraska (Withdrawn 07/31/2002)

Cavanaugh, Patrick B.

Cavanaugh, James P.

Cuca, Ralph "Bud"

Trucking Association, Nebraska (Withdrawn 06/11/2002)

Garner, Amanda

Working Moms, Safe Kids

Godsey, Ronald

TAP Pharmaceuticals

Hansen, Hal Anthony

Farmers Union, Nebraska

Harding, William A.

Eli Lilly & Co.

Herrin, Sally J.

Farmers Union, Nebraska (Withdrawn 06/04/2002)

Hewgley, Laura

Retail Federation, Nebraska (Withdrawn 05/15/2002)

Hoppe, Richard

Working Moms, Safe Kids



- Johnson, Rod E.  
Pork Producers Association, Nebraska
- Kohout, Joseph D.  
Kelley, Lehan & Hall, P.C.
- Kramer, David J.  
Oregon Trails
- Monaghan, Thomas J.  
Citizens for Equal Protection & Nebraska Advocates for Justice  
(Withdrawn 07/30/2002)
- Mueller, William J.  
Microsoft Corporation (Withdrawn 07/17/2002)
- Naff, Clayton F.  
Community Action Agencies, Association of Nebraska (Withdrawn  
04/30/2002)
- Papa, Jolene M.  
Media of Nebraska, Inc. (Withdrawn 07/29/2002)
- Radcliffe, Walter H.  
Health System, Nebraska
- Ruth, Larry L.  
Microsoft Corporation (Withdrawn 07/17/2002)
- Schmit Industries, Inc.  
Jim McCarthy agent/Winnebago Tribe  
Nordic Biofuels  
Sutherland Ethanol (Withdrawn 06/20/2002)
- Shultz, Jack L.  
Eli Lilly & Co.
- Skochdopole, Robert A.  
Ephedra Committee of the American Herbal Products Assn. (Withdrawn  
04/23/2002)  
Midwest Medical Insurance Company (Withdrawn 04/23/2002)
- Swift, Mark A.  
Health Alliance, LLC
- Wylie, William M.  
Insurance Information Service, Nebraska (Withdrawn 08/01/2002)

**EASE**

The Legislature was at ease from 8:48 a.m. until 8:52 a.m.

**STANDING COMMITTEE REPORTS****Revenue**

**LEGISLATIVE BILL 9.** Placed on General File.

**LEGISLATIVE BILL 17.** Placed on General File.

**LEGISLATIVE BILL 23.** Placed on General File.

**LEGISLATIVE BILL 31.** Placed on General File.

The Revenue 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.

Tax Equalization and Review Commission

William R. Wickersham

VOTE: Aye: Senators Baker, Coordsen, Dierks, Hartnett, Janssen, Raikes, and Redfield. Nay: None. Absent: Senator Landis.

(Signed) George Coordsen, Vice Chairperson

**ADJOURNMENT**

At 8:53 a.m., on a motion by Senator Hlava, the Legislature adjourned until 1:00 p.m., Monday, August 5, 2002.

Patrick J. O'Donnell  
Clerk of the Legislature

**FIFTH DAY - AUGUST 5, 2002****LEGISLATIVE JOURNAL****NINETY-SEVENTH LEGISLATURE  
SECOND SPECIAL SESSION****FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, August 5, 2002

**PRAYER**

The prayer was offered by Senator Hudkins.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 1:00 p.m., Speaker Bromm presiding.

The roll was called and all members were present except Senators Brashear, Engel, Preister, Price, and Schimek who were excused.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fourth day was approved.

**STANDING COMMITTEE REPORTS  
Health and Human Services**

**LEGISLATIVE BILL 10.** Placed on General File.

(Signed) Jim Jensen, Chairperson

**Education**

**LEGISLATIVE BILL 6.** Placed on General File.

**LEGISLATIVE BILL 4.** Placed on General File as amended.  
Standing Committee amendment to LB 4:  
AM9004

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Section 79-1022, Revised Statutes
- 4 Supplement, 2000, as amended by Laws 2002, LB 898, section 12, is
- 5 amended to read:

6 79-1022. (1) On or before May 1, 2002, and on or before  
7 February 1 for each year thereafter, the department shall determine  
8 the amounts to be distributed to each local system and each  
9 district pursuant to the Tax Equity and Educational Opportunities  
10 Support Act and shall certify the amounts to the Director of  
11 Administrative Services, the Auditor of Public Accounts, and each  
12 district. The amount to be distributed to each district from the  
13 amount certified for a local system shall be proportional based on  
14 the weighted formula students attributed to each district in the  
15 local system. On or before May 1, 2002, and on or before February 1  
16 for each year thereafter, the department shall report the necessary  
17 funding level to the Governor, the Appropriations Committee of the  
18 Legislature, and the Education Committee of the Legislature.  
19 Certified state aid amounts shall be shown as budgeted  
20 non-property-tax receipts and deducted prior to calculating the  
21 property tax request in the district's general fund budget  
22 statement as provided to the Auditor of Public Accounts pursuant to  
23 section 79-1024.

24 (2) Except as provided in subsection (3) of this section  
1 and subsection (6) of section 79-1016 and section 79-1033, the  
2 amounts certified pursuant to subsection (1) of this section shall  
3 be distributed in ten as nearly as possible equal payments on the  
4 last business day of each month beginning in September of each  
5 ensuing school fiscal year and ending in June of the following  
6 year, except that when a school district is to receive a monthly  
7 payment of less than one thousand dollars, such payment shall be  
8 one lump-sum payment on the last business day of December during  
9 the ensuing school fiscal year. Such certified state aid amounts  
10 shall be shown as budgeted non-property tax receipts and deducted  
11 prior to calculating the property tax request in the district's  
12 general fund budget statement as provided to the Auditor of Public  
13 Accounts pursuant to section 79-1024.

14 (3) For school fiscal year 2002-03, except as provided in  
15 subsection (6) of section 79-1016 and section 79-1033, the amounts  
16 certified pursuant to subsection (1) of this section shall be  
17 distributed according to the payment schedule in this subsection on  
18 the last business day of each month listed, except that when a  
19 school district is to receive ten thousand dollars or less, such  
20 payment shall be one lump-sum payment on the last business day of  
21 December. The amount distributed each month shall be equal to the  
22 amount certified pursuant to subsection (1) of this section  
23 multiplied by the applicable percentage, rounded to the nearest  
24 cent. The percentages are:

25 (a) For September, October, November, and December, seven  
26 and seven-tenths percent;

27 (b) For January, February, March, and April, ten percent;  
1 and

2 (c) For May and June, fourteen and six-tenths percent.

3 Sec. 2. Original section 79-1022, Revised Statutes

4 Supplement, 2000, as amended by Laws 2002, LB 898, section 12, is  
5 repealed.

6 Sec. 3. Since an emergency exists, this act takes effect  
7 when passed and approved according to law.".

**LEGISLATIVE BILL 7.** Indefinitely postponed.

**LEGISLATIVE BILL 14.** Indefinitely postponed.

(Signed) Ron Raikes, Chairperson

### Appropriations

**LEGISLATIVE BILL 3.** Placed on General File.

**LEGISLATIVE BILL 12.** Placed on General File.

(Signed) Roger R. Wehrbein, Chairperson

### Education

**LEGISLATIVE BILL 5.** Placed on General File as amended.

Standing Committee amendment to LB 5:

AM9024

1 1. Strike original section 3 and insert the following  
2 new sections:  
3 "Section 1. (1) Any educational service unit may borrow  
4 money to the amount of seventy percent of the unexpended balance of  
5 total anticipated receipts of the general fund for the current  
6 fiscal year and the following fiscal year. Total anticipated  
7 receipts of the general fund for the current fiscal year and the  
8 following fiscal year means a sum equal to the total of (a) the  
9 anticipated receipts from the current existing levy multiplied by  
10 two, (b) the anticipated receipts from the state for core services  
11 and technology infrastructure for the current fiscal year and the  
12 following fiscal year, (c) the anticipated receipts from the United  
13 States for the current fiscal year and the following fiscal year,  
14 and (d) the anticipated receipts from other sources for the current  
15 fiscal year and the following fiscal year.  
16 Any educational service unit may execute and deliver in  
17 evidence thereof their promissory notes which they are hereby  
18 authorized and empowered to make and negotiate, bearing a rate of  
19 interest set by the educational service unit board and maturing not  
20 more than two fiscal years from the date thereof. Such notes,  
21 before they are negotiated, shall be presented to the treasurer of  
22 the educational service unit and registered by him or her and shall  
23 be payable out of the funds collected by such educational service  
24 unit in the order of their registry after the payment of prior  
1 registered warrants but prior to the payment of any warrant  
2 subsequently registered, except that if both warrants and notes are  
3 registered, the total of such registered notes and warrants shall

4 not exceed one hundred percent of the unexpended balance of the  
5 total anticipated receipts of the general fund of such educational  
6 service unit for the current fiscal year and the following fiscal  
7 year. For the purpose of making such calculation, such total  
8 anticipated receipts shall not include any anticipated receipts  
9 against which the educational service unit has borrowed and issued  
10 notes pursuant to this section in either the current or the  
11 immediately preceding fiscal year.

12 (2) In addition to the authority granted by subsection  
13 (1) of this section, such educational service units may accept  
14 interest-free or low-interest loans from the state or federal  
15 government and may execute and deliver in evidence thereof their  
16 promissory notes maturing not more than twenty years from the date  
17 of execution.

18 (3) In addition to the authority granted by subsections  
19 (1) and (2) of this section, any educational service unit may enter  
20 into loan agreements for the purpose of borrowing money from  
21 financial institutions, including banks, in amounts not in excess  
22 of seventy percent of the unexpended balance of their current  
23 existing levy. As evidence of such borrowing, an educational  
24 service unit may execute and deliver one or more written loan  
25 agreements but shall not be required to execute and deliver  
26 separate promissory notes for each borrowing under such agreements.  
27 Money borrowed pursuant to such agreements shall bear interest at  
1 such rate or rates and shall become due and be repaid as provided  
2 in such agreements. Any such agreement shall provide for repayment  
3 in full at least once each fiscal year and shall be for a term not  
4 exceeding one fiscal year. Any such agreement shall be registered  
5 upon books kept by the treasurer of the educational service unit,  
6 and money borrowed pursuant to such agreement shall be paid out of  
7 funds collected upon the current existing levy prior to the payment  
8 of any warrant or note registered subsequent to any such loan  
9 agreement. If an educational service unit has any such loan  
10 agreement or agreements outstanding and has warrants or notes  
11 registered, as described in subsection (1) of this section, the  
12 total amount (a) of borrowings pursuant to such loan agreement or  
13 agreements and (b) of registered notes and warrants shall not  
14 exceed one hundred percent of the unexpended balance of the current  
15 existing levy.

16 (4) Nothing in this section shall be construed to exempt  
17 an educational service unit from the terms and conditions contained  
18 in sections 10-701 to 10-716.

19 Sec. 2. Section 79-1201, Revised Statutes Supplement,  
20 2000, is amended to read:

21 79-1201. Sections 79-1201 to 79-1243 and section 1 of  
22 this act shall be known and may be cited as the Educational Service  
23 Units Act."

24 2. On page 2, line 11, after "section" insert "for  
25 school fiscal year 2003-04 and each school fiscal year thereafter";

- 26 in line 12 strike "last" and insert "first"; in line 13 after  
 27 "school" insert "fiscal"; and strike beginning with the second "of"  
 1 in line 13 through "year" in line 14.  
 2 3. On page 3, line 1, strike "section" and insert  
 3 "sections 79-1201 and"; and in line 2 strike "is" and insert "are".  
 4 4. Renumber the remaining sections accordingly.

**LEGISLATIVE BILL 41.** Placed on General File as amended.  
 Standing Committee amendment to LB 41:  
 AM9012

- 1 1. Insert the following new section:  
 2 "Section 1. The Legislature declares its intent to  
 3 withdraw from the Midwestern Higher Education Compact according to  
 4 the terms of Article VII of such compact."  
 5 2. On page 2, line 2, strike "Section" and insert  
 6 "Sections 85-1301 and 85-1302, Reissue Revised Statutes of  
 7 Nebraska, section".  
 8 3. Renumber the remaining sections accordingly.

(Signed) Ron Raikes, Chairperson

**NOTICE OF COMMITTEE HEARING**  
**Government, Military and Veterans Affairs**  
 Room 2102

Tuesday, August 6, 2002 11:30 a.m.  
 Kim Quandt - Nebraska Accountability and Disclosure Commission

(Signed) DiAnna R. Schimek, Chairperson

**STANDING COMMITTEE REPORTS**  
**Education**

The Education 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.

Nebraska Educational Telecommunications Commission  
 Michael S. Kneale

VOTE: Aye: Senators Brashear, Coordsen, Maxwell, Price, Raikes, Stuhr, and Suttle. Nay: None. Absent: Senator Schrock.

(Signed) Ron Raikes, Chairperson

**Health and Human Services**

The Health and Human Services 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.

Board of Emergency Medical Services  
Diane L. Yetter

Commission for the Deaf and Hard of Hearing  
Daniel Darnall  
Eleanor Propp  
Marian Reyburn

VOTE: Aye: Senators Jensen, Byars, Suttle, Price, Cunningham, Maxwell, and Erdman. Nay: None. Absent: Senator Price.

(Signed) Jim Jensen, Chairperson

### REPORTS

The following report was received by the Legislature:

#### **Roads, Department of**

State Highway Commission Quarterly Report for period ending June 30, 2002

#### **UNANIMOUS CONSENT - Add Cointroducers**

Senator Wehrbein asked unanimous consent to have his name added as cointroducer to LBs 1, 2, 3, and 12. No objections. So ordered.

Senator Coordsen asked unanimous consent to have his name added as cointroducer to LB 9. No objections. So ordered.

Senator Raikes asked unanimous consent to have his name added as cointroducer to LBs 4, 5, 6, and 7. No objections. So ordered.

### ADJOURNMENT

At 1:24 p.m., on a motion by Senator Dierks, the Legislature adjourned until 1:00 p.m., Tuesday, August 6, 2002.

Patrick J. O'Donnell  
Clerk of the Legislature



**SIXTH DAY - AUGUST 6, 2002****LEGISLATIVE JOURNAL****NINETY-SEVENTH LEGISLATURE  
SECOND SPECIAL SESSION****SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, August 6, 2002

**PRAYER**

The prayer was offered by Senator Byars.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 1:00 p.m., Speaker Bromm presiding.

The roll was called and all members were present except Senators Brashear, Engel, Dw. Pedersen, and Vrtiska who were excused; and Senators Beutler, Bruning, Hlava, and Landis who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

Page 57, after line 10, insert the following:  
"Mueller, William J.

Microsoft Corporation (Withdrawn 07/17/2002)"  
The Journal for the fourth day was approved as corrected.

The Journal for the fifth day was approved.

**STANDING COMMITTEE REPORTS  
Transportation and Telecommunications**

**LEGISLATIVE BILL 18.** Placed on General File.

**LEGISLATIVE BILL 15.** Indefinitely postponed.

**LEGISLATIVE BILL 16.** Indefinitely postponed.

**LEGISLATIVE BILL 30.** Indefinitely postponed.

(Signed) Jim Jones, Vice Chairperson

**Government, Military and Veterans Affairs****LEGISLATIVE BILL 25.** Placed on General File.

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

Nebraska Accountability and Disclosure Commission  
Kim Quandt

VOTE: Aye: Senators Aguilar, Burling, McDonald, Schimek, Smith, and Synowiecki. Nay: None. Absent: Senators Brown and Vrtiska.

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

Nebraska Accountability and Disclosure Commission  
Deborah Bacon

VOTE: Aye: Senators Aguilar, Brown, Burling, McDonald, Schimek, Smith, Synowiecki, and Vrtiska. Nay: None. Absent: None.

(Signed) DiAnna R. Schimek, Chairperson

**Transportation and Telecommunications**

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

Nebraska Information Technology Commission  
L. Merrill Bryan Jr.

VOTE: Aye: Senators Hlava, Baker, Robak, Dw. Pedersen, Byars, Hudkins, Brown, and Jones. Nay: None. Absent: None.

(Signed) Jim Jones, Vice Chairperson

**MOTIONS - Approve Appointments**

Senator Coordsen moved the adoption of the report of the Revenue Committee for the following appointment found on page 58: Tax Equalization and Review Commission - William R. Wickersham.

Voting in the affirmative, 42:

Aguilar	Coordsen	Janssen	Preister	Stuhr
Baker	Cudaback	Jensen	Price	Suttle
Bourne	Cunningham	Johnson	Quandahl	Synowiecki
Bromm	Dierks	Jones	Raikes	Thompson
Brown	Erdman	Kremer	Redfield	Tyson
Burling	Foley	Landis	Robak	Wehrbein
Byars	Hartnett	Maxwell	Schimek	
Chambers	Hlava	McDonald	Schrock	
Connealy	Hudkins	Pederson, D.	Smith	

Voting in the negative, 0.

Present and not voting, 1:

Kruse

Excused and not voting, 6:

Beutler	Bruning	Pedersen, Dw.
Brashear	Engel	Vrtiska

The appointment was confirmed with 42 ayes, 0 nays, 1 present and not voting, and 6 excused and not voting.

Senator Raikes moved the adoption of the report of the Education Committee for the following appointment found on page 63: Nebraska Educational Telecommunications Commission - Michael S. Kneale.

Voting in the affirmative, 38:

Aguilar	Cudaback	Jensen	Price	Stuhr
Baker	Cunningham	Jones	Quandahl	Suttle
Brown	Dierks	Kremer	Raikes	Synowiecki
Burling	Erdman	Landis	Redfield	Thompson
Byars	Foley	Maxwell	Robak	Tyson
Chambers	Hlava	McDonald	Schimek	Wehrbein
Connealy	Hudkins	Pederson, D.	Schrock	
Coordsen	Janssen	Preister	Smith	

Voting in the negative, 0.

Present and not voting, 6:

Beutler	Bromm	Johnson
Bourne	Hartnett	Kruse

Excused and not voting, 5:

Brashear      Bruning      Engel      Pedersen, Dw. Vrtiska

The appointment was confirmed with 38 ayes, 0 nays, 6 present and not voting, and 5 excused and not voting.

Senator Schimek asked unanimous consent to be excused until she returns. No objections. So ordered.

Senator Jensen moved the adoption of the report of the Health and Human Services Committee for the following appointments found on page 63: Board of Emergency Medical Services - Diane L. Yetter; and Commission for the Deaf and Hard of Hearing - Daniel Darnall, Eleanor Propp, and Marian Reyburn.

Voting in the affirmative, 37:

Aguilar	Cudaback	Jensen	Preister	Stuhr
Baker	Cunningham	Johnson	Price	Suttle
Brown	Dierks	Jones	Quandahl	Synowiecki
Burling	Erdman	Kremer	Raikes	Tyson
Byars	Foley	Landis	Redfield	Wehrbein
Chambers	Hlava	Maxwell	Robak	
Connealy	Hudkins	McDonald	Schrock	
Coordsen	Janssen	Pederson, D.	Smith	

Voting in the negative, 0.

Present and not voting, 6:

Beutler	Bromm	Kruse
Bourne	Hartnett	Thompson

Excused and not voting, 6:

Brashear	Engel	Schimek
Bruning	Pedersen, Dw. Vrtiska	

The appointments were confirmed with 37 ayes, 0 nays, 6 present and not voting, and 6 excused and not voting.

### ANNOUNCEMENT

The Chair announced today is Senator Price's birthday.

### MOTION - Adjourn Sine Die

Senator Chambers moved to adjourn sine die.

Senator Chambers moved for a call of the house. The motion prevailed with 15 ayes, 7 nays, and 27 not voting.

Senator Chambers requested a roll call vote on his motion to adjourn sine die.

Voting in the affirmative, 1:

Chambers

Voting in the negative, 42:

Aguilar	Coordsen	Janssen	Pederson, D.	Stuhr
Baker	Cudaback	Jensen	Preister	Suttle
Beutler	Cunningham	Johnson	Price	Synowiecki
Bourne	Dierks	Jones	Quandahl	Thompson
Bromm	Erdman	Kremer	Raikes	Tyson
Brown	Foley	Kruse	Redfield	Wehrbein
Burling	Hartnett	Landis	Robak	
Byars	Hlava	Maxwell	Schrock	
Connealy	Hudkins	McDonald	Smith	

Excused and not voting, 6:

Brashear	Engel	Schimek
Bruning	Pedersen, Dw.	Vrtiska

The Chambers motion to adjourn sine die failed with 1 aye, 42 nays, and 6 excused and not voting.

The Chair declared the call raised.

## GENERAL FILE

**LEGISLATIVE BILL 3.** Title read. Considered.

Senator Chambers requested a roll call vote, in reverse order, on the advancement of the bill.

Advanced to E & R for review with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 12.** Title read. Considered.

Advanced to E & R for review with 34 ayes, 1 nay, 9 present and not voting, and 5 excused and not voting.

Senators Kruse, Wehrbein, and Beutler asked unanimous consent to be excused until they return. No objections. So ordered.

**LEGISLATIVE BILL 4.** Title read. Considered.

The Standing Committee amendment, AM9004, found on page 59, was considered.

Senator Chambers requested a record vote on the adoption of the Standing Committee amendment.

Voting in the affirmative, 34:

Aguilar	Coordsen	Hudkins	Maxwell	Smith
Bourne	Cudaback	Janssen	McDonald	Stuhr
Bromm	Cunningham	Jensen	Preister	Suttle
Brown	Dierks	Johnson	Raikes	Synowiecki
Burling	Erdman	Jones	Redfield	Thompson
Byars	Foley	Kremer	Robak	Tyson
Connealy	Hlava	Landis	Schrock	

Voting in the negative, 1:

Chambers

Present and not voting, 6:

Baker	Pederson, D.	Quandahl
Hartnett	Price	Schimek

Excused and not voting, 8:

Beutler	Bruning	Kruse	Vrtiska
Brashear	Engel	Pedersen, Dw.	Wehrbein

The Standing Committee amendment was adopted with 34 ayes, 1 nay, 6 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 32 ayes, 1 nay, 8 present and not voting, and 8 excused and not voting.

Senators Foley, McDonald, and Cudaback asked unanimous consent to be excused until they return. No objections. So ordered.

### **STANDING COMMITTEE REPORTS** **Health and Human Services**

**LEGISLATIVE BILL 49.** Placed on General File.

**LEGISLATIVE BILL 22.** Placed on General File as amended.  
Standing Committee amendment to LB 22:  
AM9010

- 1 1. On page 2, line 4, strike "2001" and insert "2002".

**LEGISLATIVE BILL 48.** Placed on General File as amended.  
Standing Committee amendment to LB 48:  
AM9025

- 1 1. On page 9, line 5, strike "Department" through "Cash"  
2 and insert "General".

**LEGISLATIVE BILL 24.** Indefinitely postponed.  
**LEGISLATIVE BILL 26.** Indefinitely postponed.  
**LEGISLATIVE BILL 27.** Indefinitely postponed.  
**LEGISLATIVE BILL 33.** Indefinitely postponed.

(Signed) Jim Jensen, Chairperson

### Revenue

**LEGISLATIVE BILL 50.** Placed on General File.

**LEGISLATIVE BILL 32.** Placed on General File as amended.  
Standing Committee amendment to LB 32:  
AM9035

- 1 1. Insert the following new sections:
- 2 "Sec. 2. Section 77-2705, Revised Statutes Supplement,
- 3 2000, is amended to read:
- 4 77-2705. (1) Every retailer shall register with the Tax
- 5 Commissioner and give:
- 6 (a) The name and address of all agents operating in this
- 7 state;
- 8 (b) The location of all distribution or sales houses or
- 9 offices or other places of business in this state;
- 10 (c) Such other information as the Tax Commissioner may
- 11 require; and
- 12 (d) If the retailer is an individual, his or her social
- 13 security number.
- 14 (2) Every person furnishing public utility service as
- 15 defined in subsection (2) of section 77-2702.07 shall register with
- 16 the Tax Commissioner and give:
- 17 (a) The address of each office open to the public in
- 18 which such public utility service business is transacted with
- 19 consumers; and
- 20 (b) Such other information as the Tax Commissioner may
- 21 require.
- 22 (3) It shall be unlawful for any person to engage in or
- 23 transact business as a seller within this state after June 1, 1967,
- 24 unless a permit or permits shall have been issued to him or her as
- 1 prescribed in this section. Every person desiring to engage in or
- 2 to conduct business as a seller within this state shall file with
- 3 the Tax Commissioner an application for a permit for each place of

4 business. ~~At the time of making such application, the applicant~~  
5 ~~shall pay to the Tax Commissioner a permit fee of ten dollars for~~  
6 ~~each permit There shall be no charge to the retailer for the~~  
7 ~~application for or issuance of a permit, except as otherwise~~  
8 ~~provided in this section.~~

9 (4) Every application for a permit shall:

10 (a) Be made upon a form prescribed by the Tax  
11 Commissioner;

12 (b) Set forth the name under which the applicant  
13 transacts or intends to transact business and the location of his  
14 or her place or places of business;

15 (c) Set forth such other information as the Tax  
16 Commissioner may require; and

17 (d) Be signed by the owner and include his or her social  
18 security number if he or she is a natural person; in the case of an  
19 association or partnership, by a member or partner; in case of a  
20 limited liability company, by a member or some person authorized by  
21 the limited liability company to sign such kinds of applications;  
22 and in the case of a corporation, by an executive officer or some  
23 person authorized by the corporation to sign such kinds of  
24 applications.

25 (5) After compliance with subsections (1) through (4) of  
26 this section by the applicant, the Tax Commissioner shall grant and  
27 issue to each applicant a separate permit for each place of

1 business within the state. A permit shall not be assignable and  
2 shall be valid only for the person in whose name it is issued and  
3 for the transaction of business at the place designated therein.

4 It shall at all times be conspicuously displayed at the place for  
5 which issued and shall be valid and effective ~~without further~~  
6 ~~payment of fees~~ until revoked by the Tax Commissioner.

7 (6)(a) Whenever the holder of a permit fails to comply  
8 with any provision of the Nebraska Revenue Act of 1967 relating to  
9 the retail sales tax or with any rule or regulation of the Tax  
10 Commissioner relating to such tax prescribed and adopted under such  
11 act, the Tax Commissioner upon hearing, after giving the person  
12 twenty days' notice in writing specifying the time and place of  
13 hearing and requiring him or her to show cause why his or her  
14 permit or permits should not be revoked, may revoke or suspend any  
15 one or more of the permits held by the person. The Tax  
16 Commissioner shall give to the person written notice of the  
17 suspension or revocation of any of his or her permits. The notices  
18 may be served personally or by mail in the manner prescribed for  
19 service of notice of a deficiency determination.

20 (b) The Tax Commissioner shall have the power to restore  
21 permits which have been revoked but shall not issue a new permit  
22 after the revocation of a permit unless he or she is satisfied that  
23 the former holder of the permit will comply with the provisions of  
24 such act relating to the retail sales tax and the regulations of  
25 the Tax Commissioner. A seller whose permit has been previously



26 suspended or revoked shall pay the Tax Commissioner a fee of  
27 twenty-five dollars for the renewal or issuance of a permit in the  
1 event of a first revocation and fifty dollars for renewal after  
2 each successive revocation.

3 (c) The action of the Tax Commissioner may be appealed by  
4 the taxpayer in the same manner as a final deficiency  
5 determination.

6 (7) For the purpose of more efficiently securing the  
7 payment, collection, and accounting for the sales and use taxes and  
8 for the convenience of the retailer in collecting the sales tax, it  
9 shall be the duty of the Tax Commissioner to formulate and  
10 promulgate appropriate rules and regulations providing a form and  
11 method for the registration of exempt purchases and the  
12 documentation of exempt sales.

13 (8) If any person, firm, corporation, association, or  
14 agent thereof presents an exempt sale certificate to the seller for  
15 property which is purchased by a taxpayer or for a use other than  
16 those enumerated in the Nebraska Revenue Act of 1967 as exempted  
17 from the computation of sales and use taxes, the Tax Commissioner  
18 may, in addition to other penalties provided by law, impose,  
19 assess, and collect from the purchaser or the agent thereof a  
20 penalty of one hundred dollars or ten times the tax, whichever  
21 amount is larger, for each instance of such presentation and misuse  
22 of an exempt sale certificate. Such amount shall be in addition to  
23 any tax, interest, or penalty otherwise imposed.

24 Any report, name, or information which is supplied to the  
25 Tax Commissioner regarding a violation specified in this section,  
26 including the identity of the informer, shall be subject to the  
27 pertinent provisions regarding wrongful disclosure in section  
1 77-2711.

2 Sec. 5. This act becomes operative on October 1, 2002."

3 2. On page 12, strike line 10 and insert "collected  
4 prior to October 1, 2002, such"; and in line 15 after the period  
5 insert "For use taxes collected on and after October 1, 2002, such  
6 collectors of the use tax shall deduct and withhold from the amount  
7 of taxes collected two and one-half percent of the first three  
8 thousand dollars remitted each month as reimbursement for the cost  
9 of collecting the tax.".

10 3. On page 18, strike the new matter in lines 16 and 17  
11 and insert "For all sales tax collected prior to October 1, 2002,  
12 the"; and in line 22 after the period insert "For all sales tax  
13 collected on and after October 1, 2002, the taxpayer shall deduct  
14 and withhold, from the taxes otherwise due from him or her on his  
15 or her tax return, two and one-half percent of the first three  
16 thousand dollars remitted each month to reimburse himself or  
17 herself for the cost of collecting the tax.".

18 4. On page 22, line 13, after "Nebraska," insert  
19 "section 77-2705, Revised Statutes Supplement, 2000,".

20 5. Renumber the remaining sections accordingly.

**LEGISLATIVE BILL 46.** Placed on General File as amended.

Standing Committee amendment to LB 46:

AM9036

1 1. On page 2, line 22, strike "September 1, 2002, or  
 2 after June 30, 2005" and insert "October 1, 2002, or after  
 3 September 30, 2004"; and in line 26 after the period insert "For  
 4 stamps sold beginning October 1, 2002, through September 30, 2004,  
 5 the authorized commission for affixing and canceling such stamps  
 6 shall be one and seventh-tenths percent of the tax.".

**LEGISLATIVE BILL 38.** Indefinitely postponed.**LEGISLATIVE BILL 39.** Indefinitely postponed.

(Signed) George Coordsen, Vice Chairperson

**Health and Human Services****LEGISLATIVE BILL 8.** Placed on General File as amended.

Standing Committee amendment to LB 8:

AM9038

1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 "Section 1. Section 68-1019, Revised Statutes  
 4 Supplement, 2000, is amended to read:  
 5 68-1019. (1) Medical assistance on behalf of recipients  
 6 shall be paid directly to vendors.  
 7 (2) On behalf of recipients over sixty-five years of age,  
 8 medical assistance shall include care in an institution for mental  
 9 diseases.  
 10 (3) On behalf of all recipients, medical assistance shall  
 11 include:  
 12 (a) Inpatient and outpatient hospital care;  
 13 (b) Laboratory and X-ray services;  
 14 (c) Nursing home services;  
 15 (d) Care home services;  
 16 (e) Home health care services;  
 17 (f) Nursing services;  
 18 (g) Clinic services;  
 19 (h) Services of practitioners licensed by the Department  
 20 of Health and Human Services Regulation and Licensure; and  
 21 (i) Such drugs, appliances, and health aids as may be  
 22 prescribed by practitioners licensed by the Department of Health  
 23 and Human Services Regulation and Licensure.  
 24 (4) ~~The Director~~ Department of Health and Human Services  
 1 Finance and Support ~~may shall~~ adopt and promulgate rules and  
 2 regulations to establish a schedule of premiums, copayments, and  
 3 deductibles for goods and services provided under the medical  
 4 assistance program. Such schedule as may be allowed by Title XIX  
 5 of Title XXI of the federal Social Security Act, as amended as of

6 September 1, 1998. The system of copayments and deductibles in the  
 7 schedule shall discourage abuse of high-cost services and encourage  
 8 the utilization of cost-effective services. Prior to the adoption  
 9 of the schedule of copayments and deductibles, the director shall  
 10 provide a report to the Governor and the Legislature outlining  
 11 proposed copayments and deductibles. The report shall collect and  
 12 summarize available data from other states concerning their  
 13 experience with copayments and deductibles, determine if vendors  
 14 may be reimbursed for copayments and deductibles resulting from a  
 15 recipient's inability to pay, evaluate the collectability of  
 16 copayments and deductibles, and assess the effect of copayments and  
 17 deductibles on recipients, vendors, access to and availability of  
 18 care, and utilization of affected medical assistance program  
 19 services. The report shall include data from Nebraska as it  
 20 becomes available. The report shall also provide information as to  
 21 other cost-containment mechanisms which have been implemented or  
 22 proposed by the Department of Health and Human Services Finance and  
 23 Support for the fiscal year. If the director is proposing to adopt  
 24 a schedule, the report shall be provided to the Governor and the  
 25 Legislature by December 1. No schedule of copayments and  
 26 deductibles shall be put into effect until July 1 following the  
 27 report, except that for the first year the schedule shall be put  
 1 into effect by April 1. If the director is proposing elimination  
 2 or modification of an existing schedule of copayments and  
 3 deductibles, a report on the proposed changes shall be provided to  
 4 the Governor and the Legislature by December 1. The proposed  
 5 modification or elimination of the schedule of copayments and  
 6 deductibles shall not take place prior to the July 1 following this  
 7 report. A vendor Vendors shall be responsible for collecting any  
 8 applicable copayment or deductible from the recipient.

9 (5) The Department Director of Health and Human Services  
 10 Finance and Support shall adopt and promulgate rules and  
 11 regulations to provide limits as to the amount, duration, and scope  
 12 of goods and services and goods recipients may receive under the  
 13 medical assistance program. ~~For purposes of providing limits as to~~  
 14 ~~the amount, duration, and scope of services and goods recipients~~  
 15 ~~may receive under the medical assistance program, the Department of~~  
 16 ~~Health and Human Services Finance and Support shall adopt and~~  
 17 ~~promulgate rules and regulations. The limits adopted shall in all~~  
 18 ~~respects comply with applicable provisions of Title XIX of the~~  
 19 ~~federal Social Security Act and the related federal regulations, as~~  
 20 ~~they may be amended from time to time. Prior to the adoption of~~  
 21 such rules and regulations, the director shall provide a report to  
 22 the Governor and the Legislature outlining proposed limits. Such  
 23 report shall be provided to the Governor and the Legislature by  
 24 December 1. No rules or regulations to implement such limits shall  
 25 be put into effect until April 1 following the report.

26 (6) The Department of Health and Human Services Finance  
 27 and Support shall adopt and promulgate rules and regulations to

1 establish a monthly earned income disregard of one hundred dollars  
 2 under the medical assistance program.

3 (7) No vendor shall advertise or promote through  
 4 newspapers, magazines, circulars, direct mail, directories, radio,  
 5 television, or otherwise that such vendor will waive the collection  
 6 of all or any portion of any copayment or deductible established  
 7 pursuant to subsection (4) of this section.

8 Sec. 2. Section 68-1020, Revised Statutes Supplement,  
 9 2001, is amended to read:

10 68-1020. (1) Medical assistance shall be paid on behalf  
 11 of ~~(a) dependent children, (b) aged, persons, blind, individuals,~~  
 12 ~~and disabled individuals persons,~~ as defined in sections 43-504 and  
 13 68-1002 to 68-1005, and ~~(c) on behalf of all individuals persons~~  
 14 less than twenty-one years of age who are eligible under section  
 15 1905(a) of the federal Social Security Act, as such section existed  
 16 on ~~September 1, 2001~~ January 1, 2002.

17 (2) The ~~Department~~ Director of Health and Human Services  
 18 Finance and Support shall adopt and promulgate rules and  
 19 regulations governing provision of such medical assistance benefits  
 20 to qualified ~~individuals persons~~:

21 (a) Who are presumptively eligible as allowed under 42  
 22 U.S.C. 1396a, as such section existed on September 1, 2001, and  
 23 sections 1920A and 1920B of the federal Social Security Act, as  
 24 such sections existed on ~~September 1, 2001~~ January 1, 2002;

25 (b) Who have a family income at or below equal to or less  
 26 than one hundred eighty-five percent of the Office of Management  
 27 and Budget income poverty line guideline, as allowed under Title  
 1 XIX and Title XXI of the federal Social Security Act, as such  
 2 titles existed on September 1, 2001 January 1, 2002, without regard  
 3 to resources, including all children under nineteen years of age  
 4 and pregnant women as allowed under 42 U.S.C. 1396a, as such  
 5 section existed on ~~September 1, 2001~~ January 1, 2002, and section  
 6 2110 of the federal Social Security Act, as such section existed on  
 7 ~~September 1, 2001~~ January 1, 2002. ~~Children~~ Except as otherwise  
 8 provided in this subdivision, children described in this  
 9 subdivision shall remain eligible for a ~~twelve-month period of time~~  
 10 from the date of eligibility prior to six consecutive months after  
 11 each determination or redetermination of eligibility. The  
 12 department may conduct limited monthly eligibility reviews upon  
 13 completion of the initial six-month period of continuous  
 14 eligibility pursuant to rules and regulations adopted and  
 15 promulgated by the department. The department may determine upon  
 16 such review that a child is ineligible under this subdivision if  
 17 the family income exceeds eligibility standards, notwithstanding a  
 18 prior determination of continuous eligibility by the department.  
 19 The department shall report annually to the Governor and to the  
 20 Legislature the number of children determined to be ineligible  
 21 under this subdivision and the family incomes of such children; or  
 22 (c) Who, for purposes of Title XIX of the federal Social

23 Security Act as provided in subdivision (b) of this subsection, are  
 24 children in families with income as follows:  
 25 (i) Equal to or less than one hundred fifty percent of  
 26 the Office of Management and Budget income poverty guideline with  
 27 eligible children one year of age or younger;

1 (ii) Equal to or less than one hundred thirty-three  
 2 percent of the Office of Management and Budget income poverty  
 3 guideline with eligible children over one year of age and under six  
 4 years of age; or

5 (iii) Equal to or less than one hundred percent of the  
 6 Office of Management and Budget income poverty guideline with  
 7 eligible children six years of age or older and less than nineteen  
 8 years of age; or

9 (d) Who are medically needy caretaker relatives as  
 10 allowed under section 1905(a)(ii) of the federal Social Security  
 11 Act, as such section existed on ~~September 1, 2001~~ January 1, 2002;  
 12 and who have children with allocated income as follows:

13 (i) At or below one hundred fifty percent of the Office  
 14 of Management and Budget poverty line with eligible children one  
 15 year of age or younger;

16 (ii) At or below one hundred thirty-three percent of the  
 17 Office of Management and Budget poverty line with eligible children  
 18 over one year of age and under six years of age; or

19 (iii) At or below one hundred percent of the Office of  
 20 Management and Budget poverty line with eligible children six years  
 21 of age or more and under fifteen years of age.

22 (3) As allowed pursuant to 42 U.S.C. 1396a(a)(10)(A)(ii),  
 23 as such section existed on ~~September 1, 2001~~ January 1, 2002,  
 24 medical assistance shall be paid on behalf of disabled persons as  
 25 defined in section 68-1005 who are in families whose net income is  
 26 less than two hundred fifty percent of the Office of Management and  
 27 Budget income poverty ~~line~~ guideline applicable to a family of the  
 1 size involved and who but for earnings in excess of the limit  
 2 established under 42 U.S.C. 1396d(q)(2)(B) of the federal Social  
 3 Security Act, as such section existed on ~~September 1, 2001~~ January  
 4 1, 2002, would be considered to be receiving federal Supplemental  
 5 Security Income. The Department of Health and Human Services shall  
 6 apply for a waiver to disregard any unearned income that is  
 7 contingent upon a trial work period in applying the Supplemental  
 8 Security Income standard. Such disabled persons shall be subject  
 9 to payment of premiums as a percentage of the family's net income  
 10 beginning at not less than two hundred percent of the Office of  
 11 Management and Budget net income poverty ~~line~~ guideline. Such  
 12 premiums shall be graduated based on family income and shall not be  
 13 less than two percent or more than ten percent of family net  
 14 income.

15 (4) As allowed pursuant to 42 U.S.C. 1396a(a)(10)(A)(ii),  
 16 as such section existed on ~~September 1, 2001~~ January 1, 2002,  
 17 medical assistance shall be paid on behalf of persons who:

18 (a) Have been screened for breast and cervical cancer  
 19 under the Centers for Disease Control and Prevention breast and  
 20 cervical cancer early detection program established under Title XV  
 21 of the federal Public Health Service Act, 42 U.S.C. 300k et seq.,  
 22 as such sections existed on ~~September 1, 2001~~ January 1, 2002, in  
 23 accordance with the requirements of section 1504 of such act, 42  
 24 U.S.C. 300n, as such section existed on ~~September 1, 2001~~ January  
 25 1, 2002, and who need treatment for breast or cervical cancer,  
 26 including precancerous and cancerous conditions of the breast or  
 27 cervix;

1 (b) Are not otherwise covered under creditable coverage,  
 2 as defined in section 2701(c) of the federal Public Health Service  
 3 Act, 42 U.S.C. 300gg(c), as such section existed on ~~September 1,~~  
 4 ~~2001~~ January 1, 2002;

5 (c) Have not attained sixty-five years of age; and

6 (d) Are not eligible for medicaid under any mandatory  
 7 categorically needy eligibility group.

8 (5) Eligibility shall be determined under this section  
 9 using an income budgetary methodology that determines children's  
 10 eligibility at no greater than one hundred eighty-five percent of  
 11 the Office of Management and Budget income poverty guideline and  
 12 adult eligibility using adult income standards no greater than the  
 13 applicable categorical eligibility standards established pursuant  
 14 to state or federal law. As of the effective date of this act, the  
 15 department shall redetermine eligibility under this section  
 16 pursuant to such income budgetary methodology and subsection (6) of  
 17 section 68-1019.

18 (6) The department shall adopt and promulgate rules and  
 19 regulations to implement this section.

20 Sec. 3. Section 68-1713, Revised Statutes Supplement,  
 21 2000, is amended to read:

22 68-1713. (1) The Department of Health and Human Services  
 23 shall submit a waiver request or requests to the United States  
 24 Department of Health and Human Services and the United States  
 25 Department of Agriculture as necessary for federal authorization to  
 26 implement the provisions of the Welfare Reform Act. The Department  
 27 of Health and Human Services may include the provisions of sections

1 68-1718 to 68-1726 in its waiver requests and shall designate  
 2 counties for implementation on or after July 1, 1995, of such  
 3 sections for recipient families in the aid to dependent children  
 4 program. It is the intent of the Legislature that such designated  
 5 counties include at least one county with a population of not more  
 6 than thirty-five thousand inhabitants and one county with a  
 7 population of at least one hundred fifty thousand inhabitants but  
 8 not more than three hundred thousand inhabitants.

9 The Department of Health and Human Services shall  
 10 implement the following policies:

11 (a) Permit Work Experience in Private for Profit  
 12 Enterprises;

- 13 (b) Permit Job Search to Extend Beyond Eight Weeks Each  
14 Year;
- 15 (c) Permit Employment to be Considered a JOBS Program  
16 Component;
- 17 (d) Make Sanctions More Stringent to Emphasize  
18 Participant Obligations;
- 19 (e) Alternative Hearing Process;
- 20 (f) Permit Adults in Two-Parent Households to Participate  
21 in JOBS Activities Based on Their Self-Sufficiency Needs;
- 22 (g) Eliminate Exemptions for Individuals with Children  
23 between the Ages of 12 Weeks and Age Six;
- 24 (h) Providing Poor Working Families with Transitional  
25 Child Care to Ease the Transition from Welfare to Self-Sufficiency;
- 26 (i) Provide Transitional Health Care for 24 12 Months  
27 After Termination of ADC;
- 1 (j) Cap Family Benefits Based on the Number of Children  
2 in the Unit at the Time of Initial Eligibility;
- 3 (k) Require Adults to Ensure that Children in the Family  
4 Unit Attend School;
- 5 (l) Encourage Minor Parents to Live with Their Parents;
- 6 (m) Establish a Resource Limit of \$4,000 for a single  
7 individual and \$6,000 for two or more individuals for ADC;
- 8 (n) Exclude the Value of One Vehicle Per Family When  
9 Determining ADC Eligibility;
- 10 (o) Exclude the Cash Value of Life Insurance Policies in  
11 Calculating Resources for ADC;
- 12 (p) Permit the Self-Sufficiency Contract Assessment to  
13 Substitute for the Six-Month ADC Redetermination Process;
- 14 (q) Establish Food Stamps as a Continuous Benefit with  
15 Eligibility Reevaluated with Yearly Redeterminations;
- 16 (r) Establish a Budget the Gap Methodology Whereby  
17 Countable Earned Income is Subtracted from the Standard of the Need  
18 and Payment is Based on the Difference or Maximum Payment Level,  
19 Whichever is Less. That this Gap be Established at a Level that  
20 Encourages Work but at Least at a Level that Ensures that Those  
21 Currently Eligible for ADC do not Lose Eligibility Because of the  
22 Adoption of this Methodology;
- 23 (s) Adopt the Food Stamp Program's Earned Income  
24 Disregard of Twenty Percent of Gross Earnings in the ADC ~~and~~  
25 ~~Related Medical Assistance~~ Program;
- 26 (t) Disregard Financial Assistance Received Intended for  
27 Books, Tuition, or Other Self-Sufficiency Related Use;
- 1 (u) Culture: Eliminate the 100-Hour Rule, The Quarter of  
2 Work Requirement, and The 30-Day Unemployed/Underemployed Period  
3 for ADC-UP Eligibility;
- 4 (v) Make ADC a Time-Limited Program;
- 5 (w) Eliminate Self-Initiated Training as a JOBS Option;  
6 and
- 7 (x) Other Waivers: Statewide Operation of the

8 Demonstration Project.

9 At the end of the first year of implementation, the  
10 department shall identify any adjustments or adaptations that may  
11 be needed before the policies of the Welfare Reform Act are  
12 implemented in other areas of the state. Such review shall include  
13 an evaluation of the impact of such policies. The department shall  
14 implement the policies in additional counties as necessary to  
15 complete statewide implementation.

16 (2) The Department of Health and Human Services shall (a)  
17 apply for a waiver to allow for a sliding-fee schedule for the  
18 population served by the caretaker relative program or (b) pursue  
19 other public or private mechanisms, to provide for transitional  
20 health care benefits to individuals and families who do not qualify  
21 for cash assistance. It is the intent of the Legislature that  
22 transitional health care coverage be made available on a  
23 sliding-scale basis to individuals and families with incomes up to  
24 one hundred eighty-five percent of the federal poverty level if  
25 other health care coverage is not available.

26 Sec. 4. Original sections 68-1019 and 68-1713, Revised  
27 Statutes Supplement, 2000, and section 68-1020, Revised Statutes  
1 Supplement, 2001, are repealed.

2 Sec. 5. Since an emergency exists, this act takes effect  
3 when passed and approved according to law."

(Signed) Jim Jensen, Chairperson

### **UNANIMOUS CONSENT - Members Excused**

Senators Thompson and Bourne asked unanimous consent to be excused until they return. No objections. So ordered.

### **GENERAL FILE**

**LEGISLATIVE BILL 5.** Title read. Considered.

The Standing Committee amendment, AM9024, found on page 61, was adopted with 28 ayes, 1 nay, 9 present and not voting, and 11 excused and not voting.

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

**LEGISLATIVE BILL 6.** Title read. Considered.

### **SENATOR DIERKS PRESIDING**

Advanced to E & R for review with 27 ayes, 0 nays, 11 present and not voting, and 11 excused and not voting.



Senator Landis asked unanimous consent to be excused until he returns. No objections. So ordered.

**LEGISLATIVE BILL 10.** Title read. Considered.

Senator Erdman asked unanimous consent to be excused until he returns. No objections. So ordered.

**SPEAKER BROMM PRESIDING**

Senator Chambers moved to indefinitely postpone LB 10.

Senator Chambers requested a record vote on his motion to indefinitely postpone.

Voting in the affirmative, 3:

Chambers	Price	Synowiecki
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Voting in the negative, 19:

Aguilar	Byars	Hartnett	McDonald	Smith
Baker	Connealy	Hlava	Preister	Stuhr
Bromm	Coordsen	Hudkins	Redfield	Tyson
Brown	Dierks	Jensen	Schimek	

Present and not voting, 14:

Bruning	Janssen	Kremer	Quandahl	Schrock
Burling	Johnson	Maxwell	Raikes	Suttle
Cunningham	Jones	Pederson, D.	Robak	

Excused and not voting, 13:

Beutler	Cudaback	Foley	Pedersen, Dw.	Wehrbein
Bourne	Engel	Kruse	Thompson	
Brashear	Erdman	Landis	Vrtiska	

The Chambers motion to indefinitely postpone failed with 3 ayes, 19 nays, 14 present and not voting, and 13 excused and not voting.

Senators Hudkins and Stuhr asked unanimous consent to be excused. No objections. So ordered.

Senator Chambers offered the following amendment:

FA1117

P. 3, lines 16 & 17, strike "and (b) transfers may be made to the General Fund at the discretion of the Legislature."

Pending.

**STANDING COMMITTEE REPORT**  
**Banking, Commerce and Insurance**

**LEGISLATIVE BILL 42.** Indefinitely postponed.

(Signed) David M. Landis, Chairperson

**UNANIMOUS CONSENT - Add Cointroducer**

Senator Jensen asked unanimous consent to have his name added as cointroducer to LB 8 and LB 10. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Senator Hlava's wife and son, Wendy and Donald, from Gordon.

**ADJOURNMENT**

At 4:19 p.m., on a motion by Senator Jensen, the Legislature adjourned until 9:00 a.m., Wednesday, August 7, 2002.

Patrick J. O'Donnell  
Clerk of the Legislature

**SEVENTH DAY - AUGUST 7, 2002**

**LEGISLATIVE JOURNAL**

**NINETY-SEVENTH LEGISLATURE**  
**SECOND SPECIAL SESSION**

**SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, August 7, 2002

**PRAYER**

The prayer was offered by Senator Coordsen.

**ROLL CALL**

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

The roll was called and all members were present except Senators Cunningham, Hartnett, Landis, and D. Pederson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixth day was approved.

**MOTIONS - Approve Appointments**

Senator Jones moved the adoption of the report of the Transportation and Telecommunications Committee for the following appointment found on page 66: Nebraska Information Technology Commission - L. Merrill Bryan Jr.

Voting in the affirmative, 34:

Aguilar	Coordsen	Jensen	Price	Smith
Brashear	Cudaback	Jones	Quandahl	Stuhr
Brown	Dierks	Kremer	Raikes	Synowiecki
Bruning	Engel	Maxwell	Redfield	Tyson
Byars	Erdman	McDonald	Robak	Vrtiska
Chambers	Foley	Pedersen, Dw.	Schimek	Wehrbein
Connealy	Hlava	Preister	Schrock	

Voting in the negative, 0.

Present and not voting, 11:

Baker	Bromm	Janssen	Suttle
Beutler	Burling	Johnson	Thompson
Bourne	Hudkins	Kruse	

Excused and not voting, 4:

Cunningham	Hartnett	Landis	Pederson, D.
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The appointment was confirmed with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

Senator Schimek moved the adoption of the report of the Government, Military and Veterans Affairs Committee for the following appointment found on page 66: Nebraska Accountability and Disclosure Commission - Deborah Bacon.

Voting in the affirmative, 35:

Aguilar	Coordsen	Janssen	Pedersen, Dw.	Schrock
Brashear	Cudaback	Jensen	Pederson, D.	Smith
Bruning	Dierks	Johnson	Price	Stuhr
Burling	Engel	Jones	Quandahl	Synowiecki
Byars	Erdman	Kremer	Raikes	Tyson
Chambers	Foley	Maxwell	Robak	Vrtiska
Connealy	Hlava	McDonald	Schimek	Wehrbein

Voting in the negative, 0.

Present and not voting, 11:

Baker	Bromm	Kruse	Suttle
Beutler	Brown	Preister	Thompson
Bourne	Hudkins	Redfield	

Excused and not voting, 3:

Cunningham	Hartnett	Landis
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The appointment was confirmed with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Senator Schimek moved the adoption of the report of the Government, Military and Veterans Affairs Committee for the following appointment found on page 66: Nebraska Accountability and Disclosure Commission - Kim Quandt.

Voting in the affirmative, 38:

Aguilar	Connealy	Hlava	Pedersen, Dw.	Smith
Baker	Coordsen	Janssen	Pederson, D.	Stuhr
Brashear	Cudaback	Jensen	Price	Suttle
Bromm	Dierks	Johnson	Quandahl	Synowiecki
Bruning	Engel	Jones	Raikes	Tyson
Burling	Erdman	Kremer	Robak	Vrtiska
Byars	Foley	Maxwell	Schimek	
Chambers	Hartnett	McDonald	Schrock	

Voting in the negative, 0.

Present and not voting, 9:

Beutler	Brown	Kruse	Redfield	Wehrbein
Bourne	Hudkins	Preister	Thompson	

Excused and not voting, 2:

Cunningham Landis

The appointment was confirmed with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

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

Senator Brashear asked unanimous consent to have his name added as cointroducer to LB 11. No objections. So ordered.

### **GENERAL FILE**

**LEGISLATIVE BILL 11.** Title read. Considered.

Advanced to E & R for review with 45 ayes, 0 nays, 3 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 9.** Title read. Considered.

Advanced to E & R for review with 40 ayes, 0 nays, 8 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 13.** Title read. Considered.

Advanced to E & R for review with 40 ayes, 0 nays, 8 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 41.** Title read. Considered.

The Standing Committee amendment, AM9012, found on page 63, lost with 0 ayes, 36 nays, 12 present and not voting, and 1 excused and not voting.

Senator Beutler asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 34 ayes, 1 nay, 12 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 25.** Title read. Considered.

Senator Brashear asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 48.** Title read. Considered.

The Standing Committee amendment, AM9025, found on page 71, was adopted with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

Senator Schimek asked unanimous consent to be excused until she returns. No objections. So ordered.

**LEGISLATIVE BILL 22.** Title read. Considered.

The Standing Committee amendment, AM9010, found on page 70, was adopted with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 18.** Title read. Considered.**SENATOR CUDABACK PRESIDING**

Senator Robak asked unanimous consent to be excused until she returns. No objections. So ordered.

Advanced to E & R for review with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 49.** Title read. Considered.

Advanced to E & R for review with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

**UNANIMOUS CONSENT - Add Cointroducer**

Senator Cudaback asked unanimous consent to have his name added as cointroducer to LB 11. No objections. So ordered.

**STANDING COMMITTEE REPORT  
General Affairs**

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

Nebraska Advisory Commission on Compulsive Gambling  
Sherrie A. Geier  
Lisa Madson Jones  
Steven R. Jung

VOTE: Aye: Senators Burling, Cunningham, Erdman, Janssen, Johnson, McDonald, Redfield, and Synowiecki. Nay: None. Absent: None.

(Signed) Ray Janssen, Chairperson

**RECESS**

At 11:39 a.m., on a motion by Speaker Bromm, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Speaker Bromm presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Coordsen and Landis who were excused until they arrive.

**SELECT COMMITTEE REPORTS  
Enrollment and Review**

**LEGISLATIVE BILL 3.** Placed on Select File.

**LEGISLATIVE BILL 12.** Placed on Select File as amended.  
E & R amendment to LB 12:  
AM7233

- 1 1. On page 5, line 21, strike "and," and insert ",  
 2 except".  
 3 2. On page 7, lines 2 and 16, strike "in" and insert  
 4 "for".

**LEGISLATIVE BILL 4.** Placed on Select File.

**LEGISLATIVE BILL 5.** Placed on Select File as amended.

E & R amendment to LB 5:

AM7234

- 1 1. Strike the original sections and all amendments  
 2 thereto and insert the following new sections:  
 3 "Section 1. (1)(a) Any educational service unit may  
 4 borrow money to the amount of seventy percent of the unexpended  
 5 balance of total anticipated receipts of the general fund for the  
 6 current fiscal year and the following fiscal year. Total  
 7 anticipated receipts of the general fund for the current fiscal  
 8 year and the following fiscal year means a sum equal to the total  
 9 of (i) the anticipated receipts from the current existing levy  
 10 multiplied by two, (ii) the anticipated receipts from the state for  
 11 core services and technology infrastructure for the current fiscal  
 12 year and the following fiscal year, (iii) the anticipated receipts  
 13 from the United States for the current fiscal year and the  
 14 following fiscal year, and (iv) the anticipated receipts from other  
 15 sources for the current fiscal year and the following fiscal year.  
 16 (b) Any educational service unit may execute and deliver  
 17 in evidence thereof its promissory notes which it is hereby  
 18 authorized and empowered to make and negotiate, bearing a rate of  
 19 interest set by the educational service unit board and maturing not  
 20 more than two fiscal years from the date thereof. Such notes,  
 21 before they are negotiated, shall be presented to the treasurer of  
 22 the educational service unit and registered by him or her and shall  
 23 be payable out of the funds collected by such educational service  
 24 unit in the order of their registry after the payment of prior  
 1 registered warrants but prior to the payment of any warrant  
 2 subsequently registered, except that if both warrants and notes are  
 3 registered, the total of such registered notes and warrants shall  
 4 not exceed one hundred percent of the unexpended balance of the  
 5 total anticipated receipts of the general fund of such educational  
 6 service unit for the current fiscal year and the following fiscal  
 7 year. For the purpose of making such calculation, such total  
 8 anticipated receipts shall not include any anticipated receipts  
 9 against which the educational service unit has borrowed and issued  
 10 notes pursuant to this section in either the current or the  
 11 immediately preceding fiscal year.  
 12 (2) In addition to the authority granted by subsection  
 13 (1) of this section, any educational service unit may accept  
 14 interest-free or low-interest loans from the state or federal  
 15 government and may execute and deliver in evidence thereof its



16 promissory notes maturing not more than twenty years from the date  
17 of execution.

18 (3) In addition to the authority granted by subsections  
19 (1) and (2) of this section, any educational service unit may enter  
20 into loan agreements for the purpose of borrowing money from  
21 financial institutions, including banks, in amounts not in excess  
22 of seventy percent of the unexpended balance of its current  
23 existing levy. As evidence of such borrowing, an educational  
24 service unit may execute and deliver one or more written loan  
25 agreements but shall not be required to execute and deliver  
26 separate promissory notes for each borrowing under such agreements.  
27 Money borrowed pursuant to such agreements shall bear interest at  
1 such rate or rates and shall become due and be repaid as provided  
2 in such agreements. Any such agreement shall provide for repayment  
3 in full at least once each fiscal year and shall be for a term not  
4 exceeding one fiscal year. Any such agreement shall be registered  
5 upon books kept by the treasurer of the educational service unit,  
6 and money borrowed pursuant to such agreement shall be paid out of  
7 funds collected upon the current existing levy prior to the payment  
8 of any warrant or note registered subsequent to any such loan  
9 agreement. If an educational service unit has any such loan  
10 agreement or agreements outstanding and has warrants or notes  
11 registered, as described in subsection (1) of this section, the  
12 total amount (a) of borrowings pursuant to such loan agreement or  
13 agreements and (b) of registered notes and warrants shall not  
14 exceed one hundred percent of the unexpended balance of the current  
15 existing levy.

16 (4) Nothing in this section shall be construed to exempt  
17 an educational service unit from the terms and conditions contained  
18 in sections 10-701 to 10-716.

19 Sec. 2. Section 79-1201, Revised Statutes Supplement,  
20 2000, is amended to read:  
21 79-1201. Sections 79-1201 to 79-1243 and section 1 of  
22 this act shall be known and may be cited as the Educational Service  
23 Units Act.

24 Sec. 3. Section 79-1241, Revised Statutes Supplement,  
25 2000, is amended to read:

26 79-1241. Funds appropriated for core services shall be  
27 distributed proportionally to each educational service unit by the  
1 State Department of Education on or before August 1 of each school  
2 fiscal year based on the fall membership in member districts in the  
3 preceding school fiscal year, except that no educational service  
4 unit shall receive less than two and one-half percent of the funds  
5 appropriated for core services.

6 Any funds appropriated for distribution pursuant to this  
7 section for school fiscal year 2003-04 and each school fiscal year  
8 thereafter shall be distributed in ten as nearly as possible equal  
9 payments on the first business day of each month beginning in  
10 September of each school fiscal year and ending in June. Funds

11 distributed pursuant to this section shall be used for core  
 12 services with the approval of representatives of two-thirds of the  
 13 member school districts, representing a majority of the students in  
 14 the member school districts. If a member school district provides  
 15 evidence satisfactory to the educational service unit that the  
 16 district will provide core services for itself in a cost-efficient  
 17 manner, the educational service unit may distribute funds directly  
 18 to the district to be used for providing core services, or if all  
 19 member school districts within the boundaries of an educational  
 20 service unit together provide evidence satisfactory to the State  
 21 Department of Education that the districts will provide core  
 22 services for themselves in a more cost-efficient manner than the  
 23 educational service unit, the department shall distribute funds  
 24 directly to the districts to be used for providing core services.  
 25 Sec. 4. Original sections 79-1201 and 79-1241, Revised  
 26 Statutes Supplement, 2000, are repealed."

27 2. On page 1, strike beginning with "section" in line 1  
 1 through line 5 and insert "sections 79-1201 and 79-1241, Revised  
 2 Statutes Supplement, 2000; to authorize educational service units  
 3 to borrow money, execute promissory notes, and enter into loan  
 4 agreements as prescribed; to change provisions relating to  
 5 distribution of core services funds; to harmonize provisions; and  
 6 to repeal the original sections."

**LEGISLATIVE BILL 6.** Placed on Select File.

**LEGISLATIVE BILL 11.** Placed on Select File.

**LEGISLATIVE BILL 9.** Placed on Select File as amended.

E & R amendment to LB 9:

AM7235

- 1 1. On page 2, line 14; and page 3, line 5, strike
- 2 "Center" and insert "Centers".

**LEGISLATIVE BILL 13.** Placed on Select File.

(Signed) Philip Erdman, Chairperson

### AMENDMENT - Print in Journal

Senator Thompson filed the following amendment to LB 17:

AM9040

- 1 1. On page 4, line 27, strike "thirteen", show as
- 2 stricken, and insert "twelve".
- 3 2. On page 5, line 5, strike "forty-three", show as
- 4 stricken, and insert "forty-two"; and in line 7 strike "and (g)"
- 5 and insert "(g), and (h)".

**GENERAL FILE**

**LEGISLATIVE BILL 8.** Title read. Considered.

The Standing Committee amendment, AM9038, found on page 74, was considered.

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

AM9057

(Amendments to Standing Committee amendments, AM9038)

- 1 1. On page 6, line 11, after "2002" insert ", and whose
- 2 family income is equal to or less than one hundred fifty percent of
- 3 the Office of Management and Budget income poverty guideline".

Senator Brashear asked unanimous consent to be excused until he returns. No objections. So ordered.

**SENATOR DIERKS PRESIDING**

**SPEAKER BROMM PRESIDING**

Senator Dw. Pedersen asked unanimous consent to be excused. No objections. So ordered.

Senator Beutler moved for a call of the house. The motion prevailed with 38 ayes, 0 nays, and 11 not voting.

Senator Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 14:

Aguilar	Chambers	Hartnett	Robak	Synowiecki
Beutler	Connealy	McDonald	Schimek	Thompson
Byars	Dierks	Preister	Suttle	

Voting in the negative, 31:

Baker	Coordsen	Janssen	Price	Tyson
Bourne	Cunningham	Jensen	Quandahl	Vrtiska
Brashear	Engel	Johnson	Raikes	Wehrbein
Bromm	Erdman	Jones	Redfield	
Brown	Foley	Kremer	Schrock	
Bruning	Hlava	Maxwell	Smith	
Burling	Hudkins	Pederson, D.	Stuhr	

Present and not voting, 2:

Cudaback	Kruse
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Excused and not voting, 2:

Landis            Pedersen, Dw.

The Beutler amendment lost with 14 ayes, 31 nays, 2 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Brown asked unanimous consent to be excused until she returns. No objections. So ordered.

Senator Chambers asked unanimous consent to bracket LB 8 until August 9, 2002. No objections. So ordered.

### **SELECT COMMITTEE REPORTS** **Enrollment and Review**

**LEGISLATIVE BILL 41.** Placed on Select File.

**LEGISLATIVE BILL 25.** Placed on Select File.

**LEGISLATIVE BILL 48.** Placed on Select File as amended.

E & R amendment to LB 48:

AM7236

1 1. Strike the original sections and all amendments  
 2 thereto and insert the following new sections:  
 3 "Section 1. Section 33-106.03, Reissue Revised Statutes  
 4 of Nebraska, is amended to read:  
 5 33-106.03. In addition to the fees provided for in  
 6 sections 33-106 and 33-123, the clerk of the court shall collect an  
 7 additional twenty-five dollars in docket fees for dissolution of  
 8 marriages. The twenty-five dollar fee shall be ~~paid to the state~~  
 9 ~~treasury and credited to the General~~ remitted to the State  
 10 Treasurer for credit to the Nebraska Child Abuse Prevention Fund.  
 11 Sec. 2. Section 43-1906, Reissue Revised Statutes of  
 12 Nebraska, as amended by Laws 2002, LB 1310, section 4, is amended  
 13 to read:  
 14 43-1906. (1) There is hereby established the Nebraska  
 15 Child Abuse Prevention Fund. ~~The Legislature shall appropriate two~~  
 16 ~~hundred fifty thousand dollars each year from the General Fund to~~  
 17 ~~the Nebraska Child Abuse Prevention Fund except for fiscal year~~  
 18 ~~2002-03. All~~ The additional docket fee as provided in section  
 19 33-106.03, the additional charge for supplying a certified copy of  
 20 the record of any birth as provided in sections 71-612, 71-617.15,  
 21 71-627, and 71-628, and all amounts which may be received from  
 22 grants, gifts, bequests, the federal government, or other sources  
 23 granted or given for the purposes specified in sections 43-1901 to  
 24 43-1906 shall be remitted to the State Treasurer for credit to the  
 1 Nebraska Child Abuse Prevention Fund. The fund shall be

2 administered and disbursed by the department.

3 (2) Any money in the fund available for investment shall  
4 be invested by the state investment officer pursuant to the  
5 Nebraska Capital Expansion Act and the Nebraska State Funds  
6 Investment Act.

7 (3) ~~Until the amount in the fund exceeds two and one-half~~  
8 ~~million dollars, not more than seventy-five percent of the money~~  
9 ~~credited to the fund each year plus seventy-five percent of all~~  
10 ~~earnings from the investment of money in the fund credited during~~  
11 ~~the previous fiscal year shall be available for disbursement by the~~  
12 ~~board in accordance with sections 43-1901 to 43-1906, except that~~  
13 ~~any amounts which may be received from any grants, gifts, bequests,~~  
14 ~~the federal government, or other sources shall be disbursed~~  
15 ~~pursuant to the conditions imposed by such sources. For fiscal~~  
16 ~~year 2002-03 only, the principal of the fund may be disbursed by~~  
17 ~~the board in accordance with such sections in an amount not to~~  
18 ~~exceed two hundred fifty thousand dollars. Money not available for~~  
19 ~~disbursement shall be retained and accumulated in the fund. When~~  
20 ~~the assets in the fund exceed two and one-half million dollars,~~  
21 ~~only the earnings from the investment of money in the fund credited~~  
22 ~~during the previous fiscal year or other income credited to the~~  
23 ~~fund shall be available for disbursement by the board in accordance~~  
24 ~~with such sections.~~

25 (4) In any one fiscal year, no more than twenty percent  
26 of the annually available appropriated funds as provided in  
27 subsection (3) of this section shall be disbursed to any one  
1 agency, organization, or individual.

2 ~~(5)~~ (4) Funds allocated from the fund shall only be used  
3 for purposes authorized under such sections 43-1901 to 43-1906 and  
4 shall not be used to supplant any existing governmental program or  
5 service. No grants may be made to any state department or agency.

6 ~~(6) When the State Treasurer certifies that the assets in~~  
7 ~~the fund exceed two and one-half million dollars, the additional~~  
8 ~~docket fees prescribed in section 33-106.03 and the additional~~  
9 ~~charge for supplying a certified copy of the record of any birth as~~  
10 ~~provided in sections 71-612, 71-617.15, 71-627, and 71-628 shall be~~  
11 ~~terminated.~~

12 Sec. 3. Section 71-612, Revised Statutes Supplement,  
13 2000, is amended to read:

14 71-612. (1) The Director of Finance and Support, as the  
15 State Registrar, through the Department of Health and Human  
16 Services Finance and Support shall preserve permanently and index  
17 all certificates received. The department shall supply to any  
18 applicant for any proper purpose, as defined by rules and  
19 regulations of the department, a certified copy of the record of  
20 any birth, death, marriage, annulment, or dissolution of marriage  
21 registered. The department shall supply a copy of a public vital  
22 record for viewing purposes at its office upon an application  
23 signed by the applicant and upon proof of the identity of the

24 applicant. The application may include the name, address, and  
25 telephone number of the applicant, purpose for viewing each record,  
26 and other information as may be prescribed by the department by  
27 rules and regulations to protect the integrity of vital records and  
1 prevent their fraudulent use. Except as provided in subsections  
2 (2), (3), (5), (6), and (7) of this section, the department shall  
3 be entitled to charge and collect in advance a fee of (a) nine  
4 dollars until July 1, 1999, and (b) seven dollars on and after July  
5 1, 1999, to be paid by the applicant for each certified copy  
6 supplied to the applicant or for any search made at the applicant's  
7 request for access to or a certified copy of any record, whether or  
8 not the record is found on file with the department.

9 (2) The department shall, free of charge, search for and  
10 furnish a certified copy of any record on file with the department  
11 upon the request of (a) the United States Department of Veterans  
12 Affairs or any lawful service organization empowered to represent  
13 veterans if the copy of the record is to be issued, for the welfare  
14 of any member or veteran of the armed forces of the United States  
15 or in the interests of any member of his or her family, in  
16 connection with a claim growing out of service in the armed forces  
17 of the nation or (b) the Military Department.

18 (3) The Department of Health and Human Services Finance  
19 and Support may, free of charge, search for and furnish a certified  
20 copy of any record on file with the department when in the opinion  
21 of the Director of Finance and Support it would be a hardship for  
22 the claimant of old age, survivors, or disability benefits under  
23 the federal Social Security Act to pay the fee provided in this  
24 section.

25 (4) A strict account shall be kept of all funds received  
26 by the department. Such funds shall be remitted to the State  
27 Treasurer for credit to the Department of Health and Human Services  
1 Finance and Support Cash Fund. Money credited to the fund pursuant  
2 to this section shall be used for the purpose of administering the  
3 laws relating to vital statistics and may be used to create a petty  
4 cash fund administered by the department to facilitate the payment  
5 of refunds to individuals who apply for copies of records. The  
6 petty cash fund shall be subject to section 81-104.01, except that  
7 the amount in the petty cash fund shall not be less than  
8 twenty-five dollars nor more than one thousand dollars.

9 (5) The department shall, upon request, conduct a search  
10 of death certificates for stated individuals for the Nebraska  
11 Medical Association or any of its allied medical societies or any  
12 inhospital staff committee pursuant to sections 71-3401 to 71-3403.  
13 If such death certificate is found, the department shall provide a  
14 noncertified copy. The department shall charge a fee for each  
15 search or copy sufficient to cover its actual direct costs, except  
16 that the fee shall not exceed two dollars per individual search or  
17 copy requested.

18 (6) The department may permit use of data from vital

19 records for statistical or research purposes under section 71-602  
20 or disclose data from certificates or records to federal, state,  
21 county, or municipal agencies of government for use in  
22 administration of their official duties and charge and collect a  
23 fee that will recover the department's cost of production of the  
24 data. The department may provide access to public vital records  
25 for viewing purposes by electronic means, if available, under  
26 security provisions which shall assure the integrity and security  
27 of the records and data base and shall charge and collect a fee  
1 that shall recover the department's costs.

2 (7) In addition to the fees charged under subsection (1)  
3 of this section, the department shall charge and collect an  
4 additional fee of one dollar for any certified copy of the record  
5 of any birth or for any search made at the applicant's request for  
6 access to or a certified copy of any such record, whether or not  
7 the record is found on file with the department. Any county  
8 containing a city of the metropolitan class which has an  
9 established city-county or county health department pursuant to  
10 sections 71-1626 to 71-1636 which has an established system of  
11 registering births and deaths shall charge and collect in advance a  
12 fee of one dollar for any certified copy of the record of any birth  
13 or for any search made at the applicant's request for such record,  
14 whether or not the record is found on file with the county. All  
15 such fees collected shall be remitted to the State Treasurer for  
16 credit to the General Nebraska Child Abuse Prevention Fund.

17 (8) The department shall not charge other state agencies  
18 the fees authorized under subsections (1) and (7) of this section  
19 for automated review of any certificates. The department shall  
20 charge and collect a fee from other state agencies for such  
21 automated review that will recover the department's cost.

22 Sec. 4. Section 71-617.15, Revised Statutes Supplement,  
23 2000, is amended to read:

24 71-617.15. The Department of Health and Human Services  
25 Finance and Support shall charge and collect a fee of (1) nine  
26 dollars until July 1, 1999, and (2) seven dollars on and after July  
27 1, 1999, for each delayed birth certificate application when

1 submitted. Upon request and payment of the fee required by section  
2 71-612, a certified copy of such a certificate shall be furnished  
3 by the Director of Finance and Support. All such fees shall be  
4 remitted to the State Treasurer for credit to the Department of  
5 Health and Human Services Finance and Support Cash Fund as provided  
6 in section 71-612. The department shall charge and collect an  
7 additional fee of one dollar for each delayed birth certificate.  
8 All amounts collected from such additional fee shall be remitted to  
9 the State Treasurer for credit to the General Nebraska Child Abuse  
10 Prevention Fund.

11 Sec. 5. Section 71-627, Revised Statutes Supplement,  
12 2000, is amended to read:

13 71-627. The certificate of birth of adopted children

14 shall be filed as other certificates of birth. There shall be a  
 15 fee of (1) nine dollars until July 1, 1999, and (2) seven dollars  
 16 on and after July 1, 1999, charged for each certificate filed. All  
 17 such fees shall be remitted to the State Treasurer for credit to  
 18 the Department of Health and Human Services Finance and Support  
 19 Cash Fund as provided in section 71-612. Upon request and the  
 20 payment of the fee prescribed by section 71-612, a certified copy  
 21 of such a certificate may be furnished by the Director of Finance  
 22 and Support. The department shall charge and collect an additional  
 23 fee of one dollar for each certificate furnished. All amounts  
 24 collected from such additional fee shall be remitted to the State  
 25 Treasurer for credit to the ~~General~~ Nebraska Child Abuse Prevention  
 26 Fund.

27 Sec. 6. Section 71-628, Revised Statutes Supplement,  
 1 2000, is amended to read:

2 71-628. In case of the legitimation of any child born in  
 3 Nebraska by the subsequent marriage of such child's parents as  
 4 provided in section 43-1406, the Department of Health and Human  
 5 Services Finance and Support, upon the receipt of a certified copy  
 6 of the marriage certificate of the parents and a statement of the  
 7 parents acknowledging paternity, shall prepare a new certificate of  
 8 birth in the new name of the child so legitimated, in substantially  
 9 the same form as that used for other live births, and shall charge  
 10 a filing fee of (1) nine dollars until July 1, 1999, and (2) seven  
 11 dollars on and after July 1, 1999. The department shall charge and  
 12 collect an additional fee of one dollar for each new certificate of  
 13 birth prepared. The fees collected shall be remitted to the State  
 14 Treasurer for credit to the ~~General~~ Nebraska Child Abuse Prevention  
 15 Fund.

16 Sec. 7. On or before December 1, 2002, the State  
 17 Treasurer shall transfer \$800,000 from the Nebraska Child Abuse  
 18 Prevention Fund to the General Fund.

19 Sec. 8. Original section 33-106.03, Reissue Revised  
 20 Statutes of Nebraska, sections 71-612, 71-617.15, 71-627, and  
 21 71-628, Revised Statutes Supplement, 2000, and section 43-1906,  
 22 Reissue Revised Statutes of Nebraska, as amended by Laws 2002, LB  
 23 1310, section 4, are repealed."

24 2. On page 1, strike beginning with "sections" in line 1  
 25 through "2002" in line 3 and insert "section 33-106.03, Reissue  
 26 Revised Statutes of Nebraska, sections 71-612, 71-617.15, 71-627,  
 27 and 71-628, Revised Statutes Supplement, 2000, and section 43-1906,  
 1 Reissue Revised Statutes of Nebraska, as amended by Laws 2002, LB  
 2 1310, section 4".

**LEGISLATIVE BILL 22.** Placed on Select File.

**LEGISLATIVE BILL 18.** Placed on Select File.

**LEGISLATIVE BILL 49.** Placed on Select File as amended.  
 E & R amendment to LB 49:



AM7237

- 1 1. On page 1, line 3; and page 2, lines 2 and 23, strike
- 2 "2000" and insert "2001".

(Signed) Philip Erdman, Chairperson

### **VISITORS**

Visitors to the Chamber were Randy and Allison Thomas from Lincoln.

### **ADJOURNMENT**

At 4:25 p.m., on a motion by Senator Cudaback, the Legislature adjourned until 9:00 a.m., Thursday, August 8, 2002.

Patrick J. O'Donnell  
Clerk of the Legislature



**EIGHTH DAY - AUGUST 8, 2002**  
**LEGISLATIVE JOURNAL**  
**NINETY-SEVENTH LEGISLATURE**  
**SECOND SPECIAL SESSION**

**EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, August 8, 2002

**PRAYER**

The prayer was offered by Senator Dw. Pedersen.

**ROLL CALL**

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

The roll was called and all members were present except Senators Brashear, Bromm, Dierks, Engel, Landis, Preister, and Price who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventh day was approved.

**SELECT FILE**

**LEGISLATIVE BILL 12.** E & R amendment, AM7233, found on page 87, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 4.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 5.** E & R amendment, AM7234, found on page 88, was adopted.

Advanced to E & R for engrossment.

**GENERAL FILE**

**LEGISLATIVE BILL 17.** Title read. Considered.

Senator Thompson renewed her pending amendment, AM9040, found on page 90.

The Thompson amendment was adopted with 28 ayes, 0 nays, 14 present and not voting, and 7 excused and not voting.

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

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

Voting in the affirmative, 21:

Aguilar	Coordsen	Maxwell	Redfield	Vrtiska
Baker	Hartnett	McDonald	Robak	
Brown	Janssen	Pedersen, Dw.	Suttle	
Byars	Johnson	Quandahl	Synowiecki	
Chambers	Kruse	Raikes	Thompson	

Voting in the negative, 25:

Beutler	Connealy	Erdman	Kremer	Schrock
Bourne	Cudaback	Foley	Pederson, D.	Smith
Bromm	Cunningham	Hlava	Preister	Stuhr
Bruning	Dierks	Hudkins	Price	Tyson
Burling	Engel	Jones	Schimek	Wehrbein

Present and not voting, 1:

Jensen

Excused and not voting, 2:

Brashear      Landis

Failed to advance to E & R for review with 21 ayes, 25 nays, 1 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

## ATTORNEY GENERAL'S OPINION

Opinion #02020

DATE:                      August 8, 2002

**SUBJECT:** Scope of the Call for Special Session and Resolution for Constitutional Amendment regarding Casino Gambling

**REQUESTED BY:** Senator Philip Erdman, Legislative District 47

**WRITTEN BY:** Don Stenberg, Attorney General  
Mark D. Starr, Assistant Attorney General

**QUESTION:** Is LR 2CA within the scope of the Governor's Call for a Special Session?

**CONCLUSION:** No.

By proclamation dated July 24, 2002, the Governor called for a special session to commence on July 30, 2002. The Call identified 26 matters to be dealt with at the special session. Generally, the topics include the reduction or elimination of appropriations, making specified fund transfers, adopting modifications in payment requirements, and making miscellaneous changes in certain programs.

During this special session, Legislative Resolution 2CA was introduced. The resolution proposed that an amendment to Article III, section 24, of the Nebraska Constitution be submitted to the electors at the November 2002 general election. The amendment would authorize casinos in interdiction gaming zones and remove state restrictions against gaming on Indian reservations and Indian trust lands.

The topics to be addressed pursuant to the Call are specific and we find nothing in the Call related to gambling or interdiction gaming zones.

Article IV, Section 8 of the Nebraska Constitution provides: "The Governor may, on extraordinary occasions, convene the Legislature by proclamation, stating therein the purpose for which they are convened, and the Legislature shall enter upon no business except that for which they were called together." This provision gives the Governor the power to set the boundaries of legislative action permissible at a special session of the Nebraska Legislature. *Jaksha v. State*, 222 Neb. 690, 698, 385 N.W.2d 922, 927 (1986). The proclamation may state the purpose for which the Legislature is convened in broad, general terms or it may limit the consideration to a specified phase of a general subject. *Arrow Club, Inc. v. Nebraska Liquor Control Commission*, 177 Neb. 686, 689, 131 N.W.2d 134, 137 (1964).

On its face, the constitutional provision precludes the Legislature from addressing any business beyond that specified in the Call. We take this to include Legislative Resolutions such as the one at issue here. See *Op. Att'y Gen. No. 92114* (Sept. 14, 1992) (LR 2 proposing amendment to the Constitution deemed not germane to the items on the Governor's Call), and

State ex rel. Douglas v. State Bd. of Equalization and Assessment, 205 Neb. 130, 140-145, 286 N.W.2d 729, 734-37 (Brodkey, J., concurring).

Responding to a Call for a special session, the Legislature may enact legislation relating to, germane to, and having a natural connection with the purpose for which it was convened; it is free to determine in what manner the purpose shall be accomplished, but it must confine itself to the matters submitted to it by the proclamation. *Arrow Club*, 177 Neb. at 689-90, 131 N.W.2d at 137.

Where the Governor has been specific in his Call, the Legislature will be afforded little room to roam. See *Op. Att'y Gen. No. 01034* (Oct. 31, 2001). For example, in *Arrow Club* it was held that the Legislature had strayed too far afield when it legislated on the topic of bottle clubs after the Governor had called the members together to consider amendments to the Liquor Control Act relating to the licensing of nonprofit corporations. It was not enough that the enactment also involved the Liquor Control Act. The court did not believe that legislating on the topic of bottle clubs was sufficiently linked to the topic of licensing of nonprofit corporations.

Here, it is difficult to see any connection between the legislative proposal and the topics on the Call. It is our conclusion that LR 2CA is outside the Call's scope.

Sincerely,  
DON STENBERG  
Attorney General

(Signed) Mark D. Starr  
Assistant Attorney General

26-171-21

### **STANDING COMMITTEE REPORT** **Natural Resources**

The Natural Resources 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.

Nebraska Environmental Trust Board  
Robert F. Krohn

Nebraska Ethanol Board  
Mark McColley

VOTE: Aye: Senators Bruning, Hlava, Hudkins, Kremer, Preister, Schrock, and Stuhr. Nay: None. Absent: Senator Jones.

(Signed) Ed Schrock, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 46.** Title read. Considered.

The Standing Committee amendment, AM9036, found on page 74, was adopted with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

Senator Bromm asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 40 ayes, 0 nays, 6 present and not voting, and 3 excused and not voting.

**STANDING COMMITTEE REPORTS****Appropriations**

**LEGISLATIVE BILL 37.** Placed on General File.

**LEGISLATIVE BILL 1.** Placed on General File as amended.

(Standing Committee amendment, AM9052, is printed separately and available in the Bill Room - Room 1102.)

**LEGISLATIVE BILL 2.** Placed on General File as amended.

(Standing Committee amendment, AM9047, is printed separately and available in the Bill Room - Room 1102.)

(Signed) Roger R. Wehrbein, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 32.** Title read. Considered.

The Standing Committee amendment, AM9035, found on page 71, was considered.

**SPEAKER BROMM PRESIDING**

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

(Amendment, AM9042, is on file and available in the Clerk's Office - Room 2014.)

Senator Tyson withdrew his amendment.

Senators McDonald, Aguilar, and Bruning asked unanimous consent to be excused until they return. No objections. So ordered.

The Standing Committee amendment was adopted with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 35 ayes, 2 nays, 8 present and not voting, and 4 excused and not voting.

### **VISITORS**

Visitors to the Chamber were Mikaela and Quiller Caudill from Lincoln.

### **RECESS**

At 11:25 a.m., on a motion by Senator Cunningham, 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 Landis and Quandahl who were excused.

### **GENERAL FILE**

**LEGISLATIVE BILL 1.** Title read. Considered.

The Standing Committee amendment, AM9052, printed separately and referred to on page 103, was considered.

Senator Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

Senator Coordsen requested a division of the question on the Standing Committee amendment.

The Chair sustained the division of the question.

The first Standing Committee amendment is as follows:

FA1118

25 Sec. 9. Section 86-1405, Revised Statutes Supplement,  
26 2001, as amended by Laws 2002, LB 1105, section 202, and Laws 2002,  
27 LB 1211, section 13, is amended to read:

- 1 ~~86-1405.~~ (1) The Nebraska Telecommunications Universal
- 2 Service Fund is hereby created. The fund shall provide the
- 3 assistance necessary to make universal access to telecommunications
- 4 services available to all persons in the state consistent with the
- 5 policies set forth in the Nebraska Telecommunications Universal



6 Service Fund Act. Only eligible telecommunications companies  
7 designated by the commission shall be eligible to receive support  
8 to serve high-cost areas from the fund. A telecommunications  
9 company that receives such support shall use that support only for  
10 the provision, maintenance, and upgrading of facilities and  
11 services for which the support is intended. Any such support  
12 should be explicit and sufficient to achieve the purpose of the  
13 act.

14 (2) Notwithstanding the provisions of section 25 of this  
15 act, in addition to other provisions of the act, and to the extent  
16 not prohibited by federal law, the commission:

17 (a) Shall have authority and power to subject eligible  
18 telecommunications companies to service quality, customer service,  
19 and billing regulations. Such regulations shall apply only to the  
20 extent of any telecommunications services or offerings made by an  
21 eligible telecommunications company which are eligible for support  
22 by the fund. The commission shall be reimbursed from the fund for  
23 all costs related to drafting, implementing, and enforcing the  
24 regulations and any other services provided on behalf of customers  
25 pursuant to this subdivision;

26 (b) Shall have authority and power to issue orders  
27 carrying out its responsibilities and to review the compliance of  
1 any eligible telecommunications company receiving support for  
2 continued compliance with any such orders or regulations adopted  
3 pursuant to the act;

4 (c) May withhold all or a portion of the funds to be  
5 distributed from any telecommunications company failing to continue  
6 compliance with the commission's orders or regulations;

7 (d) Shall require every telecommunications company to  
8 contribute to any universal service mechanism established by the  
9 commission pursuant to state law. The commission shall require, as  
10 reasonably necessary, an annual audit of any telecommunications  
11 company to be performed by a third-party certified public  
12 accountant to insure the billing, collection, and remittance of a  
13 surcharge for universal service. The costs of any audit required  
14 pursuant to this subdivision shall be paid by the  
15 telecommunications company being audited;

16 (e) Shall require an audit of information provided by a  
17 telecommunications company to be performed by a third-party  
18 certified public accountant for purposes of calculating universal  
19 service fund payments to such telecommunications company. The  
20 costs of any audit required pursuant to this subdivision shall be  
21 paid by the telecommunications company being audited; and

22 (f) May administratively fine pursuant to section 75-156  
23 any person who violates the Nebraska Telecommunications Universal  
24 Service Fund Act.

25 (3) Any money in the fund available for investment shall  
26 be invested by the state investment officer pursuant to the  
27 Nebraska Capital Expansion Act and the Nebraska State Funds

1 Investment Act.

2 (4) Within five days after the effective date of this  
 3 act, the State Treasurer shall transfer ten million dollars from  
 4 the Nebraska Telecommunications Universal Service Fund to the  
 5 General Fund.

Senators D. Pederson and Wehrbein asked unanimous consent to be excused until they return. No objections. So ordered.

Senator Tyson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 4 nays, and 20 not voting.

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

Senator Thompson requested a roll call vote, in reverse order, on the first Standing Committee amendment.

Voting in the affirmative, 19:

Beutler	Foley	Maxwell	Robak	Thompson
Bourne	Hartnett	McDonald	Schimek	Vrtiska
Cudaback	Janssen	Preister	Suttle	Wehrbein
Engel	Kruse	Price	Synowiecki	

Voting in the negative, 27:

Aguilar	Burling	Dierks	Jones	Smith
Baker	Byars	Erdman	Kremer	Stuhr
Brashear	Chambers	Hlava	Pedersen, Dw.	Tyson
Bromm	Connealy	Hudkins	Raikes	
Brown	Coordsen	Jensen	Redfield	
Bruning	Cunningham	Johnson	Schrock	

Excused and not voting, 3:

Landis            Pederson, D.    Quandahl

The first Standing Committee amendment lost with 19 ayes, 27 nays, and 3 excused and not voting.

The Chair declared the call raised.

Pending.

Senator Dw. Pedersen asked unanimous consent to be excused. No objections. So ordered.

Senator Aguilar asked unanimous consent to be excused until he returns. No objections. So ordered.

**SELECT COMMITTEE REPORTS**  
**Enrollment and Review**

**Correctly Engrossed**

The following bills were correctly engrossed: LBs 4, 5, and 12.

(Signed) Philip Erdman, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 1.** The second Standing Committee amendment is as follows:

FA1119

1 1. Insert the following new sections:

18 Sec. 3. Section 66-1345.04, Revised Statutes Supplement,  
19 2001, is amended to read:

20 66-1345.04. (1) The State Treasurer shall transfer from  
21 the General Fund to the Ethanol Production Incentive Cash Fund, on  
22 or before the end of each of fiscal years 1995-96 and 1996-97,  
23 \$8,000,000 per fiscal year.

24 (2) It is the intent of the Legislature that the  
25 following General Fund amounts be appropriated to the Ethanol  
26 Production Incentive Cash Fund in each of the following years:

27 (a) For each of fiscal years 1997-98 and 1998-99,

1 \$7,000,000 per fiscal year;

2 (b) For fiscal year 1999-2000, \$6,000,000;

3 (c) For fiscal year 2000-01, \$5,000,000; and

4 (d) For ~~each of fiscal years~~ fiscal year 2001-02 and for  
5 each of fiscal years 2003-04 through 2007-08, \$1,500,000.

6 Sec. 4. Section 79-810, Revised Statutes Supplement,  
7 2000, is amended to read:

8 79-810. (1) The certificates and permits provided for in  
9 section 79-808 shall be issued by the commissioner upon application  
10 on forms to be prescribed and provided by him or her, which shall

11 include the applicant's social security number, and upon the  
12 payment by the applicant of a nonrefundable fee of forty-five  
13 dollars, except as provided in subsection (4) (5) of this section,  
14 for each application for a certificate or permit. The board may  
15 waive the fee for the holder of any certificate issued in another  
16 state which is determined to have validity in this state based on  
17 provisions in agreements between the states which have been  
18 approved by the board.

19 (2) Each such certificate or permit issued by the  
20 commissioner shall indicate the grade levels, subjects, subject  
21 fields, or areas of specialization for which the holder was

22 specifically prepared by a standard institution of higher education  
23 or authorized by the board to teach, counsel, supervise, and  
24 administer. During the term of any certificate or permit issued by  
25 the commissioner, additional endorsements may be made on the  
26 certificate or permit for a nonrefundable fee of thirty dollars.

27 Such additional endorsements shall indicate only the grade levels,  
1 subjects, subject fields, or areas of specialization for which the  
2 holder was specifically prepared by a standard institution of  
3 higher education or authorized by the board pursuant to section  
4 79-808.

5 (3) The Teachers' Certification Fund is created. Any fee  
6 received by the State Department of Education under this section  
7 shall be remitted to the State Treasurer for credit to the  
8 Teachers' Certification Fund. The fund shall be used by the  
9 department in paying the costs of certifying educators pursuant to  
10 sections 79-808 to 79-816, except that fifteen dollars of the  
11 forty-five-dollar fee specified in subsection (1) of this section  
12 shall be credited to the Professional Practices Commission Fund  
13 which is created for use by the department to pay for the  
14 provisions of sections 79-859 to 79-871. Transfers from the  
15 Professional Practices Commission Fund to the General Fund may be  
16 made at the direction of the Legislature. Money in the Teachers'  
17 Certification Fund shall not be used for any purpose other than the  
18 direct certification of educators and shall not be used for  
19 accreditation visits. Any money in the Teachers' Certification  
20 Fund or the Professional Practices Commission Fund available for  
21 investment shall be invested by the state investment officer  
22 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
23 State Funds Investment Act.

24 (4) The State Treasurer shall transfer three hundred  
25 fifty thousand dollars from the Professional Practices Commission  
26 Fund to the General Fund on September 1, 2002.

27 (5) Since nonpublic schools and their teachers do not  
1 receive the benefits of sections 79-859 to 79-871, a special  
2 certificate or permit restricted to use in nonpublic schools only  
3 shall be issued upon payment of a nonrefundable fee of thirty  
4 dollars and the applicant providing his or her social security  
5 number. Such certificate or permit shall have plainly stamped or  
6 otherwise written on its face the words nonpublic school only.  
7 Upon surrender of such a certificate or permit and the payment of  
8 the fee provided in subsection (1) of this section by the holder of  
9 the certificate or permit, a regular certificate or permit shall be  
10 issued. Such fee shall be remitted and credited as directed in  
11 subsection (3) of this section.

12 (6) Upon payment by the applicant of a nonrefundable  
13 fee of thirty dollars, a duplicate certificate or permit to which  
14 the holder is entitled may be issued by the commissioner.

15 Sec. 8. Section 84-612, Revised Statutes Supplement,  
16 2001, as amended by Laws 2002, LB 1310, section 20, is amended to

17 read:

18 84-612. (1) There is hereby created within the state  
19 treasury a fund known as the Cash Reserve Fund which shall be under  
20 the direction of the State Treasurer. The fund shall only be used  
21 pursuant to this section.

22 (2) The State Treasurer shall transfer funds from the  
23 Cash Reserve Fund to the General Fund upon certification by the  
24 Director of Administrative Services that the current cash balance  
25 in the General Fund is inadequate to meet current obligations.

26 Such certification shall include the dollar amount to be  
27 transferred. Any transfers made pursuant to this subsection shall  
1 be reversed upon notification by the Director of Administrative  
2 Services that sufficient funds are available.

3 (3) On July 23, 2001, the State Treasurer shall transfer  
4 three hundred seventy thousand dollars from the Cash Reserve Fund  
5 to the Municipal Natural Gas Regulation Revolving Loan Fund for  
6 purposes of loaning to Nebraska communities that seek to review  
7 natural gas rates. Any transfer made pursuant to this subsection  
8 shall be reversed upon notification by the Director of Policy  
9 Research that a sufficient court judgment has been obtained.

10 (4) Within fifteen days after July 1, 2002, the State  
11 Treasurer shall transfer twenty-two million five hundred thousand  
12 dollars from the Cash Reserve Fund to the General Fund.

13 (5) On June 16, 2003, the State Treasurer shall transfer  
14 sixty-four million nine hundred thousand dollars from the Cash  
15 Reserve Fund to the General Fund.

16 (6) On June 15, 2004, the State Treasurer shall transfer  
17 twenty-three million four hundred sixty thousand dollars from the  
18 Cash Reserve Fund to the General Fund.

19 (7) On October 15, 2004, the State Treasurer shall  
20 transfer seven million seven hundred fifty thousand dollars from  
21 the Cash Reserve Fund to the General Fund.

22 (8) On June 15, 2005, the State Treasurer shall transfer  
23 twenty-two million five hundred thousand dollars from the General  
24 Fund to the Cash Reserve Fund.

6 Sec. 11. The Department of Natural Resources Interstate  
7 Water Rights Cash Fund is created. The fund shall be used  
8 exclusively for the payment of expenses directly related to  
9 interstate water rights litigation. The fund shall contain  
10 proceeds transferred from the Nebraska Environmental Trust Fund,  
11 gifts, grants, and such other money as is appropriated or  
12 transferred by the Legislature. Any money in the fund available  
13 for investment shall be invested by the state investment officer  
14 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
15 State Funds Investment Act. This fund terminates on June 30, 2003.

16 Sec. 13. Laws 2001, LB 536A, section 1, is amended to  
17 read as follows:

18 Section 1. On or before September 15, 2001, the State  
19 Treasurer shall transfer \$1,500,000 from the General Fund to the

20 Ethanol Production Incentive Cash Fund.

21 On or before September 15, 2002, the State Treasurer

22 shall transfer ~~\$1,500,000 -0-~~ from the General Fund to the Ethanol

23 Production Incentive Cash Fund.

24 The transfers made pursuant to this section are made to

25 aid in carrying out the provisions of Legislative Bill 536,

26 Ninety-seventh Legislature, First Session, 2001."

27 2. On page 3, line 17, strike "and 2002-03", show as

1 stricken, and insert "2002-03, 2003-04, and 2004-05".

2 3. On page 4, line 3, after the period insert "For

3 fiscal years 2003-04 and 2004-05, the Education Innovation Fund

4 shall be allocated in the following manner by the Excellence in

5 Education Council: Up to twenty percent each fiscal year to the

6 Attracting Excellence to Teaching Program Cash Fund to fund the

7 Attracting Excellence to Teaching Program Act and, after operating

8 expenses for the Excellence in Education Council are deducted, the

9 remainder to the General Fund.".

10 4. On page 11, strike lines 25 through 28 and insert:

11 "(5) The State Treasurer shall transfer one million nine

12 hundred forty-seven thousand one hundred dollars from the State

13 Building Renewal Assessment Fund to the Nebraska Capital

14 Construction Fund within five days after January 1, 2003.

15 (6) The State Treasurer shall transfer one million nine

16 hundred forty-seven thousand one hundred dollars from the State

17 Building Renewal Assessment Fund to the Nebraska Capital

18 Construction Fund within five days after May 1, 2003.".

19 5. On page 12, strike line 1; in line 15 strike "four"

20 and insert "two"; and strike beginning with the comma in line 18

21 through the comma in line 19.

22 6. On page 15, line 3, strike "section" and insert

23 "sections 79-810 and"; in line 4 after the second comma insert

24 "section 66-1345.04, Revised Statutes Supplement, 2001, section

25 39-2215, Reissue Revised Statutes of Nebraska, as amended by Laws

26 2002, LB 989, section 7,"; and in line 10 after the second comma

27 insert "section 84-612, Revised Statutes Supplement, 2001, as

1 amended by Laws 2002, LB 1310, section 20, section 86-1405, Revised

2 Statutes Supplement, 2001, as amended by Laws 2002, LB 1105,

3 section 202, and Laws 2002, LB 1211, section 13," and after the

4 last comma insert "and Laws 2001, LB 536A, section 1,".

5 7. Renumber the remaining sections accordingly.

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

AM9067

(Amendments to Standing Committee amendments, AM9052)

1 1. On page 12, strike beginning with "Up" in line 5

2 through "after" in line 7 and insert "After"; and in lines 8 and 9

3 strike "the remainder".

Senator Raikes asked unanimous consent to withdraw his pending amendment, AM9067, found in this day's Journal, and replace it with his substitute amendment, AM9076, to the second Standing Committee amendment. No objections. So ordered.  
AM9076

(Amendments to FA1119)

- 1 1. On page 12, strike beginning with the first "in" in
- 2 line 4 through "Fund" in line 9 and insert "to the General Fund
- 3 after operating expenses for the Excellence in Education Council
- 4 are deducted".

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

Senators Foley and Engel asked unanimous consent to be excused until they return. No objections. So ordered.

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

FA1121

Amend Committee Amendments

Page 6, lines 14-16 strike the new language.

Senator Robak asked unanimous consent to be excused until she returns. No objections. So ordered.

Senator Chambers moved for a call of the house. The motion prevailed with 17 ayes, 0 nays, and 32 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 34:

Aguilar	Byars	Erdman	Maxwell	Schrock
Baker	Chambers	Hlava	McDonald	Smith
Beutler	Connealy	Hudkins	Preister	Stuhr
Bourne	Coordsen	Janssen	Price	Suttle
Brashear	Cudaback	Johnson	Raikes	Tyson
Bromm	Cunningham	Jones	Redfield	Vrtiska
Bruning	Dierks	Kremer	Schimek	

Voting in the negative, 7:

Brown	Engel	Synowiecki	Wehrbein
Burling	Hartnett	Thompson	

Present and not voting, 3:

Foley	Jensen	Kruse
-------	--------	-------

Excused and not voting, 5:

Landis                      Pedersen, Dw. Pederson, D.      Quandahl                      Robak

The Chambers amendment was adopted with 34 ayes, 7 nays, 3 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Pending.

**LEGISLATIVE BILL 37.** Title read. Considered.

Senator Bromm offered the following amendment:  
AM9073

- 1 1. Strike the original section and insert the following
- 2 new sections:
- 3 "Section 1. Section 86-1405, Revised Statutes
- 4 Supplement, 2001, as amended by Laws 2002, LB 1105, section 202,
- 5 and Laws 2002, LB 1211, section 13, is amended to read:
- 6 ~~86-1405.~~ (1) The Nebraska Telecommunications Universal
- 7 Service Fund is hereby created. The fund shall provide the
- 8 assistance necessary to make universal access to telecommunications
- 9 services available to all persons in the state consistent with the
- 10 policies set forth in the Nebraska Telecommunications Universal
- 11 Service Fund Act. Only eligible telecommunications companies
- 12 designated by the commission shall be eligible to receive support
- 13 to serve high-cost areas from the fund. A telecommunications
- 14 company that receives such support shall use that support only for
- 15 the provision, maintenance, and upgrading of facilities and
- 16 services for which the support is intended. Any such support
- 17 should be explicit and sufficient to achieve the purpose of the
- 18 act.
- 19 (2) Notwithstanding the provisions of section 25 of this
- 20 act, in addition to other provisions of the act, and to the extent
- 21 not prohibited by federal law, the commission:
- 22 (a) Shall have authority and power to subject eligible
- 23 telecommunications companies to service quality, customer service,
- 24 and billing regulations. Such regulations shall apply only to the
- 1 extent of any telecommunications services or offerings made by an
- 2 eligible telecommunications company which are eligible for support
- 3 by the fund. The commission shall be reimbursed from the fund for
- 4 all costs related to drafting, implementing, and enforcing the
- 5 regulations and any other services provided on behalf of customers
- 6 pursuant to this subdivision;
- 7 (b) Shall have authority and power to issue orders
- 8 carrying out its responsibilities and to review the compliance of
- 9 any eligible telecommunications company receiving support for
- 10 continued compliance with any such orders or regulations adopted



11 pursuant to the act;  
12 (c) May withhold all or a portion of the funds to be  
13 distributed from any telecommunications company failing to continue  
14 compliance with the commission's orders or regulations;

15 (d) Shall require every telecommunications company to  
16 contribute to any universal service mechanism established by the  
17 commission pursuant to state law. The commission shall require, as  
18 reasonably necessary, an annual audit of any telecommunications  
19 company to be performed by a third-party certified public  
20 accountant to insure the billing, collection, and remittance of a  
21 surcharge for universal service. The costs of any audit required  
22 pursuant to this subdivision shall be paid by the  
23 telecommunications company being audited;

24 (e) Shall require an audit of information provided by a  
25 telecommunications company to be performed by a third-party  
26 certified public accountant for purposes of calculating universal  
27 service fund payments to such telecommunications company. The  
1 costs of any audit required pursuant to this subdivision shall be  
2 paid by the telecommunications company being audited; and

3 (f) May administratively fine pursuant to section 75-156  
4 any person who violates the Nebraska Telecommunications Universal  
5 Service Fund Act.

6 (3) Any money in the fund available for investment shall  
7 be invested by the state investment officer pursuant to the  
8 Nebraska Capital Expansion Act and the Nebraska State Funds  
9 Investment Act.

10 (4)(a) The State Treasurer shall transfer funds from the  
11 Nebraska Telecommunications Universal Service Fund to the General  
12 Fund upon certification by the Director of Administrative Services  
13 that the current cash balances in the General Fund and the Cash  
14 Reserve Fund are inadequate to meet current obligations. Such  
15 certification shall include the dollar amount to be transferred  
16 which shall not exceed the amount by which the General Fund and  
17 Cash Reserve Fund are inadequate to meet current obligations. The  
18 total of such transfers shall not reduce the Nebraska  
19 Telecommunications Universal Service Fund balance below an amount  
20 sufficient to meet the obligations on the fund for the next sixty  
21 days. Any transfers made pursuant to this subsection shall be  
22 reversed upon notification by the Director of Administrative  
23 Services that sufficient funds are available or on June 30, 2007,  
24 whichever occurs first.

25 (b) Any transfer under this subsection not reversed  
26 within thirty days after the initial transfer shall accrue interest  
27 in the amount of five percent annually. Interest shall be  
1 calculated beginning on the thirty-first day after the initial  
2 transfer and continue until the transfer is completely reversed.  
3 The interest calculated shall be credited to the Nebraska  
4 Telecommunications Universal Service Fund.

5 (c) Any transfer of funds which has not been reversed as

6 provided in this subsection, with accrued interest, shall be  
7 considered an encumbrance against the General Fund.  
8 (d) This subsection terminates on June 30, 2007.  
9 Sec. 2. Original section 86-1405, Revised Statutes  
10 Supplement, 2001, as amended by Laws 2002, LB 1105, section 202,  
11 and Laws 2002, LB 1211, section 13, is repealed.  
12 Sec. 3. Since an emergency exists, this act takes effect  
13 when passed and approved according to law."

The Bromm amendment was adopted with 38 ayes, 1 nay, 6 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 39 ayes, 1 nay, 5 present and not voting, and 4 excused and not voting.

**STANDING COMMITTEE REPORT**  
**General Affairs**

**LEGISLATIVE RESOLUTION 2CA.** Indefinitely postponed.

(Signed) Ray Janssen, Chairperson

**AMENDMENT - Print in Journal**

Senator Thompson filed the following amendment to LB 22:  
AM9065

- 1 1. On page 2, line 4, strike "January" and insert
- 2 "October".

**ADJOURNMENT**

At 5:23 p.m., on a motion by Speaker Bromm, the Legislature adjourned until 9:00 a.m., Friday, August 9, 2002.

Patrick J. O'Donnell  
Clerk of the Legislature

**NINTH DAY - AUGUST 9, 2002**  
**LEGISLATIVE JOURNAL**  
**NINETY-SEVENTH LEGISLATURE**  
**SECOND SPECIAL SESSION**

**NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, August 9, 2002

**PRAYER**

The prayer was offered by Senator Kruse.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Bromm presiding.

The roll was called and all members were present except Senators Landis, Dw. Pedersen, and Quandahl who were excused; and Senators Brown, Bruning, Hartnett, and Maxwell who were excused until they arrive.

**SENATOR COORDSEN PRESIDING**

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eighth day was approved.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 4.** Introduced by Schrock, 38.

WHEREAS, The Bethel/Holdrege congregation of the Nebraska Synod, Evangelical Lutheran Church in America, will celebrate its one-hundred-twenty-fifth year as a congregation on November 12, 2002; and

WHEREAS, through the efforts of Olof Hedlund, the Bethel congregation was organized on November 12, 1877, in the home of Gustaf Hanson; and

WHEREAS, the original congregation consisted of thirty charter and communicant members, most of whom had settled near Turkey Creek in Harlan County and in Phelps County; and

WHEREAS, on August 23, 1885, the congregation moved from its crumbling sod church to a new frame church in the town of Holdrege; and

WHEREAS, in December 1896, fire destroyed the Bethel/Holdrege church. A new church was dedicated in October, 1897; and

WHEREAS, on August 13, 1921, a cornerstone for the present Bethel/Holdrege church was laid, and on July 9, 1922, the congregation assembled in the new sanctuary; and

WHEREAS, over the years, additions have been added to the sanctuary to provide much-needed space for a ministry which now serves over one thousand members; and

WHEREAS, the Bethel/Holdrege congregation anniversary theme is "Building On Our Legacy". The congregation plans to celebrate its anniversary with many events throughout the summer and autumn.

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

1. That the Bethel/Holdrege congregation of the Nebraska Synod, Evangelical Lutheran Church in America, is to be congratulated for its one-hundred-twenty-fifth anniversary and its ongoing commitment of service to its members and to the community.

Laid over.

## REPORTS

The following report was received by the Legislature:

### Labor, Department of

Modification to the Nebraska Strategic Five Year Plan for the provision of services under Title I of the Workforce Investment Act (WIA) and the Wagner-Peyser Act

## MOTIONS - Approve Appointments

Senator Janssen moved the adoption of the report of the General Affairs Committee for the following appointments found on page 87: Nebraska Advisory Commission on Compulsive Gambling - Sherrie A. Geier, Lisa Madson Jones, and Steven R. Jung.

Voting in the affirmative, 29:

Aguilar	Cunningham	Janssen	Price	Suttle
Baker	Dierks	Jones	Raikes	Synowiecki
Burling	Engel	Kremer	Redfield	Thompson
Byars	Erdman	Kruse	Schrock	Tyson
Connealy	Hlava	McDonald	Smith	Vrtiska
Coordsen	Hudkins	Preister	Stuhr	

Voting in the negative, 0.

Present and not voting, 13:

Beutler	Bromm	Foley	Pederson, D.	Wehrbein
Bourne	Chambers	Jensen	Robak	
Brashear	Cudaback	Johnson	Schimek	

Excused and not voting, 7:

Brown	Hartnett	Maxwell	Quandahl
Bruning	Landis	Pedersen, Dw.	

The appointments were confirmed with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

Senator Schrock moved the adoption of the report of the Natural Resources Committee for the following appointments found on page 102: Nebraska Environmental Trust Board - Robert F. Krohn; and Nebraska Ethanol Board - Mark McColley.

Voting in the affirmative, 30:

Aguilar	Coordsen	Hudkins	Preister	Stuhr
Baker	Cunningham	Janssen	Price	Suttle
Brashear	Dierks	Johnson	Redfield	Synowiecki
Burling	Engel	Kremer	Robak	Tyson
Byars	Erdman	Kruse	Schrock	Vrtiska
Connealy	Hlava	McDonald	Smith	Wehrbein

Voting in the negative, 0.

Present and not voting, 12:

Beutler	Chambers	Jensen	Raikes
Bourne	Cudaback	Jones	Schimek
Bromm	Foley	Pederson, D.	Thompson

Excused and not voting, 7:

Brown	Hartnett	Maxwell	Quandahl
Bruning	Landis	Pedersen, Dw.	

The appointments were confirmed with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

### UNANIMOUS CONSENT - Member Excused

Senator Bourne asked unanimous consent to be excused until he returns. No objections. So ordered.

## ANNOUNCEMENT

The Chair announced that tomorrow is Senator Maxwell's birthday.

## GENERAL FILE

**LEGISLATIVE BILL 8.** The Standing Committee amendment, AM9038, found on page 74 and considered on page 91, was renewed.

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

AM9083

(Amendments to Standing Committee amendments, AM9038)

- 1 1. Strike beginning with "The" on page 3, line 26,  
2 through "(7)" on page 4, line 3.
- 3 2. On page 5, lines 7 through 18, strike the new matter  
4 and reinstate the stricken matter; in line 10 before the reinstated  
5 "from" insert "six consecutive months" and before the reinstated  
6 "eligibility" insert "initial"; and in line 11 after "eligibility"  
7 insert ". The department may review eligibility monthly thereafter  
8 pursuant to rules and regulations adopted and promulgated by the  
9 department. The department may determine upon such review that a  
10 child is ineligible for medical assistance benefits if such child  
11 no longer meets eligibility standards established by the  
12 department. All children currently eligible as of the effective  
13 date of this act shall have their initial period of continuous  
14 eligibility reduced to six months and shall have their eligibility  
15 redetermined pursuant to subsection (5) of this section and  
16 subdivision (1)(s) of section 68-1713.".
- 17 3. On page 8, strike beginning with "subsection" in line  
18 16 through line 17 and insert "subdivision (1)(s) of section  
19 68-1713".
- 20 4. On page 10, line 23, strike "the Food Stamp  
21 Program's", show as stricken, and insert "an"; in line 24 after  
22 "ADC" insert "Program and One Hundred Dollars in the"; and  
23 reinstate the stricken matter in line 25.

## SENATOR CUDABACK PRESIDING

Senator Aguilar asked unanimous consent to be excused until he returns. No objections. So ordered.

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

The Jensen amendment was adopted with 36 ayes, 4 nays, 6 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator D. Pederson asked unanimous consent to be excused. No objections. So ordered.

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

AM9049

(Amendments to Standing Committee amendments, AM9038)

- 1 1. Insert the following new section:
- 2 "Section 1. The Legislature finds that:
- 3 (1) The Senate has adopted S.812, 107th Congress, 2d
- 4 Session, that appropriates funds for an increase in the federal
- 5 medical assistance percentage and provides that a state is eligible
- 6 if the eligibility under its state plan under title XIX of the
- 7 Social Security Act (including any waiver under such title or under
- 8 section 1115 of such act (42 U.S.C. 1315)) is no more restrictive
- 9 than the eligibility under such plan (or waiver) as in effect on
- 10 January 1, 2002; and
- 11 (2) The House has not acted on this measure.
- 12 It is the intent of the Legislature to maximize the
- 13 receipt of federal funds for the medical assistance program."
- 14 2. On page 4, after line 2 insert the following new
- 15 subsections:
- 16 "(7) The changes made to this section by this legislative
- 17 bill shall become operative on January 1, 2003, if increased
- 18 funding for medicaid expenses proposed by the 107th Congress, 2d
- 19 Session, as described in section 1 of this act of at least eleven
- 20 million dollars for Nebraska is not enacted into law by such date.
- 21 (8) The changes made to this section by this legislative
- 22 bill shall become operative on October 1, 2003, if increased
- 23 funding for medicaid expenses proposed by the 107th Congress, 2d
- 1 Session, as described in section 1 of this act of at least eleven
- 2 million dollars for Nebraska is enacted into law by January 1,
- 3 2003."; and in line 3 strike "(7)" and insert "(9)".
- 4 3. On page 8, after line 17 insert the following new
- 5 subsections:
- 6 "(6) The changes made to subsections (1) through (4) of
- 7 this section by this legislative bill shall become operative on
- 8 January 1, 2003, if increased funding for medicaid expenses
- 9 proposed by the 107th Congress, 2d Session, as described in section
- 10 1 of this act of at least eleven million dollars for Nebraska is
- 11 not enacted into law by such date.
- 12 (7) The changes made to subsections (1) through (4) of
- 13 this section by this legislative bill shall become operative on
- 14 October 1, 2003, if increased funding for medicaid expenses

15 proposed by the 107th Congress, 2d Session, as described in section  
 16 1 of this act of at least eleven million dollars for Nebraska is  
 17 enacted into law by January 1, 2003.

18 (8) Subsection (5) of this section shall become operative  
 19 on the effective date of this act."; and in line 18 strike "(6)"  
 20 and insert "(9)".

21 4. On page 11, after line 25 insert the following new  
 22 subsections:

23 "(3) The changes made to this section by this legislative  
 24 bill shall become operative on January 1, 2003, if increased  
 25 funding for medicaid expenses proposed by the 107th Congress, 2d  
 26 Session, as described in section 1 of this act of at least eleven  
 27 million dollars for Nebraska is not enacted into law by such date.

1 (4) The changes made to this section by this legislative  
 2 bill shall become operative on October 1, 2003, if increased  
 3 funding for medicaid expenses proposed by the 107th Congress, 2d  
 4 Session, as described in section 1 of this act of at least eleven  
 5 million dollars for Nebraska is enacted into law by January 1,  
 6 2003."

7 5. Renumber the remaining sections accordingly.

Senators McDonald and Janssen asked unanimous consent to be excused until they return. No objections. So ordered.

Senator Beutler moved for a call of the house. The motion prevailed with 34 ayes, 0 nays, and 15 not voting.

Senator Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 11:

Beutler	Dierks	Price	Synowiecki
Chambers	McDonald	Robak	Thompson
Connealy	Preister	Schimek	

Voting in the negative, 24:

Aguilar	Burling	Hlava	Kremer	Stuhr
Baker	Coordsen	Hudkins	Raikes	Tyson
Bourne	Cunningham	Jensen	Redfield	Vrtiska
Brashear	Engel	Johnson	Schrock	Wehrbein
Bruning	Erdman	Jones	Smith	

Present and not voting, 10:

Bromm	Byars	Foley	Janssen	Maxwell
Brown	Cudaback	Hartnett	Kruse	Suttle



Excused and not voting, 4:

Landis            Pedersen, Dw. Pederson, D.    Quandahl

The Beutler amendment lost with 11 ayes, 24 nays, 10 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

The Standing Committee amendment, as amended, was adopted with 38 ayes, 4 nays, 3 present and not voting, and 4 excused and not voting.

Senator Beutler offered the following amendment:

(Amendment, AM9085, is on file and available in the Clerk's Office, Room 2014.)

Senator Beutler withdrew his amendment.

Advanced to E & R for review with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

Senator Smith asked unanimous consent to be excused. No objections. So ordered.

### SELECT FILE

**LEGISLATIVE BILL 6.** Senator Raikes offered the following amendment:

AM9082

- 1 1. On page 2, line 4, strike the new language; and
- 2 strike beginning with "For" in line 7 through line 12, show the old
- 3 language as stricken, and insert "For award applications received
- 4 on or after August 1, 2000, and on or before July 31, 2002, the
- 5 State Board of Education shall authorize disbursement of the fund
- 6 for reimbursement requests for completed projects received (1) on
- 7 or before the tenth day following enactment of this legislative
- 8 bill or (2) on or before the ninetieth day following receipt of the
- 9 award application by the State Department of Education. The board
- 10 shall not authorize any other disbursement of the fund. Such
- 11 disbursement shall be made as funds become available, and the
- 12 requirement that the State Board of Education authorize such
- 13 disbursement shall constitute an obligation of the fund."
- 14 2. On page 3, lines 4 through 6, strike the new language
- 15 and insert "Within thirty days after all obligations of the School
- 16 Technology Fund have been disbursed, the Commissioner of Education
- 17 shall so certify to the State Treasurer and the State Treasurer
- 18 shall thereupon transfer any remaining balance to the General Fund.
- 19 The School Technology Fund shall terminate upon such transfer."; in
- 20 line 9 strike the new matter and reinstate the stricken matter; and

21 in line 12 strike beginning with the underscored period through  
22 "2003" and insert "until termination of the School Technology Fund  
23 pursuant to section 79-1310. Upon termination of the School  
24 Technology Fund".

The Raikes amendment was adopted with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 11.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 9.** E & R amendment, AM7235, found on page 90, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 13.** Senator Brashear offered the following amendment:

AM9048

- 1 1. Strike original sections 4 and 5 and renumber the
- 2 remaining sections accordingly.

The Brashear amendment was adopted with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 41.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 25.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 48.** E & R amendment, AM7236, found on page 92, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 22.** Senator Thompson renewed her pending amendment, AM9065, found on page 114.

The Thompson amendment was adopted with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 18.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 49.** E & R amendment, AM7237, found on page 96, was adopted.

Advanced to E & R for engrossment.

**SELECT COMMITTEE REPORTS**  
**Enrollment and Review**

**LEGISLATIVE BILL 46.** Placed on Select File as amended.

E & R amendment to LB 46:

AM7238

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 77-2608, Revised Statutes
- 4 Supplement, 2000, is amended to read:
- 5 77-2608. The Tax Commissioner shall prepare and have
- 6 suitable stamps for use on each kind of piece or package of
- 7 cigarettes, except when cigarette tax meter impressions are
- 8 affixed. Requisition for the preparation of such stamps shall be
- 9 made through the materiel division of the Department of
- 10 Administrative Services as other state supplies are requisitioned,
- 11 and the Tax Commissioner and his or her bondsperson shall be liable
- 12 for the value of all such stamps delivered to him or her. The
- 13 Auditor of Public Accounts shall audit annually or as often as the
- 14 auditor deems advisable the records of the Tax Commissioner with
- 15 respect to the money received from the sale of stamps and as
- 16 revenue from tax meter impressions for the purpose of determining
- 17 the accuracy and correctness of the same. The Tax Commissioner
- 18 shall sell the stamps only to licensed wholesale dealers, as
- 19 defined in section 77-2601, and he or she shall keep an accurate
- 20 record of all stamps coming into and leaving his or her hands.
- 21 Such stamps shall be sold and accounted for at the face value
- 22 thereof, except that the Tax Commissioner may, by rule and
- 23 regulation certified to the State Treasurer, authorize the sale
- 24 thereof to wholesale dealers in this state or outside of this state
- 1 at a discount of three and four-tenths percent of such face value
- 2 of the tax as a commission for affixing and canceling such stamps,
- 3 except that for stamps sold beginning October 1, 2002, through
- 4 September 30, 2004, the authorized commission for affixing and
- 5 canceling such stamps shall be one and seven-tenths percent of the
- 6 face value of the tax. Any wholesale dealer using a tax meter
- 7 machine shall be entitled to the same discount as allowed a
- 8 wholesale dealer for affixing and canceling the stamps. The money
- 9 received by the Tax Commissioner from the sale of the stamps and as
- 10 revenue from such tax meter impressions shall be deposited by him
- 11 or her daily with the State Treasurer who shall credit such money
- 12 as provided in section 77-2602. Upon proof by the Tax Commissioner
- 13 that he or she can affix such stamps or meter impressions,
- 14 warehouse and distribute such cigarettes, and collect such revenue
- 15 at a cost less than ~~the three and four tenths percent~~ any discount
- 16 allowed to wholesale dealers pursuant to this section, he or she
- 17 may then proceed to affix the stamps himself or herself after
- 18 giving the wholesale dealers sixty days' notice and purchasing all
- 19 equipment used by them for the purpose of affixing such stamps or
- 20 meter impressions at a fair market value.
- 21 Sec. 2. Original section 77-2608, Revised Statutes

22 Supplement, 2000, is repealed.

23 Sec. 3. Since an emergency exists, this act takes effect  
24 when passed and approved according to law."

**LEGISLATIVE BILL 32.** Placed on Select File as amended.  
(E & R amendment, AM7239, is printed separately and available in the Bill Room, Room 1102.)

**LEGISLATIVE BILL 37.** Placed on Select File as amended.  
E & R amendment to LB 37:

AM7240

- 1 1. On page 1, line 2, after the first semicolon insert
- 2 "to amend section 86-1405, Revised Statutes Supplement, 2001, as
- 3 amended by Laws 2002, LB 1105, section 202, and Laws 2002, LB 1211,
- 4 section 13;" and before "and" insert "to repeal the original
- 5 section;".

(Signed) Philip Erdman, Chairperson

#### **AMENDMENT - Print in Journal**

Senator Tyson filed the following amendment to LB 32:  
(Amendment, AM9062, is printed separately and available in the Bill Room, Room 1102.)

#### **REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of August 9, 2002, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

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

Perkins, Gary A.  
Children's Healthcare Services

Westerfield, Julie  
Nebraska Retail Federation (Withdrawn 08/06/02)

#### **VISITORS**

Visitors to the Chamber were Senator D. Pederson's son and granddaughter, Steve and Kristin, from Pittsburgh, Pennsylvania; and Senator Maxwell's wife, sons, and daughter, Pam, Tomas, Oto, and Beverly Maxwell and August Ehlers and Seph Lang from Omaha.

#### **ADJOURNMENT**

At 1:03 p.m., on a motion by Speaker Bromm, the Legislature adjourned until 1:30 p.m., Monday, August 12, 2002.

Patrick J. O'Donnell  
Clerk of the Legislature

**TENTH DAY - AUGUST 12, 2002**

**LEGISLATIVE JOURNAL**

**NINETY-SEVENTH LEGISLATURE**

**SECOND SPECIAL SESSION**

**TENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, August 12, 2002

**PRAYER**

The prayer was offered by Senator Stuhr.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 1:30 p.m., Speaker Bromm presiding.

The roll was called and all members were present except Senators Brashear and Dw. Pedersen who were excused; and Senators Burling, Cunningham, Foley, Landis, and D. Pederson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

Page 124, after line 22, insert the Lobby Report.  
The Journal for the ninth day was approved as corrected.

**SELECT COMMITTEE REPORTS**  
**Enrollment and Review**

**LEGISLATIVE BILL 8.** Placed on Select File as amended.  
E & R amendment to LB 8:  
AM7241

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 68-1019, Revised Statutes
- 4 Supplement, 2000, is amended to read:
- 5 68-1019. (1) Medical assistance on behalf of recipients
- 6 shall be paid directly to vendors.
- 7 (2) On behalf of recipients over sixty-five years of age,
- 8 medical assistance shall include care in an institution for mental
- 9 diseases.
- 10 (3) On behalf of all recipients, medical assistance shall

11 include:

12 (a) Inpatient and outpatient hospital care;

13 (b) Laboratory and X-ray services;

14 (c) Nursing home services;

15 (d) Care home services;

16 (e) Home health care services;

17 (f) Nursing services;

18 (g) Clinic services;

19 (h) Services of practitioners licensed by the Department

20 of Health and Human Services Regulation and Licensure; and

21 (i) Such drugs, appliances, and health aids as may be

22 prescribed by practitioners licensed by the Department of Health

23 and Human Services Regulation and Licensure.

24 (4) ~~The Director Department of Health and Human Services~~

1 Finance and Support ~~may shall~~ adopt ~~and promulgate rules and~~

2 ~~regulations to establish a schedule of premiums, copayments, and~~

3 ~~deductibles for goods and services provided under the medical~~

4 ~~assistance program. Such schedule as may be allowed by Title XIX~~

5 ~~or Title XXI of the federal Social Security Act, as amended as of~~

6 ~~September 1, 1998. The system of copayments and deductibles in the~~

7 ~~schedule shall discourage abuse of high-cost services and encourage~~

8 ~~the utilization of cost-effective services. Prior to the adoption~~

9 ~~of the schedule of copayments and deductibles, the director~~

10 ~~department shall provide a report to the Governor and the~~

11 ~~Legislature outlining proposed copayments and deductibles. The~~

12 ~~report shall collect and summarize available data from other states~~

13 ~~concerning their experience with copayments and deductibles,~~

14 ~~determine if vendors may be reimbursed for copayments and~~

15 ~~deductibles resulting from a recipient's inability to pay, evaluate~~

16 ~~the collectability of copayments and deductibles, and assess the~~

17 ~~effect of copayments and deductibles on recipients, vendors, access~~

18 ~~to and availability of care, and utilization of affected medical~~

19 ~~assistance program services. The report shall include data from~~

20 ~~Nebraska as it becomes available. The report shall also provide~~

21 ~~information as to other cost-containment mechanisms which have been~~

22 ~~implemented or proposed by the Department of Health and Human~~

23 ~~Services Finance and Support department for the fiscal year. If~~

24 ~~the director department is proposing to adopt a schedule, the~~

25 ~~report shall be provided to the Governor and the Legislature by~~

26 ~~December 1. No schedule of copayments and deductibles shall be put~~

27 ~~into effect until July 1 following the report, except that for the~~

1 ~~first year the schedule shall be put into effect by April 1. If~~

2 ~~the director department is proposing elimination or modification of~~

3 ~~an existing schedule of copayments and deductibles, a report on the~~

4 ~~proposed changes shall be provided to the Governor and the~~

5 ~~Legislature by December 1. The proposed modification or~~

6 ~~elimination of the schedule of copayments and deductibles shall not~~

7 ~~take place prior to the July 1 following this report. A vendor~~

8 ~~Vendors shall be responsible for collecting any applicable~~

9 copayment or deductible from the recipient.  
 10 (5) The Department Director of Health and Human Services  
 11 Finance and Support shall adopt and promulgate rules and  
 12 regulations to provide limits as to the amount, duration, and scope  
 13 of goods and services and goods recipients may receive under the  
 14 medical assistance program. ~~For purposes of providing limits as to~~  
 15 ~~the amount, duration, and scope of services and goods recipients~~  
 16 ~~may receive under the medical assistance program, the Department of~~  
 17 Health and Human Services Finance and Support shall adopt and  
 18 promulgate rules and regulations. The limits adopted shall in all  
 19 respects comply with applicable provisions of Title XIX of the  
 20 federal Social Security Act and the related federal regulations, as  
 21 they may be amended from time to time. Prior to the adoption of  
 22 such rules and regulations, the ~~director~~ department shall provide a  
 23 report to the Governor and the Legislature outlining proposed  
 24 limits. Such report shall be provided to the Governor and the  
 25 Legislature by December 1. No rules or regulations to implement  
 26 such limits shall be put into effect until April 1 following the  
 27 report.

1 (6) No vendor shall advertise or promote through  
 2 newspapers, magazines, circulars, direct mail, directories, radio,  
 3 television, or otherwise that such vendor will waive the collection  
 4 of all or any portion of any copayment or deductible established  
 5 pursuant to subsection (4) of this section.

6 Sec. 2. Section 68-1020, Revised Statutes Supplement,  
 7 2001, is amended to read:

8 68-1020. (1) Medical assistance shall be paid on behalf  
 9 of ~~(a) dependent children, (b) aged, persons, blind, individuals,~~  
 10 ~~and disabled individuals persons, as defined in sections 43-504 and~~  
 11 ~~68-1002 to 68-1005, and on behalf of all individuals (c) all~~  
 12 persons less than twenty-one years of age who are eligible under  
 13 section 1905(a) of the federal Social Security Act, as such section  
 14 existed on ~~September 1, 2001~~ January 1, 2002.

15 (2) The Department Director of Health and Human Services  
 16 Finance and Support shall adopt and promulgate rules and  
 17 regulations governing provision of such medical assistance benefits  
 18 to qualified individuals persons:

19 (a) Who are presumptively eligible as allowed under 42  
 20 U.S.C. 1396a, as such section existed on ~~September 1, 2001~~ January  
 21 1, 2002, and sections 1920A and 1920B of the federal Social  
 22 Security Act, as such sections existed on ~~September 1, 2001~~ January  
 23 1, 2002;

24 (b) Who have a family income at or below equal to or less  
 25 than one hundred eighty-five percent of the Office of Management  
 26 and Budget ~~income~~ poverty ~~line~~ guideline, as allowed under Title  
 27 XIX and Title XXI of the federal Social Security Act, as such  
 1 titles existed on ~~September 1, 2001~~ January 1, 2002, without regard  
 2 to resources, including all children under nineteen years of age  
 3 and pregnant women as allowed under 42 U.S.C. 1396a, as such

4 section existed on ~~September 1, 2001~~ January 1, 2002, and section  
5 2110 of the federal Social Security Act, as such section existed on  
6 ~~September 1, 2001~~ January 1, 2002. Children described in this  
7 subdivision shall remain eligible for a twelve month period of time  
8 six consecutive months from the date of initial eligibility prior  
9 to redetermination of eligibility. The department may review  
10 eligibility monthly thereafter pursuant to rules and regulations  
11 adopted and promulgated by the department. The department may  
12 determine upon such review that a child is ineligible for medical  
13 assistance benefits if such child no longer meets eligibility  
14 standards established by the department. All children currently  
15 eligible as of the effective date of this act shall have their  
16 initial period of continuous eligibility reduced to six months and  
17 shall have their eligibility redetermined pursuant to subsection  
18 (5) of this section and subdivision (1)(s) of section 68-1713. The  
19 department shall report annually to the Governor and to the  
20 Legislature the number of children determined to be ineligible  
21 under this subdivision and the family incomes of such children; or  
22 (c) Who, for purposes of Title XIX of the federal Social  
23 Security Act as provided in subdivision (b) of this subsection, are  
24 children in families with income as follows:  
25 (i) Equal to or less than one hundred fifty percent of  
26 the Office of Management and Budget income poverty guideline with  
27 eligible children one year of age or younger;  
1 (ii) Equal to or less than one hundred thirty-three  
2 percent of the Office of Management and Budget income poverty  
3 guideline with eligible children over one year of age and under six  
4 years of age; or  
5 (iii) Equal to or less than one hundred percent of the  
6 Office of Management and Budget income poverty guideline with  
7 eligible children six years of age or older and less than nineteen  
8 years of age; or  
9 (d) Who are medically needy caretaker relatives as  
10 allowed under section 1905(a)(ii) of the federal Social Security  
11 Act, as such section existed on ~~September 1, 2001~~ January 1, 2002,  
12 and who have children with allocated income as follows:  
13 (i) At or below one hundred fifty percent of the Office  
14 of Management and Budget poverty line with eligible children one  
15 year of age or younger;  
16 (ii) At or below one hundred thirty-three percent of the  
17 Office of Management and Budget poverty line with eligible children  
18 over one year of age and under six years of age; or  
19 (iii) At or below one hundred percent of the Office of  
20 Management and Budget poverty line with eligible children six years  
21 of age or more and under fifteen years of age.  
22 (3) As allowed pursuant to 42 U.S.C. 1396a(a)(10)(A)(ii),  
23 as such section existed on ~~September 1, 2001~~ January 1, 2002,  
24 medical assistance shall be paid on behalf of disabled persons as  
25 defined in section 68-1005 who are in families whose net income is



26 less than two hundred fifty percent of the Office of Management and  
27 Budget income poverty ~~line~~ guideline applicable to a family of the  
1 size involved and who but for earnings in excess of the limit  
2 established under 42 U.S.C. 1396d(q)(2)(B) of the federal Social  
3 Security Act, as such section existed on ~~September 1, 2001~~ January  
4 1, 2002, would be considered to be receiving federal Supplemental  
5 Security Income. The Department of Health and Human Services shall  
6 apply for a waiver to disregard any unearned income that is  
7 contingent upon a trial work period in applying the Supplemental  
8 Security Income standard. Such disabled persons shall be subject  
9 to payment of premiums as a percentage of the family's net income  
10 beginning at not less than two hundred percent of the Office of  
11 Management and Budget net income poverty ~~line~~ guideline. Such  
12 premiums shall be graduated based on family income and shall not be  
13 less than two percent or more than ten percent of family net  
14 income.

15 (4) As allowed pursuant to 42 U.S.C. 1396a(a)(10)(A)(ii),  
16 as such section existed on ~~September 1, 2001~~ January 1, 2002,  
17 medical assistance shall be paid on behalf of persons who:

18 (a) Have been screened for breast and cervical cancer  
19 under the Centers for Disease Control and Prevention breast and  
20 cervical cancer early detection program established under Title XV  
21 of the federal Public Health Service Act, 42 U.S.C. 300k et seq.,  
22 as such sections existed on ~~September 1, 2001~~ January 1, 2002, in  
23 accordance with the requirements of section 1504 of such act, 42  
24 U.S.C. 300n, as such section existed on ~~September 1, 2001~~ January  
25 1, 2002, and who need treatment for breast or cervical cancer,  
26 including precancerous and cancerous conditions of the breast or  
27 cervix;

1 (b) Are not otherwise covered under creditable coverage,  
2 as defined in section 2701(c) of the federal Public Health Service  
3 Act, 42 U.S.C. 300gg(c), as such section existed on ~~September 1,~~  
4 ~~2001~~ January 1, 2002;

5 (c) Have not attained sixty-five years of age; and

6 (d) Are not eligible for medicaid under any mandatory  
7 categorically needy eligibility group.

8 (5) Eligibility shall be determined under this section  
9 using an income budgetary methodology that determines children's  
10 eligibility at no greater than one hundred eighty-five percent of  
11 the Office of Management and Budget income poverty guideline and  
12 adult eligibility using adult income standards no greater than the  
13 applicable categorical eligibility standards established pursuant  
14 to state or federal law. As of the effective date of this act, the  
15 department shall redetermine eligibility under this section  
16 pursuant to such income budgetary methodology and subdivision  
17 (1)(s) of section 68-1713.

18 (6) The department shall adopt and promulgate rules and  
19 regulations to implement this section.

20 Sec. 3. Section 68-1713, Revised Statutes Supplement,

21 2000, is amended to read:

22 68-1713. (1) The Department of Health and Human Services  
23 shall submit a waiver request or requests to the United States  
24 Department of Health and Human Services and the United States  
25 Department of Agriculture as necessary for federal authorization to  
26 implement the provisions of the Welfare Reform Act. The Department  
27 of Health and Human Services may include the provisions of sections

1 68-1718 to 68-1726 in its waiver requests and shall designate  
2 counties for implementation on or after July 1, 1995, of such  
3 sections for recipient families in the aid to dependent children  
4 program. It is the intent of the Legislature that such designated  
5 counties include at least one county with a population of not more  
6 than thirty-five thousand inhabitants and one county with a  
7 population of at least one hundred fifty thousand inhabitants but  
8 not more than three hundred thousand inhabitants.

9 The Department of Health and Human Services shall  
10 implement the following policies:

11 (a) Permit Work Experience in Private for Profit  
12 Enterprises;

13 (b) Permit Job Search to Extend Beyond Eight Weeks Each  
14 Year;

15 (c) Permit Employment to be Considered a JOBS Program  
16 Component;

17 (d) Make Sanctions More Stringent to Emphasize  
18 Participant Obligations;

19 (e) Alternative Hearing Process;

20 (f) Permit Adults in Two-Parent Households to Participate  
21 in JOBS Activities Based on Their Self-Sufficiency Needs;

22 (g) Eliminate Exemptions for Individuals with Children  
23 Between the Ages of 12 Weeks and Age Six;

24 (h) Providing Poor Working Families with Transitional  
25 Child Care to Ease the Transition from Welfare to Self-Sufficiency;

26 (i) Provide Transitional Health Care for 24 12 Months  
27 After Termination of ADC;

1 (j) Cap Family Benefits Based on the Number of Children  
2 in the Unit at the Time of Initial Eligibility;

3 (k) Require Adults to Ensure that Children in the Family  
4 Unit Attend School;

5 (l) Encourage Minor Parents to Live with Their Parents;

6 (m) Establish a Resource Limit of \$4,000 for a single  
7 individual and \$6,000 for two or more individuals for ADC;

8 (n) Exclude the Value of One Vehicle Per Family When  
9 Determining ADC Eligibility;

10 (o) Exclude the Cash Value of Life Insurance Policies in  
11 Calculating Resources for ADC;

12 (p) Permit the Self-Sufficiency Contract Assessment to  
13 Substitute for the Six-Month ADC Redetermination Process;

14 (q) Establish Food Stamps as a Continuous Benefit with  
15 Eligibility Reevaluated with Yearly Redeterminations;

16 (r) Establish a Budget the Gap Methodology Whereby  
 17 Countable Earned Income is Subtracted from the Standard of the Need  
 18 and Payment is Based on the Difference or Maximum Payment Level,  
 19 Whichever is Less. That this Gap be Established at a Level that  
 20 Encourages Work but at Least at a Level that Ensures that Those  
 21 Currently Eligible for ADC do not Lose Eligibility Because of the  
 22 Adoption of this Methodology;

23 (s) Adopt ~~the Food Stamp Program's~~ an Earned Income  
 24 Disregard of Twenty Percent of Gross Earnings in the ADC Program  
 25 and One Hundred Dollars in the ~~and~~ Related Medical Assistance  
 26 Program;

27 (t) Disregard Financial Assistance Received Intended for  
 1 Books, Tuition, or Other Self-Sufficiency Related Use;

2 (u) Culture: Eliminate the 100-Hour Rule, The Quarter of  
 3 Work Requirement, and The 30-Day Unemployed/Underemployed Period  
 4 for ADC-UP Eligibility;

5 (v) Make ADC a Time-Limited Program;

6 (w) Eliminate Self-Initiated Training as a JOBS Option;  
 7 and

8 (x) Other Waivers: Statewide Operation of the  
 9 Demonstration Project.

10 At the end of the first year of implementation, the  
 11 department shall identify any adjustments or adaptations that may  
 12 be needed before the policies of the Welfare Reform Act are  
 13 implemented in other areas of the state. Such review shall include  
 14 an evaluation of the impact of such policies. The department shall  
 15 implement the policies in additional counties as necessary to  
 16 complete statewide implementation.

17 (2) The Department of Health and Human Services shall (a)  
 18 apply for a waiver to allow for a sliding-fee schedule for the  
 19 population served by the caretaker relative program or (b) pursue  
 20 other public or private mechanisms, to provide for transitional  
 21 health care benefits to individuals and families who do not qualify  
 22 for cash assistance. It is the intent of the Legislature that  
 23 transitional health care coverage be made available on a  
 24 sliding-scale basis to individuals and families with incomes up to  
 25 one hundred eighty-five percent of the federal poverty level if  
 26 other health care coverage is not available.

27 Sec. 4. Original sections 68-1019 and 68-1713, Revised  
 1 Statutes Supplement, 2000, and section 68-1020, Revised Statutes  
 2 Supplement, 2001, are repealed.

3 Sec. 5. Since an emergency exists, this act takes effect  
 4 when passed and approved according to law."

5 2. On page 1, strike beginning with "section" in line 1  
 6 through line 10 and insert "sections 68-1019 and 68-1713, Revised  
 7 Statutes Supplement, 2000, and section 68-1020, Revised Statutes  
 8 Supplement, 2001; to change provisions relating to medical  
 9 assistance eligibility and earnings determinations and transitional  
 10 health care benefits; to provide and change powers and duties; to

11 harmonize provisions; to repeal the original sections; and to  
12 declare an emergency."

### Correctly Engrossed

The following bills were correctly engrossed: LBs 6, 9, 11, 13, 18, 22, 25, 41, 48, and 49.

### Enrollment and Review Change to LB 13

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

ER9163

1. On page 1, the matter beginning with the first "to" in line 5 through the first semicolon in line 6 has been struck.

(Signed) Philip Erdman, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 1.** The second Standing Committee amendment, FA1119, found on page 107, as amended, was renewed.

Senator Beutler offered the following amendment to the second Standing Committee amendment:

AM9070

(Amendments to Standing Committee amendments, AM9052)

- 1 1. On page 8, line 13, after "(5)" insert "Within five
- 2 days after the effective date of this act, the State Treasurer
- 3 shall transfer ten million dollars from the Cash Reserve Fund to
- 4 the General Fund.
- 5 (6)"; in line 16 strike "(6)", show as stricken, and
- 6 insert "(7)"; in line 19 strike "(7)" and insert "(8)"; and in line
- 7 22 strike "(8)" and insert "(9)".

Senator Beutler moved for a call of the house. The motion prevailed with 35 ayes, 0 nays, and 14 not voting.

Senator Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 10:

Beutler	Connealy	Maxwell	Price	Schimek
Chambers	Landis	Preister	Robak	Synowiecki

Voting in the negative, 29:

Aguilar	Cudaback	Hlava	McDonald	Smith
Baker	Cunningham	Hudkins	Pederson, D.	Stuhr
Bromm	Dierks	Jensen	Quandahl	Tyson
Brown	Engel	Johnson	Raikes	Vrtiska
Bruning	Erdman	Jones	Redfield	Wehrbein
Coordsen	Foley	Kremer	Schrock	

Present and not voting, 7:

Bourne	Hartnett	Kruse	Thompson
Byars	Janssen	Suttle	

Excused and not voting, 3:

Brashear	Burling	Pedersen, Dw.
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The Beutler amendment lost with 10 ayes, 29 nays, 7 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Coordsen offered the following amendment to the second Standing Committee amendment:

FA1123

Amend FA1119

By striking on page 7 starting in line 15 all the language thru page 8 line 24.

Senator Foley asked unanimous consent to be excused until he returns. No objections. So ordered.

Senator Coordsen requested a record vote on his amendment.

Voting in the affirmative, 32:

Baker	Cudaback	Janssen	Pederson, D.	Smith
Bromm	Dierks	Jensen	Price	Stuhr
Brown	Engel	Johnson	Quandahl	Tyson
Bruning	Erdman	Jones	Raikes	Vrtiska
Burling	Hartnett	Kremer	Redfield	
Byars	Hlava	Landis	Robak	
Coordsen	Hudkins	McDonald	Schrock	

Voting in the negative, 7:

Aguilar	Kruse	Suttle	Wehrbein
Bourne	Maxwell	Thompson	

Present and not voting, 7:

Beutler	Connealy	Preister	Synowiecki
Chambers	Cunningham	Schimek	

Excused and not voting, 3:

Brashear	Foley	Pedersen, Dw.
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The Coordsen amendment was adopted with 32 ayes, 7 nays, 7 present and not voting, and 3 excused and not voting.

Senators Wehrbein, Schrock, and Dierks offered the following amendment to the second Standing Committee amendment:

AM9097

(Amendments to FA1119)

1 1. In section 3, after line 5, insert the following new  
 2 paragraph:  
 3 "It is further the intent of the Legislature that the  
 4 \$1,500,000 General Fund appropriation that was not made in fiscal  
 5 year 2002-03 as a result of changes made by this legislative bill  
 6 be reimbursed to the Ethanol Production Incentive Cash Fund by June  
 7 30, 2008."

The Wehrbein et al. amendment was adopted with 37 ayes, 1 nay, 9 present and not voting, and 2 excused and not voting.

The second Standing Committee amendment, FA1119, as amended, was adopted with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

The third Standing Committee amendment is as follows:

FA1120

1 1. Insert the following new sections:  
 2 "Sec. 2. Section 39-2215, Reissue Revised Statutes of  
 3 Nebraska, as amended by Laws 2002, LB 989, section 7, is amended to  
 4 read:  
 5 39-2215. (1) There is hereby created in the state  
 6 treasury a special fund to be known as the Highway Trust Fund.  
 7 (2) All funds credited to the Highway Trust Fund pursuant  
 8 to sections 66-4,140, 66-4,147, 66-669, and 66-6,108, and related  
 9 penalties and interest, shall be allocated as provided in such  
 10 sections. The State Treasurer shall make the transfer to the  
 11 General Fund required by section 66-499.  
 12 (3) All other motor vehicle fuel taxes, diesel fuel  
 13 taxes, compressed fuel taxes, and alternative fuel taxes related to  
 14 highway use retained by the state, all motor vehicle registration  
 15 fees retained by the state other than those fees credited to the  
 16 State Recreation Road Fund pursuant to section 60-302, and other

17 highway-user taxes imposed by state law and allocated to the  
18 Highway Trust Fund, except for the proceeds of the sales and use  
19 taxes derived from motor vehicles, trailers, and semitrailers  
20 credited to the fund pursuant to section 77-27,132, are hereby  
21 irrevocably pledged for the terms of the bonds issued prior to  
22 January 1, 1988, to the payment of the principal, interest, and  
23 redemption premium, if any, of such bonds as they mature and become  
24 due at maturity or prior redemption and for any reserves therefor  
1 and shall, as received by the State Treasurer, be deposited in the  
2 fund for such purpose.

3 (4) Of the money in the fund specified in subsection (3)  
4 of this section which is not required for the use specified in such  
5 subsection. (a) an amount equal to three dollars times the number  
6 of motorcycles registered during the previous month shall be placed  
7 in the Motorcycle Safety Education Fund, (b) an amount to be  
8 determined annually by the Legislature through the appropriations  
9 process may be transferred to the Motor Fuel Tax Enforcement and  
10 Collection Cash Fund for use as provided in section 66-738 on a  
11 monthly or other less frequent basis as determined by the  
12 appropriation language, (c) an amount to be determined annually by  
13 the Legislature through the appropriations process shall be  
14 transferred to the License Plate Cash Fund as needed to meet the  
15 current obligations associated with the manufacture of license  
16 plates and stickers or tabs provided for in sections 60-311,  
17 60-311.02, and 60-1804, as certified by the Director of Motor  
18 Vehicles, and (d) the remaining money may be used for the purchase  
19 for retirement of the bonds issued prior to January 1, 1988, in the  
20 open market.

21 (5) The State Treasurer shall monthly transfer, from the  
22 proceeds of the sales and use taxes credited to the Highway Trust  
23 Fund and any money remaining in the fund after the requirements of  
24 subsections (2) through (4) of this section are satisfied, (a)  
25 thirty thousand dollars to the Grade Crossing Protection Fund, and  
26 (b) the amount calculated pursuant to section 13-1210 for financing  
27 the operating costs of public transportation systems to the Highway  
1 Cash Fund, and (c) each month beginning October 2002 through June  
2 2003, one million six hundred thousand dollars to the General Fund.

3 (6) Except as provided in subsection (7) of this section,  
4 the balance of the Highway Trust Fund shall be allocated  
5 fifty-three and one-third percent, less the amount provided for in  
6 section 39-847.01, to the Department of Roads, twenty-three and  
7 one-third percent, less the amount provided for in section  
8 39-847.01, to the various counties for road purposes, and  
9 twenty-three and one-third percent to the various municipalities  
10 for street purposes. If bonds are issued pursuant to subsection  
11 (2) of section 39-2223, the portion allocated to the Department of  
12 Roads shall be credited monthly to the Highway Restoration and  
13 Improvement Bond Fund, and if no bonds are issued pursuant to such  
14 subsection, the portion allocated to the department shall be

15 credited monthly to the Highway Cash Fund. The portions allocated  
 16 to the counties and municipalities shall be credited monthly to the  
 17 Highway Allocation Fund and distributed monthly as provided by law.  
 18 Vehicles accorded prorated registration pursuant to section  
 19 60-305.09 shall not be included in any formula involving motor  
 20 vehicle registrations used to determine the allocation and  
 21 distribution of state funds for highway purposes to political  
 22 subdivisions.

23 (7) If it is determined by December 20 of any year that a  
 24 county will receive from its allocation of state-collected highway  
 25 revenue and from any funds relinquished to it by municipalities  
 26 within its boundaries an amount in such year which is less than  
 27 such county received in state-collected highway revenue in calendar  
 1 year 1969, based upon the 1976 tax rates for highway-user fuels and  
 2 registration fees, the Department of Roads shall notify the State  
 3 Treasurer that an amount equal to the sum necessary to provide such  
 4 county with funds equal to such county's 1969 highway allocation  
 5 for such year shall be transferred to such county from the Highway  
 6 Trust Fund. Such makeup funds shall be matched by the county as  
 7 provided in sections 39-2501 to 39-2510. The balance remaining in  
 8 the fund after such transfer shall then be reallocated as provided  
 9 in subsection (6) of this section.

10 (8) The State Treasurer shall disburse the money in the  
 11 Highway Trust Fund as directed by resolution of the commission.  
 12 All disbursements from the fund shall be made upon warrants drawn  
 13 by the Director of Administrative Services. Any money in the fund  
 14 available for investment shall be invested by the state investment  
 15 officer pursuant to the Nebraska Capital Expansion Act and the  
 16 Nebraska State Funds Investment Act and the earnings, if any,  
 17 credited to the fund.

Senator Wehrbein offered the following amendment to the third Standing  
 Committee amendment:

AM9098

(Amendments to FA1120)

1 1. On page 3, line 2, strike "General" and insert "Cash  
 2 Reserve".

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

The third Standing Committee amendment, FA1120, as amended, was  
 adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and  
 not voting.

Pending.



**ANNOUNCEMENT**

The Chair announced that yesterday was Senator Redfield's birthday.

**GENERAL FILE**

**LEGISLATIVE BILL 1.** Senator Beutler offered the following amendment:  
(Amendment, AM9100, is on file and available in the Clerk's Office, Room 2014.)

Senator Beutler moved for a call of the house. The motion prevailed with 35 ayes, 0 nays, and 14 not voting.

Senator Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 8:

Beutler	Hartnett	Robak	Suttle
Chambers	Price	Schimek	Thompson

Voting in the negative, 35:

Aguilar	Byars	Erdman	Kremer	Schrock
Baker	Connealy	Foley	Kruse	Smith
Bourne	Coordsen	Hlava	Landis	Stuhr
Bromm	Cudaback	Hudkins	McDonald	Synowiecki
Brown	Cunningham	Jensen	Pederson, D.	Tyson
Bruning	Dierks	Johnson	Quandahl	Vrtiska
Burling	Engel	Jones	Redfield	Wehrbein

Present and not voting, 4:

Janssen	Maxwell	Preister	Raikes
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Excused and not voting, 2:

Brashear	Pedersen, Dw.
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The Beutler amendment lost with 8 ayes, 35 nays, 4 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Advanced to E & R for review with 42 ayes, 1 nay, 4 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 2.** Title read. Considered.

The Standing Committee amendment, AM9047, printed separately and referred to on page 103, was considered.

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

FA1122

Amend Committee Amendments

On page 1, line 3 strike "136".

Senator Chambers asked unanimous consent to withdraw his pending amendment, FA1122, found in this day's Journal, and replace it with his substitute amendment, AM9109, to the Standing Committee amendment. No objections. So ordered.

AM9109

(Amendments to Standing Committee amendments, AM9047)

- 1 1. On page 1, line 2, after "91," insert "96,".
- 2 2. On page 10, line 4, after the semicolon insert "and";
- 3 and strike beginning with the semicolon in line 6 through the
- 4 quotation marks in line 11.
- 5 3. Correct the repealer accordingly.

The Chambers amendment was adopted with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

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

AM9106

(Amendments to Standing Committee amendments, AM9047)

- 1 1. On page 1, line 1, strike "23,"; in line 3 strike
- 2 "133, 134, 136,"; and in line 5 strike "200,".
- 3 2. On page 8, line 9, strike "12" and insert "11" and
- 4 strike "10" and insert "13"; in line 14 strike "902" and insert
- 5 "901"; and in line 27 strike "45,281,615" and insert "45,036,725".
- 6 3. On page 10, line 21, strike "405,395,686" and insert
- 7 "401,895,686"; in line 22 strike "709,107,174" and insert
- 8 "703,857,174"; in line 23 strike "1,122,652,860" and insert
- 9 "1,113,902,860"; in line 24 strike "\$405,395,686" and insert
- 10 "\$401,895,686"; and in line 25 strike "\$709,107,174" and insert
- 11 "\$703,857,174".
- 12 4. On page 11, strike beginning with "strike" in line 14
- 13 through the semicolon in line 15; in line 23 after the first comma
- 14 insert "lines 12 and 13, strike '1,619,988' and insert '1,745,200';
- 15 and in" and strike the comma; in line 26 after the semicolon insert
- 16 "in lines 13 and 14 strike '2,133,384' and insert '2,298,277';";
- 17 and in line 27 strike "36,973,389" and insert "36,257,396".
- 18 5. On page 12, line 2, strike "72,851,335" and insert
- 19 "72,135,342"; in line 4 strike "417,542,729" and insert
- 20 "412,450,196"; and in line 5 strike "\$2,299,221" and insert
- 21 "\$2,273,884".
- 22 6. Insert the following new amendment:

- 23 "23. On page 95, line 23, strike '816,023' and insert  
 1 '941,235'; and in line 26 strike '896,399' and insert  
 2 '1,021,611."  
 3 7. Renumber the remaining amendments accordingly.

The Wehrbein amendment was adopted with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

Senators Bourne and Engel offered the following amendment:  
 AM9108

- 1 1. Strike original sections 133 and 134 and all  
 2 amendments thereto.
- 3 2. Strike all amendments to original section 136.
- 4 3. Renumber the remaining sections accordingly.
- 5 4. Correct the repealer accordingly.

The Bourne-Engel amendment was adopted with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 44 ayes, 0 nays, 3 present and not voting, and 2 excused and not voting.

### SELECT FILE

**LEGISLATIVE BILL 46.** E & R amendment, AM7238, found on page 123, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 32.** E & R amendment, AM7239, printed separately and referred to on page 124, was adopted.

Senator Tyson withdrew his pending amendment, AM9062, printed separately and referred to on page 124.

Senator Coordsen offered the following amendment:  
 AM9107

(Amendments to E & R amendments, AM7239)

- 1 1. On page 7, lines 15 and 16; and page 9, lines 7 and  
 2 8, strike "the collection fee permitted to be deducted by any  
 3 retailer collecting the sales tax", show as stricken, and insert "a  
 4 collection fee of one-half of one percent of all amounts remitted  
 5 each month".

Senator Bruning asked unanimous consent to be excused. No objections. So ordered.

Senator Suttle moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 34 ayes, 0 nays, and 15 not voting.

Senator Foley asked unanimous consent to be excused. No objections. So ordered.

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

Senator Coordsen requested a roll call vote on his amendment.

Voting in the affirmative, 20:

Aguilar	Cunningham	Hudkins	McDonald	Smith
Burling	Dierks	Johnson	Preister	Stuhr
Coordsen	Erdman	Jones	Robak	Synowiecki
Cudaback	Hlava	Kremer	Schrock	Vrtiska

Voting in the negative, 24:

Baker	Byars	Jensen	Price	Suttle
Beutler	Connealy	Kruse	Quandahl	Thompson
Bourne	Engel	Landis	Raikes	Tyson
Bromm	Hartnett	Maxwell	Redfield	Wehrbein
Brown	Janssen	Pederson, D.	Schimek	

Present and not voting, 1:

Chambers

Excused and not voting, 4:

Brashear	Bruning	Foley	Pedersen, Dw.
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The Coordsen amendment lost with 20 ayes, 24 nays, 1 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

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

Advanced to E & R for engrossment with 34 ayes, 6 nays, 5 present and not voting, and 4 excused and not voting.

Senator Suttle asked unanimous consent to be excused. No objections. So ordered.

**LEGISLATIVE BILL 37.** E & R amendment, AM7240, found on page 124, was adopted.

Advanced to E & R for engrossment.

**AMENDMENT - Print in Journal**

Senator Cunningham filed the following amendment to LB 2:  
AM9105

1 1. On page 74, after line 7 insert the following:  
2 "The Department of Health and Human Services Finance and  
3 Support shall conduct a prescription drug survey, which includes  
4 information relating to the acquisition cost of drug products  
5 dispensed and costs associated with dispensing drug products,  
6 including, but not limited to, overhead, professional services,  
7 salaries, and fees. Survey information shall be compiled on the  
8 basis of type and location of pharmacy and the results of the  
9 survey shall be considered by the department in establishing the  
10 level of reimbursement for drug products and dispensing fees under  
11 the Medical Assistance Program. The survey shall be completed and  
12 a report provided by the Director of Finance and Support to the  
13 Governor and the Legislature on or before June 30, 2003. It is the  
14 intent of the Legislature that the department continue to provide  
15 medicaid reimbursement of drug products and dispensing fees  
16 according to the terms of the State Medical Assistance Program in  
17 effect as of the effective date of this act until at least ninety  
18 days after the completion date of the survey."

**MOTION - Print in Journal**

Senator Schimek filed the following motion to LR 2CA:  
Pursuant to Rule 9 - section 6 to place LR 2CA on General File  
notwithstanding the actions of the Committee.

**ADJOURNMENT**

At 5:33 p.m., on a motion by Senator Coordsen, the Legislature adjourned  
until 9:00 a.m., Tuesday, August 13, 2002.

Patrick J. O'Donnell  
Clerk of the Legislature



**ELEVENTH DAY - AUGUST 13, 2002**

**LEGISLATIVE JOURNAL**

**NINETY-SEVENTH LEGISLATURE  
SECOND SPECIAL SESSION**

**ELEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, August 13, 2002

**PRAYER**

The prayer was offered by Senator Vrtiska.

**ROLL CALL**

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

The roll was called and all members were present except Senators Bourne and Landis who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the tenth day was approved.

**SELECT COMMITTEE REPORTS  
Enrollment and Review**

**LEGISLATIVE BILL 1.** Placed on Select File as amended.  
(E & R amendment, AM7242, is printed separately and available in the Bill Room, Room 1102.)

**LEGISLATIVE BILL 2.** Placed on Select File as amended.  
E & R amendment to LB 2:  
AM7243

1 1. On page 1, strike lines 2 through 17 and insert  
2 "sections 7, 8, 10, 11, 12, 13, 15, 16, 17, 18, and 19; Laws 2001,  
3 LB 540, section 1; Laws 2001, LB 542, sections 30, 31, and 50; Laws  
4 2001, LB 543, sections 108, 114, 115, 117, 140, 175, and 240; Laws  
5 2001, First Special Session, LB 1, sections 15, 23, 24, 35, 44, 52,  
6 55, 66, 68, 115, 122, 125, 134, 138, and 147; Laws 2002, LB 1062A,  
7 section 2; Laws 2002, LB 1309, sections 23, 24, 31, 32, 33, 34, 35,  
8 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 51, 53, 54, 55, 56,  
9 58, 59, 60, 61, 63, 65, 66, 67, 68, 69, 72, 73, 74, 75, 76, 77, 78,

10 82, 83, 84, 85, 92, 93, 94, 96, 98, 102, 103, 104, 105, 107, 108,  
 11 110, 112, 113, 114, 115, 117, 118, 119, 120, 121, 122, 125, 126,  
 12 129, 130, 132, 133, 138, 139, 141, 142, 143, 144, 145, 146, 148,  
 13 149, 150, 151, 152, 153, 155, 157, 163, 168, 169, 171, 172, and  
 14 173;"

15 2. On page 2, strike lines 1 through 3; and in line 4  
 16 strike "173, and 174;"

### Correctly Engrossed

The following bills were correctly engrossed: LBs 32, 37, and 46.

(Signed) Philip Erdman, Chairperson

### SELECT FILE

**LEGISLATIVE BILL 8.** E & R amendment, AM7241, found on page 125, was adopted.

Senator Jensen offered the following amendment:  
 AM9123

(Amendments to E & R amendments, AM7241)

- 1 1. On page 5, line 11, after the underscored period
- 2 insert "Such rules and regulations shall specify the nature of such
- 3 reviews and the information upon which such reviews will be based
- 4 and shall require the consideration of variations in family income
- 5 and other relevant factors in conducting such reviews."; and in
- 6 line 15 strike "as of" and insert "on".
- 7 2. On page 6, line 11, after the underscored period
- 8 insert "The department shall provide medical assistance until June
- 9 30, 2003, to caretaker relatives with family incomes equal to or
- 10 less than fifty percent of the Office of Management and Budget
- 11 income poverty guideline and who would otherwise be ineligible for
- 12 medical assistance on and after the effective date of this act."
- 13 3. On page 8, line 14, strike "As of" and insert
- 14 "Beginning on".

The Jensen amendment was adopted with 41 ayes, 0 nays, 6 present and not voting, and 2 excused and not voting.

Senator Beutler offered the following amendment:  
 AM9128

(Amendments to E & R amendments, AM7241)

- 1 1. Insert the following new section:
- 2 "Sec. 4. Section 84-612, Revised Statutes Supplement,
- 3 2001, as amended by Laws 2002, LB 1310, section 20, is amended to
- 4 read:
- 5 84-612. (1) There is hereby created within the state
- 6 treasury a fund known as the Cash Reserve Fund which shall be under



7 the direction of the State Treasurer. The fund shall only be used  
8 pursuant to this section.

9 (2) The State Treasurer shall transfer funds from the  
10 Cash Reserve Fund to the General Fund upon certification by the  
11 Director of Administrative Services that the current cash balance  
12 in the General Fund is inadequate to meet current obligations.  
13 Such certification shall include the dollar amount to be  
14 transferred. Any transfers made pursuant to this subsection shall  
15 be reversed upon notification by the Director of Administrative  
16 Services that sufficient funds are available.  
17 (3) On July 23, 2001, the State Treasurer shall transfer  
18 three hundred seventy thousand dollars from the Cash Reserve Fund  
19 to the Municipal Natural Gas Regulation Revolving Loan Fund for  
20 purposes of loaning to Nebraska communities that seek to review  
21 natural gas rates. Any transfer made pursuant to this subsection  
22 shall be reversed upon notification by the Director of Policy  
23 Research that a sufficient court judgment has been obtained.

1 (4) Within fifteen days after July 1, 2002, the State  
2 Treasurer shall transfer twenty-two million five hundred thousand  
3 dollars from the Cash Reserve Fund to the General Fund.

4 (5) Within fifteen days after the effective date of this  
5 act, the State Treasurer shall transfer seven million one hundred  
6 thousand nine hundred fifty dollars from the Cash Reserve Fund to  
7 the General Fund for purposes of the payment of medically needy  
8 caretaker relatives as required by subdivision (2)(d) of section  
9 68-1020.

10 (6) On June 16, 2003, the State Treasurer shall transfer  
11 sixty-four million nine hundred thousand dollars from the Cash  
12 Reserve Fund to the General Fund.

13 ~~(6)~~ (7) On June 15, 2005, the State Treasurer shall  
14 transfer twenty-two million five hundred thousand dollars from the  
15 General Fund to the Cash Reserve Fund."

16 2. On page 6, line 11, after the underscored period  
17 insert "The department shall provide medical assistance until June  
18 30, 2003, to caretaker relatives with family incomes equal to or  
19 less than one hundred percent of the Office of Management and  
20 Budget income poverty guideline and who would otherwise be  
21 ineligible for medical assistance on and after the effective date  
22 of this act. The department shall immediately establish a schedule  
23 of premiums, copayments, and deductibles for such persons up to the  
24 maximum presently allowed by federal law. The department shall  
25 also apply for all necessary waivers to implement a schedule of  
26 reasonable premiums, copayments, and deductibles for such persons  
27 in excess of that presently allowed by federal law. Such premiums,  
1 copayments, and deductibles shall be on a sliding fee basis with  
2 provisions for hardship exceptions. Such premiums, copayments, and  
3 deductibles shall be used for the care of medically needy caretaker  
4 relatives in the medical assistance program."

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

Senator Beutler moved for a call of the house. The motion prevailed with 35 ayes, 0 nays, and 14 not voting.

Senator Beutler requested a roll call vote on his amendment.

Senator Jensen requested the roll call vote be taken in reverse order.

Voting in the affirmative, 15:

Aguilar	Chambers	Hartnett	Preister	Suttle
Beutler	Connealy	Maxwell	Robak	Synowiecki
Byars	Dierks	McDonald	Schimek	Thompson

Voting in the negative, 27:

Baker	Cunningham	Johnson	Quandahl	Tyson
Bromm	Engel	Jones	Raikes	Vrtiska
Brown	Erdman	Kremer	Redfield	Wehrbein
Bruning	Hlava	Pedersen, Dw.	Schrock	
Burling	Hudkins	Pederson, D.	Smith	
Coordsen	Jensen	Price	Stuhr	

Present and not voting, 6:

Bourne	Cudaback	Janssen
Brashear	Foley	Kruse

Excused and not voting, 1:

Landis

The Beutler amendment lost with 15 ayes, 27 nays, 6 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Senators Jensen and Byars offered the following amendment:  
AM9130

(Amendments to E & R amendments, AM7241)

1 1. On page 5, strike beginning with "The" in line 18  
2 through "children" in line 21 and insert "Beginning on the  
3 effective date of this act, the department shall report to the  
4 Legislature and the Governor on a quarterly basis until November 3,  
5 2003, and each December 1 thereafter. The report shall include,  
6 but shall not be limited to, the number of monthly reviews  
7 conducted, the number of children determined to be ineligible under  
8 this subdivision, and demographic information concerning the  
9 reviews, including family income, county of residence, ages of  
10 children, and reasons for ineligibility".

The Jensen-Byars amendment was adopted with 42 ayes, 0 nays, 6 present and not voting, and 1 excused and not voting.

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

Voting in the affirmative, 36:

Aguilar	Byars	Hudkins	Pederson, D.	Thompson
Baker	Coordsen	Janssen	Price	Tyson
Bourne	Cudaback	Jensen	Quandahl	Vrtiska
Brashear	Cunningham	Johnson	Redfield	Wehrbein
Bromm	Engel	Jones	Schrock	
Brown	Erdman	Kremer	Smith	
Bruning	Foley	Kruse	Stuhr	
Burling	Hlava	Maxwell	Suttle	

Voting in the negative, 10:

Beutler	Connealy	McDonald	Preister	Schimek
Chambers	Dierks	Pedersen, Dw.	Robak	Synowiecki

Present and not voting, 2:

Hartnett      Raikes

Excused and not voting, 1:

Landis

Advanced to E & R for engrossment with 36 ayes, 10 nays, 2 present and not voting, and 1 excused and not voting.

### RECESS

At 12:21 p.m., on a motion by Speaker Bromm, the Legislature recessed until 1:30 p.m.

### AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Bromm presiding.

### ROLL CALL

The roll was called and all members were present except Senators Brashear, Bruning, Chambers, Connealy, Landis, Preister, and Tyson who were excused until they arrive.

**SELECT FILE**

**LEGISLATIVE BILL 1.** E & R amendment, AM7242, printed separately and referred to on page 143, was adopted.

Senator Wehrbein offered the following amendment:  
AM9117

(Amendments to E & R amendments, AM7242)

- 1 1. Insert the following new section:
- 2 "Section 1. Section 81-15,160, Revised Statutes
- 3 Supplement, 2001, is amended to read:
- 4 81-15,160. (1) The Waste Reduction and Recycling
- 5 Incentive Fund is created. The department shall deduct from the
- 6 fund amounts sufficient to reimburse itself for its costs of
- 7 administration of the fund. The fund shall be administered by the
- 8 Department of Environmental Quality. The fund shall consist of
- 9 proceeds from the fees imposed pursuant to the Waste Reduction and
- 10 Recycling Incentive Act.
- 11 (2) The fund may be used for purposes which include, but
- 12 are not limited to:
- 13 (a) Technical and financial assistance to political
- 14 subdivisions for creation of recycling systems and for modification
- 15 of present recycling systems;
- 16 (b) Recycling and waste reduction projects, including
- 17 public education, planning, and technical assistance;
- 18 (c) Market development for recyclable materials separated
- 19 by generators, including public education, planning, and technical
- 20 assistance;
- 21 (d) Capital assistance for establishing private and
- 22 public intermediate processing facilities for recyclable materials
- 23 and facilities using recyclable materials in new products;
- 1 (e) Programs which develop and implement composting of
- 2 yard waste and composting with sewage sludge;
- 3 (f) Technical assistance for waste reduction and waste
- 4 exchange for waste generators;
- 5 (g) Programs to assist communities and counties to
- 6 develop and implement household hazardous waste management
- 7 programs;
- 8 (h) Incentive grants to political subdivisions to assist
- 9 and encourage the closure of landfills operating without a permit,
- 10 the regional consolidation of solid waste disposal facilities
- 11 operating with a permit, and the use of transfer stations. Grants
- 12 awarded for programs involving land disposal shall include
- 13 provisions for waste reduction and recycling; and
- 14 (i) Capital assistance for establishing private and
- 15 public facilities to manufacture combustible waste products and to
- 16 incinerate waste to generate and recover energy resources, except
- 17 that no disbursements shall be made under this section for scrap
- 18 tire processing related to tire-derived fuel.

19 The State Treasurer shall transfer two million one  
20 hundred thousand dollars from the Waste Reduction and Recycling  
21 Incentive Fund to the General Fund within five days after the  
22 effective date of this act.

23 (3) No grant shall be made under section 81-15,161 to a  
24 political subdivision which operates a landfill operating without a  
25 permit unless the grant will be used to meet permit standards and  
26 the landfill is issued a permit within two years after the award of  
27 the grant.

1 (4) Grants up to one million dollars annually shall be  
2 available until June 1, 2004, for new scrap tire projects only, if  
3 acceptable scrap tire project applications are received. Eligible  
4 categories of disbursement under section 81-15,161 may include, but  
5 are not limited to:

6 (a) Reimbursement for the purchase of crumb rubber  
7 generated and used in Nebraska, with disbursements not to exceed  
8 fifty percent of the cost of the crumb rubber;

9 (b) Reimbursement for the purchase of tire-derived  
10 product which utilizes a minimum of twenty-five percent recycled  
11 tire content, with disbursements not to exceed twenty-five percent  
12 of the product's retail cost, except that persons who applied for a  
13 grant between June 1, 1999, and May 31, 2001, for the purchase of  
14 tire-derived product which utilizes a minimum of twenty-five  
15 percent recycled tire content may apply for reimbursement on or  
16 before July 1, 2002. Reimbursement shall not exceed twenty-five  
17 percent of the product's retail cost and may be funded in fiscal  
18 years 2001-02 and 2002-03;

19 (c) Participation in the capital costs of building,  
20 equipment, and other capital improvement needs or startup costs for  
21 scrap tire processing or manufacturing of tire-derived product,  
22 with disbursements not to exceed fifty percent of such costs or  
23 five hundred thousand dollars, whichever is less;

24 (d) Participation in the capital costs of building,  
25 equipment, or other startup costs needed to establish collection  
26 sites or to collect and transport scrap tires, with disbursements  
27 not to exceed fifty percent of such costs;

1 (e) Cost-sharing for the manufacturing of tire-derived  
2 product, with disbursements not to exceed twenty dollars per ton or  
3 two hundred fifty thousand dollars, whichever is less, to any  
4 person annually;

5 (f) Cost-sharing for the processing of scrap tires, with  
6 disbursements not to exceed twenty dollars per ton or two hundred  
7 fifty thousand dollars, whichever is less, to any person annually;

8 (g) Cost-sharing for the use of scrap tires for civil  
9 engineering applications for specified projects, with disbursements  
10 not to exceed twenty dollars per ton or two hundred fifty thousand  
11 dollars, whichever is less, to any person annually; and

12 (h) Disbursement to a political subdivision up to one  
13 hundred percent of costs incurred in cleaning up scrap tire

14 collection sites.

15 The director shall give preference to projects which

16 utilize scrap tires generated and used in Nebraska.

17 (5) Priority for grants made under section 81-15,161

18 shall be given to grant proposals demonstrating a formal

19 public/private partnership except for grants awarded from fees

20 collected under subsection (6) of section 13-2042.

21 (6) Grants awarded from fees collected under subsection

22 (6) of section 13-2042 may be renewed for up to a five-year grant

23 period. Such applications shall include an updated integrated

24 solid waste management plan pursuant to section 13-2032. Annual

25 disbursements are subject to available funds and the grantee

26 meeting established grant conditions. Priority for such grants

27 shall be given to grant proposals showing regional participation

1 and programs which address the first integrated solid waste

2 management hierarchy as stated in section 13-2018 which shall

3 include toxicity reduction. Disbursements for any one year shall

4 not exceed fifty percent of the total fees collected after rebates

5 under subsection (6) of section 13-2042 during that year.

6 (7) Any person who operates a scrap tire collection site

7 in violation of state law which is the subject of abatement or

8 cleanup shall be liable to the State of Nebraska for the

9 reimbursement of expenses of such abatement or cleanup paid by the  
10 Department of Environmental Quality.

11 (8) The Department of Environmental Quality may receive

12 gifts, bequests, and any other contributions for deposit in the

13 ~~fund~~ **Waste Reduction and Recycling Incentive Fund**. Any money in

14 the fund available for investment shall be invested by the state

15 investment officer pursuant to the Nebraska Capital Expansion Act

16 and the Nebraska State Funds Investment Act."

17 2. Renumber the remaining sections and correct the

18 repealer accordingly.

The Wehrbein amendment was adopted with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 2.** E & R amendment, AM7243, found on page 143, was adopted.

Senator Cunningham renewed his pending amendment, AM9105, found on page 141.

Senator Cunningham asked unanimous consent to withdraw his pending amendment, AM9105, found on page 141, and replace it with his substitute amendment, AM9122. No objections. So ordered.

AM9122

1 1. On page 74, after line 7 insert the following:

2 "The Department of Health and Human Services Finance and  
 3 Support shall conduct a prescription drug survey, which includes  
 4 information relating to the acquisition cost of drug products  
 5 dispensed and costs associated with dispensing drug products,  
 6 including, but not limited to, overhead, professional services,  
 7 salaries, and fees. Survey information shall be compiled on the  
 8 basis of type and location of pharmacy and the results of the  
 9 survey shall be considered by the department in establishing the  
 10 level of reimbursement for drug products and dispensing fees under  
 11 the Medical Assistance Program. The survey shall be completed and  
 12 a report provided by the Director of Finance and Support to the  
 13 Governor and the Legislature on or before June 30, 2003."

Senator Cunningham withdrew his amendment.

Senator Wehrbein offered the following amendment:

AM9118

(Amendments to Standing Committee amendments, AM9047)

- 1 1. Strike amendments 29 and 32.
- 2 2. Renumber the remaining amendments accordingly.

### **SENATOR COORDSEN PRESIDING**

The Wehrbein amendment was adopted with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

Senator Kruse asked unanimous consent to be excused. No objections. So ordered.

Senator Wehrbein offered the following amendment:

AM9121

- 1 1. Strike Standing Committee amendment 18.
- 2 2. On page 31, line 23, strike "20,040,112" and insert
- 3 "20,104,740"; and in line 27 strike "20,227,836" and insert
- 4 "20,292,464".
- 5 3. On page 68, line 3, strike "137,123,498" and insert
- 6 "137,176,998"; in line 5 strike "247,374,182" and insert
- 7 "247,427,682"; and in line 11 strike "\$137,123,498" and insert
- 8 "\$137,176,998".

The Wehrbein amendment was adopted with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

Senators Wehrbein and Jensen offered the following amendment:

AM9126

- 1 1. Strike Standing Committee amendment 19.
- 2 2. In AM9106 strike amendment 3.
- 3 3. On page 73, line 9, strike "399,960,686" and insert
- 4 "405,019,248"; in line 11 strike "699,054,674" and insert

5 "708,542,516"; in line 12 strike "1,107,165,360" and insert  
 6 "1,121,711,764"; in line 21 strike "\$399,960,686" and insert  
 7 "\$405,019,248"; and in line 22 strike "\$699,054,674" and insert  
 8 "\$708,542,516".

The Wehrbein-Jensen amendment was adopted with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

### **SENATOR CUDABACK PRESIDING**

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 3.** Senator Coordsen offered the following amendment:

AM9116

1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 "Section 1. There is hereby appropriated \$62,339 from  
 4 the General Fund for FY2002-03 to the Legislative Council, for  
 5 Program 122, for expenses incurred during the Ninety-seventh  
 6 Legislature, Second Special Session, 2002.  
 7 Sec. 2. There is hereby appropriated \$46,353 from the  
 8 General Fund for FY2002-03 to the Legislative Council, for Program  
 9 123, for expenses incurred during the Ninety-seventh Legislature,  
 10 Second Special Session, 2002.  
 11 Total expenditures for permanent and temporary salaries  
 12 and per diems from funds appropriated in this section shall not  
 13 exceed \$12,135 for FY2002-03.  
 14 Sec. 3. There is hereby appropriated \$3,975 from the  
 15 General Fund for FY2002-03 to the Legislative Council, for Program  
 16 127, for expenses incurred during the Ninety-seventh Legislature,  
 17 Second Special Session, 2002.  
 18 Total expenditures for permanent and temporary salaries  
 19 and per diems from funds appropriated in this section shall not  
 20 exceed \$2,600 for FY2002-03.  
 21 Sec. 4. Since an emergency exists, this act takes effect  
 22 when passed and approved according to law."

The Coordsen amendment was adopted with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

Advanced to E & R for engrossment.

### **EASE**

The Legislature was at ease from 2:25 p.m. until 3:41 p.m.

### **SPEAKER BROMM PRESIDING**



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

The following bills were correctly engrossed: LBs 1, 2, 3, and 8.

**Enrollment and Review Change to LB 1**

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

ER9164

1. The following new section has been inserted:

"Sec. 4. Section 72-816, Revised Statutes Supplement, 2000, is amended to read:

72-816. (1) The Vacant Building and Excess Land Cash Fund is created. The fund shall consist of proceeds credited to the fund pursuant to section 72-815. The fund shall be used to pay for the maintenance of vacant state buildings and excess state land and for expenses related to the disposal of state buildings and land referred to the Department of Administrative Services by the committee pursuant to sections 72-811 to 72-818, except through July 14, 2003, funds shall only be used as provided in subsection (4) of this section. The fund shall be administered by the state building division of the Department of Administrative Services. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Funds may be transferred from the Vacant Building and Excess Land Cash Fund to the General Fund at the direction of the Legislature.

(2) If there are insufficient funds in the fund to enable the division to fully implement the orders of the committee issued pursuant to sections 72-811 to 72-818, the division shall implement them in the order which most efficiently meets the purposes of such sections.

(3) Funds appropriated to the Task Force for Building Renewal shall not be used to carry out any of the purposes of such sections (a) unless the building would otherwise qualify for the use of such funds pursuant to the Deferred Building Renewal Act and (b) except for any expenses incurred by the administrator of the Task Force for Building Renewal in fulfilling his or her duties under such sections.

(4) Through July 14, 2003, the Vacant Building and Excess Land Cash Fund, subject to an available fund balance, shall only be used in the following priority order:

(a) First, to address any immediate life safety concerns of vacant state buildings and excess state land, including the costs of daily maintenance, but excluding any renovation costs;

(b) Second, to complete any authorized transfers to the General Fund at the direction of the Legislature;

(c) Third, to fully complete the maximum cumulative transfers as authorized by Laws 1999, LB 873, section 2;

(d) Fourth, to complete the transfer amount as authorized by Laws 2000, LB 1216, section 4;

(e) Fifth, to complete the transfer amount as authorized by Laws 2000, LB 1216, section 5; and

(f) Sixth, to complete the transfer amount as authorized by Laws 2000, LB 1216, section 6; and

(g) ~~Seventh~~, after completing the purposes of subdivisions (b) through (f) of this subsection, utilize the fund consistent with existing provisions of law.

This subsection shall terminate on July 15, 2003."

2. In the Wehrbein amendment, AM9117, section 1 has been renumbered as section 7.

3. In the E & R amendments, AM7242:

a. On page 22, lines 7 and 24, "79-810" has been struck and "72-816, 79-810," inserted; and in lines 8 and 25 "section 66-1345.04" has been struck and "sections 66-1345.04 and 81-15,160" inserted; and

b. On page 23, line 10, the second "sections" has been struck and "section" inserted.

4. The remaining sections have been renumbered accordingly.

### **Enrollment and Review Change to LB 2**

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

ER9165

1. Sections have been renumbered and the title and repealer have been corrected to reflect all adopted amendments.

(Signed) Philip Erdman, Chairperson

### **ADJOURNMENT**

At 3:42 p.m., on a motion by Senator Cudaback, the Legislature adjourned until 10:00 a.m., Wednesday, August 14, 2002.

Patrick J. O'Donnell  
Clerk of the Legislature

**TWELFTH DAY - AUGUST 14, 2002****LEGISLATIVE JOURNAL****NINETY-SEVENTH LEGISLATURE  
SECOND SPECIAL SESSION****TWELFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, August 14, 2002

**PRAYER**

The prayer was offered by Senator Preister.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Speaker Bromm presiding.

The roll was called and all members were present except Senators Bourne, Brashear, Coordsen, Kremer, Robak, and Vrtiska who were excused.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eleventh day was approved.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 5.** Introduced by Johnson, 37.

WHEREAS, Lance Rall, of Kearney, earned the Boy Scouts' highest honor and rank of Eagle Scout and will be awarded the Eagle Scout Award on Sunday, September 22, 2002; and

WHEREAS, Lance is being recognized by the Boy Scouts for his years of hard work, service to community, and commitment to his scouting duties; and

WHEREAS, fewer than four percent of all young men who join the Boy Scouts attain the rank of Eagle Scout; and

WHEREAS, Lance Rall has achieved great success as an exemplary member of the scouting program and has represented his troop and community with excellence.

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

1. That the Legislature congratulates Lance Rall on his achievement of the elite rank of Eagle Scout in the Boy Scouts and recognizes his outstanding community service efforts in Kearney.

2. That a copy of this resolution be sent to Lance Rall and his family.

Laid over.

### ATTORNEY GENERAL'S OPINION

#### Opinion #02021

DATE: August 13, 2002

SUBJECT: Scope of the Governor's Special Session Call;  
LB 32 and LB 46.

REQUESTED BY: Senator Chris Beutler  
Nebraska Legislature

WRITTEN BY: Don Stenberg, Attorney General  
Dale A. Comer, Assistant Attorney General

You have requested our opinion as to whether two legislative bills, LB 32 and LB 46, 97th Legislature, Second Special Session, are within the scope of the Governor's call dated July 24, 2002. We received your opinion request on the morning of August 13, 2002, and you requested a response from us by 9:00 A.M. the next day, on August 14, 2002. As a result, our analysis of the issues raised in your request will necessarily be brief, given the time you have allowed us for research and a response.

Art. IV, § 8 of the Nebraska Constitution provides as follows:

The Governor may, on extraordinary occasions, convene the Legislature by proclamation, stating therein the purpose for which they are convened, and the Legislature shall enter upon no business except that for which they are called together.

We have discussed this constitutional provision in numerous previous opinions, and we have noted that the final portion of art. IV, § 8 places an express limitation on the power of the Legislature to act during a special session. *Op. Att'y Gen. No. 89069* (November 9, 1989). That limitation was described in *Arrow Club, Inc. v. Nebraska Liquor Control Commission*, 177 Neb. 686, 131 N.W.2d 134, 137 (1964):

It is well established that the Legislature while in special session can transact no business except that for which it was called together. The proclamation may state the purpose for which the Legislature is convened in broad, general terms or it may limit the consideration to a

specified phase of a general subject. The Legislature is free to determine in what manner the purpose shall be accomplished, but it must confine itself to the matters submitted to it by the proclamation.

(Citations omitted). While the court in *Arrow Club* noted the express constitutional limitation on the power of the Legislature to act in a special session, it also stated:

While the Legislature must confine itself to the matters submitted, it need not follow the views of the governor or legislate in any particular way. Within the special business or designated subjects submitted, the legislature cannot be restricted or dictated to by the governor. It is a free agent, and the governor, under the guise of definition, cannot direct or control its action. The Legislature while in special session may enact legislation relating to, germane to, and having a natural connection with the purpose for which it was convened. . . . The presumption is always in favor of the constitutionality of legislation, and an act should be held to be within the call if it can be done by any reasonable construction.

*Id.* at 689-90, 131 N.W.2d at 137. (Emphasis added).

The final reading version of LB 32 would reduce the collection fees retained by retailers for collection of sales taxes in Nebraska, and incidently [*sic*] reduce the collection fees for lodging and tobacco products taxes in Nebraska. That bill would also eliminate the \$10 permit fee charged to retailers for issuance of a permit in connection with the collection of those taxes. The final reading version of LB 46 would reduce the discount available to cigarette wholesalers who stamp cigarette packages in the process of imposing state taxes on cigarettes. Both bills would generally increase revenues available to the State of Nebraska, not by increasing taxes or fees, but by reducing the share of state tax revenues received by retailers and cigarette wholesalers for collecting or imposing state taxes. The actual language of both bills would result in increased revenues directly in the State's General Fund. In addition, it is our understanding that various State cash funds would also receive additional revenues under the bills, either as a result of a transfer from the General Fund, or as a result of the incidental effects of the bills.

The Governor's legislative call proclamation dated July 24, 2002, contains 26 separate paragraphs, and the individual items in that call range from the general to the specific. It seems to us that one portion of that call has particular application to the present issue. Paragraph 4 of the call provides that the Legislature is to convene "[t]o authorize, increase or make certain transfers to the State General Fund or the Nebraska Capital Construction Fund."

It can be argued that the provisions for increased revenues to be placed in the State's General Fund on the face of LB 32 and LB 46 constitute an increase in transfers to that fund under Paragraph 4 of the call, inasmuch as

the monies coming to that fund under those bills would be tax monies already belonging to the State which are, in effect, "transferred" to the State's General fund by reducing the amount received by the entities collecting the taxes. Moreover, any direct transfers to other cash funds as a result of those bills are only incidental to their express language, and appear related to Paragraph 4 of the call. Therefore, we cannot say, on balance, that either LB 32 or LB 46 is not within the scope of the Governor's call.<sup>1</sup>

Our conclusion is supported by a communication which we have received from the Governor. As the Nebraska Supreme Court noted with approval in *Arrow Club*:

This constitutional provision contemplates that there shall first exist in the executive mind a definite conception of the public emergency which demands an extraordinary session. His mental attitude or intention is expressed in his proclamation . . . The guiding principle in sustaining legislation of a special session is that it be germane to, or within, the apparent scope of the subjects which have been designated as proper fields for legislation. In construing a call the words of any portion thereof must be interpreted not only as commonly and universally understood, but also as applicable to the subject intended to be affected by the legislation.

177 Neb. at 689-90, 131 N.W.2d at 137.

It if [*sic*] firmly established in Nebraska law that if a legislative bill is ambiguous, a court may examine the legislative history (such as the introducer's statement of intent and floor debate) to determine the Legislature's intent. *Coleman v. Chadron State College*, 237 Neb. 491, 466 N.W.2d 526 (1991). We are of the opinion that a similar rule regarding the Governor's intent would apply to interpretation of a Governor's proclamation for a special session, if the Governor's proclamation appeared to be ambiguous on a particular point.

Upon our inquiry, we received a letter from the Governor dated August 13, 2002, which states as follows: "At your request, I have reviewed both of the above-referenced legislative bills [LB 32 and LB 46]. In my view, both of these legislative measures assist in accomplishing the purposes for which I convened the current Second Special Session of the Nebraska Legislature. If passed by the Legislature, I will sign both bills into law."

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<sup>1</sup>We would note that the eliminated tax permit fees in LB 32 would actually result in a reduced transfer to the State's General Fund with respect to that section of the bill. However, we believe that the reduction in revenues involved in that portion of the bill, which is very small compared to the bill's total increase in revenues, would be subsumed within the bill's general and overall purpose to increase transfers to the General Fund.

In our opinion, the Governor's letter strengthens our conclusion that LB 32 and LB 46 are appropriate subjects of legislation pursuant to the Governor's Proclamation of July 24, 2002.

Sincerely yours,  
DON STENBERG  
Attorney General  
(Signed) Dale A. Comer  
Assistant Attorney General

cc. Patrick O'Donnell  
Clerk of the Legislature  
05-115-21

## REPORTS

The following report was received by the Legislature:

### **Game and Parks Commission**

Game Law Investigation Cash Fund Annual Report

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 2CA.** Read. Considered.

Senator Schimek renewed her pending motion, found on page 141, that pursuant to Rule 9 - section 6 to place LR 2CA on General File notwithstanding the actions of the Committee.

Senators Baker, Cudaback, Wehrbein, and Bruning asked unanimous consent to be excused until they return. No objections. So ordered.

Senator Tyson moved the previous question. The question is, "Shall the debate now close?" The motion failed with 14 ayes, 0 nays, and 35 not voting.

Senator Tyson asked unanimous consent to be excused. No objections. So ordered.

Senator Schimek withdrew her motion to place LR 2CA on General File.

Senator Schrock asked unanimous consent to be excused. No objections. So ordered.

**LEGISLATIVE RESOLUTION 1.** Read. Considered.

**LEGISLATIVE RESOLUTION 3.** Read. Considered.

**LEGISLATIVE RESOLUTION 4.** Read. Considered.

LR 1, LR 3, and LR 4 were adopted with 23 ayes, 0 nays, 14 present and not voting, and 12 excused and not voting.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 1, 3, and 4.

**ADJOURNMENT**

At 11:11 a.m., on a motion by Senator Dierks, the Legislature adjourned until 9:00 a.m., Thursday, August 15, 2002.

Patrick J. O'Donnell  
Clerk of the Legislature



**THIRTEENTH DAY - AUGUST 15, 2002**

**LEGISLATIVE JOURNAL**

**NINETY-SEVENTH LEGISLATURE  
SECOND SPECIAL SESSION**

**THIRTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, August 15, 2002

**PRAYER**

The prayer was offered by Senator Schrock.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Bromm presiding.

The roll was called and all members were present except Senator Preister who was excused.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twelfth day was approved.

**BILLS ON FINAL READING**

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 4.** With Emergency.

A BILL FOR AN ACT relating to state aid; to amend section 79-1022, Revised Statutes Supplement, 2000, as amended by Laws 2002, LB 898, section 12; to change provisions relating to state aid payments; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 46:

Aguilar	Connealy	Hudkins	Pederson, D.	Suttle
Baker	Coordsen	Janssen	Price	Synowiecki
Beutler	Cudaback	Jensen	Quandahl	Thompson
Bourne	Cunningham	Johnson	Raikes	Tyson
Brashear	Dierks	Jones	Redfield	Vrtiska
Bromm	Engel	Kremer	Robak	Wehrbein
Brown	Erdman	Landis	Schimek	
Bruning	Foley	Maxwell	Schrock	
Burling	Hartnett	McDonald	Smith	
Byars	Hlava	Pedersen, Dw.	Stuhr	

Voting in the negative, 0.

Present and not voting, 2:

Chambers      Kruse

Excused and not voting, 1:

Preister

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **LEGISLATIVE BILL 5.**

A BILL FOR AN ACT relating to educational service units; to amend sections 79-1201 and 79-1241, Revised Statutes Supplement, 2000; to authorize educational service units to borrow money, execute promissory notes, and enter into loan agreements as prescribed; to change provisions relating to distribution of core services funds; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 46:

Aguilar	Connealy	Hudkins	Pederson, D.	Suttle
Baker	Coordsen	Janssen	Price	Synowiecki
Beutler	Cudaback	Jensen	Quandahl	Thompson
Bourne	Cunningham	Johnson	Raikes	Tyson
Brashear	Dierks	Jones	Redfield	Vrtiska
Bromm	Engel	Kremer	Robak	Wehrbein
Brown	Erdman	Landis	Schimek	
Bruning	Foley	Maxwell	Schrock	
Burling	Hartnett	McDonald	Smith	
Byars	Hlava	Pedersen, Dw.	Stuhr	

Voting in the negative, 0.

Present and not voting, 2:

Chambers      Kruse

Excused and not voting, 1:

Preister

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 6.** With Emergency.

A BILL FOR AN ACT relating to schools; to amend section 81-1634, Reissue Revised Statutes of Nebraska, and section 79-1310, Revised Statutes Supplement, 2001; to change provisions relating to and provide for termination of the School Technology Fund; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 47:

Aguilar	Connealy	Hudkins	Pedersen, Dw.	Stuhr
Baker	Coordsen	Janssen	Pederson, D.	Suttle
Beutler	Cudaback	Jensen	Price	Synowiecki
Bourne	Cunningham	Johnson	Quandahl	Thompson
Brashear	Dierks	Jones	Raikes	Tyson
Bromm	Engel	Kremer	Redfield	Vrtiska
Brown	Erdman	Kruse	Robak	Wehrbein
Bruning	Foley	Landis	Schimek	
Burling	Hartnett	Maxwell	Schrock	
Byars	Hlava	McDonald	Smith	

Voting in the negative, 0.

Present and not voting, 1:

Chambers

Excused and not voting, 1:

Preister

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 9.** With Emergency.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 44-32,180 and 44-4726, Reissue Revised Statutes of Nebraska, section 77-912, Revised Statutes Supplement, 2000, and section 77-908, Revised Statutes Supplement, 2001; to change insurance premium tax provisions; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 47:

Aguilar	Connealy	Hudkins	Pedersen, Dw.	Stuhr
Baker	Coordsen	Janssen	Pederson, D.	Suttle
Beutler	Cudaback	Jensen	Price	Synowiecki
Bourne	Cunningham	Johnson	Quandahl	Thompson
Brashear	Dierks	Jones	Raikes	Tyson
Bromm	Engel	Kremer	Redfield	Vrtiska
Brown	Erdman	Kruse	Robak	Wehrbein
Bruning	Foley	Landis	Schimek	
Burling	Hartnett	Maxwell	Schrock	
Byars	Hlava	McDonald	Smith	

Voting in the negative, 0.

Present and not voting, 1:

Chambers

Excused and not voting, 1:

Preister

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 11.** With Emergency.

A BILL FOR AN ACT relating to county jails; to amend section 47-121.01, Reissue Revised Statutes of Nebraska, and section 47-119.01, Revised Statutes Supplement, 2001; to change provisions relating to county jail reimbursement for state prisoners; to provide duties for the Department of Correctional Services; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to

procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 46:

Aguilar	Connealy	Hudkins	Pedersen, Dw.	Suttle
Baker	Coordsen	Janssen	Pederson, D.	Synowiecki
Beutler	Cudaback	Jensen	Price	Thompson
Bourne	Cunningham	Johnson	Quandahl	Tyson
Brashear	Dierks	Jones	Raikes	Vrtiska
Bromm	Engel	Kremer	Redfield	Wehrbein
Brown	Erdman	Kruse	Robak	
Bruning	Foley	Landis	Schrock	
Burling	Hartnett	Maxwell	Smith	
Byars	Hlava	McDonald	Stuhr	

Voting in the negative, 0.

Present and not voting, 2:

Chambers      Schimek

Excused and not voting, 1:

Preister

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 12.** With Emergency.

A BILL FOR AN ACT relating to the state budget; to amend sections 81-132, 81-1113, 81-2227, and 85-1416, Reissue Revised Statutes of Nebraska, and section 2-15,106, Revised Statutes Supplement, 2000; to change filing dates; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 47:

Aguilar	Connealy	Hudkins	Pedersen, Dw.	Stuhr
Baker	Coordsen	Janssen	Pederson, D.	Suttle
Beutler	Cudaback	Jensen	Price	Synowiecki
Bourne	Cunningham	Johnson	Quandahl	Thompson
Brashear	Dierks	Jones	Raikes	Tyson
Bromm	Engel	Kremer	Redfield	Vrtiska
Brown	Erdman	Kruse	Robak	Wehrbein
Bruning	Foley	Landis	Schimek	
Burling	Hartnett	Maxwell	Schrock	
Byars	Hlava	McDonald	Smith	

Voting in the negative, 0.

Present and not voting, 1:

Chambers

Excused and not voting, 1:

Preister

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 4, 5, 6, 9, 11, and 12.

### **BILLS ON FINAL READING**

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 13.** With Emergency.

A BILL FOR AN ACT relating to courts; to amend section 29-2709, Revised Statutes Supplement, 2001, as amended by Laws 2002, LB 876, section 63; to create a fund; to assess a fee for each court proceeding; to change provisions relating to uncollectible costs; to provide an operative date; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 48:

Aguilar	Chambers	Hlava	McDonald	Smith
Baker	Connealy	Hudkins	Pedersen, Dw.	Stuhr
Beutler	Coordsen	Janssen	Pederson, D.	Suttle
Bourne	Cudaback	Jensen	Price	Synowiecki
Brashear	Cunningham	Johnson	Quandahl	Thompson
Bromm	Dierks	Jones	Raikes	Tyson
Brown	Engel	Kremer	Redfield	Vrtiska
Bruning	Erdman	Kruse	Robak	Wehrbein
Burling	Foley	Landis	Schimek	
Byars	Hartnett	Maxwell	Schrock	

Voting in the negative, 0.

Excused and not voting, 1:

Preister

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 18.** With Emergency.

A BILL FOR AN ACT relating to motor vehicle license plates; to amend section 60-311.01, Revised Statutes Supplement, 2000; to eliminate a sticker requirement; to harmonize provisions; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 47:

Aguilar	Connealy	Hudkins	Pedersen, Dw.	Stuhr
Baker	Coordsen	Janssen	Pederson, D.	Suttle
Bourne	Cudaback	Jensen	Price	Synowiecki
Brashear	Cunningham	Johnson	Quandahl	Thompson
Bromm	Dierks	Jones	Raikes	Tyson
Brown	Engel	Kremer	Redfield	Vrtiska
Bruning	Erdman	Kruse	Robak	Wehrbein
Burling	Foley	Landis	Schimek	
Byars	Hartnett	Maxwell	Schrock	
Chambers	Hlava	McDonald	Smith	

Voting in the negative, 0.

Present and not voting, 1:

Beutler

Excused and not voting, 1:

Preister

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **LEGISLATIVE BILL 22.**

A BILL FOR AN ACT relating to state wards; to amend section 43-118.01, Revised Statutes Supplement, 2000; to change provisions relating to adoption assistance payments; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Aguilar	Coordsen	Hudkins	McDonald	Smith
Baker	Cudaback	Janssen	Pedersen, Dw.	Stuhr
Bourne	Cunningham	Jensen	Price	Suttle
Bromm	Dierks	Johnson	Quandahl	Synowiecki
Brown	Engel	Jones	Raikes	Thompson
Bruning	Erdman	Kremer	Redfield	Tyson
Burling	Foley	Kruse	Robak	Vrtiska
Byars	Hartnett	Landis	Schimek	Wehrbein
Connealy	Hlava	Maxwell	Schrock	

Voting in the negative, 0.

Present and not voting, 4:

Beutler	Brashear	Chambers	Pederson, D.
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Excused and not voting, 1:

Preister

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 25. With Emergency.**

A BILL FOR AN ACT relating to private detectives; to amend sections 71-3204 and 71-3209, Reissue Revised Statutes of Nebraska, and section 71-3205, Revised Statutes Supplement, 2000; to change provisions relating to fees; to provide an operative date; to repeal the original sections; and to declare an emergency.



Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 47:

Aguilar	Connealy	Hudkins	Pedersen, Dw.	Stuhr
Baker	Coordsen	Janssen	Pederson, D.	Suttle
Bourne	Cudaback	Jensen	Price	Synowiecki
Brashear	Cunningham	Johnson	Quandahl	Thompson
Bromm	Dierks	Jones	Raikes	Tyson
Brown	Engel	Kremer	Redfield	Vrtiska
Bruning	Erdman	Kruse	Robak	Wehrbein
Burling	Foley	Landis	Schimek	
Byars	Hartnett	Maxwell	Schrock	
Chambers	Hlava	McDonald	Smith	

Voting in the negative, 0.

Present and not voting, 1:

Beutler

Excused and not voting, 1:

Preister

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 13, 18, 22, and 25.

### **MOTION - Return LB 32 to Select File**

Senator Beutler moved to return LB 32 to Select File for the following specific amendment:

FA1124

Strike the enacting clause.

### **SENATOR CUDABACK PRESIDING**

Senator Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 34 ayes, 4 nays, and 11 not voting.

Senator Beutler withdrew his motion to return.

**BILLS ON FINAL READING****Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 32 with 43 ayes, 3 nays, 2 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 32.** With Emergency.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2708 and 77-4014, Reissue Revised Statutes of Nebraska, section 77-2705, Revised Statutes Supplement, 2000, and section 77-2703, Revised Statutes Supplement, 2000, as amended by Laws 2002, LB 1085, section 11; to change a sales and use tax collection fee; to eliminate a permit fee; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 37:

Aguilar	Connealy	Janssen	Price	Synowiecki
Baker	Coordsen	Jensen	Quandahl	Thompson
Bourne	Cudaback	Johnson	Raikes	Tyson
Bromm	Engel	Kremer	Redfield	Vrtiska
Brown	Foley	Kruse	Schrock	Wehrbein
Bruning	Hartnett	Landis	Smith	
Burling	Hlava	Maxwell	Stuhr	
Byars	Hudkins	Pederson, D.	Suttle	

Voting in the negative, 11:

Beutler	Cunningham	Jones	Robak
Brashear	Dierks	McDonald	Schimek
Chambers	Erdman	Pedersen, Dw.	

Excused and not voting, 1:

Preister

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

Senator Chambers asked unanimous consent to be excused. No objections. So ordered.

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 41.** With Emergency.

A BILL FOR AN ACT relating to schools; to eliminate the School Finance Review Committee and the Education Roundtable; to harmonize provisions; to outright repeal section 79-759, Revised Statutes Supplement, 2000, and sections 79-1032 and 85-9,183 to 85-9,189, Revised Statutes Supplement, 2001; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 44:

Aguilar	Connealy	Hudkins	McDonald	Smith
Baker	Coordsen	Janssen	Pedersen, Dw.	Stuhr
Bourne	Cudaback	Jensen	Pederson, D.	Suttle
Brashear	Cunningham	Johnson	Price	Synowiecki
Bromm	Engel	Jones	Quandahl	Thompson
Brown	Erdman	Kremer	Raikes	Tyson
Bruning	Foley	Kruse	Redfield	Vrtiska
Burling	Hartnett	Landis	Robak	Wehrbein
Byars	Hlava	Maxwell	Schrock	

Voting in the negative, 1:

Dierks

Present and not voting, 2:

Beutler      Schimek

Excused and not voting, 2:

Chambers      Preister

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**PRESIDENT HEINEMAN PRESIDING**

**LEGISLATIVE BILL 46.** With Emergency.

A BILL FOR AN ACT relating to the cigarette tax; to amend section 77-2608, Revised Statutes Supplement, 2000; to change provisions relating to a discount for stamps; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 42:

Aguilar	Cudaback	Janssen	Pedersen, Dw.	Suttle
Baker	Cunningham	Jensen	Pederson, D.	Synowiecki
Bromm	Dierks	Johnson	Price	Thompson
Brown	Engel	Jones	Quandahl	Tyson
Bruning	Erdman	Kremer	Raikes	Vrtiska
Burling	Foley	Kruse	Redfield	Wehrbein
Byars	Hartnett	Landis	Schrock	
Connealy	Hlava	Maxwell	Smith	
Coordsen	Hudkins	McDonald	Stuhr	

Voting in the negative, 4:

Beutler	Bourne	Brashear	Robak
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Present and not voting, 1:

Schimek

Excused and not voting, 2:

Chambers	Preister
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A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **LEGISLATIVE BILL 48.**

A BILL FOR AN ACT relating to fees; to amend section 33-106.03, Reissue Revised Statutes of Nebraska, sections 71-612, 71-617.15, 71-627, and 71-628, Revised Statutes Supplement, 2000, and section 43-1906, Reissue Revised Statutes of Nebraska, as amended by Laws 2002, LB 1310, section 4; to change provisions relating to distribution of certain fees as prescribed; to provide for a transfer by the State Treasurer as prescribed; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 46:

Aguilar	Connealy	Hudkins	Pedersen, Dw.	Stuhr
Baker	Coordsen	Janssen	Pederson, D.	Synowiecki
Beutler	Cudaback	Jensen	Price	Thompson
Bourne	Cunningham	Johnson	Quandahl	Tyson
Brashear	Dierks	Jones	Raikes	Vrtiska
Bromm	Engel	Kremer	Redfield	Wehrbein
Brown	Erdman	Kruse	Robak	
Bruning	Foley	Landis	Schimek	
Burling	Hartnett	Maxwell	Schrock	
Byars	Hlava	McDonald	Smith	

Voting in the negative, 1:

Suttle

Excused and not voting, 2:

Chambers      Preister

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 49.** With Emergency.

A BILL FOR AN ACT relating to the Commission for the Deaf and Hard of Hearing; to amend section 71-4728.04, Revised Statutes Supplement, 2001; to change duties related to the telehealth system; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 43:

Aguilar	Connealy	Hlava	Maxwell	Stuhr
Baker	Coordsen	Hudkins	McDonald	Suttle
Bourne	Cudaback	Janssen	Pederson, D.	Synowiecki
Brashear	Cunningham	Jensen	Price	Thompson
Bromm	Dierks	Johnson	Quandahl	Tyson
Brown	Engel	Jones	Raikes	Vrtiska
Bruning	Erdman	Kremer	Redfield	Wehrbein
Burling	Foley	Kruse	Schrock	
Byars	Hartnett	Landis	Smith	

Voting in the negative, 0.

Present and not voting, 4:

Beutler            Pedersen, Dw. Robak            Schimek

Excused and not voting, 2:

Chambers        Preister

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 8.** With Emergency.

A BILL FOR AN ACT relating to public assistance; to amend sections 68-1019 and 68-1713, Revised Statutes Supplement, 2000, and section 68-1020, Revised Statutes Supplement, 2001; to change provisions relating to medical assistance eligibility and earnings determinations and transitional health care benefits; to provide and change powers and duties; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 38:

Aguilar	Byars	Hlava	Maxwell	Stuhr
Baker	Coordsen	Hudkins	Pederson, D.	Suttle
Bourne	Cudaback	Janssen	Price	Thompson
Brashear	Cunningham	Jensen	Quandahl	Tyson
Bromm	Engel	Johnson	Raikes	Vrtiska
Brown	Erdman	Jones	Redfield	Wehrbein
Bruning	Foley	Kremer	Schrock	
Burling	Hartnett	Kruse	Smith	

Voting in the negative, 9:

Beutler	Dierks	McDonald	Robak	Synowiecki
Connealy	Landis	Pedersen, Dw.	Schimek	

Excused and not voting, 2:

Chambers        Preister

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LBs 32, 41, 46, 48, and 49.

**BILLS ON FINAL READING**

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 37.** With Emergency.

A BILL FOR AN ACT relating to the Nebraska Telecommunications Universal Service Fund; to amend section 86-1405, Revised Statutes Supplement, 2001, as amended by Laws 2002, LB 1105, section 202, and Laws 2002, LB 1211, section 13; to provide for certain transfers; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 47:

Aguilar	Connealy	Hudkins	Pedersen, Dw.	Stuhr
Baker	Coordsen	Janssen	Pederson, D.	Suttle
Beutler	Cudaback	Jensen	Price	Synowiecki
Bourne	Cunningham	Johnson	Quandahl	Thompson
Brashear	Dierks	Jones	Raikes	Tyson
Bromm	Engel	Kremer	Redfield	Vrtiska
Brown	Erdman	Kruse	Robak	Wehrbein
Bruning	Foley	Landis	Schimek	
Burling	Hartnett	Maxwell	Schrock	
Byars	Hlava	McDonald	Smith	

Voting in the negative, 0.

Excused and not voting, 2:

Chambers      Preister

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 1 with 39 ayes, 1 nay, 7 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 1.** With Emergency.

A BILL FOR AN ACT relating to state government; to amend section

81-2004.02, Reissue Revised Statutes of Nebraska, sections 72-816, 79-810, and 81-15,174, Revised Statutes Supplement, 2000, sections 66-1345.04 and 81-15,160, Revised Statutes Supplement, 2001, section 39-2215, Reissue Revised Statutes of Nebraska, as amended by Laws 2002, LB 989, section 7, section 81-188.01, Revised Statutes Supplement, 2000, as amended by Laws 2002, LB 1310, section 13, section 81-1195, Revised Statutes Supplement, 2000, as amended by Laws 2002, LB 1105, section 297, section 9-812, Revised Statutes Supplement, 2001, as amended by Laws 2001, First Special Session, LB 3, section 1, Laws 2002, LB 1105, section 418, and Laws 2002, LB 1310, section 3, Laws 2000, LB 1216, section 3, and Laws 2001, LB 536A, section 1; to provide for, change, and eliminate transfers of funds; to create and eliminate funds; to state intent; to harmonize provisions; to repeal the original sections; to outright repeal section 83-905.01, Reissue Revised Statutes of Nebraska, and Laws 2000, LB 1216, section 6; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 47:

Aguilar	Connealy	Hudkins	Pedersen, Dw.	Stuhr
Baker	Coordsen	Janssen	Pederson, D.	Suttle
Beutler	Cudaback	Jensen	Price	Synowiecki
Bourne	Cunningham	Johnson	Quandahl	Thompson
Brashear	Dierks	Jones	Raikes	Tyson
Bromm	Engel	Kremer	Redfield	Vrtiska
Brown	Erdman	Kruse	Robak	Wehrbein
Bruning	Foley	Landis	Schimiek	
Burling	Hartnett	Maxwell	Schrock	
Byars	Hlava	McDonald	Smith	

Voting in the negative, 0.

Excused and not voting, 2:

Chambers      Preister

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 2 with 44 ayes, 1 nay, 2 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:



**LEGISLATIVE BILL 2.** With Emergency.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2001, LB 539, sections 7, 8, 10, 11, 12, 13, 15, 16, 17, 18, and 19; Laws 2001, LB 540, section 1; Laws 2001, LB 542, sections 30, 31, and 50; Laws 2001, LB 543, sections 108, 114, 115, 117, 140, 175, and 240; Laws 2001, First Special Session, LB 1, sections 15, 23, 24, 35, 44, 52, 55, 66, 68, 115, 122, 125, 134, 138, and 147; Laws 2002, LB 1062A, section 2; Laws 2002, LB 1309, sections 23, 24, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 51, 53, 54, 55, 56, 58, 59, 60, 61, 63, 65, 66, 67, 69, 72, 73, 74, 75, 76, 77, 78, 82, 83, 84, 85, 92, 93, 94, 96, 98, 102, 103, 104, 105, 107, 108, 110, 112, 113, 114, 115, 117, 118, 119, 120, 121, 122, 125, 126, 129, 130, 132, 133, 138, 139, 141, 142, 143, 144, 145, 146, 148, 149, 150, 151, 152, 153, 155, 157, 163, 168, 169, 171, 172, and 173; and Laws 2001, First Special Session, LB 1, section 49, as amended by Laws 2002, LB 898A, section 1, and Laws 2002, LB 1309, section 52; to define terms; to appropriate and reappropriate funds; to state intent; to change appropriations as prescribed; to change transfers; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 45:

Aguilar	Connealy	Hlava	Maxwell	Schrock
Baker	Coordsen	Hudkins	McDonald	Smith
Bourne	Cudaback	Janssen	Pedersen, Dw.	Stuhr
Brashear	Cunningham	Jensen	Pederson, D.	Suttle
Bromm	Dierks	Johnson	Price	Synowiecki
Brown	Engel	Jones	Quandahl	Thompson
Bruning	Erdman	Kremer	Raikes	Tyson
Burling	Foley	Kruse	Redfield	Vrtiska
Byars	Hartnett	Landis	Robak	Wehrbein

Voting in the negative, 1:

Beutler

Present and not voting, 1:

Schimek

Excused and not voting, 2:

Chambers      Preister

A constitutional two-thirds majority having voted in the affirmative, the

bill was declared passed with the emergency clause and the title agreed to.

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 3.** With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the expenses incurred during the Ninety-seventh Legislature, Second Special Session, 2002; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 47:

Aguilar	Connealy	Hudkins	Pedersen, Dw.	Stuhr
Baker	Coordsen	Janssen	Pederson, D.	Suttle
Beutler	Cudaback	Jensen	Price	Synowiecki
Bourne	Cunningham	Johnson	Quandahl	Thompson
Brashear	Dierks	Jones	Raikes	Tyson
Bromm	Engel	Kremer	Redfield	Vrtiska
Brown	Erdman	Kruse	Robak	Wehrbein
Bruning	Foley	Landis	Schimek	
Burling	Hartnett	Maxwell	Schrock	
Byars	Hlava	McDonald	Smith	

Voting in the negative, 0.

Excused and not voting, 2:

Chambers      Preister

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LBs 8, 37, 1, 2, and 3.

**MOTION - Notify Governor**

Senator Vrtiska moved that a committee of five be appointed to notify the Governor that the Ninety-Seventh Legislature, Second Special Session of the Nebraska Legislature, is about to complete its work, and to return with any message the Governor may have for the Legislature.

The motion prevailed.

The Chair appointed Senators Cudaback, Erdman, Hartnett, Raikes, and Redfield to serve on said committee.

The committee returned and escorted Governor Mike Johanns to the rostrum where he delivered a message to the members.

The committee escorted the Governor from the Chamber.

## **RESOLUTION**

**LEGISLATIVE RESOLUTION 5.** Read. Considered.

LR 5 was adopted with 41 ayes, 0 nays, 6 present and not voting, and 2 excused and not voting.

## **PRESENTED TO THE GOVERNOR**

Presented to the Governor on August 15, 2002, at 9:30 a.m. were the following: LBs 4e, 5, 6e, 9e, 11e, and 12e.

Presented to the Governor on August 15, 2002, at 9:45 a.m. were the following: LBs 13e, 18e, 22, and 25e.

Presented to the Governor on August 15, 2002, at 11:02 a.m. were the following: LBs 32e, 41e, 46e, 48, and 49e.

Presented to the Governor on August 15, 2002, at 11:16 a.m. were the following: LBs 8e, 37e, 1e, 2e, and 3e.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

## **MESSAGE FROM THE GOVERNOR**

August 15, 2002

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 1e, 2e, 3e, 4e, 5, 6e, 8e, 9e, 11e, 12e, 13e, 18e, 22, 25e, 32e, 37e, 41e, 46e, 48, and 49e were received in my office on August 15, 2002.

I signed the legislative bills listed above on August 15, 2002, and they were delivered to the Secretary of State.

Sincerely,  
(Signed) Mike Johanns  
Governor

### **PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LR 5.

#### **MOTION - Approve Journal**

Senator Wehrbein moved that the Journal for the Thirteenth Day, as prepared by the Clerk of the Legislature, be approved.

The motion prevailed.

#### **MOTION - Adjourn Sine Die**

Senator Coordsen moved that the Ninety-Seventh Legislature, Second Special Session of the Nebraska Legislature, having finished all business before it, now at 11:35 a.m., adjourn sine die.

The motion prevailed.

Patrick J. O'Donnell  
Clerk of the Legislature