

THIRTIETH DAY - FEBRUARY 22, 2010**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
SECOND SESSION****THIRTIETH DAY**

Legislative Chamber, Lincoln, Nebraska
Monday, February 22, 2010

PRAYER

The prayer was offered by Senator Wallman.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Rogert presiding.

The roll was called and all members were present except Senators Ashford, Cornett, Gloor, and Pahls who were excused; and Senators Heidemann, Loudon, and Stuthman who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-ninth day was approved.

COMMITTEE REPORTS

Urban Affairs

LEGISLATIVE BILL 997. Placed on General File.

LEGISLATIVE BILL 919. Placed on General File with amendment.
AM1848

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 17-301, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 17-301 (1) Whenever any city of the first class decreases
- 6 in population until it has a population of less than five
- 7 thousand inhabitants but not less than four thousand ~~five hundred~~
- 8 inhabitants, as ascertained and officially promulgated by the most
- 9 recent federal decennial census, the mayor of any such city shall
- 10 certify such fact to the Secretary of State. If the mayor did not
- 11 have to provide such certification after the previous decennial
- 12 census, he or she shall include an explanation of the city's plan
- 13 to increase the city's population in the certification.

14 (2) Whenever any city of the first class decreases in
 15 population until it has a population of less than four thousand
 16 ~~five hundred~~ inhabitants but more than eight hundred inhabitants as
 17 ascertained and officially promulgated by the most recent federal
 18 decennial census, the mayor of any such city shall certify such
 19 fact to the Secretary of State.

20 (3) Whenever the Secretary of State receives a
 21 certification pursuant to subsection (1) of this section from the
 22 same city after two consecutive federal decennial censuses, he or
 23 she shall declare such city to have become a city of the second
 1 class as provided in section 17-305.

2 (4) Whenever the Secretary of State receives a
 3 certification pursuant to subsection (2) of this section, he or she
 4 shall declare such city to have become a city of the second class
 5 as provided in section 17-305.

6 (5) Beginning on the date upon which a city becomes a
 7 city of the second class pursuant to section 17-305, such city
 8 shall be governed by the ~~provisions of the statutes of the State~~
 9 ~~of Nebraska~~ laws of this state applicable to cities of the second
 10 class.

11 Sec. 2. Original section 17-301, Reissue Revised Statutes
 12 of Nebraska, is repealed.

13 Sec. 3. Since an emergency exists, this act takes effect
 14 when passed and approved according to law.

(Signed) Amanda McGill, Chairperson

Transportation and Telecommunications

LEGISLATIVE BILL 820. Placed on General File with amendment.
 AM1932

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

3 Section 1. Section 60-6,298, Revised Statutes Cumulative
 4 Supplement, 2008, is amended to read:

5 60-6,298 (1)(a) The Department of Roads or the Nebraska
 6 State Patrol, with respect to highways under its jurisdiction
 7 including the National System of Interstate and Defense Highways,
 8 and local authorities, with respect to highways under their
 9 jurisdiction, may in their discretion upon application and good
 10 cause being shown therefor issue a special, continuing, or
 11 continuous permit in writing authorizing the applicant or his
 12 or her designee:

13 (i) To operate or move a vehicle, a combination of
 14 vehicles, or objects of a size or weight of vehicle or load
 15 exceeding the maximum specified by law when such permit is
 16 necessary:

17 (A) To further the national defense or the general
 18 welfare;

19 (B) To permit movement of cost-saving equipment to be
20 used in highway or other public construction or in agricultural
21 land treatment; or

22 (C) Because of an emergency, an unusual circumstance, or
23 a very special situation;

1 (ii) To operate vehicles, for a distance up to one
2 hundred twenty miles, loaded up to fifteen percent greater than the
3 maximum weight specified by law, up to ten percent greater than the
4 maximum length specified by law, except that for a truck-tractor
5 semitrailer trailer combination utilized to transport sugar beets
6 which may be up to twenty-five percent greater than the maximum
7 length specified by law, or both, when carrying grain or other
8 seasonally harvested products from the field where such grain or
9 products are harvested to storage, market, or stockpile in the
10 field or from stockpile to market or factory when failure to
11 move such grain or products in abundant quantities would cause an
12 economic loss to the person or persons whose grain or products are
13 being transported or when failure to move such grain or products
14 in as large quantities as possible would not be in the best
15 interests of the national defense or general welfare. The distance
16 limitation may be waived for vehicles when carrying dry beans from
17 the field where harvested to storage or market when dry beans
18 are not normally stored, purchased, or used within the permittee's
19 local area and must be transported more than one hundred twenty
20 miles to an available marketing or storage destination. No permit
21 shall authorize a weight greater than twenty thousand pounds on any
22 single axle;

23 (iii) To transport an implement of husbandry which does
24 not exceed twelve and one-half feet in width during daylight hours,
25 except that the permit shall not allow transport on holidays;

26 (iv) To operate one or more recreational vehicles, as
27 defined in section 71-4603, exceeding the maximum width specified
1 by law if movement of the recreational vehicles is prior to retail
2 sale and the recreational vehicles comply with subdivision (2)(k)
3 of section 60-6,288; or

4 (v) To operate an emergency vehicle for purposes of sale,
5 demonstration, exhibit, or delivery, if the applicant or his or her
6 designee is a manufacturer or sales agent of the emergency vehicle.
7 No permit shall be issued for an emergency vehicle which weighs
8 over sixty thousand pounds on ~~a~~the tandem axle.

9 (b) No permit shall be issued under subdivision (a)(i)
10 of this subsection for a vehicle carrying a load unless such
11 vehicle is loaded with an object which exceeds the size or weight
12 limitations, which cannot be dismantled or reduced in size or
13 weight without great difficulty, and which of necessity must be
14 moved over the highways to reach its intended destination. No
15 permit shall be required for the temporary movement on highways
16 other than dustless-surfaced state highways and for necessary
17 access to points on such highways during daylight hours of

18 cost-saving equipment to be used in highway or other public
19 construction or in agricultural land treatment when such temporary
20 movement is necessary and for a reasonable distance.

21 (2) The application for any such permit shall
22 specifically describe the vehicle, the load to be operated or
23 moved, whenever possible the particular highways for which permit
24 to operate is requested, and whether such permit is requested for a
25 single trip or for continuous or continuing operation.

26 (3) The department or local authority is authorized to
27 issue or withhold such permit at its discretion or, if such permit
1 is issued, to limit the number of days during which the permit
2 is valid, to limit the number of trips, to establish seasonal or
3 other time limitations within which the vehicles described may be
4 operated on the highways indicated, or to issue a continuous or
5 continuing permit for use on all highways, including the National
6 System of Interstate and Defense Highways. The permits are subject
7 to reasonable conditions as to periodic renewal of such permit
8 and as to operation or movement of such vehicles. The department
9 or local authority may otherwise limit or prescribe conditions
10 of operation of such vehicle or vehicles, when necessary to
11 assure against undue damage to the road foundations, surfaces, or
12 structures or undue danger to the public safety. The department or
13 local authority may require such undertaking or other security as
14 may be deemed necessary to compensate for any injury to any roadway
15 or road structure.

16 (4) Every such permit shall be carried in the vehicle
17 to which it refers and shall be open to inspection by any peace
18 officer, carrier enforcement officer, or authorized agent of any
19 authority granting such permit. Each such permit shall state the
20 maximum weight permissible on a single axle or combination of axles
21 and the total gross weight allowed. No person shall violate any
22 of the terms or conditions of such special permit. In case of any
23 violation, the permit shall be deemed automatically revoked and the
24 penalty of the original limitations shall be applied unless:

25 (a) The violation consists solely of exceeding the size
26 or weight specified by the permit, in which case only the penalty
27 of the original size or weight limitation exceeded shall be
1 applied; or

2 (b) The total gross load is within the maximum authorized
3 by the permit, no axle is more than ten percent in excess of the
4 maximum load for such axle or group of axles authorized by the
5 permit, and such load can be shifted to meet the weight limitations
6 of wheel and axle loads authorized by such permit. Such shift may
7 be made without penalty if it is made at the state or commercial
8 scale designated in the permit. The vehicle may travel from its
9 point of origin to such designated scale without penalty, and a
10 scale ticket from such scale, showing the vehicle to be properly
11 loaded and within the gross and axle weights authorized by the

12 permit, shall be reasonable evidence of compliance with the terms
13 of the permit.

14 (5) The department or local authority issuing a permit
15 as provided in this section may adopt and promulgate rules and
16 regulations with respect to the issuance of permits provided for in
17 this section.

18 (6) The department shall make available applications
19 for permits authorized pursuant to subdivisions (1)(a)(ii) and
20 (1)(a)(iii) of this section in the office of each county treasurer.
21 The department may make available applications for all other
22 permits authorized by this section to the office of the county
23 treasurer and may make available applications for all permits
24 authorized by this section to any other location chosen by the
25 department.

26 (7) The department or local authority issuing a permit
27 may require a permit fee of not to exceed twenty-five dollars,
1 except that:

2 (a) The fee for a continuous or continuing permit may not
3 exceed twenty-five dollars for a ninety-day period, fifty dollars
4 for a one-hundred-eighty-day period, or one hundred dollars for a
5 one-year period; and

6 (b) The fee for permits issued pursuant to subdivision
7 (1)(a)(ii) of this section shall be twenty-five dollars for a
8 thirty-day permit and fifty dollars for a sixty-day permit. Permits
9 issued pursuant to such subdivision shall be valid for thirty days
10 or sixty days and shall be renewable for a total number of days not
11 to exceed one hundred and twenty days per year.

12 A vehicle or combination of vehicles for which an
13 application for a permit is requested pursuant to this section
14 shall be registered under section 60-3,147 or 60-3,198 for the
15 maximum gross vehicle weight that is permitted pursuant to section
16 60-6,294 before a permit shall be issued.

17 Sec. 2. Original section 60-6,298, Revised Statutes
18 Cumulative Supplement, 2008, is repealed.

(Signed) Deb Fischer, Chairperson

Education

LEGISLATIVE BILL 956. Placed on General File.

LEGISLATIVE BILL 937. Placed on General File with amendment.
AM1949

1 1. Strike section 1 and insert the following new section:

2 Section 1. Section 32-546.01, Revised Statutes
3 Supplement, 2009, is amended to read:

4 32-546.01 (1) Each learning community shall be governed
5 by a learning community coordinating council consisting of eighteen
6 voting members, with twelve members elected on a nonpartisan ballot

7 from six numbered subcouncil districts created pursuant to section
8 32-555.01 and with six members appointed from such subcouncil
9 districts pursuant to this section. Each voter shall be allowed
10 to cast votes for one candidate at both the primary and general
11 elections to represent the subcouncil district in which the voter
12 resides. The four candidates receiving the most votes at the
13 primary election shall advance to the general election. The two
14 candidates receiving the most votes at the general election shall
15 be elected. A candidate shall reside in the subcouncil district for
16 which he or she is a candidate. Coordinating council members shall
17 be elected on the nonpartisan ballot.

18 (2) The initial elected members shall be nominated at
19 the statewide primary election and elected at the statewide
20 general election immediately following the certification of the
21 establishment of the learning community, and subsequent members
22 shall be nominated at subsequent statewide primary elections
23 and elected at subsequent statewide general elections. Except
1 as provided in this section, such elections shall be conducted
2 pursuant to the Election Act.

3 (3) Vacancies in office for elected members shall occur
4 as set forth in section 32-560. Whenever any such vacancy occurs,
5 the remaining elected members of such council shall appoint an
6 individual residing within the geographical boundaries of the
7 subcouncil district for the balance of the unexpired term.

8 (4) Members elected to represent odd-numbered districts
9 in the first election for the learning community coordinating
10 council shall be elected for two-year terms. Members elected
11 to represent even-numbered districts in the first election for
12 the learning community coordinating council shall be elected for
13 four-year terms. Members elected in subsequent elections shall be
14 elected for four-year terms and until their successors are elected
15 and qualified.

16 (5) The appointed members shall be appointed in November
17 of each even-numbered year after the general election. Appointed
18 members shall be school board members of school districts in the
19 learning community either elected to take office the following
20 January or continuing their current term of office for the
21 following two years. For learning communities to be established
22 the following January pursuant to orders issued pursuant to section
23 79-2102, the Secretary of State shall hold a meeting of the school
24 board members of the school districts in such learning community to
25 appoint one member from such school boards to represent each of the
26 subcouncil districts on the coordinating council of such learning
27 community. For subsequent appointments, the current appointed
1 members of the coordinating council shall hold a meeting of
2 the school board members of such school districts to appoint one
3 member from such school boards to represent each of the subcouncil
4 districts on the coordinating council of the learning community.
5 The appointed members shall be selected by the school board members

6 of the school districts in the learning community who reside in the
7 subcouncil district to be represented pursuant to a secret ballot,
8 shall reside in the subcouncil district to be represented, and
9 shall be appointed for two-year terms and until their successors
10 are appointed and qualified.

11 (6) Vacancies in office for appointed members shall occur
12 upon the resignation, death, or disqualification from office of
13 an appointed member. Disqualification from office shall include
14 ceasing membership on the school board for which membership
15 qualified the member for the appointment to the learning community
16 coordinating council or ceasing to reside in the subcouncil
17 district represented by such member of the learning community
18 coordinating council. Whenever such vacancy occurs, the remaining
19 appointed members shall hold a meeting of the school board members
20 of the school districts in such learning community to appoint a
21 member from such school boards who lives in the subcouncil district
22 to be represented to serve for the balance of the unexpired term.

23 (7) Each learning community coordinating council shall
24 also have a nonvoting member from each member school district which
25 does not have either an elected or an appointed member who resides
26 in the school district on the council. Such nonvoting members
27 shall be appointed by the school board of the school district
1 to be represented to serve for two-year terms, and notice of the
2 nonvoting member selected shall be submitted to the Secretary of
3 State by such board prior to December 31 of each even-numbered
4 year. Each such nonvoting member shall be a resident of the
5 appointing school district and shall not be a school administrator
6 employed by such school district. Whenever a vacancy occurs, the
7 school board of such school district shall appoint a new nonvoting
8 member and submit notice to the Secretary of State and to the
9 learning community coordinating council.

10 (8) Members of a learning community coordinating council
11 shall take office on the first Thursday after the first Tuesday
12 in January following their election or appointment, except that
13 members appointed to fill vacancies shall take office immediately
14 following administration of the oath of office. Each voting member
15 elected or appointed prior to January 1, 2011, shall be paid
16 a per diem in an amount determined by such council up to two
17 hundred dollars per day for official meetings of the council
18 and the achievement subcouncil for which he or she is a member,
19 for meetings that occur during the term of office for which the
20 election or appointment of the member took place prior to January
21 1, 2011, up to a maximum of twelve thousand dollars per fiscal
22 year. Each voting member ~~and~~ shall be eligible for reimbursement
23 of reasonable expenses related to service on the learning community
24 coordinating council.

(Signed) Greg Adams, Chairperson

Transportation and Telecommunications

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

James Daws - Board of Public Roads Classifications and Standards
 Barbara Keegan - Board of Public Roads Classifications and Standards
 James Litchfield - Board of Public Roads Classifications and Standards
 Randall Peters - Board of Public Roads Classifications and Standards

Aye: 6 Senators Fischer, Gay, Hadley, Janssen, Lautenbaugh, Louden. Nay: 0. Absent: 2 Senators Campbell, Stuthman. Present and not voting: 0.

(Signed) Deb Fischer, Chairperson

ANNOUNCEMENT

Speaker Flood designates LBs 571, 701, 702, 707, 727, 768, 799, 801, 820, 836, 842, 864, 877, 880, 882, 901, 924, 926, 943, 956, 970, 1051, 1063, 1094, and LR297CA as Speaker priority bills and resolution.

MOTIONS - Approve Appointments

Senator Carlson moved the adoption of the Agriculture Committee report for the confirmation of the following appointment(s) found on page 575:

Nebraska State Fair Board
 Sallie Atkins

Voting in the affirmative, 34:

Adams	Dubas	Hansen	McCoy	Rogert
Campbell	Fischer	Harms	McGill	Sullivan
Carlson	Fulton	Howard	Mello	Utter
Coash	Gay	Karpisek	Nordquist	Wallman
Conrad	Giese	Krist	Pankonin	White
Cook	Haar	Langemeier	Pirsch	Wightman
Council	Hadley	Lathrop	Price	

Voting in the negative, 0.

Present and not voting, 8:

Avery	Dierks	Janssen	Nelson
Christensen	Flood	Lautenbaugh	Schilz

Excused and not voting, 7:

Ashford	Gloor	Louden	Stuthman
Cornett	Heidemann	Pahls	

The appointment was confirmed with 34 ayes, 0 nays, 8 present and not voting, and 7 excused and not voting.

Senator Carlson moved the adoption of the Agriculture Committee report for the confirmation of the following appointment(s) found on page 575:

Nebraska State Fair Board
Linda Lovgren

Voting in the affirmative, 35:

Adams	Council	Haar	Langemeier	Price
Campbell	Dierks	Hansen	Lathrop	Rogert
Carlson	Dubas	Harms	McCoy	Sullivan
Christensen	Fischer	Howard	Mello	Utter
Coash	Flood	Janssen	Nordquist	Wallman
Conrad	Fulton	Karpisek	Pankonin	White
Cook	Giese	Krist	Pirsch	Wightman

Voting in the negative, 0.

Present and not voting, 7:

Avery	Hadley	McGill	Schilz
Gay	Lautenbaugh	Nelson	

Excused and not voting, 7:

Ashford	Gloor	Louden	Stuthman
Cornett	Heidemann	Pahls	

The appointment was confirmed with 35 ayes, 0 nays, 7 present and not voting, and 7 excused and not voting.

MOTION - Return LB711 to Select File

Senator Adams moved to return LB711 to Select File for his specific amendment, AM1951, found on page 576.

The Adams motion to return prevailed with 35 ayes, 0 nays, 7 present and not voting, and 7 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 711. The Adams specific amendment, AM1951, found on page 576, was adopted with 36 ayes, 0 nays, 6 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review for Reengrossment.

GENERAL FILE

LEGISLATIVE BILL 770. Title read. Considered.

Committee AM1714, found on page 432, was adopted with 37 ayes, 0 nays, 5 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 5 present and not voting, and 7 excused and not voting.

COMMITTEE REPORTS

Health and Human Services

LEGISLATIVE BILL 701. Placed on General File with amendment.
AM1912

- 1 1. On page 3, line 3, strike "FY2009-10" and insert
- 2 "FY2010-11"; and strike lines 16 through 25 and insert the
- 3 following new subsection:
- 4 "(4) For FY2011-12 and each fiscal year thereafter,
- 5 proceeds from the tax imposed pursuant to section 68-1803 shall
- 6 be remitted to the State Treasurer for credit to the ICF/MR
- 7 Reimbursement Protection Fund for allocation as follows:
- 8 (a) First, fifty-five thousand dollars for administration
- 9 of the fund;
- 10 (b) Second, the amount needed to reimburse intermediate
- 11 care facilities for the mentally retarded for the cost of the tax;
- 12 (c) Third, three hundred twelve thousand dollars
- 13 for community-based services for persons with developmental
- 14 disabilities;
- 15 (d) Fourth, six hundred thousand dollars or such lesser
- 16 amount as may be available in the fund for non-state-operated
- 17 intermediate care facilities for the mentally retarded, in addition
- 18 to any continuation appropriations percentage increase provided by
- 19 the Legislature to nongovernmental intermediate care facilities for
- 20 the mentally retarded under the medical assistance program; and
- 21 (e) Fifth, the remainder of the proceeds to the General
- 22 Fund."
- 23 2. On page 4, strike lines 1 through 5.

LEGISLATIVE BILL 1036. Placed on General File with amendment.
AM1839

- 1 1. On page 7, line 23, strike "because" and insert "and"
- 2 and strike "thirteen" and insert "sixteen".
- 3 2. On page 14, line 10, after "decedent" insert "other
- 4 than any medical personnel caring for the decedent at the time of
- 5 or immediately leading up to the decedent's death".

- 6 3. On page 15, line 24, after the semicolon insert "the
7 State Anatomical Board";.
- 8 4. On page 16, line 25, strike "and".
- 9 5. On page 17, line 3, strike the period and insert ";
10 and"; after line 3 insert the following new subdivision:
11 "(5) If the gift is any part other than an organ, an
12 eye, or tissue, or the gift is all parts, and the gift is for
13 the purpose of research or education, the gift passes to the State
14 Anatomical Board."; and in line 19 strike "or therapy" and insert
15 ", therapy, research, or education".
- 16 6. On page 18, line 1, strike "and"; in line 4 strike the
17 period and insert "; and"; and after line 4 insert the following
18 new subdivision:
19 "(4) If the gift is for research or education, the gift
20 passes to the State Anatomical Board in accordance with section
21 71-1002.".
- 22 7. On page 21, line 25, after "make" insert "or object to
23 the making of".
- 1 8. On page 23, line 4, strike "or therapy" and insert ";
2 therapy, research, or education".
- 3 9. On page 24, line 20, after "care" insert "as
4 provided for in sections 30-3401 to 30-3432"; in line 24 strike
5 "a life-support"; and in line 25 strike "system" and insert
6 "life-sustaining treatment".
- 7 10. On page 33, line 19, strike beginning with "Organ"
8 through the last comma, show as stricken, and insert "federally
9 designated organ procurement organization for Nebraska and the
10 State Anatomical Board".

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

Nancy Oltman - Commission for the Blind and Visually Impaired
Darrell Walla - Commission for the Blind and Visually Impaired

Aye: 7 Senators Campbell, Gay, Gloor, Howard, Pankonin, Stuthman, Wallman. Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Tim Gay, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 331. Introduced by Fulton, 29.

WHEREAS, Nebraskans celebrate the life and legacy of Mrs. Eunice Kennedy Shriver, who passed away on August 11, 2009, at the age of eighty-eight; and

WHEREAS, Mrs. Eunice Kennedy Shriver embodied the American spirit of service through her life's work to empower the intellectually disabled; and

WHEREAS, Mrs. Eunice Kennedy Shriver's leadership of the Joseph P. Kennedy, Jr. Foundation led to the establishment of the Special Olympics in 1968; and

WHEREAS, Mrs. Eunice Kennedy Shriver's vision of equality and opportunity has fundamentally transformed the lives of many Nebraskans; and

WHEREAS, the State of Nebraska and the city of Lincoln possess the profound honor of hosting the 2010 Special Olympics.

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

1. That the Legislature expresses its deepest sympathy and sincere condolences to the Kennedy and Shriver families.

2. That a copy of this resolution be sent to the Joseph P. Kennedy, Jr. Foundation.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 888. Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 8 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 821. Title read. Considered.

Committee AM1741, found on page 439, was adopted with 34 ayes, 0 nays, 7 present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 6 present and not voting, and 7 excused and not voting.

LEGISLATIVE RESOLUTION 295CA. Read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 10 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 689. Title read. Considered.

SENATOR CARLSON PRESIDING

Pending.

COMMITTEE REPORTS

Revenue

LEGISLATIVE BILL 918. Placed on General File with amendment. AM1905 is available in the Bill Room.

LEGISLATIVE BILL 1018. Placed on General File with amendment. AM1910

- 1 1. Strike original section 35.
- 2 2. On page 2, line 1, strike "36" and insert "35".
- 3 3. On page 4, strike beginning with "Food" in line
- 4 5 through the period in line 7; and strike beginning with
- 5 "Entertainment" in line 23 through the period in line 25 and
- 6 insert "Entertainment, food, and drink options and adjacent lodging
- 7 shall occupy a minimum of sixty percent of the total gross area.".
- 8 4. On page 5, line 2, strike "available for lease".
- 9 5. On page 18, line 21, strike "A" and insert "Except as
- 10 provided in subdivision (c) of this subsection for redevelopment
- 11 projects, a"; and strike beginning with "the" in line 22 through
- 12 line 23 and insert "all types of purchases on which the local
- 13 option sales tax is levied".
- 14 6. On page 19, line 4, after the comma insert "a refund
- 15 of"; and strike beginning with "shall" in line 6 through "project"
- 16 in line 7.
- 17 7. On page 20, after line 17 insert the following new
- 18 subsection:
- 19 "(6) The Nebraska Advantage Transformational Tourism and
- 20 Redevelopment Act Cash Fund is created. The fund shall be used
- 21 by the department to carry out its duties under this section. Any
- 22 money in the fund available for investment shall be invested by the
- 23 state investment officer pursuant to the Nebraska Capital Expansion
- 1 Act and the Nebraska State Funds Investment Act.".
- 2 8. Renumber the remaining section accordingly.

LEGISLATIVE BILL 1081. Placed on General File with amendment. AM1930

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Sections 1 to 11 of this act shall be known
- 4 and may be cited as the Teleworker Job Creation Act.
- 5 Sec. 2. The Legislature hereby finds and declares that:
- 6 (1) Current economic conditions in the state have
- 7 resulted in unemployment, loss of jobs, and difficulty in
- 8 attracting new jobs; and
- 9 (2) It is the policy of the state to make revisions
- 10 in Nebraska's job training structure to encourage businesses to
- 11 promote the creation of and training for new jobs which can be
- 12 performed in the home within the state.
- 13 Sec. 3. For purposes of the Teleworker Job Creation Act:

14 (1) Application filing date means the date that the
15 employer files an application for an agreement with the director
16 under the act;

17 (2) Base year means the year immediately preceding the
18 year during which the application was submitted;

19 (3) Base-year employee means any individual who was
20 employed in Nebraska and subject to the Nebraska income tax on
21 compensation received from the employer or its predecessors during
22 the base year and who is employed at the project;

23 (4) Director means the Director of Economic Development;

1 (5) Employer means a corporation, partnership, limited
2 liability company, cooperative, limited cooperative association, or
3 joint venture, together with such other entities that are, or would
4 be if incorporated, members of the same unitary group as defined in
5 section 77-2734.04, that employs the teleworkers for which the job
6 training reimbursements are applied for under the act;

7 (6) Qualifying employee means a teleworker who has
8 the following characteristics: (a) The teleworker constitutes
9 an employee of the employer under section 77-2753; (b) the
10 teleworker resides in Nebraska at the time of his or her employment
11 application according to his or her statement on his or her
12 employment application; (c) the teleworker completes a qualified
13 training program; (d) the teleworker is not a base-year employee;
14 (e) the teleworker is not required to purchase a computer from
15 the employer; (f) the teleworker has passed such job-related tests
16 required under the qualified training program; (g) the teleworker
17 has passed a criminal background check as required by the employer;
18 and (h) the teleworker has been allowed to complete the hiring
19 process paperwork from his or her residence, except for any drug
20 testing and notarized proof of identity, which can be performed at
21 such location directed by the employer;

22 (7) Qualified training program means a training program
23 which has the following features: (a) The program has at least
24 fifteen hours of instruction per trainee, all of which will occur
25 in the trainee's residence; (b) trainees are each paid at least
26 the federal minimum hourly wage per hour of training performed;
27 (c) trainees are being trained as teleworkers; and (d) the program
1 requires the trainees to pass job-related tests established by the
2 employer;

3 (8) Teleworker means a person who works for the employer
4 from his or her residence through the use of telecommunication
5 systems, such as the telephone and the Internet, for inbound only
6 service and order taking sales calls, which calls may also include
7 the upselling of related products or services; and

8 (9) Year means the taxable year of the employer.

9 Sec. 4. (1) To earn the job training reimbursements set
10 forth in the Teleworker Job Creation Act, an employer shall file an
11 application for an agreement with the director.

12 (2) The application shall contain:

13 (a) A written statement describing the expected
14 employment of qualifying employees in this state;

15 (b) Sufficient documents, plans, and specifications as
16 required by the director to support the plan and to define a
17 project;

18 (c) A copy of the approval letter for the employer's
19 qualified training program from the director; and

20 (d) An application fee of five hundred dollars. The fee
21 shall be remitted to the State Treasurer for credit to the Nebraska
22 Incentives Fund. The application and all supporting information
23 shall be confidential except for the name of the employer and the
24 amounts of increased employment.

25 (3)(a) The director shall approve the application and
26 authorize the total amount of job training reimbursements expected
27 to be earned as a result of the project if he or she is satisfied

1 that the plan in the application defines a project that (i)
2 meets the eligibility requirements established within this act
3 and (ii) such requirements will be reached within three hundred
4 sixty-five calendar days after the application filing date. The
5 director shall, in addition to such uses for the Job Training
6 Cash Fund previously authorized, use such fund to provide the
7 reimbursements allowed by the act. The director may also use the
8 subaccount created under subsection (3) of section 81-1201.21 to
9 provide reimbursements allowed by the act for the training of such
10 telemworkers who reside in rural areas of Nebraska or who reside in
11 areas of high concentration of poverty within the corporate limits
12 of a city or village consisting of one or more contiguous census
13 tracts, as determined by the most recent federal decennial census,
14 which contain a percentage of persons below the poverty line of
15 greater than thirty percent, and all census tracts contiguous to
16 such tract or tracts, as determined by the most recent federal
17 decennial census.

18 (b) The director shall not approve further applications
19 once the director has approved seven project applications
20 filed during fiscal year 2010-11 and the expected job training
21 reimbursements from the approved projects total one million and
22 fifty thousand dollars in fiscal year 2010-11. Applications for
23 reimbursements shall for purposes of this limit be approved in the
24 order in which they are received by the director. The application
25 fee shall be refunded to the applicant if the application is not
26 approved because the expected reimbursements from approved projects
27 exceed such amounts.

1 (c) An employer and the director may enter into
2 agreements for more than one project, up to a total of five
3 approved project applications filed in fiscal year 2010-11.
4 The projects may be either sequential or concurrent. No new
5 qualifying employees shall be included in more than one project
6 for meeting the project requirements or the creation of job
7 training reimbursements. When projects overlap and the plans do not

8 clearly specify, the employer shall specify to which project the
9 employment belongs. The employer has until its income or franchise
10 tax return filing date for the applicable year to designate to
11 which project a qualifying employee belongs. The employer may not
12 receive job training reimbursements for a qualifying employee until
13 the employer designates to which project that qualifying employee
14 belongs. Such designation shall be made on such form to be filed
15 with the director as the director shall direct.

16 (d) The director shall approve or deny an application
17 for reimbursements under this section within thirty days after the
18 application was filed or it shall be deemed to be approved, unless
19 the employer and director agree to extend the thirty-day period.

20 (4) After approval, the employer and the director
21 shall enter into a written agreement. The employer shall agree
22 to complete the project, and the director, on behalf of the
23 State of Nebraska, shall designate the approved plans of the
24 employer as a project and, in consideration of the employer's
25 agreement, agree to allow the employer to receive the job training
26 reimbursements contained in the act up to the total amount of
27 job training reimbursements that were authorized by the director.

1 The application and all supporting documentation, to the extent
2 approved, shall be considered a part of the agreement. The
3 agreement shall state:

4 (a) The number of qualifying employees required by the
5 act for the project;

6 (b) The time period under the act in which the required
7 level must be met;

8 (c) The documentation the employer will need to supply
9 when requesting the job training reimbursements under the act;

10 (d) The date the application was filed; and

11 (e) The maximum amount of job training reimbursements
12 authorized.

13 Sec. 5. (1) To be eligible to file an application for an
14 agreement with the director under the Teleworker Job Creation Act,
15 the employer shall submit a description of its training program to
16 the director for review.

17 (2) If the employer's training program meets the
18 requirements to constitute a qualified training program under the
19 act, the director shall approve such program and provide the
20 employer with an approval letter. A copy of this approval letter
21 shall be attached with the employer's application for an agreement
22 with the director under the act.

23 (3) The director shall approve or refuse to approve
24 a training program, and such decision shall be received by the
25 employer within thirty days after the employer submits the training
26 program for review or the training program shall be deemed to
27 be approved, unless the employer and director agree to extend
1 the thirty-day period. If the thirty-day period, or such extended
2 period, lapses without receipt of the approval or denial by the

3 director, the employer may file its application for an agreement
4 with the director under the act with a statement signed by a
5 corporate officer, partner, member, or owner of the employer,
6 stating that the director failed to issue an approval of or refusal
7 to approve the employer's training program within the time period
8 established by this section. This statement shall be accepted by
9 the director in lieu of an approval letter.

10 Sec. 6. (1) Job training reimbursements shall be made
11 to any employer who has an approved application pursuant to the
12 Teleworker Job Creation Act and who:

13 (a) Trains at least four hundred qualifying employees
14 in a qualified training program within three hundred sixty-five
15 calendar days from the application filing date and offers
16 employment to those qualifying employees to work for the employer
17 as a teleworker. The employer shall, to the extent of available job
18 positions, give a hiring priority preference, over other similarly
19 qualified applicants, to those applicants who: (i) Reside in
20 Nebraska counties of less than one hundred thousand inhabitants,
21 as determined by the most recent federal decennial census, with
22 such residence as determined by the statement of the qualifying
23 employee on his or her employment application; or (ii) reside in
24 areas of high concentration of poverty within the corporate limits
25 of a city or village consisting of one or more contiguous census
26 tracts, as determined by the most recent federal decennial census,
27 which contain a percentage of persons below the poverty line of
1 greater than thirty percent, and all census tracts contiguous to
2 such tract or tracts, as determined by the most recent federal
3 decennial census; and

4 (b) Such job positions pay a wage of at least the then
5 required minimum hourly wage required by federal law.

6 (2) The amount of the job training reimbursements allowed
7 under subsection (1) of this section shall be three hundred dollars
8 for each new qualifying employee hired by the employer after the
9 application filing date, up to a total of five hundred qualifying
10 employees per project, resulting in a maximum credit per project of
11 one hundred fifty thousand dollars.

12 Sec. 7. A request for job training reimbursements may
13 be filed annually or quarterly by the employer on such form
14 required by the director. Each request shall contain verification
15 of the number of qualifying employees, designated by project, for
16 which the employer has met the requirements of the Teleworker Job
17 Creation Act, and such amounts shall be paid to the employer upon
18 approval by the director.

19 Sec. 8. The director may audit for compliance with the
20 provisions of the Teleworker Job Creation Act within the statute of
21 limitations applicable to the income or franchise tax returns filed
22 by the employer under the income or franchise tax provisions of the
23 Nebraska Revenue Act of 1967.

24 Sec. 9. The right to job training reimbursements and

25 the agreement under the Teleworker Job Creation Act shall not be
 26 transferable except in the following situations:

27 (1) The job training reimbursements and the future
 1 allowance of reimbursements may be transferred when a project
 2 covered by an agreement is transferred by sale or lease to another
 3 employer or in an acquisition of assets qualifying under section
 4 381 of the Internal Revenue Code of 1986;

5 (2) The acquiring employer, as of the date of
 6 notification of the director of the completed transfer, shall be
 7 entitled to any unused job training reimbursements and to any
 8 future job training reimbursements allowable under the act; and

9 (3) The acquiring employer shall be liable for any
 10 repayment that becomes due after the date of the transfer for
 11 the repayment of any benefits received either before or after the
 12 transfer.

13 Sec. 10. Interest shall not be allowable on any job
 14 training reimbursements earned under the Teleworker Job Creation
 15 Act.

16 Sec. 11. Participation in the Teleworker Job Creation
 17 Act shall not preclude an employer from receiving tax incentives
 18 or other benefits under other federal, state, or local incentive
 19 programs.

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

(Signed) M. L. Dierks, Vice Chairperson

PROPOSED RULES CHANGE

Senator Nelson offered the following proposed rules change:

Amend Rule 5, Section 5 by inserting a new subsection (h) and renumbering the remaining subsections:

Sec. 5. Scheduling of Bills, Priority Bills. (a) Each senator may designate one bill as a priority bill. Such priority bill need not be the designator's bill, but the principal introducer must concur with the designation as a priority bill and with the withdrawal of the designation once made.

(b) Each chairperson of those committees which are authorized to hold public hearings on bills may designate as priority bills two of the bills referenced to that committee and on which the committee has held a public hearing, but the principal introducer must concur with the designation as a priority bill and with the withdrawal of the designation once made.

(c) The Legislative Performance Audit Committee may designate as priority bills two bills resulting from a performance audit or involving the performance audit process, but the principal introducer must concur with the designation as a priority bill and with the withdrawal of the designation once made.

(d) The Speaker may designate up to 25 additional priority bills.

(e) Priority bill designations may be made at any time prior to the annual designation deadline which shall be set each year by the Speaker. The

designation deadline shall be prior to the 45th legislative day in the ninety-day session and prior to the 30th legislative day in the sixty-day session.

(f) A senator or committee may withdraw a priority designation at any time, but will not be allowed to designate another bill as a priority bill in its place. The Speaker may withdraw a priority designation made by the Speaker.

(g) All committees shall schedule priority bills for public hearing ahead of all unscheduled, nonpriority bills unless the person or committee making the priority designation shall otherwise agree.

(h) All bills designated as individual senator priority bills shall be heard on General File. The committee report with the committee recommendation shall be considered ahead of all other motions and amendments. Committees shall report all designated individual senator priority bills to General File with a recommendation no later than 10 legislative days after the priority bill designation deadline.

(i) All bills not designated as priority bills shall be heard on General File in the order in which they are reported to the floor by the committees, unless the introducer of the bill and the Speaker agree to delay the hearing of a particular bill. This provision shall not be construed to prevent the Speaker from placing bills reported out of committee with no dissenting votes on a consent calendar.

(j) Priority bills shall generally be considered ahead of all other bills at each stage of debate, except as provided for in Rule 1, Section 17. Priority bills requiring the expenditure of appropriated funds shall be held on Final Reading until such time as the annual appropriations bills have been passed. A priority bill which fails to advance after two votes on General File, or after one vote on Select File, shall return to nonpriority status.

(k) No priority bill designated under this rule shall have priority over appropriations bills.

Referred to the Rules Committee.

UNANIMOUS CONSENT - Add Cointroducers

Senator Sullivan asked unanimous consent to add her name as cointroducer to LB689. No objections. So ordered.

Senator Council asked unanimous consent to add her name as cointroducer to LB938. No objections. So ordered.

VISITORS

Visitors to the Chamber were Daniel Heupel from Lincoln; and Dr. Lyle and Mary Nilson from Omaha.

The Doctor of the Day was Dr. Megan Faltys from Schuyler.

ADJOURNMENT

At 11:59 a.m., on a motion by Senator Dubas, the Legislature adjourned until 9:00 a.m., Tuesday, February 23, 2010.

Patrick J. O'Donnell
Clerk of the Legislature