

THIRTY-FIRST DAY - FEBRUARY 23, 2010**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
SECOND SESSION****THIRTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, February 23, 2010

PRAYER

The prayer was offered by Pastor Perry Gauthier, Capitol Ministries, Lincoln.

ROLL CALL

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

The roll was called and all members were present except Senator Pahls who was excused; and Senators Cornett, Haar, and Louden who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirtieth day was approved.

COMMITTEE REPORTS

Urban Affairs

LEGISLATIVE BILL 969. Placed on General File.

LEGISLATIVE RESOLUTION 297CA. Placed on General File.

LEGISLATIVE BILL 943. Placed on General File with amendment.
AM1922

- 1 1. Insert the following new section:
- 2 Sec. 5. Since an emergency exists, this act takes effect
- 3 when passed and approved according to law.

(Signed) Amanda McGill, Chairperson

Banking, Commerce and Insurance

LEGISLATIVE BILL 1051. Placed on General File.

(Signed) Pete Pirsch, Vice Chairperson

AMENDMENT - Print in Journal

Senator Ashford filed the following amendment to LB817:
AM1976

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:
3 Section 1. Section 2-32,101, Reissue Revised Statutes of
4 Nebraska, is amended to read:
5 2-32,101 (1) Any law enforcement officer, including, but
6 not limited to, any Game and Parks Commission conservation officer,
7 local police officer, member of the Nebraska State Patrol, or
8 sheriff or deputy sheriff, is authorized to enforce ~~the provisions~~
9 ~~of sections 2-3292 to 2-32,100~~ and any rules and regulations
10 adopted and promulgated pursuant to such sections. A district
11 shall not employ law enforcement personnel and shall be prohibited
12 from expending any funds for such purpose, except as provided in
13 subsection (2) of this section. Each district shall provide a copy
14 of its rules and regulations to the appropriate law enforcement
15 officer. Any law enforcement officer may arrest and detain any
16 person committing a violation of the rules and regulations in a
17 recreation area or committing any misdemeanor or felony as provided
18 by the laws of this state.

19 (2) A natural resources district may expend funds to
20 enter into agreements pursuant to the Interlocal Cooperation Act
21 for the services of certified law enforcement personnel or to
22 contract for the services of private security services to patrol
23 and protect district-owned recreation areas and to assist law
1 enforcement officers in enforcing sections 2-3292 to 2-32,100 and
2 any rules and regulations adopted and promulgated pursuant to such
3 sections.

4 Sec. 2. Section 28-1212.04, Revised Statutes Supplement,
5 2009, is amended to read:

6 28-1212.04 Any person, within the territorial boundaries
7 of any city, ~~incorporated village,~~ of the first class or county
8 containing a city of the metropolitan class or primary class, who
9 unlawfully, knowingly, and intentionally ~~or recklessly~~ discharges
10 a firearm, while in any motor vehicle or in the proximity of
11 any motor vehicle that such person has just exited, at or in the
12 general direction of any person, dwelling, building, structure,
13 occupied motor vehicle, occupied aircraft, inhabited motor home as
14 defined in section 71-4603, or inhabited camper unit as defined in
15 section 60-1801; is guilty of a Class IC felony.

16 Sec. 3. Section 69-2403, Reissue Revised Statutes of

17 Nebraska, is amended to read:

18 69-2403 (1) Except as provided in this section and
19 section 69-2409, a person shall not purchase, lease, rent, or
20 receive transfer of a handgun until he or she has obtained a
21 certificate in accordance with section 69-2404. Except as provided
22 in this section and section 69-2409, a person shall not sell,
23 lease, rent, or transfer a handgun to a person who has not obtained
24 a certificate.

25 (2) The certificate shall not be required if:

26 ~~(1)~~ (a) The person acquiring the handgun is a licensed
27 firearms dealer under federal law;

1 ~~(2)~~ (b) The handgun is an antique handgun;

2 ~~(3)~~ (c) The person acquiring the handgun is authorized to
3 do so on behalf of a law enforcement agency;

4 ~~(4)~~ (d) The transfer is a temporary transfer of a handgun
5 and the transferee remains ~~(a)~~ (i) in the line of sight of the
6 transferor or ~~(b)~~ (ii) within the premises of an established
7 shooting facility; ~~or~~

8 ~~(5)~~ (e) The transfer is between a person and his or
9 her spouse, sibling, parent, child, aunt, uncle, niece, nephew, or
10 grandparent; ~~or~~

11 (f) The person acquiring the handgun is a holder of a
12 valid permit under the Concealed Handgun Permit Act; or

13 (g) The person acquiring the handgun is a peace officer
14 as defined in section 69-2429.

15 Sec. 4. Original sections 2-32,101 and 69-2403, Reissue
16 Revised Statutes of Nebraska, and section 28-1212.04, Revised
17 Statutes Supplement, 2009, are repealed.

NOTICE OF COMMITTEE HEARING

Education

Room 1525

Wednesday, March 31, 2010 12:30 p.m.

Progress Report on Attainment of Higher Education Priorities -
Coordinating Commission for Postsecondary Education

(Signed) Greg Adams, Chairperson

MOTIONS - Approve Appointments

Senator Gay moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 601:

Commission for the Blind and Visually Impaired
 Nancy Oltman
 Darrell Walla

Voting in the affirmative, 37:

Adams	Cook	Hadley	Lautenbaugh	Schilz
Ashford	Council	Hansen	McCoy	Stuthman
Avery	Dierks	Heidemann	McGill	Utter
Campbell	Dubas	Howard	Nordquist	Wallman
Carlson	Fischer	Janssen	Pankonin	Wightman
Christensen	Flood	Karpisek	Pirsch	
Coash	Gay	Krist	Price	
Conrad	Giese	Langemeier	Rogert	

Voting in the negative, 0.

Present and not voting, 7:

Fulton	Lathrop	Nelson	White
Gloor	Mello	Sullivan	

Excused and not voting, 5:

Cornett	Haar	Harms	Louden	Pahls
---------	------	-------	--------	-------

The appointments were confirmed with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

Senator Fischer moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointment(s) found on page 598:

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

Voting in the affirmative, 37:

Adams	Dierks	Hansen	McCoy	Schilz
Avery	Dubas	Heidemann	McGill	Stuthman
Campbell	Fischer	Howard	Nelson	Sullivan
Carlson	Flood	Janssen	Nordquist	Utter
Christensen	Gay	Karpisek	Pankonin	Wallman
Conrad	Giese	Langemeier	Pirsch	
Cook	Gloor	Lautenbaugh	Price	
Council	Hadley	Louden	Rogert	

Voting in the negative, 0.

Present and not voting, 8:

Ashford	Fulton	Lathrop	White
Coash	Krist	Mello	Wightman

Excused and not voting, 4:

Cornett	Haar	Harms	Pahls
---------	------	-------	-------

The appointments were confirmed with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 689. Considered.

Advanced to Enrollment and Review Initial with 44 ayes, 1 nay, 3 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 764. Title read. Considered.

Committee AM1751, found on page 475, was adopted with 37 ayes, 0 nays, 11 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 8 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 805. Title read. Considered.

Committee AM1913, found on page 556, was adopted with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 951. Title read. Considered.

SENATOR FISCHER PRESIDING

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 7 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 879. Title read. Considered.

Committee AM1798, found on page 504, was adopted with 31 ayes, 0 nays, 17 present and not voting, and 1 excused and not voting.

Senator White offered the following amendment:

AM1998

- 1 1. On page 16, line 12, after "Act" insert ", except that
- 2 no such list of delinquent taxpayers shall include any taxpayer
- 3 that has not exhausted or waived all rights of appeal from a final
- 4 balance of tax liability".

SENATOR CARLSON PRESIDING

The White amendment was adopted with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

Senator Cornett offered the following amendment:

AM1992

- 1 1. Strike original section 19 and insert the following
- 2 new sections:
- 3 Sec. 2. Section 49-801.01, Revised Statutes Supplement,
- 4 2009, is amended to read:
- 5 49-801.01 Except as provided by Article VIII, section 1B,
- 6 of the Constitution of Nebraska and in sections 77-2701.01, 77-2714
- 7 to 77-27,123, 77-27,191, 77-4103, 77-4104, 77-4108, 77-5509,
- 8 77-5515, 77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728,
- 9 77-5802, 77-5803, 77-5806, and 77-5903, any reference to the
- 10 Internal Revenue Code refers to the Internal Revenue Code of 1986
- 11 as it exists on ~~February 27, 2009.~~ the operative date of this
- 12 section.
- 13 Sec. 7. Section 77-1784, Reissue Revised Statutes of
- 14 Nebraska, is amended to read:
- 15 77-1784 (1) The Tax Commissioner may accept electronic
- 16 filing of applications, returns, and any other document required to
- 17 be filed with the Tax Commissioner.
- 18 (2) The Tax Commissioner may use electronic fund
- 19 transfers to collect any taxes, fees, or other amounts required
- 20 to be paid to or collected by the Tax Commissioner or to pay any
- 21 refunds of such amounts.
- 22 (3) The Tax Commissioner may adopt rules and regulations
- 23 to establish the criteria for acceptability of filing documents

1 and making payments electronically. The criteria may include
2 requirements for electronic signatures, the type of tax for
3 which electronic filings or payments will be accepted, the method
4 of transfer, or minimum amounts which may be transferred. The
5 Tax Commissioner may refuse to accept any electronic filings or
6 payments that do not meet the criteria established.

7 (4) ~~For payments due after January 1, 2006, the~~ The Tax
8 Commissioner may require the use of electronic fund transfers for
9 any taxes, fees, or amounts required to be paid to or collected by
10 the Tax Commissioner for any taxpayer who made payments exceeding
11 ~~twenty thousand and five thousand~~ dollars for a tax program in the any
12 prior year for that tax program. The requirement to make electronic
13 fund transfers may be phased in as deemed necessary by the Tax
14 Commissioner. Notice of the requirement to make electronic fund
15 transfers shall be provided at least three months prior to the date
16 the first electronic payment is required to be made.

17 (5) ~~Any~~ Except for individual income tax payments
18 required under section 77-2715 and estimated payments for
19 individuals under section 77-2769, any person who fails to make a
20 required payment by electronic fund transfer shall be subject to a
21 penalty of one hundred dollars for each required payment that was
22 not made by electronic fund transfer. The penalty provided by this
23 section shall be in addition to all other penalties and applies
24 even if payment by some other method is timely made. The Tax
25 Commissioner may waive the penalty provided in this section upon a
26 showing of good cause.

27 (6) The use of electronic filing of documents and
1 electronic fund transfers shall not change the rights of any
2 party from the rights such party would have if a different method
3 of filing or payment were used. Until criteria for electronic
4 signatures are adopted under subsection (3) of this section, the
5 document produced during the electronic filing of a taxpayer's
6 information with the state shall be prima facie evidence for all
7 purposes that the taxpayer's signature accompanied the taxpayer's
8 information in the electronic transmission.

9 (7) For tax returns due on or after January 1, 2010,
10 the Tax Commissioner may require any person that aids, procures,
11 advises, or assists in the preparation of and files any tax return
12 on behalf of any taxpayer for profit to file an electronic return
13 if the person filed twenty-five or more tax returns in the prior
14 calendar year. The requirement to require electronic filing may be
15 phased in as deemed necessary by the Tax Commissioner.

16 Any person that files a tax return on behalf of a
17 taxpayer must disclose in writing to the taxpayer that the return
18 will be filed in an electronic format and in accordance with rules
19 and regulations prescribed by the Tax Commissioner.

20 (8) Any person who fails to file an electronic return
21 as required under subsection (7) of this section shall be subject
22 to a penalty of one hundred dollars for each return that was not

23 properly filed in addition to other penalties provided by law. The
24 Tax Commissioner may waive the penalty provided in this section
25 upon a showing of good cause.

26 (9) The Legislature hereby finds and determines that the
27 development of a comprehensive electronic filing and payment system
1 for all state tax programs and fees administered by the Department
2 of Revenue is of critical importance to the State of Nebraska.
3 It is the intent of the Legislature that the department implement
4 a mandatory electronic filing system for all state tax programs
5 and fees administered by the department as deemed practicable and
6 necessary for the proper administration of the Nebraska Revenue Act
7 of 1967. It is the intent of the Legislature that the department
8 require the use of electronic fund transfers for any taxes, fees,
9 or amounts required to be paid to or collected by the department as
10 deemed practicable and necessary for the proper administration of
11 the Nebraska Revenue Act of 1967.

12 Sec. 11. Section 77-2756, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 77-2756 (1) Except as provided in subsection (2) of this
15 section, every employer or payor required to deduct and withhold
16 income tax under the Nebraska Revenue Act of 1967 shall, for each
17 calendar quarter, on or before the last day of the month following
18 the close of such calendar quarter, file a withholding return
19 as prescribed by the Tax Commissioner and pay over to the Tax
20 Commissioner or to a depository designated by the Tax Commissioner
21 the taxes so required to be deducted and withheld in such form
22 and content as the Tax Commissioner may prescribe and containing
23 such information as the Tax Commissioner deems necessary for the
24 proper administration of the Nebraska Revenue Act of 1967. When
25 the aggregate amount required to be deducted and withheld by any
26 employer or payor for either the first or second month of a
27 calendar quarter exceeds five hundred dollars, the employer or
1 payor shall, by the fifteenth day of the succeeding month, pay over
2 such aggregate amount to the Tax Commissioner or to a depository
3 designated by the Tax Commissioner. The amount so paid shall be
4 allowed as a credit against the liability shown on the employer's
5 or payor's quarterly withholding return required by this section.
6 The Tax Commissioner may, by rule and regulation, provide for the
7 filing of returns and the payment of the tax deducted and withheld
8 on other than a quarterly basis.

9 (2) When the aggregate amount required to be deducted
10 and withheld by any employer or payor for the entire calendar year
11 is less than five hundred dollars or the employer or payor is
12 allowed to file federal withholding returns annually, the employer
13 or payor shall, for each calendar year, on or before the last day
14 of the month following the close of such calendar year, file a
15 withholding return as prescribed by the Tax Commissioner and pay
16 over to the Tax Commissioner or to a depository designated by the
17 Tax Commissioner the taxes so required to be deducted and withheld

18 in such form and content as the Tax Commissioner may prescribe and
19 containing such information as the Tax Commissioner deems necessary
20 for the proper administration of the Nebraska Revenue Act of 1967.

21 The employer or payor may elect or the Tax Commissioner may require
22 the filing of returns and the payment of taxes on a quarterly
23 basis.

24 (3) Whenever any employer or payor fails to collect,
25 truthfully account for, pay over, or make returns of the income
26 tax as required by this section, the Tax Commissioner may serve a
27 notice requiring such employer or payor to collect the taxes which
1 become collectible after service of such notice, to deposit such
2 taxes in a bank approved by the Tax Commissioner in a separate
3 account in trust for and payable to the Tax Commissioner, and to
4 keep the amount of such tax in such account until paid over to the
5 Tax Commissioner. Such notice shall remain in effect until a notice
6 of cancellation is served by the Tax Commissioner.

7 (4) Any employer or payor may appoint an agent in
8 accordance with section 3504 of the Internal Revenue Code of 1986,
9 as amended, for the purpose of withholding, reporting, or making
10 payment of amounts withheld on behalf of the employer or payor.
11 The agent shall be considered an employer or payor for purposes
12 of the Nebraska Revenue Act of 1967 and, with the actual employer
13 or payor, shall be jointly and severally liable for any amount
14 required to be withheld and paid over to the Tax Commissioner and
15 any additions to tax, penalties, and interest with respect thereto.

16 (5) The employer or payor shall also file on or before
17 ~~March 15~~ February 1 of the succeeding year a copy of each statement
18 furnished by such employer or payor to each employee or payee
19 with respect to taxes withheld on wages or payments subject to
20 withholding. Any employer, payor, or agent who furnished more than
21 ~~two hundred~~ fifty statements for a year shall file the required
22 copies electronically in a manner approved by the Tax Commissioner
23 that is compatible with federal electronic filing requirements or
24 methods.

25 Sec. 14. Section 77-2794, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 77-2794 (1) Under regulations prescribed by the Tax
1 Commissioner interest shall be allowed and paid at the rate
2 specified in section 45-104.02, as such rate may from time to time
3 be adjusted, upon any overpayment in respect to the income tax
4 imposed by the Nebraska Revenue Act of 1967.

5 (2) For purposes of this section:

6 (a) The date of overpayment shall be the last day
7 prescribed for filing the original return of such tax;

8 (b) Any return filed before the last day prescribed for
9 the filing thereof, determined without regard to any extension of
10 time to file the return, shall be considered as filed on such last
11 day;

12 (c) Any tax paid by the taxpayer before the last day
 13 prescribed for its payment, any income tax withheld from the
 14 taxpayer during any calendar year, and any amount paid by the
 15 taxpayer as estimated income tax for a taxable year shall be deemed
 16 to have been paid on the last day prescribed for filing the return
 17 for the taxable year to which such amount constitutes a credit or
 18 payment, determined without regard to any extension of time granted
 19 the taxpayer;

20 (d) If at the time an overpayment is to be refunded,
 21 the taxpayer also has a reported underpayment of the same tax
 22 in another year: (i) If the overpayment is for a taxable year
 23 ending before the year of underpayment, the overpayment shall be
 24 applied to reduce such underpayment as of the last day prescribed
 25 for filing the original return of such tax for the year of
 26 underpayment; (ii) if the overpayment is for a taxable year ending
 27 after the year of underpayment, the overpayment shall be applied to
 1 reduce such underpayment as of the last day prescribed for filing
 2 the original return of such tax for the year of overpayment; or
 3 (iii) if the overpayment is one for which interest is not allowed
 4 under this section, the overpayment shall be applied as of the
 5 date of the filing of the claim for refund; and interest shall be
 6 allowed for any remaining overpayment as provided in subdivision
 7 (a) of this subsection;

8 (e) The period of overpayment during which interest
 9 shall be allowed shall not include any period during which the
 10 overpayment continued due to the unreasonable delay by the taxpayer
 11 in filing the claim for refund. For this purpose, the burden of
 12 proof shall be on the taxpayer to show that a delay of more than
 13 ninety days after all of the facts required to prepare a correct
 14 claim for refund are available is not unreasonable; and

15 (f) The period of overpayment during which interest shall
 16 be allowed shall not include any period during which an agreement
 17 between the taxpayer and the Internal Revenue Service was not filed
 18 as required by subsection (6) of section 77-2786 and the first
 19 ninety days after such agreement is filed.

20 ~~(3) If (3)(a) Except as provided in subdivision (b) of~~
 21 ~~this subsection, if~~ any overpayment of income tax imposed by the
 22 Nebraska Revenue Act of 1967 is refunded within ninety days after
 23 the last date prescribed, or permitted by extension of time, for
 24 filing the return of such tax or within ninety days after any
 25 original return, and any amended return filed to carry back a loss,
 26 was filed, whichever is later, no interest shall be allowed under
 27 this section on overpayment.

1 (b) If the Tax Commissioner approves and implements an
 2 electronic form or method for filing the return and the return is
 3 not filed electronically, no interest shall be allowed under this
 4 section on overpayment.

5 (c) In the case of amended returns filed for any reason
 6 other than to carry back a loss, interest shall be allowed as

- 7 provided in subsection (1) of this section.
- 8 Sec. 23. Sections 2, 22, 23, 28, and 30 of this act
 9 become operative on their effective date. Sections 1, 21, and 27 of
 10 this act become operative on July 1, 2010. Sections 8, 10, 15, 16,
 11 and 26 of this act become operative on October 1, 2010. Sections 7,
 12 11, 12, 13, 14, 24, and 29 of this act become operative on January
 13 1, 2011. The other sections of this act become operative three
 14 calendar months after the adjournment of this legislative session.
- 15 Sec. 28. Original section 49-801.01, Revised Statutes
 16 Supplement, 2009, is repealed.
- 17 Sec. 29. The following section is outright repealed:
 18 Section 77-2769.02, Reissue Revised Statutes of Nebraska.
- 19 2. On page 11, line 19, strike "4" and insert "5".
 20 3. On page 66, line 17, strike "4" and insert "5"; and in
 21 line 25 strike "77-2789 and 77-2790," and insert "77-1784, 77-2756,
 22 77-2789, 77-2790, and 77-2794,".
- 23 4. Renumber the remaining sections accordingly.

The Cornett amendment was adopted with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 768. Title read. Considered.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 799. Title read. Considered.

Committee AM1556, found on page 532, was adopted with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

SPEAKER FLOOD PRESIDING

Pending.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 317 and 318 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 317 and 318.

GENERAL FILE

LEGISLATIVE BILL 799. Considered.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

AMENDMENT - Print in Journal

Senator Conrad filed the following amendment to LB888:
AM1847

- 1 1. On page 7, line 23, strike "regardless of whether
- 2 for profit"; and after line 24 insert the following new subsection:
- 3 "(d) A limited liability company shall be classified for
- 4 state income tax purposes in the same manner as it is classified
- 5 for federal income tax purposes.".
- 6 2. On page 69, line 3, after "(b)" insert "A foreign
- 7 limited liability company may not transact business in this state
- 8 until it qualifies with the Secretary of State as provided in
- 9 sections 56 and 58 of this act."; and in line 12 strike "may" and
- 10 insert "must".
- 11 3. On page 80, line 5, strike "regardless of whether
- 12 organized for profit".

NOTICE OF COMMITTEE HEARING

Rules

Room 1510

Tuesday, February 23, 2010 1:00 p.m.

Senator Nelson's proposed rules change
Legislative Journal page 608

(Signed) Scott Lautenbaugh, Chairperson

COMMITTEE REPORTS

Government, Military and Veterans Affairs

LEGISLATIVE BILL 742. Placed on General File with amendment.
AM1967

- 1 1. Strike the original section and insert the following
- 2 new section:
- 3 Section 1. (1) A public entity or a private insurance
- 4 company or public agency providing coverage to a public entity,
- 5 public official, or public employee shall maintain a public written
- 6 or electronic record of all settled claims. The record for all
- 7 such claims settled in the amount of fifty thousand dollars or
- 8 more, or one percent of the total annual budget of the public

9 entity, whichever is less, shall include a written executed
10 settlement agreement. The settlement agreement shall contain a
11 brief description of the claim, the party or parties released under
12 the settlement, and the amount of the financial compensation, if
13 any, paid by or to the public entity or on its behalf.

14 (2) Any claim or settlement agreement involving a public
15 entity shall be a public record but, to the extent permitted
16 by sections 84-712.04 and 84-712.05 and as otherwise provided by
17 statute, specific portions of the claim or settlement agreement
18 may be withheld from the public. A private insurance company
19 or public agency providing coverage to the public entity shall,
20 without delay, provide to the public entity a copy of any claim or
21 settlement agreement to be maintained as a public record.

22 (3) Except for settlement agreements involving the state,
23 any state agency, or any employee of the state or pursuant to
1 claims filed under the State Tort Claims Act, any settlement
2 agreement with an amount of financial consideration greater than
3 fifty thousand dollars or more, or one percent of the total
4 annual budget of the public entity, whichever is less, shall be
5 included as an agenda item at the next meeting of a public agency
6 providing coverage to a public entity and as an agenda item on
7 the next regularly scheduled public meeting of the public body for
8 informational purposes or for approval if required.

9 (4) For purposes of this section, a confidentiality
10 or nondisclosure clause or provision contained in or relating
11 to a settlement agreement shall neither cause nor permit a
12 settlement agreement or the claim or any other public record
13 to be withheld from the public. Nothing in this section shall
14 require a public official or public employee or any party to the
15 settlement agreement to comment on the settlement agreement.

16 (5) For purposes of this section:

17 (a) Confidentiality or nondisclosure clause or provision
18 means any covenant or stipulation adopted by parties to a
19 settlement agreement that designates the settlement agreement,
20 the claim, or any other public record as confidential, or in any
21 other way restricts public access to information concerning the
22 settlement agreement or claim;

23 (b) Public body means public body as defined in
24 subdivision (1) of section 84-1409;

25 (c) Public entity means a public entity listed in
26 subdivision (1) of section 84-712.01; and

27 (d) Settlement agreement means any contractual agreement
1 to settle or resolve a claim involving a public entity or on behalf
2 of the public entity, a public official, or a public employee by
3 (i) the public entity, (ii) a private insurance company, or (iii) a
4 public agency providing coverage.

LEGISLATIVE BILL 948. Placed on General File with amendment.
AM1921

- 1 1. On page 2, lines 12 and 13, strike "but not limited
- 2 to"; and in line 15 after "costs" insert "and the materiel
- 3 division shall consider such data" and after "81-161" insert "to
- 4 ensure a responsible purchase is made by the state".
- 5 2. On page 3, line 19, strike "and resale value".

LEGISLATIVE RESOLUTION 284CA. Placed on General File with amendment.
AM1906

- 1 1. On page 3, line 6, strike "January 1, 2013" and insert
- 2 "January 8, 2015"; and in line 12 strike "January 1, 2013" and
- 3 insert "January 8, 2015".

LEGISLATIVE RESOLUTION 300CA. Placed on General File with amendment.
AM1971

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. At the general election in November 2010 the
- 4 following proposed amendment to the Constitution of Nebraska shall
- 5 be submitted to the electors of the State of Nebraska for approval
- 6 or rejection:
- 7 To amend Article III, section 2:
- 8 III-2 The first power reserved by the people is
- 9 the initiative whereby laws may be enacted and constitutional
- 10 amendments adopted by the people independently of the Legislature.
- 11 This power may be invoked by petition wherein the proposed measure
- 12 shall be set forth at length. If the petition be for the enactment
- 13 of a law, it shall be signed by ~~seven-four~~ percent of the
- 14 registered voters of the state, and if the petition be for the
- 15 amendment of the Constitution, the petition therefor shall be
- 16 signed by ten percent of such registered voters. In all cases the
- 17 registered voters signing such petition shall be so distributed
- 18 as to include five percent of the registered voters of each of
- 19 two-fifths of the counties of the state. ~~When, and when~~ thus
- 20 signed, the petition shall be filed with the Secretary of State who
- 21 shall submit the measure thus proposed to the electors of the state
- 22 at the first general election held not less than four months after
- 23 such petition ~~shall have been~~ is filed. The same measure, either
- 1 in form or in essential substance, shall not be submitted to the
- 2 people by initiative petition, either affirmatively or negatively,
- 3 more often than once in three years. If conflicting measures
- 4 submitted to the people at the same election be approved, the one
- 5 receiving the highest number of affirmative votes shall thereby
- 6 become law as to all conflicting provisions. The constitutional
- 7 limitations as to the scope and subject matter of statutes enacted
- 8 by the Legislature shall apply to those enacted by the initiative.

9 Initiative measures shall contain only one subject. The Legislature
 10 shall not amend, repeal, modify, or impair a law enacted by the
 11 people by initiative, contemporaneously with the adoption of this
 12 initiative measure or at any time thereafter, except upon a vote of
 13 at least two-thirds of all the members of the Legislature.

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

17 A constitutional amendment to change the number of
 18 signatures required for an initiative petition for the enactment of
 19 a law.

20 For

21 Against.

LEGISLATIVE BILL 980. Indefinitely postponed.

LEGISLATIVE RESOLUTION 279CA. Indefinitely postponed.

(Signed) Bill Avery, Chairperson

Education

LEGISLATIVE BILL 1021. Placed on General File with amendment.
 AM1969 is available in the Bill Room.

(Signed) Greg Adams, Chairperson

AMENDMENT - Print in Journal

Senator Louden filed the following amendment to LB1002:
 AM1991

(Amendments to Standing Committee amendments, AM1841)

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

3 Section 1. For purposes of sections 1 to 7 of this act:

4 (1) Census-designated place means a concentration of
 5 population identified by the United States Department of Commerce,
 6 Bureau of the Census, that lacks a separate municipal government
 7 but otherwise physically resembles an incorporated city or village,
 8 that is associated with an Indian reservation, and that is in
 9 a county with fewer than six thousand four hundred inhabitants
 10 according to the most recent federal decennial census;

11 (2) Commission means the Commission on Indian Affairs;

12 (3) Indian reservation means a tract of land set apart by
 13 the federal government for the use of the Native American people;
 14 and

15 (4) Political subdivision means a city, village, or
 16 county within a thirty-mile radius of a census-designated place or
 17 a tribal government that owns land within such thirty-mile radius.

18 Sec. 2. Any political subdivision may annually apply
19 to the commission for state assistance under sections 1 to 7
20 of this act. The state assistance shall be used for economic
21 development, health care, and law enforcement needs in such
22 political subdivision.

1 Sec. 3. (1) All applications for state assistance under
2 sections 1 to 7 of this act shall be in writing, include a
3 certified copy of the approving action of the governing body of the
4 applicant describing the proposed use for the state assistance, and
5 be of such form and contain the content as the commission shall
6 prescribe and publish for distribution to a political subdivision
7 upon request.

8 (2) Upon receiving an application for state assistance,
9 the commission shall review the application and notify the
10 applicant of any additional information needed for a proper
11 evaluation of the application.

12 (3) Any state assistance received pursuant to sections 1
13 to 7 of this act shall be used only for public purposes.

14 Sec. 4. (1) After reviewing an application submitted
15 under section 3 of this act and upon reasonable notice to the
16 applicant, the commission shall hold a public hearing on the
17 application.

18 (2) The commission shall give notice of the time, place,
19 and purpose of the public hearing by publication three times in a
20 newspaper of statewide circulation. Such publication shall be not
21 less than ten days prior to the hearing. The notice shall describe
22 generally the use for which state assistance has been requested.
23 The applicant shall pay the cost of the notice.

24 (3) At the public hearing, representatives of the
25 applicant and any other interested persons may appear and present
26 evidence and argument in support of or in opposition to the
27 application or neutral testimony. The commission may seek expert
1 testimony and may require testimony of persons whom the commission
2 desires to comment on the application. The commission may provide
3 for the acceptance of additional evidence after conclusion of the
4 public hearing.

5 Sec. 5. (1) After consideration of the application and
6 the evidence, the commission shall issue a finding of whether the
7 use described in the application is eligible for state assistance.

8 (2) If the commission finds that the use described in the
9 application is a legitimate use and that state assistance is in the
10 best interest of the state, the application shall be approved.

11 (3) A majority of the commission members constitutes a
12 quorum for the purpose of conducting business. All actions of the
13 commission shall be made by a majority vote of the voting members.

14 Sec. 6. (1) The State Treasurer shall annually transfer
15 on or after July 1 of each year two hundred fifty thousand dollars
16 from the General Fund to the Designated Collection Fund which is
17 hereby created. Any money in the fund available for investment

18 shall be invested by the state investment officer pursuant to
19 the Nebraska Capital Expansion Act and the Nebraska State Funds
20 Investment Act.

21 (2) The commission may accept and shall actively seek,
22 for the needs listed in section 2 of this act, any and all
23 grants, donations, gifts, or contributions from public or private
24 sources. Any such grants, donations, gifts, or contributions shall
25 be deposited in the Designated Collection Fund and shall only be
26 expended as provided in sections 1 to 7 of this act.

27 Sec. 7. Sections 1 to 7 of this act terminate on June 30,
1 2018.

2 Sec. 8. Section 81-2504, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 81-2504 The functions of the commission shall be to:

5 (1) Promote state and federal legislation beneficial to
6 the Indian community in Nebraska;

7 (2) Coordinate existing programs relating to the Indian
8 community in such areas as housing, education, welfare, medical and
9 dental care, employment, economic development, law and order, and
10 related problems;

11 (3) Work with other state and federal government agencies
12 and federal and state elected officials in the development of new
13 programs in areas mentioned under subdivision (2) of this section;

14 (4) Keep the Governor's office apprised of the situation
15 in the Indian community;

16 (5) Administer sections 1 to 7 of this act;

17 ~~(5)-(6)~~ Provide the public with information and education
18 relevant to Indian affairs in the State of Nebraska; and

19 ~~(6)-(7)~~ Develop programs to encourage the total
20 involvement of Indian people in activities for the common benefit
21 of the Indian community.

22 Sec. 9. This act becomes operative on July 1, 2011.

23 Sec. 10. Original section 81-2504, Reissue Revised
24 Statutes of Nebraska, is repealed.

BILL ON FIRST READING

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

LEGISLATIVE BILL 951A. Introduced by Avery, 28.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 951, One Hundred First Legislature, Second Session, 2010.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 226. Placed on Final Reading Second.

LEGISLATIVE BILL 512. Placed on Final Reading.

LEGISLATIVE BILL 579. Placed on Final Reading.

ST9074

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

1. In the Cornett amendment, AM1952:

a. On page 2, line 15, an underscored semicolon has been inserted before "and";

b. On page 5, line 17, "and" has been inserted after the semicolon;

c. On page 10, lines 17, 19, 22, and 24, "act" has been struck and "section" inserted; and

d. On page 29, line 15, "sections 4, 5, 10, and 11" has been struck and "this section and sections 4, 5, and 10" inserted.

2. On page 1, the matter beginning with "48-602" in line 1 through line 6 and all amendments thereto have been struck and "44-7515, 48-151, and 48-443, Reissue Revised Statutes of Nebraska, sections 44-7504, 48-115, 48-145, 48-146, and 48-602, Revised Statutes Cumulative Supplement, 2008, and section 48-144.03, Revised Statutes Supplement, 2009; to adopt the Professional Employer Organization Registration Act; to create a fund; to provide penalties; to harmonize insurance, workers' compensation, safety committee, and unemployment benefit provisions; to provide operative dates; to provide severability; and to repeal the original sections." inserted.

LEGISLATIVE BILL 643. Placed on Final Reading.

LEGISLATIVE BILL 711. Placed on Final Reading Second.

LEGISLATIVE BILL 723. Placed on Final Reading.

LEGISLATIVE BILL 746. Placed on Final Reading.

LEGISLATIVE BILL 787. Placed on Final Reading.

LEGISLATIVE BILL 848. Placed on Final Reading.

LEGISLATIVE BILL 867. Placed on Final Reading.

ST9075

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

1. In the Standing Committee amendments, AM1638, section 3 has been struck and the following new section inserted:

Sec. 4. Original section 53-138.01, Reissue Revised Statutes of Nebraska, section 53-123.15, Revised Statutes Cumulative Supplement, 2008, and section 53-124, Revised Statutes Supplement, 2009, are repealed.

2. On page 1, the matter beginning with "53-124" in line 1 through line 3 and all amendments thereto have been struck and "53-138.01, Reissue

Revised Statutes of Nebraska, section 53-123.15, Revised Statutes Cumulative Supplement, 2008, and section 53-124, Revised Statutes Supplement, 2009; to provide for placement of certain shipping license fees in the General Fund; to change fees for shipping licenses; to harmonize provisions; and to repeal the original sections." inserted.

LEGISLATIVE BILL 890. Placed on Final Reading.

LEGISLATIVE BILL 891. Placed on Final Reading.

LEGISLATIVE BILL 892. Placed on Final Reading.

LEGISLATIVE BILL 914. Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

UNANIMOUS CONSENT - Add Cointroducers

Senator Cook asked unanimous consent to add her name as cointroducer to LB951. No objections. So ordered.

Senators Giese, McGill, and Mello asked unanimous consent to add their names as cointroducers to LB1014. No objections. So ordered.

VISITORS

Visitors to the Chamber were Lance Johnson from Bellevue; students from York College, York; and 46 fourth-grade students and teachers from Bryan Elementary, Lexington.

The Doctor of the Day was Dr. Hans Dethlefs from Omaha.

ADJOURNMENT

At 11:57 a.m., on a motion by Senator Lautenbaugh, the Legislature adjourned until 9:00 a.m., Wednesday, February 24, 2010.

Patrick J. O'Donnell
Clerk of the Legislature

