

TWENTY-SECOND DAY - FEBRUARY 2, 2007**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
FIRST SESSION****TWENTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska
Friday, February 2, 2007

PRAYER

The prayer was offered by Pastor Daniel Seiker, Cathedral of the Risen Christ, Lincoln.

ROLL CALL

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

The roll was called and all members were present except Senators Avery, Friend, Karpisek, Kopplin, Loudon, Pankonin, and Pedersen who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-first day was approved.

MESSAGE FROM THE GOVERNOR

February 1, 2007

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

Dear Mr. O'Donnell:

I received engrossed Legislative Bill 341e on February 1, 2007. The bill was signed and delivered to the Secretary of State on February 1, 2007.

Sincerely,
(Signed) Dave Heineman
Governor

COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 39. Placed on Select File - ER8017.
ER8017

- 1 1. On page 1, line 2, strike "32-629," and "32-1303,";
- 2 and strike beginning with "to" in line 3 through the semicolon in
- 3 line 4.

LEGISLATIVE BILL 99. Placed on Select File.

LEGISLATIVE BILL 298. Placed on Select File.

LEGISLATIVE BILL 191. Placed on Select File.

(Signed) Amanda McGill, Chairperson

COMMITTEE REPORTS
Revenue

LEGISLATIVE BILL 223. Placed on General File - Com AM192.
AM192

- 1 1. Insert the following new section:
- 2 Sec. 12. Section 77-2753, Revised Statutes Cumulative
- 3 Supplement, 2006, is amended to read:
- 4 77-2753 ~~(+)~~(1)(a) Every employer and payor maintaining
- 5 an office or transacting business within this state and making
- 6 payment of any wages or other payments as defined in subsection
- 7 (5) of this section which are taxable under the Nebraska Revenue
- 8 Act of 1967 to any individual shall deduct and withhold from
- 9 such wages for each payroll period and from such payments a tax
- 10 computed in such manner as to result, so far as practicable, in
- 11 withholding from the employee's wages and payments to the payee
- 12 during each calendar year an amount substantially equivalent to the
- 13 tax reasonably estimated to be due from the employee or payee under
- 14 such act with respect to the amount of such wages and payments
- 15 included in his or her taxable income during the calendar year. The
- 16 method of determining the amount to be withheld shall be prescribed
- 17 by rules and regulations of the Tax Commissioner. Such rules and
- 18 regulations may allow withholding to be computed at a percentage
- 19 of the federal withholding for gambling winnings or supplemental
- 20 payments, including bonuses, commissions, overtime pay, and sales
- 21 awards which are not paid at the same time as other wages. Any
- 22 withholding tables prescribed by the Tax Commissioner shall be
- 23 provided to the budget division of the Department of Administrative
- 1 Services and the Legislative Fiscal Analyst for review at least
- 2 sixty days before the tables become effective.

- 3 (b) Notwithstanding the amount of federal withholding or
- 4 the rules and regulations of the Department of Revenue determining
- 5 the amount of withholding, every employer and payor employing
- 6 twenty-five or more employees shall withhold at least three

7 percent of the gross wages minus tax qualified deductions of
8 each employee unless the employee provides satisfactory evidence
9 that a lesser amount of withholding is justified in the employee's
10 particular circumstances. Such satisfactory evidence may include
11 birth certificates or social security information for dependents
12 or other evidence that reasonably assures the employer that the
13 employee is not improperly or fraudulently evading or defeating the
14 income tax by reducing or eliminating withholding.

15 (2)(a) Every payor who is either (i) making a payment or
16 payments in excess of five thousand dollars or (ii) maintaining
17 an office or transacting business within this state and making
18 a payment or payments related to such business in excess of six
19 hundred dollars, and such payment or payments are for personal
20 services performed or to be performed substantially within this
21 state, to a nonresident individual, other than an employee, who
22 is not subject to withholding on such payment under the Internal
23 Revenue Code or a corporation, partnership, or limited liability
24 company described in subdivision (c) of this subsection, shall
25 be deemed an employer, and the individual performing the personal
26 services shall be deemed an employee for the purposes of this
27 section. The payor shall deduct and withhold from such payments
1 the percentage of such payments prescribed in subdivision (b) of
2 this subsection. If the individual performing the personal services
3 provides the payor with a statement of the expenses reasonably
4 related to the personal services, the total payment or payments may
5 be reduced by the total expenses before computing the amount to
6 deduct and withhold, except that such reduction shall not be more
7 than fifty percent of such payment or payments.

8 (b) For any payment or payments for the same service,
9 award, or purse that totals less than twenty-eight thousand
10 dollars, the percentage deducted from such payment or payments
11 pursuant to this subsection shall be four percent, and for all
12 other payments, the percentage shall be six percent.

13 (c) For any corporation, partnership, or limited
14 liability company that receives compensation for personal services
15 in this state and of which all or substantially all of the
16 shareholders, partners, or members are the individuals performing
17 the personal services, including, but not limited to, individual
18 athletes, entertainers, performers, or public speakers performing
19 such personal services, such compensation shall be deemed wages of
20 the individuals performing the personal services and subject to
21 the income tax imposed on individuals by the Nebraska Revenue Act
22 of 1967.

23 (d) The withholding required by this subsection shall
24 not apply to any payment to a nonresident alien, corporation,
25 partnership, or limited liability company if such individual,
26 shareholder, partner, or member provides the payor with a statement
27 that the income earned is not subject to tax because of a treaty
1 obligation of the United States.

2 (3) The Tax Commissioner may enter into agreements with
 3 the tax departments of other states, which require income tax to
 4 be withheld from the payment of wages, salaries, and such other
 5 payments, so as to govern the amounts to be withheld from the wages
 6 and salaries of and other payments to residents of such states.
 7 Such agreements may provide for recognition of anticipated tax
 8 credits in determining the amounts to be withheld and, under rules
 9 and regulations adopted and promulgated by the Tax Commissioner,
 10 may relieve employers and payors in this state from withholding
 11 income tax on wages, salaries, and such other payments paid
 12 to nonresident employees and payees. The agreements authorized
 13 by this subsection shall be subject to the condition that the
 14 tax department of such other states grant similar treatment to
 15 residents of this state.

16 (4) The Tax Commissioner shall enter into an agreement
 17 with the United States Office of Personnel Management for the
 18 withholding of income tax imposed on individuals by the Nebraska
 19 Revenue Act of 1967 on civil service annuity payments for those
 20 recipients who voluntarily request withholding. The agreement shall
 21 be pursuant to 5 U.S.C. 8345 and the rules and regulations adopted
 22 and promulgated by the Tax Commissioner.

23 (5) Wages and other payments subject to withholding shall
 24 mean payments that are subject to withholding under the Internal
 25 Revenue Code of 1986 and are (a) payments made by employers to
 26 employees, except such payments subject to 26 U.S.C. 3406, (b)
 27 payments of gambling winnings, or (c) pension or annuity payments
 1 when the recipient has requested the payor to withhold from such
 2 payments.

3 2. On page 47, line 16, after "matrix" insert "or".

4 3. On page 51, lines 3 and 12, strike "the" and insert
 5 "overstated as a"; and in line 22 after "(4)" insert "If any
 6 taxpayer, with intent to evade or defeat any income tax imposed by
 7 the Nebraska Revenue Act of 1967 or the payment thereof, claims an
 8 excessive number of exemptions or in any other manner overstates
 9 the amount of withholding, he or she shall be guilty of a Class II
 10 misdemeanor.".

11 4. On page 55, after line 21 insert the following new
 12 subsection:

13 "(14) If any employer or payor employing twenty-five or
 14 more employees who is required to withhold and pay over income tax
 15 imposed by the Nebraska Revenue Act of 1967 fails to either (a)
 16 withhold at least three percent of the wages of any employee or (b)
 17 obtain satisfactory evidence from the employee justifying a lower
 18 withholding amount as required by subdivision (1)(b) of section
 19 77-2753, the Tax Commissioner may impose, assess, and collect a
 20 penalty of not more than one thousand dollars per violation.".

21 5. On page 57, strike line 8 and insert

22 "(3) Livestock means all animals, including cattle,
 23 horses, sheep, goats, hogs, chickens, turkeys, and other species of

24 game birds and animals raised and produced subject to permit and
 25 regulation by the Game and Parks Commission or the Department of
 26 Agriculture;".

27 6. On page 93, line 5, after the last comma insert

1 "77-2753,".

2 7. Correct the operative date section so that the section
 3 added by this amendment becomes operative on January 1, 2008.

4 8. Renumber the remaining sections and correct internal
 5 references accordingly.

LEGISLATIVE BILL 155. Indefinitely postponed.

LEGISLATIVE BILL 168. Indefinitely postponed.

(Signed) Ray Janssen, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 50. Indefinitely postponed.

(Signed) Ray Aguilar, Chairperson

NOTICE OF COMMITTEE HEARINGS

Banking, Commerce and Insurance

Room 1507

LB 123	Monday, February 12, 2007	1:30 p.m.
LB 386	Monday, February 12, 2007	1:30 p.m.
LB 190	Monday, February 12, 2007	1:30 p.m.
LB 379	Tuesday, February 13, 2007	1:30 p.m.
LB 383	Tuesday, February 13, 2007	1:30 p.m.
LB 188	Tuesday, February 13, 2007	1:30 p.m.
LB 378	Tuesday, February 13, 2007	1:30 p.m.
LB 262	Tuesday, February 20, 2007	1:30 p.m.
LB 350	Tuesday, February 20, 2007	1:30 p.m.
LB 425	Tuesday, February 20, 2007	1:30 p.m.
LB 368	Monday, February 26, 2007	1:30 p.m.
LB 174	Monday, February 26, 2007	1:30 p.m.
LB 113	Monday, February 26, 2007	1:30 p.m.
LB 85	Tuesday, February 27, 2007	1:30 p.m.
LB 134	Tuesday, February 27, 2007	1:30 p.m.
LB 647	Tuesday, February 27, 2007	1:30 p.m.

(Signed) Rich Pahls, Chairperson

AMENDMENT - Print in Journal

Senator Erdman filed the following amendment to LB 111:
AM186

- 1 1. On page 10, line 11, strike "and" and show as
2 stricken; and in line 12 strike "thereafter", show as stricken, and
3 insert an underscored comma.
4 2. On page 12, line 2, after the second comma insert
5 "as a condition precedent to the issuance of a permit pursuant to
6 the Nebraska Milk Act."; in line 3 after "be" insert "paid to the
7 department on or before August 1 of each year"; and in line 19
8 strike "A" and insert "Beginning August 1, 2008, and on or before
9 each August 1 thereafter a".
10 3. On page 17, line 3, strike "Milk" and insert
11 "Beginning August 1, 2008, milk".
12 4. On page 26, strike beginning with "as" in line 15
13 through "act" in line 16, show the old matter as stricken, and
14 insert "for such period of time as is necessary to have the milk
15 free from drug residues".

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of February 1, 2007, 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

Austin, Jordan
National Rifle Association Institute for Legislative Action

Bromm, Curt
Papillion - La Vista Public Schools

Bunger, Charles K.
Commercial Property Owners, Nebraska Association of
Mercy Housing, Inc.
WAITT LLC

Canuteson, Beth
AT&T Corporation

Connealy, Matt
Democratic Party, Nebraska

Deppe, Jonah M.
League of Women Voters of Nebraska

Dudley, William H.
AFLAC

Egr, Mary Jane
Education Association, Nebraska State

Gilpin, Vicki
Nebraska Association of Convention and Visitors Bureaus

Goc, John J.
Keno Operators Association, Nebraska

Pederson, Donald W.
Assurity Life

Schmit Industries, Inc.
Moylan, James

Wortman, Sheri A., McHenry, Haszard, Hansen, Roth and Hupp
Lien, Susan

REPORTS

The following reports were received by the Legislature:

Health and Human Services System

- Credentialing Review Reports on the Proposals for a Change in Scope of Practice for Certified Nurse Midwives and to License Direct Entry Midwives
- State Disbursement Unit Report to the Legislature - Calendar Year 2006
- New Hire Report to the Legislature
- Number of Licenses Suspended Under the License Suspension Act - 2006 Annual Report

Insurance, Department of

- 2005 Annual Report of the Interstate Insurance Receivership Commission

Motor Vehicles, Department of

- 2006 Annual Report: Number of Operator's Licenses Suspended Under the License Suspension Act, LB 752 (Laws 1997)

GENERAL FILE

LEGISLATIVE BILL 97. Title read. Considered.

Advanced to E & R for review with 32 ayes, 0 nays, 10 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 67. Title read. Considered.

Committee AM142, found on page 419, was adopted with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 290. Title read. Considered.

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

LEGISLATIVE BILL 422. Title read. Considered.

Committee AM154, found on page 427, was adopted with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 204. Title read. Considered.

Committee AM167, found on page 428, was considered.

PRESIDENT SHEEHY PRESIDING

Senator Mines moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 29 ayes, 4 nays, and 16 not voting.

The committee amendment was adopted with 34 ayes, 3 nays, 7 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 27 ayes, 11 nays, 6 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 472. Title read. Considered.

Advanced to E & R for review with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 347. Title read. Considered.

Advanced to E & R for review with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 307. Title read. Considered.

Committee AM163, found on page 428, was adopted with 32 ayes, 0 nays, 8

present and not voting, and 9 excused and not voting.

Advanced to E & R for review with 34 ayes, 0 nays, 7 present and not voting, and 8 excused and not voting.

UNANIMOUS CONSENT - Time Change

Senator Synowiecki asked unanimous consent to permit the Nebraska Retirement Systems Committee to begin the hearing scheduled for Monday, February 12, 2007, at 9:00 a.m. rather than 12:15 p.m. No objections. So ordered.

NOTICE OF COMMITTEE HEARINGS

Business and Labor

Room 2102

LB 77	Monday, February 12, 2007	1:30 p.m.
LB 222	Monday, February 12, 2007	1:30 p.m.
LB 462	Monday, February 12, 2007	1:30 p.m.
LB 588	Monday, February 12, 2007	1:30 p.m.
LB 265	Monday, February 26, 2007	1:30 p.m.
LB 339	Monday, February 26, 2007	1:30 p.m.
LB 500	Monday, February 26, 2007	1:30 p.m.
LB 31	Monday, March 5, 2007	1:30 p.m.
LB 175	Monday, March 5, 2007	1:30 p.m.
LB 432	Monday, March 5, 2007	1:30 p.m.
LB 495	Monday, March 5, 2007	1:30 p.m.
LB 88	Monday, March 12, 2007	1:30 p.m.
LB 89	Monday, March 12, 2007	1:30 p.m.
LB 609	Monday, March 12, 2007	1:30 p.m.

(Signed) Abbie Cornett, Chairperson

COMMITTEE REPORTS

General Affairs

LEGISLATIVE BILL 441. Placed on General File.

(Signed) Vickie McDonald, Chairperson

Judiciary

LEGISLATIVE BILL 470. Placed on General File.

(Signed) Brad Ashford, Chairperson

AMENDMENT - Print in Journal

Senator Cornett filed the following amendment to LB 211:
AM59

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

UNANIMOUS CONSENT - Add Cointroducers

Senator Pedersen asked unanimous consent to add his name as cointroducer to LBs 220 and 384. No objections. So ordered.

Senator Engel asked unanimous consent to add his name as cointroducer to LB 304. No objections. So ordered.

VISITORS

Visitors to the Chamber were Senator Christensen's son, Steven Fish, from Imperial; 28 fourth-grade students and teacher from Longfellow Elementary, Hastings; James E. Doyle from Lexington; and 23 nursing students and teacher from Union College, Lincoln.

The Doctor of the Day was Dr. David Filipi from Omaha.

ADJOURNMENT

At 12:01 p.m., on a motion by Senator Wallman, the Legislature adjourned until 10:00 a.m., Monday, February 5, 2007.

Patrick J. O'Donnell
Clerk of the Legislature