

FORTY-SECOND DAY - MARCH 17, 2008**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
SECOND SESSION****FORTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska
Monday, March 17, 2008

PRAYER

The prayer was offered by Pastor Randall Knuth, Hope Lutheran Church, South Sioux City.

ROLL CALL

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

The roll was called and all members were present except Senators Cornett, Heidemann, Lautenbaugh, Nantkes, Preister, Synowiecki, and White who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-first day was approved.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 958. Placed on Select File with amendment.
ER8191

- 1 1. On page 1, strike beginning with "sections" in
- 2 line 1 through line 14 and insert "section 69-2409.01, Reissue
- 3 Revised Statutes of Nebraska, and section 28-608, Revised Statutes
- 4 Cumulative Supplement, 2006; to provide for an examination of
- 5 firearm-related violence and a hotline to report loss or theft
- 6 of a firearm; to repeal requirements for purchasing handguns;
- 7 to harmonize provisions; to repeal the original sections; and
- 8 to outright repeal sections 69-2401, 69-2403, 69-2407, 69-2708,
- 9 69-2409, 69-2412, 69-2413, 69-2414, 69-2415, 69-2416, 69-2417,
- 10 69-2420, 69-2421, 69-2422, 69-2423, 69-2424, and 69-2425, Reissue
- 11 Revised Statutes of Nebraska, and sections 69-2402, 69-2404,
- 12 69-2405, 69-2406, 69-2410, 69-2411, 69-2418, and 69-2419, Revised
- 13 Statutes Cumulative Supplement, 2006."
- 14 2. On page 2, strike lines 1 through 3.

LEGISLATIVE BILL 151. Placed on Select File with amendment.
ER8190

- 1 1. On page 3, line 26, strike "section" and insert "act".
- 2 2. On page 4, line 4, before "(a)" insert "Statute of
- 3 limitations."
- 4 3. On page 5, line 18, strike "2007" and insert "2008".

LEGISLATIVE BILL 724. Placed on Select File.

LEGISLATIVE BILL 726. Placed on Select File with amendment.
ER8194

- 1 1. On page 4, line 15, strike "of this act".

LEGISLATIVE BILL 726A. Placed on Select File.

LEGISLATIVE BILL 947. Placed on Select File.

LEGISLATIVE BILL 850. Placed on Select File with amendment.
ER8193

- 1 1. On page 1, strike beginning with "schools" in line 1
- 2 through line 4 and insert "education; to amend section 79-1232,
- 3 Reissue Revised Statutes of Nebraska; to provide for and change
- 4 provisions relating to insurance coverage for members of any school
- 5 board, board of education, learning community coordinating council,
- 6 or educational service unit board; to repeal the original section;
- 7 and to outright repeal section 79-502, Reissue Revised Statutes of
- 8 Nebraska."

LEGISLATIVE BILL 805. Placed on Select File.

LEGISLATIVE BILL 1004. Placed on Select File.

LEGISLATIVE BILL 754. Placed on Select File with amendment.
ER8195

- 1 1. On page 1, line 4, strike "and"; and in line 5 before
- 2 the period insert "; and to declare an emergency".

LEGISLATIVE BILL 893. Placed on Select File.

LEGISLATIVE BILL 865. Placed on Select File.

LEGISLATIVE BILL 728. Placed on Select File.

LEGISLATIVE BILL 775. Placed on Select File.

LEGISLATIVE BILL 848. Placed on Select File with amendment.
ER8198

- 1 1. On page 8, line 24; and page 9, line 14, after "vote"
- 2 insert an underscored comma.
- 3 2. On page 12, line 8, strike the third comma.
- 4 3. On page 14, line 3, after "member" insert an
- 5 underscored comma.

LEGISLATIVE BILL 1011. Placed on Select File with amendment.
ER8192

- 1 1. On page 1, line 3, after the second comma insert
- 2 "76-2217.02,"; and in line 8 after the comma insert "trainee real
- 3 property appraisers,".

LEGISLATIVE BILL 821. Placed on Select File with amendment.
ER8201

- 1 1. On page 3, line 11, after "the" insert "Risk Manager
- 2 or".

LEGISLATIVE BILL 845. Placed on Select File with amendment.
ER8196

- 1 1. On page 1, line 6, strike "correct obsolete
- 2 provisions" and insert "change provisions governing distribution
- 3 of civil penalties".
- 4 2. On page 7, lines 8, 9, 18, and 19, strike the comma;
- 5 and in line 10 strike "of".

LEGISLATIVE BILL 904. Placed on Select File.

LEGISLATIVE BILL 798. Placed on Select File with amendment.
ER8200

- 1 1. On page 1, strike beginning with "46-283" in line 1
- 2 through line 6 and insert "46-283, 46-287, and 46-299, Reissue
- 3 Revised Statutes of Nebraska, and sections 46-286 and 46-291,
- 4 Revised Statutes Cumulative Supplement, 2006; to change provisions
- 5 relating to irrigation water reuse pits, applications for transfer
- 6 of appropriations, and intentional underground water storage
- 7 permittees as prescribed; to harmonize provisions; and to repeal
- 8 the original sections."

LEGISLATIVE BILL 764. Placed on Select File with amendment.
ER8202

- 1 1. On page 4, line 11, after "the" insert "Nebraska
- 2 Veterinary Practice Act until December 1, 2008, and the" and before
- 3 the semicolon insert "on and after December 1, 2008".

LEGISLATIVE BILL 789. Placed on Select File with amendment.
ER8197

- 1 1. On page 1, strike beginning with "a" in line 3 through
- 2 line 4 and insert "provisions relating to grants; to repeal the
- 3 original section; and to declare an emergency."

LEGISLATIVE BILL 902. Placed on Select File with amendment.
ER8199

- 1 1. On page 1, line 5, after the semicolon insert "to
- 2 provide operative dates;".
- 3 2. On page 30, line 8, strike "Schedule", show as
- 4 stricken, and insert "Schedules".

LEGISLATIVE BILL 1067. Placed on Select File.

LEGISLATIVE BILL 838. Placed on Select File with amendment.
ER8206

- 1 1. On page 8, lines 9, 12, and 24, strike "return" and
- 2 show as stricken.

LEGISLATIVE BILL 1045. Placed on Select File.

LEGISLATIVE BILL 593. Placed on Select File.

LEGISLATIVE BILL 727. Placed on Select File.

LEGISLATIVE BILL 1145. Placed on Select File.

LEGISLATIVE BILL 1162. Placed on Select File.

LEGISLATIVE BILL 972. Placed on Select File.

LEGISLATIVE BILL 993. Placed on Select File.

LEGISLATIVE BILL 1103. Placed on Select File.

LEGISLATIVE BILL 710. Placed on Select File with amendment.
ER8205

- 1 1. On page 1, line 6, strike "section" and insert
- 2 "sections".
- 3 2. On page 2, line 19, strike "It", show as stricken, and
- 4 insert "Such authority".

LEGISLATIVE BILL 1048. Placed on Select File with amendment.
ER8203

- 1 1. In the Standing Committee amendments, AM1979, on page
- 2 2, line 3, strike "born".
- 3 2. On page 1, strike beginning with "71-601" in line 1
- 4 through line 4 and insert "71-606, Revised Statutes Supplement,
- 5 2007; to provide for certificates of birth resulting in stillbirth;
- 6 to repeal the original section; and to declare an emergency."

LEGISLATIVE BILL 1048A. Placed on Select File.

LEGISLATIVE BILL 572. Placed on Select File.

LEGISLATIVE BILL 1108. Placed on Select File with amendment.
ER8204

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 38-2112, Revised Statutes Supplement,
- 4 2007, is amended to read:
- 5 38-2112 Consultation means a professional collaborative
- 6 relationship between a licensed mental health practitioner and a

7 consultant who is a psychologist licensed to engage in the practice
 8 of psychology as provided in section 38-3111, ~~or~~ a qualified
 9 physician, or a licensed independent mental health practitioner in
 10 which (1) the consultant makes a diagnosis based on information
 11 supplied by the licensed mental health practitioner and any
 12 additional assessment deemed necessary by the consultant and (2)
 13 the consultant and the licensed mental health practitioner jointly
 14 develop a treatment plan which indicates the responsibility of each
 15 professional for implementing elements of the plan, updating the
 16 plan, and assessing the client's progress.

17 Sec. 2. Section 38-2115, Revised Statutes Supplement,
 18 2007, is amended to read:

19 38-2115 (1) Mental health practice means the provision
 20 of treatment, assessment, psychotherapy, counseling, or equivalent
 21 activities to individuals, couples, families, or groups for
 22 behavioral, cognitive, social, mental, or emotional disorders,
 23 including interpersonal or personal situations.

1 (2) Mental health practice does not include:

2 (a) The practice of psychology or medicine;

3 (b) Prescribing drugs or electroconvulsive therapy;

4 (c) Treating physical disease, injury, or deformity;

5 (d) Diagnosing major mental illness or disorder except in
 6 consultation with a qualified physician, ~~or~~ a psychologist licensed
 7 to engage in the practice of psychology as provided in section
 8 38-3111, or a licensed independent mental health practitioner;

9 (e) Measuring personality or intelligence for the purpose
 10 of diagnosis or treatment planning;

11 (f) Using psychotherapy with individuals suspected of
 12 having major mental or emotional disorders except in consultation
 13 with a qualified physician, a ~~or~~ licensed psychologist, or a
 14 licensed independent mental health practitioner; or

15 (g) Using psychotherapy to treat the concomitants of
 16 organic illness except in consultation with a qualified physician
 17 or licensed psychologist.

18 (3) Mental health practice includes the initial
 19 assessment of organic mental or emotional disorders for the purpose
 20 of referral or consultation.

21 (4) Nothing in sections 38-2114, 38-2118, and 38-2119
 22 shall be deemed to constitute authorization to engage in activities
 23 beyond those described in this section. Persons certified under the
 24 Mental Health Practice Act but not licensed under section 38-2122
 25 shall not engage in mental health practice.

26 Sec. 3. Section 38-2116, Revised Statutes Supplement,
 27 2007, is amended to read:

1 38-2116 (1) Mental health practitioner means a person who
 2 holds himself or herself out as a person qualified to engage in
 3 mental health practice or a person who offers or renders mental
 4 health practice services. Independent mental health practitioner
 5 means a person who holds himself or herself out as a person

6 qualified to engage in independent mental health practice or a
 7 person who offers or renders independent mental health practice
 8 services.

9 (2) A person who is licensed as a mental health
 10 practitioner ~~or an independent mental health practitioner~~ and
 11 certified as a master social worker may use the title licensed
 12 clinical social worker. A person who is licensed as a mental health
 13 practitioner ~~or an independent mental health practitioner~~ and
 14 certified as a professional counselor may use the title licensed
 15 professional counselor. A person who is licensed as a mental
 16 health practitioner ~~or an independent mental health practitioner~~
 17 and certified as a marriage and family therapist may use the
 18 title licensed marriage and family therapist. No person shall use
 19 the title licensed clinical social worker, licensed professional
 20 counselor, or licensed marriage and family therapist unless he or
 21 she is licensed and certified as provided in this subsection.

22 (3) A person who is licensed as an independent mental
 23 health practitioner and certified as a master social worker may
 24 use the title licensed independent clinical social worker. A person
 25 who is licensed as an independent mental health practitioner and
 26 certified as a professional counselor may use the title licensed
 27 independent professional counselor. A person who is licensed as an
 1 independent mental health practitioner and certified as a marriage
 2 and family therapist may use the title licensed independent
 3 marriage and family therapist. No person shall use the title
 4 licensed independent clinical social worker, licensed independent
 5 professional counselor, or licensed independent marriage and family
 6 therapist unless he or she is licensed and certified as provided in
 7 this subsection.

8 (3)-(4) A mental health practitioner shall not represent
 9 himself or herself as a physician or psychologist and shall not
 10 represent his or her services as being medical or psychological
 11 in nature. An independent mental health practitioner shall not
 12 represent himself or herself as a physician or psychologist.

13 Sec. 4. Section 38-2124, Revised Statutes Supplement,
 14 2007, is amended to read:

15 38-2124 (1) No person shall hold himself or herself out
 16 as an independent mental health practitioner unless he or she is
 17 licensed as such by the department. A person shall be qualified to
 18 be a licensed independent mental health practitioner if he or she:

19 (a)(i)(A) Graduated with a masters' or doctoral degree
 20 from an educational program which is accredited, at the time of
 21 graduation or within four years after graduation, by the Council
 22 for Accreditation of Counseling and Related Educational Programs,
 23 the Commission on Accreditation for Marriage and Family Therapy
 24 Education, or the Council on Social Work Education or (B) graduated
 25 with a masters' or doctoral degree from an educational program
 26 deemed by the board to be equivalent in didactic content and
 27 supervised clinical experience to an accredited program;

1 ~~(ii) Is licensed as a provisional mental health~~
 2 ~~practitioner or a licensed mental health practitioner; and~~
 3 ~~(ii)(A) Is licensed as a licensed mental health~~
 4 ~~practitioner or (B) is licensed as a provisional mental health~~
 5 ~~practitioner and has satisfactorily passed an examination approved~~
 6 ~~by the board pursuant to subdivision (3) of section 38-2122; and~~

7 (iii) Has three thousand hours of experience obtained
 8 in a period of not less than two nor more than five years and
 9 supervised by a licensed physician, a licensed psychologist, or a
 10 licensed independent mental health practitioner, one-half of which
 11 is comprised of experience with clients diagnosed under the major
 12 mental illness or disorder category; or

13 (b)(i) Graduated from an educational program which does
 14 not meet the requirements of subdivision (a)(i) of this subsection;

15 ~~(ii) Is licensed as a provisional mental health~~
 16 ~~practitioner or a mental health practitioner; and~~

17 ~~(ii)(A) Is licensed as a licensed mental health~~
 18 ~~practitioner or (B) is licensed as a provisional mental health~~
 19 ~~practitioner and has satisfactorily passed an examination approved~~
 20 ~~by the board pursuant to subdivision (3) of section 38-2122; and~~

21 (iii) Has seven thousand hours of experience obtained in
 22 a period of not less than ten years and supervised by a licensed
 23 physician, a licensed psychologist, or a licensed independent
 24 mental health practitioner, one-half of which is comprised of
 25 experience with clients diagnosed under the major mental illness or
 26 disorder category.

27 (2) The experience required under this section shall be
 1 documented in a reasonable form and manner as prescribed by the
 2 board, which may consist of sworn statements from the applicant and
 3 his or her employers and supervisors. The board shall not in any
 4 case require the applicant to produce individual case records.

5 (3) The application for an independent mental health
 6 practitioner license shall include the applicant's social security
 7 number.

8 Sec. 5. This act becomes operative on December 1, 2008.

9 Sec. 6. Original sections 38-2112, 38-2115, 38-2116, and
 10 38-2124, Revised Statutes Supplement, 2007, are repealed.

11 2. On page 1, line 2, after "38-2112" insert ", 38-2115,
 12 38-2116,"; and in line 4 strike "requirements" and insert "and
 13 practice provisions".

(Signed) Amanda McGill, Chairperson

SELECT FILE

LEGISLATIVE BILL 1094. ER8187, found on page 955, was adopted.

Senator Louden renewed his amendment, AM2318, found on page 938.

The Louden amendment was adopted with 32 ayes, 0 nays, 10 present and not voting, and 7 excused and not voting.

Senator Christensen renewed his amendment, AM2325, found on page 961.

The Christensen amendment was adopted with 33 ayes, 0 nays, 10 present and not voting, and 6 excused and not voting.

Senator Carlson offered the following amendment:
AM2365

(Amendments to AM2243)

- 1 1. On page 7, line 9, after "2-3226.04" insert "by or
- 2 through obligations of joint entities or joint public agencies
- 3 formed for the purposes described in section 2-3226.01".

The Carlson amendment was adopted with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 1094A. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 1157. ER8178, found on page 818, was adopted.

Senator Harms renewed his amendment, AM2169, found on page 799.

Senator Harms withdrew his amendment.

Senator Raikes offered the following amendment:
AM2356

(Amendments to Standing Committee amendments, AM2093)

- 1 1. On page 3, line 17, after "to" insert "the State
- 2 Department of Education".
- 3 2. On page 4, line 10, strike "to five"; and in line
- 4 11 before the period insert "one administrator from a school in
- 5 Nebraska, and one teacher from a school in Nebraska"; and in line
- 6 18 strike "the Legislature".
- 7 3. On page 5, line 11, after "For" insert "no later
- 8 than"; and in line 20 after "79-760.01" insert ". If no statewide
- 9 assessment of mathematics is administered in school year 2009-10,
- 10 school districts shall report mathematics assessment results in
- 11 the same manner as such information was reported in school year
- 12 2008-09".
- 13 4. On page 6, line 12, after "For" insert "no later
- 14 than".
- 15 5. On page 7, after line 26, insert the following new
- 16 paragraph:
- 17 "The department may determine appropriate accommodations

18 for the assessment of students with disabilities or any student
 19 receiving special education programs and services pursuant
 20 to section 79-1139. Alternate academic achievement standards
 21 in reading, mathematics, and science and alternate assessment
 22 instruments aligned with the standards may be among the
 1 accommodations for students with severe cognitive disabilities.".

Senator Raikes asked unanimous consent to withdraw his amendment, AM2356, found in this day's Journal, and replace it with his substitute amendment, AM2366. No objections. So ordered.

AM2366

(Amendments to Standing Committee amendments, AM2093)

- 1 1. On page 3, line 17, after "to" insert "the State
- 2 Department of Education".
- 3 2. On page 4, line 10, strike "to five"; and in line
- 4 11 before the period insert ", one administrator from a school in
- 5 Nebraska, and one teacher from a school in Nebraska"; and in line
- 6 18 strike "the Legislature".
- 7 3. On page 5, line 11, after "For" insert "no later
- 8 than"; and in line 20 after "79-760.01" insert ". If no statewide
- 9 assessment of mathematics is administered in school year 2009-10,
- 10 school districts shall report mathematics assessment results in
- 11 the same manner as such information was reported in school year
- 12 2008-09".
- 13 4. On page 6, line 12, after "For" insert "no later
- 14 than".
- 15 5. On page 7, after line 26, insert the following new
- 16 paragraph:
- 17 "The department may determine appropriate accommodations
- 18 for the assessment of students with disabilities or any student
- 19 receiving special education programs and services pursuant
- 20 to section 79-1139. Alternate academic achievement standards
- 21 in reading, mathematics, and science and alternate assessment
- 22 instruments aligned with the standards may be among the
- 1 accommodations for students with severe cognitive disabilities.".
- 2 6. On page 8, line 1, after "assessment" insert
- 3 "instruments".

The Raikes amendment was adopted with 29 ayes, 0 nays, 18 present and not voting, and 2 excused and not voting.

Pending.

COMMITTEE REPORTS

Business and Labor

LEGISLATIVE BILL 926. Placed on General File.

LEGISLATIVE BILL 1016. Placed on General File with amendment.

AM2322

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (a) The individual has registered as a contractor
13 pursuant to the Contractor Registration Act at least six months
14 prior to commencing construction work for the contractor;

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

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

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

25 Sec. 4. It is a violation of the Contractor Employee

26 Classification and Public Contract Duty Act for a contractor to
 27 designate an individual as an independent contractor who would be
 1 properly classified as an employee under section 3 of this act.

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

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

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

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

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

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

6 Sec. 6. It is a violation of the Contractor Employee
 7 Classification and Public Contract Duty Act for a contractor, or
 8 an agent of a contractor, to retaliate through discharge or in
 9 any other manner against an individual for exercising any right
 10 granted under the act. Rights granted under the act include making
 11 a complaint to the contractor or a governmental agency, bringing an
 12 action under the act, or participating in an investigation of an
 13 alleged violation of the act.

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

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

21 Contract Duty Act;

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

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

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

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

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

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

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

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

24 Sec. 8. The state or any political subdivision entering
 25 into a contract for construction shall require that each contractor
 26 who performs construction services pursuant to the contract
 27 submit an affidavit attesting that each individual performing
 1 services for such contractor is properly classified under the
 2 Contractor Employee Classification and Public Contract Duty Act,
 3 such contractor has a completed federal I-9 immigration form on
 4 file for each individual performing services, and such contractor
 5 has no reasonable basis to believe that such individual is an
 6 undocumented worker.

7 Sec. 9. Any contractor who knowingly provides a false
 8 affidavit under section 8 of this act to the state or a political
 9 subdivision shall be subject to the penalties for perjury and upon
 10 a second or subsequent violation shall not be permitted to contract
 11 with the state or any political subdivision for a period of three
 12 years after the date of discovery of the falsehood.

13 Sec. 10. The Contractor Employee Classification and
 14 Public Contract Duty Act shall not be construed to affect or
 15 apply to a common-law or statutory action providing for recovery in

16 tort and shall not be construed to affect or change the common-law
 17 interpretation of independent contractor status as it relates to
 18 tort liability or a workers' compensation claim.

LEGISLATIVE BILL 1019. Placed on General File with amendment.
 AM2334

1 1. On page 3, after line 2 insert the following new
 2 paragraphs:
 3 "\$49,500.00 for Tort Claim Number 02-858, against
 4 the Department of Health and Human Services, pay to Jennifer
 5 Hoover-Richardson and Nebraska Advocacy Services, Attorney, 134
 6 South 13th Street, Suite 600, Lincoln, Nebraska 68508, out of the
 7 General Fund.
 8 \$25,000.00 for Tort Claim Number 02-859, against the
 9 Department of Health and Human Services, pay to Theresa Liberte-Ray
 10 and Nebraska Advocacy Services, Attorney, 134 South 13th Street,
 11 Suite 600, Lincoln, Nebraska 68508, out of the General Fund.
 12 \$15,000.00 for Tort Claim Number 02-860, against the
 13 Department of Health and Human Services, pay to Ethel Hanger and
 14 Nebraska Advocacy Services, Attorney, 134 South 13th Street, Suite
 15 600, Lincoln, Nebraska 68508, out of the General Fund.
 16 \$17,500.00 for Tort Claim Number 02-861, against the
 17 Department of Health and Human Services, pay to Penny Greenbush and
 18 Nebraska Advocacy Services, Attorney, 134 South 13th Street, Suite
 19 600, Lincoln, Nebraska 68508, out of the General Fund.
 20 \$45,500.00 for Tort Claim Number 02-862, against the
 21 Department of Health and Human Services, pay to Elizabeth Morgan
 22 and Nebraska Advocacy Services, Attorney, 134 South 13th Street,
 23 Suite 600, Lincoln, Nebraska 68508, out of the General Fund.
 1 \$30,000.00 for Tort Claim Number 02-863, against
 2 the Department of Health and Human Services, pay to Selena
 3 Taylor-Yazowski and Nebraska Advocacy Services, Attorney, 134 South
 4 13th Street, Suite 600, Lincoln, Nebraska 68508, out of the General
 5 Fund.
 6 \$22,500.00 for Tort Claim Number 03-001, against the
 7 Department of Health and Human Services, pay to Mary Witter and
 8 Brett McArthur, Attorney, 140 South 27th Street, #D, Lincoln,
 9 Nebraska 68510, out of the General Fund."; after line 6 insert the
 10 following new paragraph:
 11 "\$20,000.00 for Tort Claim Number 03-152, against the
 12 Department of Health and Human Services, pay to Robin Heuertz and
 13 Nebraska Advocacy Services, Attorney, 134 South 13th Street, Suite
 14 600, Lincoln, Nebraska 68508, out of the General Fund."; after line
 15 10 insert the following new paragraphs:
 16 "\$10,500.00 for Tort Claim Number 03-892, against the
 17 Department of Health and Human Services, pay to Sara Medlin and
 18 Nebraska Advocacy Services, Attorney, 134 South 13th Street, Suite
 19 600, Lincoln, Nebraska 68508, out of the General Fund.
 20 \$10,000.00 for Tort Claim Number 03-893, against the

21 Department of Health and Human Services, pay to Tamica Starks and
 22 Nebraska Advocacy Services, Attorney, 134 South 13th Street, Suite
 23 600, Lincoln, Nebraska 68508, out of the General Fund.
 24 \$20,000.00 for Tort Claim Number 03-918, against the
 25 Department of Health and Human Services, pay to Kim Hudson and
 26 Nebraska Advocacy Services, Attorney, 134 South 13th Street, Suite
 27 600, Lincoln, Nebraska 68508, out of the General Fund.
 1 \$225,000 for Tort Claim Numbers 04-801 and 04-802,
 2 against the Department of Roads, pay to Theodore Neubert and
 3 Hauptman, O'Brien, Wolf and Lathrop, Attorney, 1005 South 107th
 4 Avenue, Suite 200, Omaha, Nebraska 68114-4707, out of the State
 5 Insurance Fund.
 6 \$75,000.00 for Tort Claim Numbers 00-577 and 99-686,
 7 against the Department of Health and Human Services, pay to
 8 Steven Renteria, Attorney, and the conservator for Keith Dwayne
 9 Nolen, Jr., Faith Almeda Nolen, Nathan James Lee Nolen, Charles
 10 Angus Burris, Richard Travis Burris, Zachary Michael Nolen, Ryan
 11 Allan Nolen, and Emma Louise Burris, 1905 Harney Street, Omaha,
 12 Nebraska 68102, out of the General Fund."; in line 12 strike
 13 "program 591" and insert "programs 591 and 594"; in line 16 strike
 14 "50,100.57" and insert "390,600.57"; after line 17 insert the
 15 following new line: "REVOLVING FUND 225,000.00"; and in line 18
 16 strike "9,950,311.15" and insert "10,515,600.57".

(Signed) Abbie Cornett, Chairperson

AMENDMENTS - Print in Journal

Senator Raikes filed the following amendment to LB973:
 AM2340

(Amendments to E & R amendments, ER8182)

- 1 1. On page 2, lines 23 and 24, strike "the average need
- 2 adjustment plus (iv)" and show as stricken.
- 3 2. On page 6, line 8, before "taxable" insert "total";
- 4 and in line 9 strike "section 13-509" and insert "the most recent
- 5 Certificate of Taxes Levied required under section 77-1613.01".

Senator Fischer filed the following amendment to LB846:
 AM2355

(Amendments to Standing Committee amendments, AM1731)

- 1 1. Insert the following new amendments:
- 2 "2. On page 15, after line 22 insert the following new
- 3 subsection:
- 4 "(8) The changes made to this section by this legislative
- 5 bill apply for tax periods beginning on and after January 1,
- 6 2009.".
- 7 3. On page 20, line 3; and page 23, line 1, after the
- 8 period insert "The changes made to this section by this legislative
- 9 bill apply for tax periods beginning on and after January 1,

10 2009.".

11 5. On page 20, lines 15 and 17, strike "months beginning"
 12 and insert "periods beginning on and after".

13 6. On page 23, line 5, after "gasoline" insert
 14 "calculated pursuant to section 10 of this act".

15 2. On page 1, line 9, strike "Commencing" and insert "For
 16 tax periods beginning on and after".

Senator Dubas filed the following amendment to LB1157:
 AM2363

(Amendments to Standing Committee amendments, AM2093)

- 1 1. On page 5, lines 8 and 18 and 19, strike "three
- 2 through" and insert "four, six, and".

MOTION - Print in Journal

Senator Dierks filed the following motion to LB1157:
 MO144

Indefinitely postpone.

AMENDMENTS - Print in Journal

Senator Louden filed the following amendment to LB1065:
 AM2307

(Amendments to Standing Committee amendments, AM1991)

- 1 1. On page 1, line 5, strike "hour".

Senator Ashford filed the following amendment to LB1014A:
 AM2345

(Amendments to Final Reading copy)

- 1 1. Insert the following new section:
- 2 Sec. 4. The General Fund appropriation for FY2008-09 to
- 3 the Department of Health and Human Services, for Program 33, is
- 4 hereby reduced by \$48,893.
- 5 Total expenditures for permanent and temporary salaries
- 6 and per diems are hereby reduced by \$34,518 for FY2008-09.
- 7 2. On page 1, line 3, after the semicolon insert "to
- 8 reduce an appropriation;".
- 9 3. Renumber the remaining section accordingly.

Senator Hudkins filed the following amendment to LB853:
 AM2114 is available in the Bill Room.

Senator Hudkins filed the following amendment to LB853:
 AM2354

- 1 1. On page 24, lines 12 through 25; and page 25, lines 1
- 2 through 9 and 11, strike the new matter and reinstate the stricken
- 3 matter.

Senator Hudkins filed the following amendment to LB853:
AM2352

- 1 1. On page 54, lines 11, 14, and 19; and page 55, line 5,
- 2 strike the new matter and reinstate the stricken matter.

Senator Hudkins filed the following amendment to LB853:
AM2353

- 1 1. Strike original section 13.
- 2 2. Renumber the remaining sections and correct internal
- 3 references and the repealer accordingly.

Senator Hudkins filed the following amendment to LB853:
AM2013

- 1 1. Insert the following new section:
- 2 Sec. 18. This act becomes operative only after adoption
- 3 of the changes made in this legislative bill by fifteen other
- 4 states.
- 5 2. On page 6, lines 19 and 20, strike the new matter and
- 6 insert "and sections 9, 12, and 18 of this act".
- 7 3. Renumber the remaining section accordingly.

VISITORS

Visitors to the Chamber were 18 fourth-grade students, teacher, and sponsors from Sutton; and Ann Drozd.

RECESS

At 11:54 a.m., on a motion by Senator Johnson, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Ashford, Cornett, Flood, and Louden who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 961. Title read. Considered.

Committee AM2139, found on page 918, was considered.

Senator Heidemann renewed the Heidemann et al. amendment, AM2323, found on page 961, to the committee amendment.

The Heidemann et al. amendment was adopted with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

The committee amendment, as amended, was adopted with 37 ayes, 0 nays, and 12 present and not voting.

Advanced to Enrollment and Review Initial with 44 ayes, 0 nays, and 5 present and not voting.

LEGISLATIVE BILL 960. Title read. Considered.

Committee AM2138, found on page 917, was adopted with 43 ayes, 0 nays, and 6 present and not voting.

Advanced to Enrollment and Review Initial with 42 ayes, 0 nays, and 7 present and not voting.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 1094. Placed on Final Reading.

ST9074

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

1. In the E & R amendments, ER8187, on page 1, line 6, "to change provisions relating to river-flow enhancement bonds; to provide for a collection fee;" has been inserted after the second semicolon; and in line 7 "to provide a duty for the Revisor of Statutes;" has been inserted after the semicolon.

LEGISLATIVE BILL 1094A. Placed on Final Reading.

(Signed) Amanda McGill, Chairperson

AMENDMENT - Print in Journal

Senators Janssen, Burling, Cornett, Dierks, Langemeier, Preister, Raikes, and White filed the following amendment to LB895:

AM2344

(Amendments to Standing Committee amendments, AM2082)

- 1 1. Insert the following new section:
- 2 Sec. 21. Since an emergency exists, this act takes effect
- 3 when passed and approved according to law.
- 4 2. Insert the following new amendments:
- 5 "2. On page 5, line 19, strike "or" and show as stricken;
- 6 and in line 20 after "(g)" insert "The research, development,
- 7 and maintenance of an Internet web portal. For purposes of this
- 8 subdivision, Internet web portal means an Internet site that allows
- 9 users to access, search, and navigate the Internet; or

10 (h)".

11 3. On page 7, strike beginning with the first comma in
12 line 6 through the last comma in line 11.

13 4. On page 13, line 4, after "employees" insert "or the
14 investment in qualified property of at least one hundred million
15 dollars and the hiring of at least fifty new employees. Agreements
16 may be executed with regard to completed project applications filed
17 before January 1, 2016. All project agreements pending, approved,
18 or entered into before such date shall continue in full force and
19 effect".

20 5. On page 15, line 9, after "application" insert ",
21 excluding any compensation in excess of one million dollars paid to
22 any one employee during the year,"; in line 16 before the semicolon
1 insert ", excluding any compensation in excess of one million
2 dollars paid to any one employee during the year,"; and strike lines
3 21 through 24 and insert "total compensation paid to all employees,
4 other than base year employees, excluding any compensation in
5 excess of one million dollars paid to any one employee during the
6 year, employed at the project,".

7 6. On page 22, strike beginning with "ad" in line 3
8 through "became" in line 4 and insert "real property taxes"; in
9 line 6 strike "on" and insert "for"; and in line 7 strike "located"
10 through "state" and insert "included in such project and acquired
11 by the taxpayer, whether by lease or purchase, after the date the
12 application was filed. The payment from the state shall be made
13 only after payment of the real property taxes have been made to the
14 county as required by law".

15 3. Renumber the remaining amendments and sections
16 accordingly.

GENERAL FILE

LEGISLATIVE BILL 959. Title read. Considered.

Committee AM2145, found on page 917, was considered.

SENATOR LANGEMEIER PRESIDING

Senator Erdman offered the following amendment to the committee amendment:

FA212

Amend AM2145

Strike Sec. 30.

Strike Sec. 31.

Senator Erdman moved for a call of the house. The motion prevailed with 34 ayes, 0 nays, and 15 not voting.

Senator Erdman requested a roll call vote on his amendment.

Voting in the affirmative, 20:

Avery	Hansen	Langemeier	Pahls	Raikes
Burling	Howard	Lathrop	Pankonin	Rogert
Erdman	Karpisek	Lautenbaugh	Pirsch	Wallman
Friend	Kopplin	McGill	Preister	White

Voting in the negative, 28:

Adams	Dierks	Gay	Kruse	Schimek
Aguilar	Dubas	Harms	Louden	Stuthman
Ashford	Engel	Heidemann	McDonald	Synowiecki
Carlson	Fischer	Hudkins	Nantkes	Wightman
Chambers	Flood	Janssen	Nelson	
Cornett	Fulton	Johnson	Pedersen	

Present and not voting, 1:

Christensen

The Erdman amendment lost with 20 ayes, 28 nays, and 1 present and not voting.

The Chair declared the call raised.

Senator White offered the following amendment to the committee amendment:

FA216

Amend AM2145

On page 4 line 21 strike the \$600,000 additional appropriation to the Attorney Generals Program No 508.

SENATOR ERDMAN PRESIDING

Senator White withdrew his amendment.

Senator Chambers offered the following amendment to the committee amendment:

FA217

Amend AM2145

On page 4, lines 21 and 22, strike "600,000" and insert "1,200,000".

Senator Chambers moved for a call of the house. The motion prevailed with 29 ayes, 1 nay, and 19 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 15:

Ashford	Chambers	Gay	Pankonin	Schimek
Avery	Dierks	Janssen	Raikes	Stuthman
Carlson	Flood	Louden	Rogert	Wallman

Voting in the negative, 26:

Adams	Fulton	Karpisek	McDonald	White
Christensen	Hansen	Kopplin	McGill	Wightman
Dubas	Harms	Kruse	Nantkes	
Engel	Heidemann	Langemeier	Nelson	
Erdman	Howard	Lathrop	Pirsch	
Friend	Hudkins	Lautenbaugh	Synowiecki	

Present and not voting, 5:

Aguilar	Fischer	Johnson	Pahls	Preister
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Excused and not voting, 3:

Burling	Cornett	Pedersen
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The Chambers amendment lost with 15 ayes, 26 nays, 5 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

The committee amendment was adopted with 28 ayes, 3 nays, 15 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 27 ayes, 10 nays, 8 present and not voting, and 4 excused and not voting.

COMMITTEE REPORT

Judiciary

LEGISLATIVE BILL 1130. Placed on General File with amendment. AM2330 is available in the Bill Room.

(Signed) Brad Ashford, Chairperson

AMENDMENTS - Print in Journal

Senator Raikes filed the following amendment to LB988:
AM2358

(Amendments to Standing Committee amendments, AM2128)

- 1 1. Strike sections 1, 8, 32, 45, and 49 and insert the
- 2 following new section:
- 3 Sec. 7. Section 79-1003.01, Revised Statutes Supplement,

4 2007, is amended to read:

5 ~~79-1003.01 (1) For purposes of this section and section~~
 6 ~~79-1007.03, school fiscal year 2008-09, the department shall~~
 7 calculate a summer school allowance for each district equal to
 8 two and one-half percent of the summer school student units for
 9 such district multiplied by eighty-five percent of the statewide
 10 average general fund operating expenditures per formula student.
 11 For purposes of this subsection, summer school student unit means
 12 one student enrolled in summer school in a school district, whether
 13 or not the student is in the membership of the school district,
 14 for (1) at least three hours but fewer than six hours per day
 15 and (2) at least twelve days but fewer than twenty-four days. Each
 16 school district shall receive a summer school student unit for each
 17 qualified time period for which a student is enrolled, up to six
 18 units per student per summer.

19 (2) For school fiscal year 2009-10 and each school fiscal
 20 year thereafter, the department shall calculate a summer school
 21 allowance for each district equal to two and one-half percent of
 22 the summer school student units for such district multiplied by
 1 eighty-five percent of the statewide average general fund operating
 2 expenditures per formula student. Summer school student units shall
 3 be calculated for each student enrolled in summer school in a
 4 school district who attends such summer school for at least twelve
 5 days, whether or not the student is in the membership of the school
 6 district. The initial number of units for each such student shall
 7 equal the sum of the ratios, each rounded down to the nearest whole
 8 number, of the number of days for which the student attended summer
 9 school classes in such district for at least three hours and less
 10 than six hours per day divided by twelve days and of two times the
 11 number of days for which the student attended summer school classes
 12 in such district for six or more hours per day divided by twelve
 13 days.

14 (3) Each school district shall receive an additional
 15 summer school student unit for each summer school student unit
 16 attributed to remedial math or reading programs. Each school
 17 district shall also receive an additional summer school student
 18 unit for each summer school student unit attributed to a free
 19 lunch and free milk student. This section does not prevent school
 20 districts from requiring and collecting fees for summer school,
 21 except that summer school student units shall not be calculated
 22 for ~~summer school programs for which fees are collected~~ school
 23 districts which collect fees for summer school from students who
 24 qualify for free or reduced-price lunches under United States
 25 Department of Agriculture child nutrition programs.

26 2. On page 13, line 14; page 93, line 19; page 94, lines
 27 23 and 24 and 25; page 95, lines 3, 4, 15, 21, and 25; and page
 1 96, lines 1, 12, and 16, strike the new matter and reinstate the
 2 stricken matter.

3 3. On page 43, strike beginning with "final" in line

- 4 4 through "79-1065" in line 5 and insert "certification of aid
 5 pursuant to section 79-1022".
- 6 4. On page 75, lines 11 through 14, strike the new
 7 matter.
- 8 5. On page 92, line 24; and page 93, line 5, strike
 9 "assessed" and insert "adjusted".
- 10 6. On page 93, lines 21 through 25, reinstate the
 11 stricken matter; and in line 27 strike the new matter and reinstate
 12 the stricken matter.
- 13 7. On page 94, line 1, strike the new matter; in
 14 lines 2 through 9, reinstate the stricken matter; in line 11
 15 strike "assessed"; reinstate the stricken matter beginning with
 16 "(3)" in line 12 through the comma in line 14; in line 14
 17 after the stricken "hundred" insert "ninety-six"; reinstate the
 18 stricken matter beginning with "percent" in line 14 through the
 19 comma in line 15; in line 15 after the stricken "seventy-five"
 20 insert "seventy-two"; reinstate the stricken matter beginning with
 21 "percent" in line 16 through the comma in line 18; in line 18 after
 22 the stricken "seventy-five" insert "seventy-two"; reinstate the
 23 stricken matter beginning with "percent" in line 18 through line
 24 21; in line 22 strike the new matter and reinstate the stricken
 25 matter; and in line 26, reinstate the stricken matter.
- 26 8. On page 95, lines 13 and 24; page 96, lines 15, 18,
 27 and 19; and page 100, line 14, strike the new matter and reinstate
 1 the stricken matter.
- 2 9. Amend the repealer, correct internal references, and
 3 renumber the remaining sections accordingly.

Senator Gay filed the following amendment to LB988:

AM2383

(Amendments to Standing Committee amendments, AM2128)

- 1 1. Strike section 4.
- 2 2. Renumber the remaining sections and correct internal
- 3 references accordingly.

Senator Raikes filed the following amendment to LB973:

AM2388

(Amendments to E & R amendments, ER8182)

- 1 1. On page 2, lines 23 and 24, strike "the average need
 2 adjustment plus (iv)" and show as stricken.
- 3 2. On page 5, line 24, after "total" insert "taxable";
 4 and in line 25 strike "of", show as stricken, and insert "from
 5 the most recent Certificate of Taxes Levied required under section
 6 77-1613.01 for".
- 7 3. On page 6, line 8, before "taxable" insert "total";
 8 and in line 9 strike "section 13-509" and insert "the most recent
 9 Certificate of Taxes Levied required under section 77-1613.01".

Senator Johnson filed the following amendment to LB245:
AM2317

(Amendments to Standing Committee amendments, AM542)

- 1 1. On page 1, line 9, after "shall" insert ", no later
- 2 than June 1, 2010,".
- 3 2. On page 2, lines 7 and 8, strike "May 1, 2009" and
- 4 insert "June 1, 2010".

UNANIMOUS CONSENT - Add Cointroducer

Senator Kopplin asked unanimous consent to add his name as cointroducer to LB784. No objections. So ordered.

SPEAKER FLOOD PRESIDING

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 261, 262, 263, 264, 265, and 266 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 261, 262, 263, 264, 265, and 266.

VISITOR

The Doctor of the Day was Dr. Carol LaCroix from Omaha.

ADJOURNMENT

At 5:26 p.m., on a motion by Senator Wallman, the Legislature adjourned until 9:00 a.m., Tuesday, March 18, 2008.

Patrick J. O'Donnell
Clerk of the Legislature

