

**TWENTY-THIRD DAY - FEBRUARY 9, 2010****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
SECOND SESSION****TWENTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, February 9, 2010

**PRAYER**

The prayer was offered by Pastor Aaron Householder, Southview Baptist Church, Lincoln.

**ROLL CALL**

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

The roll was called and all members were present except Senators Cook and Pahls who were excused; and Senators Heidemann and Karpisek who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-second day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 190A.** Placed on Final Reading.  
**LEGISLATIVE BILL 373.** Placed on Final Reading.  
**LEGISLATIVE BILL 690.** Placed on Final Reading.  
**LEGISLATIVE BILL 691.** Placed on Final Reading.  
**LEGISLATIVE BILL 736.** Placed on Final Reading.  
**LEGISLATIVE BILL 751.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

**ANNOUNCEMENTS**

Senator Heidemann designates LB771 as his priority bill.

Senator McCoy designates LB742 as his priority bill.

**COMMITTEE REPORTS**

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 737.** Indefinitely postponed.**LEGISLATIVE BILL 826.** Indefinitely postponed.**LEGISLATIVE BILL 839.** Indefinitely postponed.**LEGISLATIVE BILL 1035.** Indefinitely postponed.

(Signed) Bill Avery, Chairperson

**RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 303, 304, 305, 306, and 307 were adopted.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 303, 304, 305, 306, and 307.

**SELECT FILE****LEGISLATIVE BILL 791.** ER8154, found on page 405, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 743.** Senator Fischer renewed her amendment, AM1797, found on page 497.

The Fischer amendment was adopted with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 871.** Advanced to Enrollment and Review for Engrossment.**LEGISLATIVE BILL 749.** Advanced to Enrollment and Review for Engrossment.**LEGISLATIVE BILL 816.** ER8155, found on page 429, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 788.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 705.** ER8156, found on page 443, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 725.** ER8158, found on page 453, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 762.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 708.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 806.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 873.** Senator Fulton renewed his amendment, AM1765, found on page 497.

The Fulton amendment was adopted with 28 ayes, 0 nays, 18 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 667.** ER8157, found on page 454, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 711.** Senator Dierks offered the following amendment:

AM1804

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

The Dierks amendment was adopted with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 797.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 832.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 911.** Advanced to Enrollment and Review for

Engrossment.

### GENERAL FILE

**LEGISLATIVE BILL 890.** Title read. Considered.

Advanced to Enrollment and Review Initial with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 891.** Title read. Considered.

Advanced to Enrollment and Review Initial with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 892.** Title read. Considered.

Advanced to Enrollment and Review Initial with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 643.** Title read. Considered.

Committee AM1620, found on page 406, was adopted with 28 ayes, 0 nays, 18 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 723.** Title read. Considered.

Advanced to Enrollment and Review Initial with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

### COMMITTEE REPORTS

#### Judiciary

**LEGISLATIVE BILL 703.** Placed on General File.

**LEGISLATIVE BILL 258.** Placed on General File with amendment.  
AM1803

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 53-101, Revised Statutes Cumulative
- 4 Supplement, 2008, is amended to read:
- 5 53-101 Sections 53-101 to 53-1,122 and section 3 of this
- 6 act shall be known and may be cited as the Nebraska Liquor Control
- 7 Act.
- 8 Sec. 2. Section 53-180.05, Reissue Revised Statutes of
- 9 Nebraska, is amended to read:
- 10 53-180.05 (1) Any person violating section 53-180 shall

11 be guilty of a Class I misdemeanor. Any person violating any of the  
 12 provisions of ~~sections 53-180.01 to~~ section 53-180.01 or 53-180.03  
 13 shall be guilty of a Class III misdemeanor. Any person older  
 14 than eighteen years of age and under the age of twenty-one years  
 15 violating section 53-180.02 is guilty of a Class III misdemeanor.  
 16 Any person eighteen years of age or younger violating section  
 17 53-180.02 is guilty of a misdemeanor as provided in section 3 of  
 18 this act and shall be punished as provided in such section.

19 (2) Any person who knowingly manufactures, creates, or  
 20 alters any form of identification for the purpose of sale or  
 21 delivery of such form of identification to a person under the age  
 22 of twenty-one years shall be guilty of a Class I misdemeanor. For  
 23 purposes of this subsection, form of identification means any card,  
 1 paper, or legal document that may be used to establish the age of  
 2 the person named thereon for the purpose of purchasing alcoholic  
 3 liquor.

4 (3) When a minor is arrested for a violation of sections  
 5 53-180 to 53-180.02 or subsection (2) of this section, the law  
 6 enforcement agency employing the arresting peace officer shall make  
 7 a reasonable attempt to notify such minor's parent or guardian of  
 8 the arrest.

9 Sec. 3. The penalty for violation of section 53-180.02 by  
 10 a person eighteen years of age or younger shall be as follows:

11 (1) If the person convicted or adjudicated of violating  
 12 such section has one or more licenses or permits issued under the  
 13 Motor Vehicle Operator's License Act:

14 (a) For the first offense, such person is guilty of  
 15 a Class III misdemeanor and the court shall, as a part of the  
 16 judgment of conviction or adjudication, impound any such licenses  
 17 or permits for thirty days and require such person to attend an  
 18 alcohol education class;

19 (b) For a second offense, such person is guilty of a  
 20 Class III misdemeanor and the court, as a part of the judgment of  
 21 conviction or adjudication, shall (i) impound any such licenses or  
 22 permits for ninety days and (ii) require such person to complete no  
 23 fewer than twenty and no more than forty hours of community service  
 24 and to attend an alcohol education class; and

25 (c) For a third or subsequent offense, such person is  
 26 guilty of a Class III misdemeanor and the court, as a part of  
 27 the judgment of conviction or adjudication, shall (i) impound any  
 1 such licenses or permits for twelve months and (ii) require such  
 2 person to complete no fewer than sixty hours of community service,  
 3 to attend an alcohol education class, and to submit to an alcohol  
 4 assessment by a licensed alcohol and drug counselor.

5 (2) If the person convicted or adjudicated of violating  
 6 such section does not have a permit or license issued under the  
 7 Motor Vehicle Operator's License Act:

8 (a) For the first offense, such person is guilty of a  
 9 Class III misdemeanor and the court, as part of the judgment of

10 conviction or adjudication, shall (i) prohibit such person from  
 11 obtaining any permit or any license pursuant to the act for which  
 12 such person would otherwise be eligible until thirty days after  
 13 the date of such order and (ii) require such person to attend an  
 14 alcohol education class;

15 (b) For a second offense, such person is guilty of a  
 16 Class III misdemeanor and the court, as part of the judgment of  
 17 conviction or adjudication, shall (i) prohibit such person from  
 18 obtaining any permit or any license pursuant to the act for which  
 19 such person would otherwise be eligible until ninety days after  
 20 the date of such order and (ii) require such person to complete no  
 21 fewer than twenty hours and no more than forty hours of community  
 22 service and to attend an alcohol education class; and

23 (c) For a third or subsequent offense, such person is  
 24 guilty of a Class III misdemeanor and the court, as part of the  
 25 judgment of conviction or adjudication, shall (i) prohibit such  
 26 person from obtaining any permit or any license pursuant to the  
 27 act for which such person would otherwise be eligible until twelve  
 1 months after the date of such order and (ii) require such person to  
 2 complete no fewer than sixty hours of community service, to attend  
 3 an alcohol education class, and to submit to an alcohol assessment  
 4 by a licensed alcohol and drug counselor.

5 (3) A copy of an abstract of the court's conviction or  
 6 adjudication shall be transmitted to the Director of Motor Vehicles  
 7 pursuant to sections 60-497.01 to 60-497.04.

8 Sec. 4. Original section 53-180.05, Reissue Revised  
 9 Statutes of Nebraska, and section 53-101, Revised Statutes  
 10 Cumulative Supplement, 2008, are repealed.

(Signed) Brad Ashford, Chairperson

Revenue

**LEGISLATIVE BILL 879.** Placed on General File with amendment.  
 AM1798

- 1 1. On page 31, line 13, after "under" insert "subsection
- 2 (3) of".
- 3 2. On page 52, line 16, after "to" insert ", but not
- 4 incorporated into,"; and strike beginning with "incorporated" in
- 5 line 22 through "to" in line 23 and insert "(A) incorporated into
- 6 real estate as a part of a project and (B) annexed to, but not
- 7 incorporated into,".

(Signed) Abbie Cornett, Chairperson

Banking, Commerce and Insurance

**LEGISLATIVE BILL 759.** Placed on General File.

**LEGISLATIVE BILL 760.** Placed on General File.

(Signed) Pete Pirsch, Vice Chairperson

**AMENDMENTS - Print in Journal**

Senator Gloor filed the following amendment to LB713:  
AM1792

(Amendments to Standing Committee amendments, AM1687)

- 1 1. On page 1, line 15, after "act" insert "or other
- 2 qualified provider as identified by the department in rules and
- 3 regulations adopted pursuant to section 79-249".

Senator Karpisek filed the following amendment to LB867:  
AM1801

- 1 1. Insert the following new section:
- 2 Sec. 3. Section 53-138.01, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 53-138.01 The State Treasurer shall credit forty dollars
- 5 of each state registration fee to the General Fund and the
- 6 remaining five dollars to the Nebraska Liquor Control Commission
- 7 Rule and Regulation Cash Fund to be used for providing licensees
- 8 with materials pursuant to section 53-117.05. All retail license
- 9 fees received by the city or village treasurer, as the case may
- 10 be, shall inure to the school fund of the district lying wholly
- 11 or partially within the corporate limits of such city or village.
- 12 ~~The Except as otherwise provided in section 53-123.15, the State~~
- 13 Treasurer shall credit all license fees received by the commission
- 14 for licenses issued pertaining to alcoholic liquor, including beer,
- 15 to the temporary school fund to be used for the support of the
- 16 common schools as provided in Article VII, section 5, of the
- 17 Constitution of Nebraska. All retail license fees received by the
- 18 county treasurer, as provided in section 53-124, shall be credited
- 19 to the school fund of the county.
- 20 2. Renumber the remaining section and correct the
- 21 repealer accordingly.

Senator Giese filed the following amendment to LB746:  
AM1795

(Amendments to Standing Committee amendments, AM1669)

- 1 1. On page 1, line 14, strike "Mexican-Americans" and
- 2 insert "Latino-Americans".
- 3 2. On page 2, strike beginning with "representative" in
- 4 line 12 through "and" in line 13 and insert "member of the".

**GENERAL FILE**

**LEGISLATIVE BILL 787.** Title read. Considered.

**SENATOR ROBERT PRESIDING**

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 914.** Title read. Considered.

Advanced to Enrollment and Review Initial with 29 ayes, 0 nays, 12 present and not voting, and 8 excused and not voting.

**COMMITTEE REPORTS**

## Judiciary

**LEGISLATIVE BILL 732.** Placed on General File with amendment.  
AM1727

- 1 1. Insert the following new section:
- 2 Sec. 4. Section 76-1009, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 76-1009 On the date and at the time and place designated
- 5 in the notice of sale, the trustee shall sell the property at
- 6 public auction to the highest bidder. The attorney for the trustee
- 7 may conduct the sale. Any person, including the beneficiary, may
- 8 bid at the sale. Every bid shall be deemed an irrevocable offer.
- 9 If the purchaser refuses to pay the amount bid by him or her for
- 10 the property struck off to him or her at the sale, the trustee may
- 11 again sell the property at any time to the highest bidder, except
- 12 that notice of the sale shall be given again in the same manner
- 13 as the original notice of sale was required to be given. The party
- 14 refusing to pay shall be liable for any loss occasioned thereby,
- 15 and the trustee may also, in his or her discretion, thereafter
- 16 reject any other bid of such person.
- 17 The person conducting the sale may, for any cause he or
- 18 she deems expedient, postpone the sale of all or any portion of the
- 19 property from time to time until it is completed and, in every such
- 20 case, notice of postponement shall be given by public declaration
- 21 thereof by such person at the time and place last appointed for the
- 22 sale. The public declaration of the notice of postponement shall
- 23 include the new date, time, and place of sale. No other notice of
- 1 the postponed sale need be given unless the sale is postponed for
- 2 longer than forty-five days beyond the day designated in the notice
- 3 of sale in which event notice thereof shall be given in the same
- 4 manner as the original notice of sale is required to be given.
- 5 2. On page 2, line 15; page 3, line 17; and page 4, line
- 6 17, after the period insert "The public declaration of the notice
- 7 of postponement shall include the new date, time, and place of



- 8 sale".  
9 3. On page 4, line 22, after the third comma insert  
10 "76-1009".  
11 4. Renumber the remaining sections accordingly.

**LEGISLATIVE BILL 1047.** Placed on General File with amendment.  
AM1812

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

(Signed) Brad Ashford, Chairperson

### VISITORS

Visitors to the Chamber were Patrick Gray from Lincoln; Brian, Suzanne, Elizabeth, and Elliott Csipkes from Gretna; Vera and Gary Salmon from Lincoln and Carol Remmers from Beatrice; 40 twelfth-grade students and teachers from Benson High School, Omaha; and members of Scottsbluff Rotary Club from Scottsbluff.

The Doctor of the Day was Dr. Roger Meyer from Utica.

### ADJOURNMENT

At 11:55 a.m., on a motion by Speaker Flood, the Legislature adjourned until 10:00 a.m., Wednesday, February 10, 2010.

Patrick J. O'Donnell  
Clerk of the Legislature

