

**FORTY-FIRST DAY - MARCH 12, 2010****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
SECOND SESSION****FORTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, March 12, 2010

**PRAYER**

The prayer was offered by Pastor Fay Hubbard, Ellis/Odell United Methodist Church.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Flood presiding.

The roll was called and all members were present except Senators Ashford, Cook, Krist, and Pahls who were excused; and Senator Gloor who was excused until he arrives.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fortieth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 1081.** Placed on Select File with amendment.  
ER8189

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

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

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

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

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

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

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

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

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

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

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

12 (2) The application shall contain:

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

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

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

20 (d) An application fee of five hundred dollars. The fee  
21 shall be remitted to the State Treasurer for credit to the Nebraska  
22 Incentives Fund.

23 The application and all supporting information shall be  
24 confidential except for the name of the employer and the amounts of  
25 increased employment.

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

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

2 (c) An employer and the director may enter into  
3 agreements for more than one project, up to a total of five  
4 approved project applications filed in fiscal year 2010-11.  
5 The projects may be either sequential or concurrent. No new  
6 qualifying employees shall be included in more than one project  
7 for meeting the project requirements or the creation of job

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

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

22 (4) After approval, the employer and the director shall  
23 enter into a written agreement. The employer shall agree to  
24 complete the project, and the director, on behalf of the State of  
25 Nebraska, shall designate the approved plans of the employer as a  
26 project and, in consideration of the employer's agreement, agree  
27 to allow the employer to receive the job training reimbursements  
1 contained in the Teleworker Job Creation Act up to the total  
2 amount of job training reimbursements that were authorized by the  
3 director. The application and all supporting documentation, to the  
4 extent approved, shall be considered a part of the agreement. The  
5 agreement shall state:

6 (a) The number of qualifying employees required by the  
7 act for the project;

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

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

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

13 (e) The maximum amount of job training reimbursements  
14 authorized.

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

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

25 (3) The director shall approve or refuse to approve  
26 a training program, and such decision shall be received by the  
27 employer within thirty days after the employer submits the training  
1 program for review or the training program shall be deemed to  
2 be approved, unless the employer and director agree to extend

3 the thirty-day period. If the thirty-day period, or such extended  
4 period, lapses without receipt of the approval or denial by the  
5 director, the employer may file its application for an agreement  
6 with the director under the act with a statement signed by a  
7 corporate officer, partner, member, or owner of the employer,  
8 stating that the director failed to issue an approval of or refusal  
9 to approve the employer's training program within the time period  
10 established by this section. This statement shall be accepted by  
11 the director in lieu of an approval letter.

12 Sec. 6. (1) Job training reimbursements shall be made  
13 to any employer who has an approved application pursuant to the  
14 Teleworker Job Creation Act and who trains at least four hundred  
15 qualifying employees in a qualified training program within three  
16 hundred sixty-five calendar days from the application filing date  
17 and offers employment to those qualifying employees to work for  
18 the employer as a teleworker. The employer shall, to the extent  
19 of available job positions, give a hiring priority preference,  
20 over other similarly qualified applicants, to those applicants who  
21 (a) reside in Nebraska counties of less than one hundred thousand  
22 inhabitants, as determined by the most recent federal decennial  
23 census, with such residence as determined by the statement of  
24 the qualifying employee on his or her employment application, or  
25 (b) reside in areas of high concentration of poverty within the  
26 corporate limits of a city or village consisting of one or more  
27 contiguous census tracts, as determined by the most recent federal  
1 decennial census, which contain a percentage of persons below the  
2 poverty line of greater than thirty percent, and all census tracts  
3 contiguous to such tract or tracts, as determined by the most  
4 recent federal decennial census. Such job positions shall pay a  
5 wage of at least the then-required minimum hourly wage required by  
6 federal law.

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

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

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

25 Sec. 9. (1) The right to job training reimbursements  
 26 and the agreement under the Teleworker Job Creation Act shall  
 27 not be transferable except when a project covered by an agreement  
 1 is transferred by sale or lease to another employer or in an  
 2 acquisition of assets qualifying under section 381 of the Internal  
 3 Revenue Code of 1986.

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

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

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

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

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

21 2. On page 1, strike beginning with "amend" in line 1  
 22 through line 5 and insert "adopt the Teleworker Job Creation Act;  
 23 and to declare an emergency.".

**LEGISLATIVE BILL 948.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 374.** Introduced by Cook, 13.

WHEREAS, the Newman United Methodist Church of Lincoln, Nebraska, serves the spiritual needs of its community through ministry, worship, fellowship, study, and outreach; and

WHEREAS, on March 14, 2010, the Newman United Methodist Church hosts its annual Women's Day.

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

1. That the Legislature expresses its appreciation to the Newman United Methodist Church of Lincoln, Nebraska, and its members for their service to the community and the special recognition that they give to the contributions of women at their annual Women's Day.

2. That a copy of this resolution be sent to the Newman United Methodist Church.

Laid over.

**LEGISLATIVE RESOLUTION 375.** Introduced by Cook, 13.

WHEREAS, the 2010 Midwest Regional Conference of Grand Masters and Masons, Grand Chapters and Eastern Stars will be held in Omaha, Nebraska, from March 11, 2010, through March 13, 2010; and

WHEREAS, the Most Worshipful Prince Hall Grand Lodge of Nebraska and the Amaranthus Grand Chapter - Order of the Eastern Stars (Prince Hall Affiliate, Nebraska) have the honor of hosting the conference.

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

1. That the Legislature hereby welcomes those attending the 2010 Midwest Regional Conference of Grand Masters and Masons, Grand Chapters and Eastern Stars.

2. That the Legislature expresses its appreciation to the Most Worshipful Prince Hall Grand Lodge of Nebraska and the Amaranthus Grand Chapter - Order of the Eastern Stars (Prince Hall Affiliate, Nebraska) for hosting the conference.

3. That a copy of this resolution be sent to the Most Worshipful Prince Hall Grand Lodge of Nebraska and the Amaranthus Grand Chapter - Order of the Eastern Stars (Prince Hall Affiliate, Nebraska).

Laid over.

**LEGISLATIVE RESOLUTION 376.** Introduced by Avery, 28.

WHEREAS, Mollie McNeel, a sophomore at Lincoln Northeast High School, won gold in the Girls' 500-yard Freestyle at the 2010 State Swimming and Diving Championship on February 27, 2010; and

WHEREAS, Mollie McNeel's time of 5:02 was not only a personal best, but also a school record at Lincoln Northeast High School; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

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

1. That the Legislature congratulates Mollie McNeel on winning the Girls' 500-yard Freestyle at the 2010 State Swimming and Diving Championship.

2. That a copy of this resolution be sent to Mollie McNeel.

Laid over.

**REPORTS**

The following reports were received by the Legislature:

**Administrative Services, Department of**

Division of Risk Management – Miscellaneous Claim Report for 2009

Division of Risk Management – State Self-Insured Liability Fund Claims Report

Division of Risk Management – Tort Claim Payments Report

**Auditor of Public Accounts**

Retirement Systems, Public Employees Retirement Systems - School Employees, Judges, and State Patrol Retirement Plans, Audit Report

Retirement Plans for the year ended June 30, 2009

**Correctional Services, Department of**

35th Annual Report and Statistical Summary

**Fiscal Office, Legislative**

Monthly Consensus Estimate of General Fund Receipts

**Revenue, Nebraska Department of**

Monthly Consensus Estimate of General Fund Receipts

**Roads, Nebraska Department of**

State Highway Commission Quarterly Reports

**University of Nebraska**

University of Nebraska at Omaha – School of Criminology & Criminal Justice: Nebraska Trends in Adult Justice

University of Nebraska at Omaha – School of Criminology & Criminal Justice: Nebraska Trends in Juvenile Justice

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of March 11, 2010, 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

Miller, Jeffrey T.

Veterans of Foreign Wars (Withdrawn 03/04/2010)

Nodlinski, Tanya

Bromm, Curtis A.

Wright, Lee

Farmers Insurance Group



**RESOLUTION ON FINAL READING**

The following resolution was read and put upon final passage:

**LEGISLATIVE RESOLUTION 295CA.**

THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the primary election in May 2010 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To add a new section 4 to Article XIII:

XIII-4 Notwithstanding any other provision in this Constitution, the Legislature may authorize any county, city, or village to acquire, own, develop, and lease or finance real and personal property, other than property used or to be used for sectarian instruction or study or as a place for devotional activities or religious worship, to be used, during the term of any revenue bonds issued, only by nonprofit enterprises as determined by law and to issue revenue bonds for the purpose of defraying the cost of acquiring and developing or financing such property by construction, purchase, or otherwise. Such bonds shall not become general obligation bonds of the governmental subdivision by which such bonds are issued, and such governmental subdivision shall have no authority to impose taxes for the payment of such bonds. Notwithstanding the provisions of Article VIII, section 2, of this Constitution, the acquisition, ownership, development, use, or financing of any real or personal property pursuant to the provisions of this section shall not affect the imposition of any taxes or the exemption therefrom by the Legislature pursuant to this Constitution. The acquiring, owning, developing, and leasing or financing of such property shall be deemed for a public purpose, but the governmental subdivision shall not have the right to acquire such property for the purposes specified in this section by condemnation. The principal of and interest on any bonds issued may be secured by a pledge of the lease and the revenue therefrom and by mortgage upon such property. No such governmental subdivision shall have the power to operate any such property as a business or in any manner except as the lessor thereof.

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

A constitutional amendment to authorize the use of revenue bonds to develop and lease property for use by nonprofit enterprises as determined by law.

For

Against.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the resolution pass?' "

Voting in the affirmative, 42:

Adams	Dierks	Hansen	McGill	Stuthman
Avery	Dubas	Harms	Mello	Sullivan
Campbell	Fischer	Heidemann	Nelson	Utter
Carlson	Flood	Howard	Nordquist	Wallman
Christensen	Fulton	Karpisek	Pankonin	White
Coash	Gay	Langemeier	Pirsch	Wightman
Conrad	Giese	Lathrop	Price	
Cornett	Haar	Lautenbaugh	Rogert	
Council	Hadley	McCoy	Schilz	

Voting in the negative, 0.

Present and not voting, 2:

Janssen          Louden

Excused and not voting, 5:

Ashford          Cook                  Gloor                  Krist                  Pahls

A constitutional four-fifths majority having voted in the affirmative, the resolution was declared passed for the primary election.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR295CA.

### **GENERAL FILE**

**LEGISLATIVE BILL 1021.** Senator Lautenbaugh renewed his motion, MO87, found on page 830, to bracket until April 14, 2010.

Senator Stuthman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Senator Lautenbaugh moved for a call of the house. The motion prevailed with 38 ayes, 0 nays, and 11 not voting.

Senator Lautenbaugh requested a roll call vote on his motion to bracket.

Voting in the affirmative, 27:

Carlson	Flood	Janssen	McGill	Sullivan
Christensen	Fulton	Karpisek	Mello	Utter
Coash	Gay	Langemeier	Nelson	Wightman
Conrad	Giese	Lautenbaugh	Price	
Dubas	Gloor	Louden	Schilz	
Fischer	Heidemann	McCoy	Stuthman	

Voting in the negative, 13:

Adams	Cornett	Hadley	Howard	Wallman
Avery	Council	Hansen	Lathrop	
Campbell	Haar	Harms	Pankonin	

Present and not voting, 4:

Nordquist	Pirsch	Rogert	White
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Excused and not voting, 5:

Ashford	Cook	Dierks	Krist	Pahls
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The Lautenbaugh motion to bracket prevailed with 27 ayes, 13 nays, 4 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

### RESOLUTION

**LEGISLATIVE RESOLUTION 377.** Introduced by Louden, 49.

WHEREAS, Jordan Hooper, an esteemed resident of Alliance and a student at Alliance High School, has achieved state recognition for her outstanding basketball skills, scoring a Class B state record of one hundred points in three days at the 2010 Class B Girls' State Basketball Tournament; and

WHEREAS, Ms. Hooper's high school career ends with a total of 2,078 points, which places her fifth on the all-time scoring list in the State of Nebraska; and

WHEREAS, Ms. Hooper now stands in second place of the all-time scoring leaders at the Nebraska state basketball tournament with two hundred seventy-one points; and

WHEREAS, over the past four years, Ms. Hooper helped the Lady Bulldogs bring home a state championship, a state runner-up finish, and back-to-back third-place finishes in girls' state basketball; and

WHEREAS, the success of the State of Nebraska, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Ms. Hooper who use their considerable talents and resources to serve others.

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

1. That the Legislature congratulates and honors Jordan Hooper as an outstanding basketball player, recognizes her outstanding leadership abilities and teamwork, and extends best wishes for her continued success and happiness.

2. That a copy of this resolution be sent to Jordan Hooper.

Laid over.

### **PRESENTED TO THE SECRETARY OF STATE**

Presented to the Secretary of State on March 12, 2010, at 9:25 a.m. was the following: LR295CA.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

### **EXPLANATION OF VOTE**

Had I been present, I would have voted "aye" on final passage of LB258.

(Signed) John Harms

### **GENERAL FILE**

**LEGISLATIVE BILL 1057.** Title read. Considered.

Committee AM1895, found on page 635, was considered.

Senator Carlson renewed his amendment, AM2092, found on page 812, to the committee amendment.

### **SENATOR SULLIVAN PRESIDING**

The Carlson amendment was adopted with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

The committee amendment, as amended, was adopted with 37 ayes, 0 nays, 6 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 728.** Title read. Considered.

Senator Lautenbaugh offered the following amendment:

AM2157

1 1. On page 2, after line 4, insert the following new  
2 subdivision:

3 "(1) Access software provider means a provider of  
4 software, including client or server software, or enabling tools  
5 that do any one or more of the following: (a) Filter, screen,  
6 allow, or disallow content; (b) pick, choose, analyze, or digest  
7 content; or (c) transmit, receive, display, forward, cache, search,  
8 subset, organize, reorganize, or translate content;"; in line 5  
9 strike "(1)" and insert "(2)"; after line 18 insert the following  
10 new subdivision:

11 "(3) Cable operator means any person or group of persons  
12 (a) who provides cable service over a cable system and directly or  
13 through one or more affiliates owns a significant interest in such  
14 cable system or (b) who otherwise controls or is responsible for,  
15 through any arrangement, the management and operation of such a  
16 cable system;"; in line 19, strike "(2)" and insert "(4)"; in line  
17 20 strike "(3)" and insert "(5)"; and in line 22 strike "(4)" and  
18 insert "(6)".

19 2. On page 3, after line 4, insert the following new  
20 subdivision:

21 "(7) Interactive computer service means any information  
22 service system or access software provider that provides or enables  
23 computer access by multiple users to a computer server, including  
1 specifically a service or system that provides access to the  
2 Internet and such systems operated or services offered by libraries  
3 or educational institutions;"; in line 5 strike "(5)" and insert  
4 "(8)"; in line 8 strike "(6)" and insert "(9)"; in line 12 strike  
5 "(7)" and insert "(10)"; in line 13 strike "and"; after line 13  
6 insert the following new subdivision:

7 "(11) Telecommunications service means the offering of  
8 telecommunications for a fee directly to the public, or to such  
9 classes of users as to be effectively available directly to the  
10 public, regardless of the facilities used; and"; and in line 14  
11 strike "(8)" and insert "(12)".

12 3. On page 4, after line 12, insert the following new  
13 subsection:

14 "(4) No provider of interactive computer service,  
15 provider of telecommunications service, or cable operator is  
16 subject to a civil action under the Exploited Children's Civil  
17 Remedy Act.".

The Lautenbaugh amendment was adopted with 29 ayes, 0 nays, 12 present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review Initial with 32 ayes, 2 nays, 8 present

and not voting, and 7 excused and not voting.

**LEGISLATIVE BILL 742.** Title read. Considered.

Committee AM1967, found on page 622, was considered.

Senator Avery renewed the Avery-McCoy amendment, AM2105, found on page 747, to the committee amendment.

The Avery-McCoy amendment was adopted with 35 ayes, 0 nays, 7 present and not voting, and 7 excused and not voting.

The committee amendment, as amended, was adopted with 36 ayes, 0 nays, 6 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 7 present and not voting, and 7 excused and not voting.

### **COMMITTEE REPORTS** Nebraska Retirement Systems

**LEGISLATIVE BILL 950.** Placed on General File with amendment. AM2087

- 1 1. Insert the following new sections:
- 2 Sec. 10. Section 24-710.07, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 24-710.07 (1) Beginning July 1, 2000, and each July 1
- 5 thereafter, current benefits paid to a member or beneficiary shall
- 6 be adjusted so that the purchasing power of the benefit being paid
- 7 is not less than seventy-five percent of the purchasing power of
- 8 the initial benefit. The purchasing power of the initial benefit in
- 9 any year following the year in which the initial benefit commenced
- 10 shall be calculated by dividing the United States Department of
- 11 Labor, Bureau of Labor Statistics, Consumer Price Index for Urban
- 12 Wage Earners and Clerical Workers factor on June 30 of the current
- 13 year by the Consumer Price Index for Urban Wage Earners and
- 14 Clerical Workers factor on June 30 of the year in which the benefit
- 15 commenced. The result shall be multiplied by the product that
- 16 results when the amount of the initial benefit is multiplied by
- 17 seventy-five percent. In any year in which applying the adjustment
- 18 provided in subsection (2) of this section results in a benefit
- 19 which would be less than seventy-five percent of the purchasing
- 20 power of the initial benefit as calculated above, the adjustment
- 21 shall instead be equal to the percentage change in the Consumer
- 22 Price Index for Urban Wage Earners and Clerical Workers factor
- 23 from the prior year to the current year. In all other years, the
- 1 adjustment provided under subsection (2) of this section shall
- 2 be provided. The adjustment pursuant to this subsection shall not
- 3 cause a current benefit to be reduced.

4 (2) Except as provided in subsection (1) of this section:

5 (a) Beginning July 1, 2000, and until July 1, 2001, the  
6 current benefit of a member or the beneficiary of such a member  
7 shall be increased annually by the lesser of (i) the percentage  
8 change in the Consumer Price Index for Urban Wage Earners and  
9 Clerical Workers factor published by the Bureau of Labor Statistics  
10 of the United States Department of Labor for the prior year or (ii)  
11 two percent; and

12 (b) Beginning July 1, 2001, the current benefit of a  
13 member or the beneficiary of such a member shall be increased  
14 annually by the lesser of (i) the percentage change in the Consumer  
15 Price Index for Urban Wage Earners and Clerical Workers factor  
16 published by the Bureau of Labor Statistics of the United States  
17 Department of Labor for the prior year or (ii) two and one-half  
18 percent.

19 (3) The state shall contribute to the Nebraska Retirement  
20 Fund for Judges an annual level dollar payment certified by the  
21 board. For the 1996-97 fiscal year through the ~~2010-11-2012-13~~  
22 fiscal year, the annual level dollar payment certified by the  
23 board shall equal 1.04778 percent of six million eight hundred  
24 ninety-five thousand dollars.

25 (4) The board shall adjust the annual benefit adjustment  
26 provided in this section so that the total amount of all  
27 cost-of-living adjustments provided to the eligible retiree at  
1 the time of the annual benefit adjustment does not exceed the  
2 percentage change in the National Consumer Price Index for Urban  
3 Wage Earners and Clerical Workers factor published by the Bureau  
4 of Labor Statistics for the period between June 30 of the prior  
5 year to June 30 of the present year. If the consumer price index  
6 used in this section is discontinued or replaced, a substitute  
7 index published by the United States Department of Labor shall be  
8 selected by the board which shall be a reasonable representative  
9 measurement of the cost of living for retired employees.

10 Sec. 15. Section 79-947.01, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 79-947.01 (1) Beginning July 1, 2000, and each July 1  
13 thereafter, current benefits paid to a member or beneficiary shall  
14 be adjusted so that the purchasing power of the benefit being paid  
15 is not less than seventy-five percent of the purchasing power of  
16 the initial benefit. The purchasing power of the initial benefit in  
17 any year following the year in which the initial benefit commenced  
18 shall be calculated by dividing the United States Department of  
19 Labor, Bureau of Labor Statistics, Consumer Price Index for Urban  
20 Wage Earners and Clerical Workers factor on June 30 of the current  
21 year by the Consumer Price Index for Urban Wage Earners and  
22 Clerical Workers factor on June 30 of the year in which the benefit  
23 commenced. The result shall be multiplied by the product that  
24 results when the amount of the initial benefit is multiplied by  
25 seventy-five percent. In any year in which applying the adjustment

26 provided in subsection (2) of this section results in a benefit  
27 which would be less than seventy-five percent of the purchasing  
1 power of the initial benefit as calculated above, the adjustment  
2 shall instead be equal to the percentage change in the Consumer  
3 Price Index for Urban Wage Earners and Clerical Workers factor  
4 from the prior year to the current year. In all other years, the  
5 adjustment provided under subsection (2) of this section shall  
6 be provided. The adjustment pursuant to this subsection shall not  
7 cause a current benefit to be reduced.

8 (2) Except as provided in subsection (1) of this section:

9 (a) Beginning July 1, 2000, and until July 1, 2001, the  
10 current benefit of a member or the beneficiary of such a member  
11 shall be increased annually by the lesser of (i) the percentage  
12 change in the Consumer Price Index for Urban Wage Earners and  
13 Clerical Workers factor published by the Bureau of Labor Statistics  
14 of the United States Department of Labor for the prior year or (ii)  
15 two percent; and

16 (b) Beginning July 1, 2001, the current benefit to a  
17 member or the beneficiary of such a member shall be increased  
18 annually by the lesser of (i) the percentage change in the Consumer  
19 Price Index for Urban Wage Earners and Clerical Workers factor  
20 published by the Bureau of Labor Statistics of the United States  
21 Department of Labor for the prior year or (ii) two and one-half  
22 percent.

23 (3) The state shall contribute to the Annuity Reserve  
24 Fund an annual level dollar payment certified by the board. For  
25 the 1996-97 fiscal year through the ~~2010-11~~ 2012-13 fiscal year,  
26 the annual level dollar payment certified by the board shall equal  
27 81.7873 percent of six million eight hundred ninety-five thousand  
1 dollars.

2 (4) The retirement board shall adjust the annual benefit  
3 adjustment provided in this section so that the total amount of  
4 all cost-of-living adjustments provided to the eligible retiree  
5 at the time of the annual benefit adjustment does not exceed the  
6 percentage change in the National Consumer Price Index for Urban  
7 Wage Earners and Clerical Workers factor published by the Bureau  
8 of Labor Statistics for the period between June 30 of the prior  
9 year to June 30 of the present year. If the consumer price index  
10 used in this section is discontinued or replaced, a substitute  
11 index published by the United States Department of Labor shall be  
12 selected by the board which shall be a reasonable representative  
13 measurement of the cost of living for retired employees.

14 (5) In addition to the adjustments provided in  
15 subsections (1), (2), and (4) of this section, the current benefit  
16 to a member or beneficiary of such member, and for which the first  
17 payment was dated on or before June 30, 2007, shall be subject to  
18 adjustment of the greater of (a) the annuity payable to the member  
19 or beneficiary as adjusted, if applicable, under the provisions  
20 of subsection (1), (2), or (4) of this section or (b) eighty-five



21 percent of the annuity which results when the original annuity that  
22 was paid to the member or beneficiary, before any cost-of-living  
23 adjustments under this section, is adjusted by the increase in the  
24 Consumer Price Index for Urban Wage Earners and Clerical Workers  
25 for the period between the commencement date of the annuity and  
26 June 30, 2007.

27 Sec. 20. Section 81-2027.03, Reissue Revised Statutes of  
1 Nebraska, is amended to read:

2 81-2027.03 (1) Beginning July 1, 2000, and each July 1  
3 thereafter, current benefits paid to a member or beneficiary shall  
4 be adjusted so that the purchasing power of the benefit being paid  
5 is not less than sixty percent of the purchasing power of the  
6 initial benefit. The purchasing power of the initial benefit in  
7 any year following the year in which the initial benefit commenced  
8 shall be calculated by dividing the United States Department of  
9 Labor, Bureau of Labor Statistics, Consumer Price Index for Urban  
10 Wage Earners and Clerical Workers factor on June 30 of the current  
11 year by the Consumer Price Index for Urban Wage Earners and  
12 Clerical Workers factor on June 30 of the year in which the  
13 benefit commenced. The result shall be multiplied by the product  
14 that results when the amount of the initial benefit is multiplied  
15 by sixty percent. In any year in which applying the adjustment  
16 provided in subsection (2) of this section results in a benefit  
17 which would be less than sixty percent of the purchasing power  
18 of the initial benefit as calculated above, the adjustment shall  
19 instead be equal to the percentage change in the Consumer Price  
20 Index for Urban Wage Earners and Clerical Workers factor from the  
21 prior year to the current year. In all other years, the adjustment  
22 provided under subsection (2) of this section shall be provided.  
23 The adjustment pursuant to this subsection shall not cause a  
24 current benefit to be reduced.

25 (2) Except as provided in subsection (1) of this section:

26 (a) Beginning July 1, 2000, and until July 1, 2001, the  
27 current benefit of a member or the beneficiary of such a member  
1 shall be increased annually by the lesser of (i) the percentage  
2 change in the Consumer Price Index for Urban Wage Earners and  
3 Clerical Workers factor published by the Bureau of Labor Statistics  
4 of the United States Department of Labor for the prior year or (ii)  
5 two percent; and

6 (b) Beginning July 1, 2001, the current benefit of a  
7 member or the beneficiary of such a member shall be increased  
8 annually by the lesser of (i) the percentage change in the Consumer  
9 Price Index for Urban Wage Earners and Clerical Workers factor  
10 published by the Bureau of Labor Statistics of the United States  
11 Department of Labor for the prior year or (ii) two and one-half  
12 percent.

13 (3) The state shall contribute to the State Patrol  
14 Retirement Fund an annual level dollar payment certified by the  
15 board. For the 1996-97 fiscal year through the ~~2010-11~~2012-13

16 fiscal year, the annual level dollar payment certified by the  
 17 board shall equal 3.04888 percent of six million eight hundred  
 18 ninety-five thousand dollars.

19 (4) The board shall adjust the annual benefit adjustment  
 20 provided in this section so that the total amount of all  
 21 cost-of-living adjustments provided to the eligible retiree at  
 22 the time of the annual benefit adjustment does not exceed the  
 23 percentage change in the National Consumer Price Index for Urban  
 24 Wage Earners and Clerical Workers factor published by the Bureau  
 25 of Labor Statistics for the period between June 30 of the prior  
 26 year to June 30 of the present year. If the consumer price index  
 27 used in this section is discontinued or replaced, a substitute  
 1 index published by the United States Department of Labor shall be  
 2 selected by the board which shall be a reasonable representative  
 3 measurement of the cost of living for retired employees.

4 2. On page 18, line 14, after the first occurrence of  
 5 "employees" insert "and temporary employees".

6 3. On page 28, strike beginning with "Termination" in  
 7 line 1 through line 8, show the old matter as stricken, and insert  
 8 "A member shall not be deemed to have terminated employment if the  
 9 member subsequently provides service to any employer participating  
 10 in the retirement system provided for in the School Employees  
 11 Retirement Act within one hundred eighty calendar days after  
 12 ceasing employment unless such service:

13 (a) Is voluntary or substitute service provided on an  
 14 intermittent basis; or

15 (b) Is as provided in subsection (2) of section 79-920.

16 A member shall not be deemed to have terminated  
 17 employment if the board determines that a purported termination was  
 18 not a bona fide separation from service with the employer;".

19 4. On page 29, line 2, after "for" insert "an average  
 20 of"; in line 3 after "in" insert "each calendar month of"; and  
 21 in line 15 strike beginning with "Except" through "each", show as  
 22 stricken, and insert "Each".

23 5. On page 31, line 8, after "a" insert "public".

24 6. Renumber the remaining sections and correct the  
 25 repealer accordingly.

**LEGISLATIVE BILL 979.** Placed on General File with amendment.  
 AM1878

1 1. Insert the following new section:

2 Sec. 4. Since an emergency exists, this act takes effect  
 3 when passed and approved according to law.

(Signed) Dave Pankonin, Chairperson

Business and Labor

**LEGISLATIVE BILL 1091.** Placed on General File.

**LEGISLATIVE BILL 1090.** Placed on General File with amendment.  
AM2186

- 1 1. On page 2, line 11, after the second comma insert  
 2 "02-595"; in line 12 strike "pay to XXXXXX" and insert "pay  
 3 \$45,000.00 to Harris Kuhn Law Firm, Tiffany McLaughlin, and  
 4 Bill McLaughlin and \$100,000.00 to MetLife Tower Resource Group,  
 5 Inc."; and after line 16 insert "\$1,450,000 for Tort Claim Number  
 6 2008-02412 against the Department of Roads, pay to Tom Wolfe and  
 7 James E. Schaefer, attorney, out of the Roads Operations Cash  
 8 Fund.".  
 9 2. On page 3, line 1, strike "\$32,973.56" and insert  
 10 "\$1,482,973.56"; and in line 3 strike "\$403,842.80" and insert  
 11 "\$1,853,842.80".

(Signed) Steve Lathrop, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 820.** Title read. Considered.

Committee AM1932, found on page 592, was adopted with 31 ayes, 0 nays, 11 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

**LEGISLATIVE BILL 924.** Title read. Considered.

### SENATOR COASH PRESIDING

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 701.** Title read. Considered.

Committee AM1912, found on page 600, was considered.

Senator Hadley renewed his amendment, AM2138, found on page 795, to the committee amendment.

The Hadley amendment was adopted with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

The committee amendment, as amended, was adopted with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

Pending.

**LEGISLATIVE BILL 970.** Title read. Considered.

Committee AM2023, found on page 706, was adopted with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 864.** Title read. Considered.

Committee AM1679, found on page 787, was adopted with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 880.** Title read. Considered.

Committee AM2015, found on page 789, was adopted with 38 ayes, 0 nays, 5 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 5 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 901.** Title read. Considered.

Committee AM1926, found on page 761, was adopted with 36 ayes, 0 nays, 7 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 3 present and not voting, and 6 excused and not voting.

**COMMITTEE REPORT**

## Revenue

**LEGISLATIVE BILL 1079.** Placed on General File with amendment. AM2164 is available in the Bill Room.

(Signed) Abbie Cornett, Chairperson

**AMENDMENTS - Print in Journal**

Senator Pirsch filed the following amendment to LB510:  
AM2136

(Amendments to Standing Committee amendments, AM2095)

- 1 1. On page 1, strike beginning with "The" in line 12
- 2 through the period in line 18 and insert "The Nebraska Crime
- 3 Victim Fund is created. The fund shall contain the amounts remitted
- 4 pursuant to subsection (1) of this section and section 83-184.

5 The fund shall be administered by the Nebraska Commission on  
 6 Law Enforcement and Criminal Justice. As soon as funds become  
 7 available, the commission shall direct the State Treasurer to  
 8 transfer money from the Nebraska Crime Victim Fund to the  
 9 Department of Correctional Services Facility Cash Fund and the  
 10 Supreme Court Automation Cash Fund to pay for the initial costs  
 11 in implementing this legislative bill, in amounts to be determined  
 12 by the Department of Correctional Services and the Supreme Court  
 13 and certified to the commission."; in line 19 after the comma  
 14 insert "the fund shall terminate and"; and in line 20 strike "such"  
 15 and insert "the" and after "funds" insert "remitted pursuant to  
 16 subsection (1) of this section and section 83-184".

Senator Fulton filed the following amendment to LB948:  
 AM2179

- 1 1. On page 4, strike lines 1 through 4, show as stricken,
- 2 and insert
- 3 "All political subdivisions shall follow the procurement
- 4 procedure for heavy equipment, including motor graders, wheel
- 5 loaders, paving equipment, and backhoe loaders as provided for in
- 6 section 81-159.".

### **UNANIMOUS CONSENT - Add Cointroducers**

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB742. No objections. So ordered.

Senator Mello asked unanimous consent to add his name as cointroducer to LB1048. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were an international group of teachers with the US Department of State for Education Teaching Excellence and Achievement Program; Senator Carlson's wife, Margo Carlson, and Steve and Karen Benjamin from Holdrege and Morgan Noble from Lincoln; Ron and Judy Simpson and Philip and Nichole Simpson and family from Burwell; Natasha Arritt, Elaine Taylor, Emmy Laing, and Hannah Knutson from Omaha; 45 fourth- and fifth-grade students and teachers from Falls City Sacred Heart School, Falls City; Julie Hesseltine and children and Coltan Kovarik from Thedford; Kim, Rick, Chay, and Natalya Nelson from Broken Bow; and Barb Hart from Omaha and Alex Hart from Lynch.

The Doctor of the Day was Dr. Kathy Amyot from Hastings.

**ADJOURNMENT**

At 1:32 p.m., on a motion by Senator Harms, the Legislature adjourned until 10:00 a.m., Monday, March 15, 2010.

Patrick J. O'Donnell  
Clerk of the Legislature