

FORTY-EIGHTH DAY - MARCH 25, 2010**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
SECOND SESSION****FORTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, March 25, 2010

PRAYER

The prayer was offered by Chaplain Larry Ramsey, BSDC All Faiths Chapel, Beatrice.

ROLL CALL

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

The roll was called and all members were present except Senators Campbell, Coash, Cornett, Dierks, Karpisek, Krist, Lautenbaugh, Pirsch, Sullivan, and White who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-seventh day was approved.

RESOLUTION

LEGISLATIVE RESOLUTION 430. Introduced by Christensen, 44.

PURPOSE: The purpose of this interim study is to examine Nebraska's laws regarding a person's right to self-defense by the use of force as outlined in sections 28-1406 to 28-1416 and in the proposed changes contained in LB 889, which was introduced in 2010, specifically identifying, as it pertains to the use of force in the home, a workplace, or an occupied vehicle, areas to strengthen the right to self-defense for Nebraska residents. The use of force to protect one's self or another from death, bodily harm, or other forcible felonies may include the use of deadly force. The right to defend one's self in the home, a workplace, or an occupied vehicle by the use of reasonable force, which may include deadly force, is generally called the Castle Doctrine. This study shall include, but not be limited to:

(1) An examination of Nebraska's laws regarding one's right to self-defense by the use of force as outlined in sections 28-1406 to 28-1416 and the proposed changes in LB 889, primarily as they pertain to the use of force in the home, a workplace, or an occupied vehicle;

(2) The review of Castle Doctrine laws in other states and how they may be applied in Nebraska;

(3) The review of the concept of presumption as presented in section 6 of LB 889;

(4) An examination of the use of "forcible felony" as presented in LB 889;

(5) An examination of subsection (2) of section 28-1416 to make recommendations on how to provide better protections for Nebraska residents against civil actions seeking a remedy for the use of force which is justified under Nebraska law; and

(6) The development of other potential policy changes, if needed, to strengthen the right to self-defense within the home, a workplace, or an occupied vehicle in Nebraska.

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

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

AMENDMENT - Print in Journal

Senator Council filed the following amendment to LB742:

FA69

Strike the enacting clause.

GENERAL FILE

LEGISLATIVE BILL 1105. Title read. Considered.

Committee AM2147, found on page 803, was considered.

Senator Council renewed her amendment, AM2241, found on page 942, to the committee amendment.

Senator Council moved for a call of the house. The motion prevailed with 37 ayes, 0 nays, and 12 not voting.

Senator Council requested a roll call vote on her amendment.

Voting in the affirmative, 30:

Adams	Coash	Dubas	Harms	Pankonin
Ashford	Conrad	Fulton	Howard	Rogert
Avery	Cook	Giese	Lathrop	Sullivan
Campbell	Cornett	Haar	McGill	Wallman
Carlson	Council	Hadley	Mello	White
Christensen	Dierks	Hansen	Nordquist	Wightman

Voting in the negative, 13:

Flood	Janssen	Louden	Price	Utter
Gay	Langemeier	McCoy	Schilz	
Gloor	Lautenbaugh	Pirsch	Stuthman	

Present and not voting, 4:

Fischer	Heidemann	Nelson	Pahls
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Excused and not voting, 2:

Karpisek	Krist
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The Council amendment was adopted with 30 ayes, 13 nays, 4 present and not voting, and 2 excused and not voting.

Senator Council requested a roll call vote on the committee amendment, as amended.

Voting in the affirmative, 28:

Adams	Coash	Fulton	Howard	Sullivan
Ashford	Conrad	Giese	Lathrop	Wallman
Avery	Cook	Haar	McGill	White
Campbell	Council	Hadley	Mello	Wightman
Carlson	Dierks	Hansen	Nordquist	
Christensen	Dubas	Harms	Rogert	

Voting in the negative, 17:

Cornett	Gloor	Lautenbaugh	Pirsch	Utter
Fischer	Heidemann	McCoy	Price	
Flood	Janssen	Nelson	Schilz	
Gay	Langemeier	Pankonin	Stuthman	

Present and not voting, 2:

Louden	Pahls
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Excused and not voting, 2:

Karpisek Krist

The committee amendment, as amended, was adopted with 28 ayes, 17 nays, 2 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Council moved for a call of the house. The motion prevailed with 40 ayes, 0 nays, and 9 not voting.

Senator Council requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 22:

Adams	Coash	Dubas	McGill	White
Ashford	Conrad	Fulton	Mello	Wightman
Avery	Cook	Giese	Nordquist	
Campbell	Council	Haar	Rogert	
Carlson	Dierks	Lathrop	Wallman	

Voting in the negative, 22:

Christensen	Hadley	Janssen	Nelson	Sullivan
Fischer	Hansen	Langemeier	Pankonin	Utter
Flood	Harms	Lautenbaugh	Pirsch	
Gay	Heidemann	Louden	Schilz	
Gloor	Howard	McCoy	Stuthman	

Excused and not voting, 5:

Cornett	Karpisek	Krist	Pahls	Price
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Failed to advance to Enrollment and Review Initial with 22 ayes, 22 nays, and 5 excused and not voting.

The Chair declared the call raised.

RESOLUTIONS

LEGISLATIVE RESOLUTION 431. Introduced by Haar, 21.

PURPOSE: To study how private sources of money given to public institutions should be disclosed. This study should look at how private money is being directed to public bodies. It should also seek to find out information about private money donated to the state, local governing bodies, and higher education and how it currently is reported. This study should seek ways to ensure public budgets are transparent so that the public knows where its tax money is going and what the influence of private money has on public bodies. This study should also look into whether

disclosure of private money could be required of all governmental institutions and whether such disclosure could be done in a way that protects donor anonymity and does not harm institutions.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 432. Introduced by Haar, 21.

PURPOSE: To look at Nebraska's child support collection methods. The study should gather information on the amount of child support in arrears in Nebraska and by county, the amount of interest owed, the number of children affected by child support in arrears both currently and over the age of nineteen, the number of noncustodial parents in arrears, and the amount of arrears owed to the state for aid to dependent children payments. The study should look into what role the Department of Health and Human Services has in arrearages and whether the system is working in a timely manner for custodial parents. The study should also look at the current statutory scheme on child support collection and what the roles are for county attorneys. The study should also look at what other tools are or should be made available to county attorneys and judges and what other states are doing with relation to child support collection.

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

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 433. Introduced by Haar, 21.

PURPOSE: To study student expression in Nebraska's public schools. This study should seek to find what policies currently exist on student expression in the public schools, including policies in relation to the state curricular guidelines for citizenship education. This study should then consult interested parties and establish best practices for student expression policies based on current Nebraska policies and policies from school districts in

other states. The study should also seek out any deficiencies in current policies and how those policies could be changed to avoid unnecessary and illegal violations of student expression. Finally, the study should examine state laws on student expression and make recommendations to the Legislature on any statutory changes for Nebraska.

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

1. That the Education Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 434. Introduced by Nordquist, 7; Coash, 27; Stuthman, 22.

PURPOSE: The purpose of this resolution is to study the factors contributing to childhood obesity, as well as its consequences. The issues addressed by the study should include, but not be limited to:

(1) An examination of the factors contributing to childhood obesity in underserved and low-income populations;

(2) An examination of the costs of childhood obesity, both in terms of medical expenses and physical well-being;

(3) An analysis of methods to increase access to safe places for children to exercise and participate in physical activity; and

(4) An analysis of ways to increase children's access to nutritious meals.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 435. Introduced by Dubas, 34; Dierks, 40; Fischer, 43; Sullivan, 41.

PURPOSE: The purpose of this resolution is to study issues relating to oil and natural gas pipelines in the State of Nebraska and issues raised during consideration of LB 755, which was introduced in 2010. The study shall include, but not be limited to, an examination of issues relating to liability, restoration of property, and regulatory oversight.

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

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 436. Introduced by Gay, 14; Heidemann, 1.

PURPOSE: The purpose of this resolution is to review, assess, and provide recommendations relating to the implementation of the Nebraska Health Care Funding Act. The issues addressed by the study shall include, but not be limited to, the distribution of funding under the act, the outcomes achieved from such funding, and the future sustainability of the Nebraska Health Care Cash Fund.

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

1. That the Appropriations Committee and the Health and Human Services Committee of the Legislature shall be designated to conduct a joint interim study to carry out the purposes of this resolution.

2. That the committees shall upon the conclusion of their study make a report of their findings, together with their recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 437. Introduced by Pankonin, 2.

PURPOSE: To study issues related to levy exceptions and budget exceptions as they are used with interlocal agreements.

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

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

BILL ON FIRST READING

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

LEGISLATIVE BILL 1002A. Introduced by Loudon, 49.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1002, One Hundred First Legislature, Second Session, 2010.

VISITORS

Visitors to the Chamber were 45 fourth-grade students and teachers from Ackerman Elementary, Omaha; 8 twelfth-grade students and teacher from Sutherland; 40 fourth-grade students from Fillmore Central, Geneva; 13 fourth-grade students and teacher from Cornerstone Christian School, Bellevue; and Angie Stenger, Cathy Maly, Haylie Bable, Lydee Jo Krueger, and Jessica Walker from Norfolk.

RECESS

At 12:04 p.m., on a motion by Senator Sullivan, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senator Pahls who was excused; and Senators Cook, Cornett, Council, Dierks, Heidemann, Krist, Loudon, and Mello who were excused until they arrive.

SENATOR ROBERT PRESIDING**GENERAL FILE**

LEGISLATIVE BILL 780. Title read. Considered.

Committee AM2064, found on page 743, was considered.

Pending.

COMMITTEE REPORTS
 Enrollment and Review

LEGISLATIVE BILL 950. Placed on Select File with amendment.
 ER8219 is available in the Bill Room.

LEGISLATIVE BILL 918A. Placed on Select File.

LEGISLATIVE BILL 507. Placed on Select File with amendment.
 ER8218

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 28-323, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 28-323 (1) A person commits the offense of domestic
- 6 assault in the third degree if he or she:
- 7 (a) Intentionally and knowingly causes bodily injury to
- 8 his or her intimate partner; ~~or~~
- 9 (b) ~~Places, by physical menace, his or her~~ Threatens an
- 10 intimate partner in fear of with imminent bodily injury; or;
- 11 (c) Threatens an intimate partner in a menacing manner.
- 12 (2) A person commits the offense of domestic assault in
- 13 the second degree if he or she intentionally and knowingly causes
- 14 bodily injury to his or her intimate partner with a dangerous
- 15 instrument.
- 16 (3) A person commits the offense of domestic assault in
- 17 the first degree if he or she intentionally and knowingly causes
- 18 serious bodily injury to his or her intimate partner.
- 19 (4) Violation of ~~subsection (1) subdivision (1)(a) or~~
- 20 (b) of this section is a Class I misdemeanor, except that for
- 21 any second or subsequent violation of such subsection within
- 22 twelve years after the date of the current conviction, subsequent
- 23 violation of subdivision (1)(a) or (b) of this section, any person
- 1 so offending ~~against the same intimate partner~~ is guilty of a Class
- 2 IV felony.
- 3 (5) Violation of subdivision (1)(c) of this section is a
- 4 Class I misdemeanor.
- 5 ~~(5)-(6)~~ Violation of subsection (2) of this section is
- 6 a Class IIIA felony, except that for any second or subsequent
- 7 violation of such subsection, ~~within twelve years after the date of~~
- 8 ~~the current conviction,~~ any person so offending ~~against the same~~
- 9 ~~intimate partner~~ is guilty of a Class III felony.
- 10 ~~(6)-(7)~~ Violation of subsection (3) of this section is
- 11 a Class III felony, except that for any second or subsequent
- 12 violation under such subsection, ~~within twelve years after the date~~
- 13 ~~of the current conviction,~~ any person so offending ~~against the same~~
- 14 ~~intimate partner~~ is guilty of a Class II felony.
- 15 ~~(7)-(8)~~ For purposes of this section, intimate partner
- 16 means a spouse; a former spouse; persons who have a child in

17 common whether or not they have been married or lived together
 18 at any time; and persons who are or were involved in a dating
 19 relationship. For purposes of this subsection, dating relationship
 20 means frequent, intimate associations primarily characterized by
 21 the expectation of affectional or sexual involvement, but does not
 22 include a casual relationship or an ordinary association between
 23 persons in a business or social context.

24 Sec. 2. Original section 28-323, Reissue Revised Statutes
 25 of Nebraska, is repealed.

26 2. On page 1, lines 3 and 4, strike "in the third
 27 degree".

(Signed) Jeremy Nordquist, Chairperson

AMENDMENTS - Print in Journal

Senator Cornett filed the following amendment to LB877:
 AM2304

(Amendments to Standing Committee amendments, AM1877)

1 1. On page 1, strike line 12, show the old matter
 2 as stricken, and insert "Only the county assessor, the Tax
 3 Commissioner, or the Property Tax Administrator may appeal the
 4 granting of such an"; and in line 18 after the period insert
 5 "If the county assessor, Tax Commissioner, or Property Tax
 6 Administrator appeals a county board of equalization's final
 7 decision granting an exemption from property taxation, the person,
 8 corporation, or organization granted such exemption by the county
 9 board of equalization shall be made a party to the appeal and shall
 10 be issued a notice of the appeal by the Tax Equalization and Review
 11 Commission within thirty days after the appeal is filed.".

12 2. On page 3, line 3, strike "exemption of real or
 13 personal property" and insert "granting or denying of an exemption
 14 of real or personal property to the Tax Equalization and Review
 15 Commission. If the Tax Commissioner or Property Tax Administrator
 16 files such an appeal, the person, corporation, or organization
 17 granted or denied the exemption by the county board of equalization
 18 shall be made a party to the appeal and shall be issued a notice
 19 of the appeal by the Tax Equalization and Review Commission within
 20 thirty days after the appeal is filed"; and in line 6 before
 21 "exemption" insert "granting or denying of an".

22 3. On page 18, line 5, strike "upon request" and show as
 1 stricken; in line 6 after the period insert "Within seven days of
 2 issuing a decision and order, the commission shall electronically
 3 publish such decision and order on a web site maintained by the
 4 commission that is accessible to the general public. The full
 5 text of final decisions and orders entered after a hearing by
 6 the commission or a panel of commissioners shall be published on
 7 the web site. Final decisions and orders that are entered on a
 8 dismissal by the appellant or petitioner or by agreement of the

9 parties may be published on the web site in a summary manner
 10 identifying the parties, the case number, and the basis for the
 11 final decision and order."; and strike lines 18 through 23 and
 12 insert:
 13 "(3) The Tax Commissioner or the Property Tax
 14 Administrator shall have thirty days after a final decision of the
 15 commission to appeal the commission's decision.".

Senator Adams filed the following amendment to LB1071:
 AM2323

(Amendments to E & R amendments, ER8199)

- 1 1. Strike section 27.
- 2 2. On page 88, line 16, strike "33" and insert "32"; in
- 3 line 17 strike "34" and insert "33"; in line 19 strike "35" and
- 4 insert "34"; and in line 21 strike "33, and 47" and insert "32, and
- 5 46".
- 6 3. On page 89, line 1, after the fourth comma insert
- 7 "and"; and in lines 1 and 2 strike "and 79-1241.03,".
- 8 4. Renumber the remaining sections and correct internal
- 9 references accordingly.

RESOLUTIONS

LEGISLATIVE RESOLUTION 438. Introduced by Pahls, 31.

PURPOSE: The purpose of this resolution is to study whether the Nebraska Trust Company Act should be amended to allow trust companies and depository financial institutions with trust departments to use certificates of deposit to comply with requirements of state law to pledge securities with the Department of Banking and Finance for the protection of trust funds under their control. The study should include an examination of issues raised during consideration of LB 752 (Pahls, Pirsch), which was introduced in 2010 and referenced to the Banking, Commerce and Insurance Committee. In order to carry out the purpose of this resolution, the study committee should seek the assistance of the Department of Banking and Finance and should consider the input of interested persons as the committee deems necessary and beneficial.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 439. Introduced by Pahls, 31.

PURPOSE: The purpose of this resolution is to review recent changes in federal law regarding health care insurance and to identify administrative and legislative responses which Nebraska will need to make.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

GENERAL FILE

LEGISLATIVE BILL 780. Committee AM2064, found on page 743 and considered in this day's Journal, was renewed.

PRESIDENT SHEEHY PRESIDING

Pending.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 728. Placed on Final Reading.

LEGISLATIVE BILL 1002. Placed on Final Reading.

LEGISLATIVE BILL 1057. Placed on Final Reading.
ST9088

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

1. In the Heidemann amendment, AM2262, on page 2, line 2, "Treasure" has been struck and "Treasurer" inserted.

2. On page 1, the matter beginning with the second "to" in line 1 though line 4 and all amendments thereto have been struck and "to amend sections 46-2,137 and 46-753, Reissue Revised Statutes of Nebraska; to create the Republican River Basin Water Sustainability Task Force; to provide for expenses, powers, and duties; to provide a termination date; to create a fund; to provide for transfers of funds; to harmonize provisions; to repeal the original sections; and to declare an emergency." inserted.

(Signed) Jeremy Nordquist, Chairperson

AMENDMENTS - Print in Journal

Senator Council filed the following amendment to LB842:
AM2301

- 1 1. On page 3, line 2, strike the new matter, reinstate
- 2 the stricken period, and after the reinstated period insert "The
- 3 case shall be treated as an open, ongoing matter until all
- 4 evidence, reports, and other relevant material which has been
- 5 assembled are transferred to a prosecuting attorney appointed
- 6 pursuant to subdivision (b) of this subsection:
- 7 (b) Except as provided in subdivision (d) of this
- 8 subsection, as soon as practicable, the court shall appoint a
- 9 prosecuting attorney who shall be the county attorney or a member
- 10 of his or her staff who has had at least five years experience in
- 11 criminal litigation, including felony litigation. The prosecuting
- 12 attorney shall select a team of three peace officers, trained to
- 13 investigate homicides, from jurisdictions outside the jurisdiction
- 14 where the death occurred. The team shall examine all evidence
- 15 concerning the cause of death and present the findings of its
- 16 investigation to the prosecuting attorney;"; in lines 15 and 18
- 17 strike the new matter and reinstate the stricken matter; and after
- 18 line 18 insert the following new subdivision:
- 19 "(d) The court need not appoint a prosecuting attorney in
- 20 those cases in which the death has been certified by a licensed
- 21 practicing physician to be from natural causes and that finding is
- 22 presented to a grand jury."

Senator Council filed the following amendment to LB961:
AM2311

(Amendments to E & R amendments, ER8213)

- 1 1. On page 6, line 20, strike the new matter.
- 2 2. On page 7, strike lines 16 through 27.
- 3 3. On page 8, strike line 1; and strike beginning with
- 4 "No" in line 20 through line 22.

Senator Council filed the following amendment to LB510:
AM2229

(Amendments to E & R amendments, ER8203)

- 1 1. Strike section 6 and insert the following new section:
- 2 Sec. 4. Section 81-1451, Revised Statutes Supplement,
- 3 2009, is amended to read:
- 4 81-1451 The Violence Prevention Cash Fund is created.
- 5 The fund shall be administered by the Nebraska Commission on Law
- 6 Enforcement and Criminal Justice. The State Treasurer shall credit
- 7 to the fund such money as is transferred to the fund by the
- 8 Legislature, donated as gifts, bequests, or other contributions
- 9 to such fund from public or private entities, ~~and~~ made available
- 10 by any department or agency of the United States if so directed
- 11 by such department or agency, and remitted pursuant to section

12 83-184 and section 1 of this act. Any money in the fund available
 13 for investment shall be invested by the state investment officer
 14 pursuant to the Nebraska Capital Expansion Act and the Nebraska
 15 State Funds Investment Act.

16 2. On page 2, line 6, strike "Reentry" and insert
 17 "Violence Prevention".

18 3. On page 5, strike beginning with the second comma in
 19 line 17 through line 18 and insert a period; and in line 20 strike
 20 "section" and insert "sections 81-1451 and".

21 4. Renumber the remaining sections accordingly.

Senator Adams filed the following amendment to LB1072:
 AM2298

(Amendments to Standing Committee amendments, AM2194)

- 1 1. On page 35, strike beginning with "The" in line 11
- 2 through the period in line 13; in line 14 strike "such amounts" and
- 3 insert "the amounts provided in subsection (1) of this section";
- 4 and in line 17 strike "of each year" and insert "2010".

RESOLUTIONS

LEGISLATIVE RESOLUTION 440. Introduced by Giese, 17.

PURPOSE: The purpose of this interim study is to examine issues related to mobile home parks. The topics addressed by this interim study shall include, but not be limited to:

(1) A review of federal and state agencies that have the authority to regulate mobile homes and mobile home parks;

(2) A review of the current inspection process for mobile homes and mobile home parks under the Uniform Standard Code for Manufactured Homes and Recreational Vehicles;

(3) An examination of the potential health and safety hazards unique to mobile home parks;

(4) A review of the condemnation procedures available for political subdivisions to address mobile homes which present a public health or safety hazard; and

(5) A review of common taxation and other issues that arise during transfer of mobile home ownership.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 441. Introduced by Flood, 19.

WHEREAS, Rotary International is an organization of more than one million two hundred thousand members and more than thirty-three thousand local Rotary clubs worldwide; and

WHEREAS, one of these local clubs, the Norfolk Rotary Club, has been serving its community in a variety of ways since its founding in 1920; and

WHEREAS, the Norfolk Rotary Club has made a true difference in people's lives through the actions and efforts of its members, all of whom embody the organization's motto of "service above self"; and

WHEREAS, the Norfolk Rotary Club is celebrating its ninetieth anniversary on March 30, 2010.

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

1. That the Legislature honors and congratulates the Norfolk Rotary Club on its ninetieth anniversary.
2. That a copy of this resolution be sent to the Norfolk Rotary Club.

Laid over.

LEGISLATIVE RESOLUTION 442. Introduced by Fischer, 43.

PURPOSE: The purpose of this resolution is to study the issues and matters within the jurisdiction of the Transportation and Telecommunications Committee of the Legislature.

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

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 443. Introduced by Fischer, 43.

PURPOSE: The purpose of this resolution is to review and monitor the progress of the National Broadband Plan proposed by the Federal Communications Commission (FCC) on March 16, 2010. The plan's goals and recommendations include:

- (1) Connecting one hundred million households to affordable 100 megabits per second service;

(2) Affordable access in every American community to ultra-high-speed broadband of at least 1 gigabit per second at anchor institutions such as schools, hospitals, and military installations;

(3) Making 500 megahertz of spectrum newly available for licensed and unlicensed use;

(4) Moving the nation's broadband adoption rates from roughly sixty-five percent to more than ninety percent; and

(5) Bringing affordable broadband to rural communities and vulnerable populations by transitioning existing Universal Service Fund support from analog technologies to digital infrastructure.

The study shall monitor the progression of the plan's implementation by the FCC and other federal agencies to determine the plan's impact upon existing Nebraska telecommunications policy. In carrying out the purpose of this study, the committee may seek the input and assistance of broadband service providers, the Public Service Commission, and other interested entities.

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

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

GENERAL FILE

LEGISLATIVE BILL 780. Senator Lathrop offered the following amendment to the committee amendment:

AM2351

(Amendments to Standing Committee amendments, AM2064)

- 1 1. Insert the following amendment:
- 2 "2. On page 5, line 21, after "act" insert "and before
- 3 June 30, 2013.".

The Lathrop amendment was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Committee AM2064, found on page 743 and considered in this day's Journal, as amended, was renewed.

The committee amendment, as amended, was adopted with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 594. Title read. Considered.

Committee AM1699, found on page 978, was considered.

Senator Dierks renewed his amendment, AM2306, found on page 1039, to the committee amendment.

Pending.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 951. Placed on Final Reading.

ST9089

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

1. On page 1, line 1, "32-808" has been struck and "32-604, 32-808, 32-915" inserted; and in line 3 "holding multiple offices, early voting, and provisional ballots; to require postsecondary educational institutions to provide information on" has been inserted after the first "to".

2. On page 2, lines 3 and 8; page 3, line 21; and page 5, line 8, "4" has been struck and "6" inserted.

LEGISLATIVE BILL 951A. Placed on Final Reading.

LEGISLATIVE BILL 965. Placed on Final Reading.

LEGISLATIVE BILL 1081. Placed on Final Reading.

ST9087

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

1. In the Cornett amendment, AM2224, on page 2, subdivision (6) has been renumbered as subdivision (7) and subdivision (7) has been renumbered as subdivision (6).

2. In the E & R amendments, ER8189, on page 9, line 22, "amend section 81-1201.21, Revised Statutes Supplement, 2009, as amended by section 72, Legislative Bill 3, One Hundred First Legislature, First Special Session, 2009; to" has been inserted before "adopt" and "to provide for use of the Job Training Cash Fund; to repeal the original section;" has been inserted after the semicolon.

(Signed) Jeremy Nordquist, Chairperson

GENERAL FILE

LEGISLATIVE BILL 594. The Dierks amendment, AM2306, found on page 1039 and considered in this day's Journal, to the committee amendment, was renewed.

SENATOR PRICE PRESIDING**PRESIDENT SHEEHY PRESIDING**

Pending.

RESOLUTIONS

LEGISLATIVE RESOLUTION 444. Introduced by Carlson, 38.

PURPOSE: The purpose of this resolution is to examine how the law of division fences and the law of trespass affect the ability of landowners to carry out necessary management of trees and other vegetation within and encroaching upon a division fence. It is the goal of this resolution to identify common-law privileges that may exist for entry upon land for purposes of abatement of vegetation within and in immediate proximity to a fence to correct or avoid damage to or dislocation of the fence or impairment of the function of the fence. The resolution shall seek to identify any appropriate revisions to the law of division fences to facilitate resolution between neighboring landowners regarding vegetation issues associated with the construction, maintenance, and repair of division fences.

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

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 445. Introduced by Carlson, 38.

PURPOSE: The purpose of this resolution is to examine the capabilities and resources available to the Department of Agriculture to meet the response protocols of state and federal livestock disease eradication programs. The study shall examine recent experience in livestock disease response, including that associated with the incidences of bovine tuberculosis detected in a Nebraska herd in 2009 and a South Dakota herd this year, for analysis of the adequacy of disease response resources and preparedness of state government and Nebraska's livestock industry. The study shall seek to identify reasonably anticipated livestock disease incident scenarios and to recommend investments in disease prevention and response infrastructure to optimize resiliency to future livestock disease challenges.

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

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 446. Introduced by Carlson, 38.

PURPOSE: The purpose of this resolution is to examine options for a long-term management framework for vegetation within streambeds and immediate riparian areas to maintain streamflow conveyance and other associated benefits. The study shall provide a forum to receive any related recommendations of prioritized vegetation management goals and objectives, and of plans and policies to achieve these objectives, of the Riparian Vegetation Management Task Force. It is a purpose of the study to identify benefited stakeholders in vegetation management projects funded in whole or in part through grants awarded under section 2-958.02 and to develop a framework for cooperative efforts among such stakeholders to develop and to carry out long-term vegetation management objectives.

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

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 447. Introduced by Carlson, 38.

PURPOSE: Media attention and policy debates are increasingly driven by criticisms of modern agricultural practices and food distribution systems. The purpose of this resolution is to compile and synthesize available research and academic literature and to solicit objective expert viewpoints regarding food safety, food security, resource stewardship, farm economy welfare, and other societal benefits and trade-offs associated with various agricultural production and marketing methodologies and philosophies.

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

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 448. Introduced by Carlson, 38; Langemeier, 23.

PURPOSE: The purpose of this resolution is to examine and recommend funding alternatives to continue the Water Resources Cash Fund established by LB 701 during the 2007 legislative session. The study shall review the needs addressed by the Water Resources Cash Fund and projects and initiatives that have been funded in whole or in part by the fund.

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

1. That the Agriculture Committee and Natural Resources Committee of the Legislature shall be designated to conduct a joint interim study to carry out the purposes of this resolution.

2. That the committees shall upon the conclusion of their study make a report of their findings, together with their recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

AMENDMENTS - Print in Journal

Senator Campbell filed the following amendment to LB999:
AM2321

- 1 1. On page 2, line 7, strike "on".

Senator Lathrop filed the following amendment to LB779:
AM2316 is available in the Bill Room.

Senator Haar filed the following amendment to LB1014:
AM2342

- 1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:
3 Section 1. (1) The Teacher Performance Pay Fund is
4 created. The Board of Educational Lands and Funds shall remit only
5 the income from solar and wind energy leases on school lands to the
6 State Treasurer for credit to the fund. The costs of administration
7 related to the income from leases of school lands shall be deducted
8 from the fund in the manner provided in section 72-232.02. The
9 fund may also consist of any gifts, grants, or bequests made to
10 the fund. The fund shall be used for the support and maintenance
11 of the common schools in each public school district in the
12 state by increasing public school teacher salaries to provide for
13 a higher quality of education. Any money in the fund available
14 for investment shall be invested by the state investment officer

15 pursuant to the Nebraska Capital Expansion Act and the Nebraska
16 State Funds Investment Act.

17 For purposes of this section, lease means any lease,
18 easement, covenant, or other such contractual arrangement.

19 (2) If the amount credited to the Teacher Performance Pay
20 Fund from solar and wind energy leases on school lands exceeds the
21 sum of ten million dollars at the end of any calendar year, the
22 State Treasurer shall transfer such amount in excess of ten million
23 dollars from the Teacher Performance Pay Fund to the temporary
1 school fund.

2 (3) Beginning January 15, 2016, and on or before the
3 third Monday in January of each year thereafter, the State
4 Treasurer shall make a complete exhibit of all money belonging to
5 the Teacher Performance Pay Fund, excluding any amount transferred
6 under subsection (2) of this section, and deliver such exhibit duly
7 certified to the Commissioner of Education. On or before February
8 25 after such delivery, the Commissioner of Education shall make
9 the apportionment of such funds to each school district according
10 to the pro rata enumeration of children who are five through
11 eighteen years of age in each district last returned from the
12 school district. The calculation of apportionment for each school
13 fiscal year shall include any corrections to the prior school
14 fiscal year's apportionment.

15 (4) The Commissioner of Education shall certify the
16 amount of the apportionment of the Teacher Performance Pay Fund
17 as provided in subsection (3) of this section to the Director of
18 Administrative Services. The Director of Administrative Services
19 shall draw a warrant on the State Treasurer in favor of the
20 various districts for the respective amounts so certified by the
21 Commissioner of Education.

22 (5) Each school district shall use the funds received
23 under subsection (4) of this section for teacher performance
24 pay. For purposes of this section, teacher performance pay is
25 a systematic process for measuring teachers' performance and
26 linking the measurements to changes in teacher pay. Indicators
27 of teacher performance may include, but are not limited to,
1 improving professional skills and knowledge, classroom performance
2 or instructional behavior, and instructional outcomes. Teacher
3 performance pay may include predetermined bonus amounts and payout
4 criteria. Each school district that receives funds under subsection
5 (4) of this section for teacher performance pay shall utilize such
6 funds as a supplement to the salary schedule provided in local
7 collective-bargaining agreements. For purposes of distribution of
8 such funds only, the Legislature finds that teacher performance
9 pay measurements, criteria, and payout amounts are mandatory topics
10 of collective bargaining. If a school district that receives funds
11 under subsection (4) of this section has not included a system
12 for teacher performance pay within its local collective-bargaining
13 agreement, such funds shall be returned to the State Treasurer

14 within one month of receipt of such funds. The State Treasurer
 15 shall immediately credit any funds returned under this subsection
 16 to the Teacher Performance Pay Fund.

17 (6) The Teacher Performance Pay Fund shall terminate
 18 on June 30, 2020, unless at least seventy-five percent of the
 19 school districts receiving funds for teacher performance pay
 20 pursuant to subsection (4) of this section have included a system
 21 for distribution of such funds within their respective local
 22 collective-bargaining agreements by January 1, 2020. To determine
 23 whether the fund shall terminate, the Commissioner of Education,
 24 on or after January 1, 2020, shall collect data from each school
 25 district to determine whether at least seventy-five percent of the
 26 school districts have included a system for distribution of funds
 27 received for teacher performance pay pursuant to subsection (4)
 1 of this section within their respective local collective-bargaining
 2 agreements. If the required percentage has not been met, the
 3 commissioner shall notify the State Treasurer. The State Treasurer
 4 shall then transfer any amounts credited to the fund from solar
 5 and wind energy leases on school lands from the Teacher Performance
 6 Pay Fund to the temporary school fund and transfer any remaining
 7 unexpended balance in the Teacher Performance Pay Fund to the
 8 General Fund on June 30, 2020, and the Teacher Performance Pay Fund
 9 shall thereafter terminate.

10 Sec. 2. Section 79-1007.13, Reissue Revised Statutes of
 11 Nebraska, is amended to read:

12 79-1007.13 The department shall calculate a special
 13 receipts allowance for each district equal to the amount of
 14 special education, state ward, and accelerated or differentiated
 15 curriculum program receipts and the receipts from the Teacher
 16 Performance Pay Fund included in local system formula resources
 17 under subdivisions (7), (8), (16), ~~and (17)~~, and (18) of section
 18 79-1018.01 attributable to the school district.

19 Sec. 3. Section 79-1018.01, Reissue Revised Statutes of
 20 Nebraska, is amended to read:

21 79-1018.01 Except as otherwise provided in this section,
 22 local system formula resources include other actual receipts
 23 available for the funding of general fund operating expenditures
 24 as determined by the department for the second school fiscal
 25 year immediately preceding the school fiscal year in which aid
 26 is to be paid. Receipts from the Community Improvements Cash Fund
 27 and receipts acquired pursuant to the Low-Level Radioactive Waste
 1 Disposal Act shall not be included. Other actual receipts include:

- 2 (1) Public power district sales tax revenue;
- 3 (2) Fines and license fees;
- 4 (3) Tuition receipts from individuals, other districts,
- 5 or any other source except receipts derived from adult education,
- 6 receipts derived from summer school tuition, receipts derived from
- 7 early childhood education tuition, and receipts from educational
- 8 entities as defined in section 79-1201.01 for providing distance

9 education courses through the Distance Education Council until July
 10 1, 2008, and the Educational Service Unit Coordinating Council on
 11 and after July 1, 2008, to such educational entities;

12 (4) Transportation receipts;

13 (5) Interest on investments;

14 (6) Other miscellaneous noncategorical local receipts,
 15 not including receipts from private foundations, individuals,
 16 associations, or charitable organizations;

17 (7) Special education receipts;

18 (8) Special education receipts and non-special education
 19 receipts from the state for wards of the court and wards of the
 20 state;

21 (9) All receipts from the temporary school fund.

22 Beginning with the calculation of aid for school fiscal year
 23 2002-03 and each school fiscal year thereafter, receipts from
 24 the temporary school fund shall only include receipts pursuant
 25 to section 79-1035 and the receipt of funds pursuant to section
 26 79-1036 for property leased for a public purpose as set forth in
 27 subdivision (1)(a) of section 77-202;

1 (10) Motor vehicle tax receipts received on or after
 2 January 1, 1998;

3 (11) Pro rata motor vehicle license fee receipts;

4 (12) Other miscellaneous state receipts excluding revenue
 5 from the textbook loan program authorized by section 79-734;

6 (13) Impact aid entitlements for the school fiscal year
 7 which have actually been received by the district to the extent
 8 allowed by federal law;

9 (14) All other noncategorical federal receipts;

10 (15) All receipts pursuant to the enrollment option
 11 program under sections 79-232 to 79-246;

12 (16) Receipts under the federal Medicare Catastrophic
 13 Coverage Act of 1988, as such act existed on May 8, 2001, as
 14 authorized pursuant to sections 43-2510 and 43-2511 but only to the
 15 extent of the amount the local system would have otherwise received
 16 pursuant to the Special Education Act; ~~and~~

17 (17) Receipts for accelerated or differentiated
 18 curriculum programs pursuant to sections 79-1106 to 79-1108.03;
 19 and-

20 (18) Receipts from the Teacher Performance Pay Fund
 21 pursuant to section 1 of this act.

22 Sec. 4. Section 79-1028.01, Revised Statutes Supplement,
 23 2009, is amended to read:

24 79-1028.01 (1) For ~~school fiscal year 2008-09 and each~~
 25 ~~school fiscal year, thereafter,~~ a school district may exceed its
 26 maximum general fund budget of expenditures minus the special
 27 education budget of expenditures by a specific dollar amount for:

1 (a) Expenditures for repairs to infrastructure damaged by
 2 a natural disaster which is declared a disaster emergency pursuant
 3 to the Emergency Management Act;

4 (b) Expenditures for judgments, except judgments or
 5 orders from the Commission of Industrial Relations, obtained
 6 against a school district which require or obligate a school
 7 district to pay such judgment, to the extent such judgment is not
 8 paid by liability insurance coverage of a school district;

9 (c) Expenditures pursuant to the Retirement Incentive
 10 Plan authorized in section 79-855 or the Staff Development
 11 Assistance authorized in section 79-856;

12 (d) Expenditures of incentive payments or base fiscal
 13 year incentive payments to be received in such school fiscal year
 14 pursuant to section 79-1011;

15 (e) Expenditures of amounts received from educational
 16 entities as defined in section 79-1201.01 for providing distance
 17 education courses through the Educational Service Unit Coordinating
 18 Council to such educational entities;

19 (f) Either (i) the first and second school fiscal years
 20 the district will be participating in Network Nebraska for the
 21 full school fiscal year or (ii) school fiscal year 2008-09, if
 22 the school district participated in Network Nebraska for all of
 23 school fiscal year 2007-08, for the difference of the estimated
 24 expenditures for such school fiscal year for telecommunications
 25 services, access to data transmission networks that transmit data
 26 to and from the school district, and the transmission of data on
 27 such networks as such expenditures are defined by the department
 1 for purposes of the distance education and telecommunications
 2 allowance minus the dollar amount of such expenditures for the
 3 second school fiscal year preceding the first full school fiscal
 4 year the district participates in Network Nebraska;

5 (g) Expenditures to pay another school district for the
 6 transfer of land from such other school district;

7 (h) Expenditures in school fiscal years 2009-10 through
 8 2013-14 to pay for employer contributions pursuant to subsection
 9 (2) of section 79-958 to the School Retirement System of the
 10 State of Nebraska to the extent that such expenditures exceed the
 11 employer contributions under such subsection that would have been
 12 made at a contribution rate of seven and thirty-five hundredths
 13 percent; ~~and~~

14 (i) Expenditures in school fiscal years 2009-10 through
 15 2013-14 to pay for school district contributions pursuant to
 16 subdivision (1)(c)(i) of section 79-9,113 to the Class V School
 17 Employees Retirement System to the extent that such expenditures
 18 exceed the school district contributions under such subdivision
 19 that would have been made at a contribution rate of seven and
 20 thirty-seven hundredths percent; ~~and~~

21 ~~(2) For school fiscal year 2009-10 and each school fiscal~~
 22 ~~year thereafter, a school district may exceed its maximum general~~
 23 ~~fund budget of expenditures minus the special education budget of~~
 24 ~~expenditures by a specific dollar amount for (a) expenditures~~

25 (j) Expenditures for sums agreed to be paid by a school
 26 district to certificated employees in exchange for a voluntary
 27 termination occurring prior to July 1, 2009; ~~and (b) expenditures~~

1 (k) Expenditures for new elementary attendance sites in
 2 the first year of operation or the first year of operation after
 3 being closed for at least one school year if such elementary
 4 attendance site will most likely qualify for the elementary site
 5 allowance in the immediately following school fiscal year as
 6 determined by the state board; ~~and-~~

7 (l) Expenditures in school fiscal years 2016-17 and
 8 2017-18 of amounts received from the Teacher Performance Pay Fund
 9 pursuant to section 1 of this act.

10 ~~(3)-(2)~~ The state board shall approve, deny, or modify
 11 the amount allowed for any exception to the maximum general fund
 12 budget of expenditures minus the special education budget of
 13 expenditures pursuant to this section.

14 Sec. 5. Section 79-1035.02, Reissue Revised Statutes of
 15 Nebraska, is amended to read:

16 79-1035.02 The temporary school fund is the holding fund
 17 to which (1) the net income from the school lands, except for the
 18 income less costs of administration derived from solar and wind
 19 energy leases on school lands which is credited to the Teacher
 20 Performance Pay Fund under section 1 of this act, (2) the interest,
 21 dividends, and any other income from the permanent school fund,
 22 ~~the net income from the school lands,~~ and (3) the money from all
 23 other sources required or provided by law are credited as described
 24 in Article VII, section 9, of the Constitution of Nebraska. The
 25 entire balance of the temporary school fund, including all interest
 26 and any other income therefrom, shall be exclusively used for the
 27 support and maintenance of the common schools in each public school
 1 district in the state as the Legislature provides, in accordance
 2 with Article VII, section 9, of the Constitution of Nebraska, and
 3 shall be distributed to each public school district annually.

4 Sec. 6. Original sections 79-1007.13, 79-1018.01, and
 5 79-1035.02, Reissue Revised Statutes of Nebraska, and section
 6 79-1028.01, Revised Statutes Supplement, 2009, are repealed.

Senator Rogert filed the following amendment to LB817:
 AM2314

(Amendments to AM2308)

1 1. Strike amendment 1 and insert the following new
 2 amendment:

3 1. Insert the following new section:

4 Sec. 3. Section 69-2431, Reissue Revised Statutes of
 5 Nebraska, is amended to read:

6 69-2431 In order to insure an applicant's initial
 7 compliance with sections 69-2430 and 69-2433, the applicant for
 8 a permit to carry a concealed handgun shall be fingerprinted by
 9 the Nebraska State Patrol and a check made of his or her criminal

10 history record information maintained by the Federal Bureau of
 11 Investigation through the Nebraska State Patrol. ~~The criminal~~
 12 ~~history record information check under the Concealed Handgun Permit~~
 13 ~~Act is for initial compliance only. In order to insure continuing~~
 14 ~~compliance with sections 69-2430 and 69-2433 and compliance for~~
 15 ~~renewal pursuant to section 69-2436, a check shall be made of~~
 16 ~~a permitholder's criminal history record information through the~~
 17 National Instant Criminal Background Check System.

Senator Avery filed the following amendment to LB779:
 AM2268

(Amendments to Standing Committee amendments, AM2038)

- 1 1. Insert the following new sections:
- 2 Section 1. Section 13-503, Revised Statutes Supplement,
- 3 2009, is amended to read:
- 4 13-503 For purposes of the Nebraska Budget Act, unless
- 5 the context otherwise requires:
- 6 (1) Governing body shall mean the governing body of
- 7 any county agricultural society, elected county fair board, joint
- 8 airport authority formed under the Joint Airport Authorities
- 9 Act, city or county airport authority, bridge commission created
- 10 pursuant to section 39-868, cemetery district, city, village,
- 11 municipal county, community college, community redevelopment
- 12 authority, county, drainage or levee district, educational
- 13 service unit, rural or suburban fire protection district,
- 14 historical society, hospital district, irrigation district,
- 15 learning community, natural resources district, nonprofit county
- 16 historical association or society for which a tax is levied under
- 17 subsection (1) of section 23-355.01, public building commission,
- 18 railroad transportation safety district, reclamation district,
- 19 road improvement district, rural water district, school district,
- 20 sanitary and improvement district, township, offstreet parking
- 21 district, transit authority, metropolitan utilities district,
- 22 Educational Service Unit Coordinating Council, and political
- 1 subdivision with the authority to have a property tax request, with
- 2 the authority to levy a toll, or that receives state aid;
- 3 (2) Levying board shall mean any governing body which has
- 4 the power or duty to levy a tax;
- 5 (3) Fiscal year shall mean the twelve-month period used
- 6 by each governing body in determining and carrying on its financial
- 7 and taxing affairs;
- 8 (4) Tax shall mean any general or special tax levied
- 9 against persons, property, or business for public purposes as
- 10 provided by law but shall not include any special assessment;
- 11 (5) Auditor shall mean the Auditor of Public Accounts;
- 12 (6) Cash reserve shall mean funds required for the period
- 13 before revenue would become available for expenditure but shall not
- 14 include funds held in any special reserve fund;

15 (7) Public funds shall mean all money, including nontax
16 money, used in the operation and functions of governing bodies.
17 For purposes of a county, city, or village which has a lottery
18 established under the Nebraska County and City Lottery Act, only
19 those net proceeds which are actually received by the county, city,
20 or village from a licensed lottery operator shall be considered
21 public funds, and public funds shall not include amounts awarded as
22 prizes;

23 (8) Adopted budget statement shall mean a proposed budget
24 statement which has been adopted or amended and adopted as provided
25 in section 13-506. Such term shall include additions, if any, to an
26 adopted budget statement made by a revised budget which has been
27 adopted as provided in section 13-511;

1 (9) Special reserve fund shall mean any special fund
2 set aside by the governing body for a particular purpose and not
3 available for expenditure for any other purpose. Funds created
4 for (a) the retirement of bonded indebtedness, (b) the funding
5 of employee pension plans, (c) the purposes of the Political
6 Subdivisions Self-Funding Benefits Act, (d) the purposes of the
7 Local Option Municipal Economic Development Act, (e) voter-approved
8 sinking funds, or (f) statutorily authorized sinking funds shall be
9 considered special reserve funds;

10 (10) Biennial period shall mean the two fiscal years
11 comprising a biennium commencing in odd-numbered or even-numbered
12 years used by a city in determining and carrying on its financial
13 and taxing affairs; and

14 (11) Biennial budget shall mean a budget by a city of
15 the primary or metropolitan class that adopts a charter provision
16 providing for a biennial period to determine and carry on the
17 city's financial and taxing affairs.

18 Sec. 13. Section 14-501.01, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 14-501.01 A city of the metropolitan class may adopt
21 biennial budgets for biennial periods if such budgets are provided
22 for by a city charter provision. For purposes of this section:

23 (1) Biennial budget means a budget that provides for a
24 biennial period to determine and carry on the city's financial and
25 taxing affairs; and

26 (2) Biennial period means the two fiscal years comprising
27 a biennium commencing in odd-numbered or even-numbered years.

1 Sec. 14. Section 15-801, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 15-801 A city of the primary class may adopt biennial
4 budgets for biennial periods if such budgets are provided for by a
5 city charter provision. For purposes of this section:

6 (1) Biennial budget means a budget that provides for a
7 biennial period to determine and carry on the city's financial and
8 taxing affairs; and

- 9 (2) Biennial period means the two fiscal years comprising
 10 a biennium commencing in odd-numbered or even-numbered years.
 11 2. Renumber the remaining sections and correct the
 12 repealer accordingly.

GENERAL FILE

LEGISLATIVE BILL 594. The Dierks amendment, AM2306, found on page 1039 and considered in this day's Journal, to the committee amendment, was renewed.

SPEAKER FLOOD PRESIDING

Senator Dierks moved for a call of the house. The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

Senator Dierks requested a roll call vote on his amendment.

Voting in the affirmative, 32:

Adams	Dubas	Harms	McCoy	Sullivan
Carlson	Fischer	Heidemann	Mello	Utter
Christensen	Flood	Karpisek	Nelson	Wallman
Coash	Gay	Krist	Pankonin	Wightman
Cornett	Gloor	Langemeier	Pirsch	
Council	Hadley	Lathrop	Price	
Dierks	Hansen	Louden	Rogert	

Voting in the negative, 6:

Avery	Conrad	Haar
Campbell	Cook	McGill

Present and not voting, 1:

Giese

Excused and not voting, 10:

Ashford	Howard	Lautenbaugh	Pahls	Stuthman
Fulton	Janssen	Nordquist	Schilz	White

The Dierks amendment was adopted with 32 ayes, 6 nays, 1 present and not voting, and 10 excused and not voting.

The Chair declared the call raised.

Pending.

RESOLUTIONS**LEGISLATIVE RESOLUTION 449.** Introduced by Mello, 5.

PURPOSE: The purpose of this interim study is to examine energy efficiency financing options and sources of funds for residential, commercial, and industrial property owners. The study shall also examine the concepts of Property Assessed Clean Energy financing, and performance contracting financing and the required steps necessary to implement these programs at the municipal and state levels.

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

1. That the Urban Affairs Committee of the Legislature and the Natural Resources Committee of the Legislature shall be designated to conduct a joint interim study to carry out the purposes of this resolution.

2. That the committees shall upon the conclusion of the study make a report of its findings, together with recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 450. Introduced by Mello, 5.

PURPOSE: The purpose of this interim study is to examine the establishment of an electronic waste recycling program in Nebraska, with the goal of adopting legislation that would establish such an electronic waste recycling program.

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

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 451. Introduced by Mello, 5.

PURPOSE: The purpose of this study is to examine issues relating to the Small Business Regulatory Flexibility Act proposed by LB 709 in 2010. The bill would have required state agencies to consider the economic impact on small businesses before passing new rules and regulations, would have required agencies to consider less burdensome alternatives, would have set up judicial review of agency compliance with the rulemaking procedures,

and would have required state government to periodically review existing rules and regulations to ensure they are not excessive.

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

1. That the Business and Labor Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

AMENDMENT - Print in Journal

Senator Coash filed the following amendment to LB779:
AM2324

(Amendments to Standing Committee amendments, AM2038)

- 1 1. Insert the following sections:
 2 Sec. 12. Sections 12 to 17 of this act shall be known and
 3 may be cited as the Agritourism Insurance Act.
 4 Sec. 13. For purposes of the Agritourism Insurance Act:
 5 (1) Liability insurance means liability insurance
 6 providing a minimum coverage of not less than one million dollars
 7 written by an insurance company authorized to do business in this
 8 state or obtained through a licensed surplus lines producer;
 9 (2) Agritourism activities means activities that allows
 10 persons who are members of the general public to view or
 11 participate in (a) rural activities that are carried out on a
 12 farm or ranch, including farming, ranching, hunting, fishing, and
 13 historic, cultural, or natural attractions, and (b) outfitting when
 14 vessels or inner tubes are rented for use on public or private
 15 streams; and
 16 (3) Small agritourism business means a private individual
 17 or a private entity that provides agritourism activities and
 18 derives or anticipates deriving net income of not more than five
 19 hundred thousand dollars annually.
 20 Sec. 14. The intent of the Agritourism Insurance Act is
 21 to encourage the development of small agritourism businesses and
 22 to encourage small agritourism businesses to acquire and maintain
 1 liability insurance by granting such businesses a tax credit as
 2 provided in the act.
 3 Sec. 15. The Agritourism Insurance Fund is created. The
 4 fund shall consist of funds transferred from the Local Civic,
 5 Cultural, and Convention Center Financing Fund as provided in
 6 section 13-2704. As soon after December 31 each year as possible,
 7 the Department of Economic Development shall certify the amount of
 8 income tax credits granted under section 16 of this act in the

9 prior calendar year to the State Treasurer who shall transfer such
10 amount from the Agritourism Insurance Fund to the General Fund. Any
11 money in the Agritourism Insurance Fund available for investment
12 shall be invested by the state investment officer pursuant to
13 the Nebraska Capital Expansion Act and the Nebraska State Funds
14 Investment Act.

15 Sec. 16. (1) Beginning January 1, 2011, a small
16 agritourism business that acquires and maintains liability
17 insurance may apply to the Department of Economic Development for a
18 refundable income tax credit as provided in this section.

19 (2) The application shall include (a) written evidence
20 from the business that such business meets the requirements for
21 being a small agritourism business and has acquired liability
22 insurance, (b) the cost of the liability insurance to the business,
23 and (c) an affidavit stating that the small agritourism business
24 intends to maintain such insurance for at least one year after
25 the tax credit is granted. If the liability insurance is not
26 so maintained, the small agritourism business shall repay to the
27 department the amount of the credit received with interest. The
1 department shall remit such repayment to the State Treasurer for
2 credit to the Agritourism Insurance Fund.

3 (3) The department shall grant the tax credit to
4 qualified applicants as the applications are received. A small
5 agritourism business may apply for the tax credit for a maximum
6 of five years, which shall be consecutive. The refundable income
7 tax credit is an amount equal to fifty percent of the cost of the
8 liability insurance to the business, not to exceed two thousand
9 dollars annually. A small agritourism business shall reapply each
10 year a tax credit is sought under the Agritourism Insurance Act.

11 (4) The total amount of tax credits granted per year
12 under this section shall not exceed one hundred thousand dollars
13 from the Agritourism Insurance Fund. If the limitation is reached,
14 the department shall so notify applicants of any applications
15 received thereafter.

16 Sec. 17. The Department of Economic Development may adopt
17 and promulgate rules and regulations to carry out the Agritourism
18 Insurance Act.

19 Sec. 18. Section 77-2715.07, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 77-2715.07 (1) There shall be allowed to qualified
22 resident individuals as a nonrefundable credit against the income
23 tax imposed by the Nebraska Revenue Act of 1967:

24 (a) A credit equal to the federal credit allowed under
25 section 22 of the Internal Revenue Code; and

26 (b) A credit for taxes paid to another state as provided
27 in section 77-2730.

1 (2) There shall be allowed to qualified resident
2 individuals against the income tax imposed by the Nebraska Revenue
3 Act of 1967:

4 (a) For returns filed reporting federal adjusted
5 gross incomes of greater than twenty-nine thousand dollars, a
6 nonrefundable credit equal to twenty-five percent of the federal
7 credit allowed under section 21 of the Internal Revenue Code of
8 1986, as amended;

9 (b) For returns filed reporting federal adjusted gross
10 income of twenty-nine thousand dollars or less, a refundable credit
11 equal to a percentage of the federal credit allowable under section
12 21 of the Internal Revenue Code of 1986, as amended, whether or
13 not the federal credit was limited by the federal tax liability.
14 The percentage of the federal credit shall be one hundred percent
15 for incomes not greater than twenty-two thousand dollars, and
16 the percentage shall be reduced by ten percent for each one
17 thousand dollars, or fraction thereof, by which the reported
18 federal adjusted gross income exceeds twenty-two thousand dollars;

19 (c) A refundable credit as provided in section 77-5209.01
20 for individuals who qualify for an income tax credit as a qualified
21 beginning farmer or livestock producer under the Beginning Farmer
22 Tax Credit Act for all taxable years beginning or deemed to begin
23 on or after January 1, 2006, under the Internal Revenue Code of
24 1986, as amended;

25 (d) A refundable credit for individuals who qualify for
26 an income tax credit under the Nebraska Advantage Microenterprise
27 Tax Credit Act or the Nebraska Advantage Research and Development
1 Act; and

2 (e) A refundable credit equal to ten percent of the
3 federal credit allowed under section 32 of the Internal Revenue
4 Code of 1986, as amended.

5 (3) There shall be allowed to all individuals as a
6 nonrefundable credit against the income tax imposed by the Nebraska
7 Revenue Act of 1967:

8 (a) A credit for personal exemptions allowed under
9 section 77-2716.01;

10 (b) A credit for contributions to certified community
11 betterment programs as provided in the Community Development
12 Assistance Act. Each partner, each shareholder of an electing
13 subchapter S corporation, each beneficiary of an estate or trust,
14 or each member of a limited liability company shall report his or
15 her share of the credit in the same manner and proportion as he
16 or she reports the partnership, subchapter S corporation, estate,
17 trust, or limited liability company income; and

18 (c) A credit for investment in a biodiesel facility as
19 provided in section 77-27,236.

20 (4) There shall be allowed as a credit against the income
21 tax imposed by the Nebraska Revenue Act of 1967:

22 (a) A credit to all resident estates and trusts for taxes
23 paid to another state as provided in section 77-2730;

24 (b) A credit to all estates and trusts for contributions
25 to certified community betterment programs as provided in the
26 Community Development Assistance Act; and

27 (c) A refundable credit for individuals who qualify for
1 an income tax credit as an owner of agricultural assets under the
2 Beginning Farmer Tax Credit Act for all taxable years beginning
3 or deemed to begin on or after January 1, 2009, under the
4 Internal Revenue Code of 1986, as amended. The credit allowed
5 for each partner, shareholder, member, or beneficiary of a
6 partnership, corporation, limited liability company, or estate
7 or trust qualifying for an income tax credit as an owner of
8 agricultural assets under the Beginning Farmer Tax Credit Act
9 shall be equal to the partner's, shareholder's, member's, or
10 beneficiary's portion of the amount of tax credit distributed
11 pursuant to subsection (4) of section 77-5211.

12 (5)(a) For all taxable years beginning on or after
13 January 1, 2007, and before January 1, 2009, under the Internal
14 Revenue Code of 1986, as amended, there shall be allowed to each
15 partner, shareholder, member, or beneficiary of a partnership,
16 subchapter S corporation, limited liability company, or estate or
17 trust a nonrefundable credit against the income tax imposed by
18 the Nebraska Revenue Act of 1967 equal to fifty percent of the
19 partner's, shareholder's, member's, or beneficiary's portion of the
20 amount of franchise tax paid to the state under sections 77-3801 to
21 77-3807 by a financial institution.

22 (b) For all taxable years beginning on or after January
23 1, 2009, under the Internal Revenue Code of 1986, as amended,
24 there shall be allowed to each partner, shareholder, member, or
25 beneficiary of a partnership, subchapter S corporation, limited
26 liability company, or estate or trust a nonrefundable credit
27 against the income tax imposed by the Nebraska Revenue Act of 1967
1 equal to the partner's, shareholder's, member's, or beneficiary's
2 portion of the amount of franchise tax paid to the state under
3 sections 77-3801 to 77-3807 by a financial institution.

4 (c) Each partner, shareholder, member, or beneficiary
5 shall report his or her share of the credit in the same manner
6 and proportion as he or she reports the partnership, subchapter S
7 corporation, limited liability company, or estate or trust income.
8 If any partner, shareholder, member, or beneficiary cannot fully
9 utilize the credit for that year, the credit may not be carried
10 forward or back.

11 (6) A refundable credit for individuals or entities who
12 qualify for an income tax credit under the Agritourism Insurance
13 Act. Each partner, each shareholder of an electing subchapter S
14 corporation, each beneficiary of an estate or trust, or each member
15 of a limited liability company shall report his or her share of the
16 credit in the same manner and proportion as he or she reports the
17 partnership, subchapter S corporation, estate, trust, or limited
18 liability company income.

19 Sec. 19. Section 77-2717, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 77-2717 (1)(a) The tax imposed on all resident estates
22 and trusts shall be a percentage of the federal taxable income
23 of such estates and trusts as modified in section 77-2716, plus
24 a percentage of the federal alternative minimum tax and the
25 federal tax on premature or lump-sum distributions from qualified
26 retirement plans. The additional taxes shall be recomputed by (i)
27 substituting Nebraska taxable income for federal taxable income,
1 (ii) calculating what the federal alternative minimum tax would
2 be on Nebraska taxable income and adjusting such calculations for
3 any items which are reflected differently in the determination of
4 federal taxable income, and (iii) applying Nebraska rates to the
5 result. The federal credit for prior year minimum tax, after the
6 recomputations required by the Nebraska Revenue Act of 1967, and
7 the credits provided in the Nebraska Advantage Microenterprise Tax
8 Credit Act and the Nebraska Advantage Research and Development Act
9 shall be allowed as a reduction in the income tax due. A refundable
10 income tax credit shall be allowed for all resident estates and
11 trusts under the Nebraska Advantage Microenterprise Tax Credit Act,
12 ~~and the Nebraska Advantage Research and Development Act; and the~~
13 Agritourism Insurance Act.

14 (b) The tax imposed on all nonresident estates and trusts
15 shall be the portion of the tax imposed on resident estates and
16 trusts which is attributable to the income derived from sources
17 within this state. The tax which is attributable to income derived
18 from sources within this state shall be determined by multiplying
19 the liability to this state for a resident estate or trust with
20 the same total income by a fraction, the numerator of which is
21 the nonresident estate's or trust's Nebraska income as determined
22 by sections 77-2724 and 77-2725 and the denominator of which is
23 its total federal income after first adjusting each by the amounts
24 provided in section 77-2716. The federal credit for prior year
25 minimum tax, after the recomputations required by the Nebraska
26 Revenue Act of 1967, reduced by the percentage of the total income
27 which is attributable to income from sources outside this state,
1 and the credits provided in the Nebraska Advantage Microenterprise
2 Tax Credit Act and the Nebraska Advantage Research and Development
3 Act shall be allowed as a reduction in the income tax due. A
4 refundable income tax credit shall be allowed for all nonresident
5 estates and trusts under the Nebraska Advantage Microenterprise Tax
6 Credit Act, ~~and the Nebraska Advantage Research and Development~~
7 ~~Act; and the Agritourism Insurance Act.~~

8 (2) In all instances wherein a fiduciary income tax
9 return is required under the provisions of the Internal Revenue
10 Code, a Nebraska fiduciary return shall be filed, except that a
11 fiduciary return shall not be required to be filed regarding a
12 simple trust if all of the trust's beneficiaries are residents of
13 the State of Nebraska, all of the trust's income is derived from

14 sources in this state, and the trust has no federal tax liability.
15 The fiduciary shall be responsible for making the return for the
16 estate or trust for which he or she acts, whether the income be
17 taxable to the estate or trust or to the beneficiaries thereof.
18 The fiduciary shall include in the return a statement of each
19 beneficiary's distributive share of net income when such income is
20 taxable to such beneficiaries.

21 (3) The beneficiaries of such estate or trust who are
22 residents of this state shall include in their income their
23 proportionate share of such estate's or trust's federal income and
24 shall reduce their Nebraska tax liability by their proportionate
25 share of the credits as provided in the Nebraska Advantage
26 Microenterprise Tax Credit Act and the Nebraska Advantage Research
27 and Development Act. There shall be allowed to a beneficiary a
1 refundable income tax credit under the Agritourism Insurance Act
2 and the Beginning Farmer Tax Credit Act for all taxable years
3 beginning or deemed to begin on or after January 1, 2001, under the
4 Internal Revenue Code of 1986, as amended.

5 (4) If any beneficiary of such estate or trust is a
6 nonresident during any part of the estate's or trust's taxable
7 year, he or she shall file a Nebraska income tax return which
8 shall include (a) in Nebraska adjusted gross income that portion
9 of the estate's or trust's Nebraska income, as determined under
10 sections 77-2724 and 77-2725, allocable to his or her interest
11 in the estate or trust and (b) a reduction of the Nebraska tax
12 liability by his or her proportionate share of the credits as
13 provided in the Nebraska Advantage Microenterprise Tax Credit Act
14 and the Nebraska Advantage Research and Development Act and shall
15 execute and forward to the fiduciary, on or before the original due
16 date of the Nebraska fiduciary return, an agreement which states
17 that he or she will file a Nebraska income tax return and pay
18 income tax on all income derived from or connected with sources in
19 this state, and such agreement shall be attached to the Nebraska
20 fiduciary return for such taxable year.

21 (5) In the absence of the nonresident beneficiary's
22 executed agreement being attached to the Nebraska fiduciary return,
23 the estate or trust shall remit a portion of such beneficiary's
24 income which was derived from or attributable to Nebraska sources
25 with its Nebraska return for the taxable year. The amount of
26 remittance, in such instance, shall be the highest individual
27 income tax rate determined under section 77-2715.02 multiplied by
1 the nonresident beneficiary's share of the estate or trust income
2 which was derived from or attributable to sources within this
3 state. The amount remitted shall be allowed as a credit against the
4 Nebraska income tax liability of the beneficiary.

5 (6) The Tax Commissioner may allow a nonresident
6 beneficiary to not file a Nebraska income tax return if the
7 nonresident beneficiary's only source of Nebraska income was his or
8 her share of the estate's or trust's income which was derived from

9 or attributable to sources within this state, the nonresident did
10 not file an agreement to file a Nebraska income tax return, and
11 the estate or trust has remitted the amount required by subsection
12 (5) of this section on behalf of such nonresident beneficiary. The
13 amount remitted shall be retained in satisfaction of the Nebraska
14 income tax liability of the nonresident beneficiary.

15 (7) For purposes of this section, unless the context
16 otherwise requires, simple trust shall mean any trust instrument
17 which (a) requires that all income shall be distributed currently
18 to the beneficiaries, (b) does not allow amounts to be paid,
19 permanently set aside, or used in the tax year for charitable
20 purposes, and (c) does not distribute amounts allocated in the
21 corpus of the trust. Any trust which does not qualify as a simple
22 trust shall be deemed a complex trust.

23 (8) For purposes of this section, any beneficiary of an
24 estate or trust that is a grantor trust of a nonresident shall be
25 disregarded and this section shall apply as though the nonresident
26 grantor was the beneficiary.

27 Sec. 20. Section 77-2734.03, Reissue Revised Statutes of
1 Nebraska, is amended to read:

2 77-2734.03 (1)(a) For taxable years commencing prior to
3 January 1, 1997, any (i) insurer paying a tax on premiums and
4 assessments pursuant to section 77-908 or 81-523, (ii) electric
5 cooperative organized under the Joint Public Power Authority Act,
6 or (iii) credit union shall be credited, in the computation of
7 the tax due under the Nebraska Revenue Act of 1967, with the
8 amount paid during the taxable year as taxes on such premiums and
9 assessments and taxes in lieu of intangible tax.

10 (b) For taxable years commencing on or after January 1,
11 1997, any insurer paying a tax on premiums and assessments pursuant
12 to section 77-908 or 81-523, any electric cooperative organized
13 under the Joint Public Power Authority Act, or any credit union
14 shall be credited, in the computation of the tax due under the
15 Nebraska Revenue Act of 1967, with the amount paid during the
16 taxable year as (i) taxes on such premiums and assessments included
17 as Nebraska premiums and assessments under section 77-2734.05 and
18 (ii) taxes in lieu of intangible tax.

19 (c) For taxable years commencing or deemed to commence
20 prior to, on, or after January 1, 1998, any insurer paying a tax on
21 premiums and assessments pursuant to section 77-908 or 81-523 shall
22 be credited, in the computation of the tax due under the Nebraska
23 Revenue Act of 1967, with the amount paid during the taxable year
24 as assessments allowed as an offset against premium and related
25 retaliatory tax liability pursuant to section 44-4233.

26 (2) There shall be allowed to corporate taxpayers a
27 tax credit for contributions to community betterment programs as
1 provided in the Community Development Assistance Act.

2 (3) There shall be allowed to corporate taxpayers a
3 refundable income tax credit under the Beginning Farmer Tax Credit

4 Act for all taxable years beginning or deemed to begin on or
5 after January 1, 2001, under the Internal Revenue Code of 1986, as
6 amended.

7 (4) The changes made to this section by Laws 2004, LB
8 983, apply to motor fuels purchased during any tax year ending
9 or deemed to end on or after January 1, 2005, under the Internal
10 Revenue Code of 1986, as amended.

11 (5) There shall be allowed to corporate taxpayers
12 refundable income tax credits under the Nebraska Advantage
13 Microenterprise Tax Credit Act and the Nebraska Advantage Research
14 and Development Act.

15 (6) There shall be allowed to corporate taxpayers a
16 nonrefundable income tax credit for investment in a biodiesel
17 facility as provided in section 77-27,236.

18 (7) There shall be allowed to corporate taxpayers a
19 refundable income tax credit for small agritourism businesses as
20 provided in the Agritourism Insurance Act.

21 2. On page 14, line 9, before "Any" insert "The State
22 Treasurer shall transfer thirty percent of money credited to the
23 Local Civic, Cultural, and Convention Center Financing Fund, up to
24 one hundred thousand dollars per calendar year, to the Agritourism
25 Insurance Fund.".

26 3. On page 16, line 14, strike "and" and after the last
27 comma insert "77-2715.07, 77-2717, and 77-2734.03,".

1 4. Renumber the remaining sections accordingly.

GENERAL FILE

LEGISLATIVE BILL 594. Senator Conrad offered the following
amendment to the committee amendment:

AM2317

(Amendments to Standing Committee amendments, AM1699)

1 1. Strike sections 6 to 10 and insert the following new
2 section:

3 Sec. 6. Section 28-327.01, Revised Statutes Supplement,
4 2009, is amended to read:

5 28-327.01 (1) The Department of Health and Human Services
6 shall cause to be published the following easily comprehensible
7 printed materials:

8 (a) Geographically indexed materials designed to inform
9 the woman of public and private agencies and services available to
10 assist a woman through pregnancy, upon childbirth, and while the
11 child is dependent, including adoption agencies and agencies and
12 services for prevention of unintended pregnancies, which materials
13 shall include a comprehensive list of the agencies available,
14 a description of the services they offer, and a description of
15 the manner, including telephone numbers and addresses in which
16 such agencies may be contacted or printed materials including a
17 toll-free, twenty-four-hour-a-day telephone number which may be

18 called to orally obtain such a list and description of agencies in
 19 the locality of the caller and of the services they offer;

20 (b) Materials designed to inform the woman of the
 21 probable anatomical and physiological characteristics of the
 22 unborn child at two-week gestational increments from the time
 1 when a woman can be known to be pregnant to full term, including
 2 pictures or drawings representing the development of unborn
 3 children at the two-week gestational increments, and any relevant
 4 information on the possibility of the unborn child's survival.
 5 Any such pictures or drawings shall contain the dimensions of
 6 the unborn child and shall be realistic and appropriate for the
 7 stage of pregnancy depicted. The materials shall be objective,
 8 nonjudgmental, and designed to convey only accurate scientific
 9 information about the unborn child at the various gestational ages,
 10 ~~The materials shall also contain objective information describing~~
 11 ~~the methods of abortion procedures commonly employed, and contain~~
 12 ~~the medical risks commonly associated with each such procedure. The~~
 13 materials shall also contain objective information regarding the
 14 psychological effects of abortion, whether negative or positive,
 15 for which there is a statistical association for one or more
 16 outcomes such that there is less than a five percent probability (P
 17 < .05) that such statistical association is due to chance. Such
 18 information on psychological effects shall have been published in
 19 any peer-reviewed journals indexed by the United States National
 20 Library of Medicine's search services (PubMed or MEDLINE) or in
 21 any journal included in the Thomson Reuters Master Journal List
 22 not less than twelve months prior to the date of publication
 23 of the materials, and these materials will objectively explain
 24 the difference between statistical association and causation. The
 25 department shall perform these searches, review new studies, and
 26 republish the materials annually to reflect the most recent data;
 27 ~~and, the possible detrimental psychological effects of abortion,~~
 1 ~~the medical risks commonly associated with abortion, and the~~
 2 ~~medical risks commonly associated with carrying a child to term;~~
 3 ~~and~~

4 (c) A comprehensive list of health care providers,
 5 facilities, and clinics that offer to have ultrasounds performed by
 6 a person at least as qualified as a registered nurse licensed under
 7 the Uniform Credentialing Act, including and specifying those that
 8 offer to perform such ultrasounds free of charge. The list shall be
 9 arranged geographically and shall include the name, address, hours
 10 of operation, and telephone number of each entity.

11 (2) The materials shall be printed in a typeface large
 12 enough to be clearly legible.

13 (3) The materials required under this section shall be
 14 available from the department upon the request by any person,
 15 facility, or hospital for an amount equal to the cost incurred by
 16 the department to publish the materials.

17 2. On page 1, line 9; page 2, line 22; and page 15, line

- 18 5, strike "to 10" and insert "and 5".
- 19 3. On page 8, line 13, strike "may" and show as stricken;
- 20 and in line 14 after "choose" insert "and may describe the
- 21 psychological effects of abortion".
- 22 4. On page 10, line 2, after the semicolon insert "and";
- 23 and strike lines 3 through 27.
- 24 5. On page 11, strike lines 1 through 6; in line 7 strike
- 25 "(c)" and insert "(b)"; in lines 10 and 22 strike "(7)" and insert
- 26 "(5)"; and in line 19 strike "(8)" and insert "(6)".
- 27 6. On page 12, line 4, strike "the following damages:"
- 1 and insert "damages."; and strike lines 5 through 11.
- 2 7. On page 16, line 8, strike the last "and" and insert a
- 3 comma; and in line 9 after the first comma insert "and 28-327.01,".
- 4 8. Renumber the remaining sections accordingly.

Pending.

RESOLUTIONS

LEGISLATIVE RESOLUTION 452. Introduced by Mello, 5; Conrad, 46; Fulton, 29; Hansen, 42; Harms, 48; Heidemann, 1; Nelson, 6; Nordquist, 7; Wightman, 36.

WHEREAS, in 2009 the Legislature adopted LR 224 which called for the establishment of a task force known as the Budget Reform Task Force; and

WHEREAS, the task force was to terminate on June 30, 2010; and

WHEREAS, the task force was to issue a report no later than June 30, 2010.

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

1. The Budget Reform Task Force shall continue in existence until December 31, 2010.

2. The task force shall issue a report of its findings and recommendations to the Legislature no later than December 31, 2010.

Laid over.

LEGISLATIVE RESOLUTION 453. Introduced by Council, 11; Carlson, 38.

PURPOSE: The purpose of this resolution is to examine what are described as "food deserts" or areas where access to healthy, affordable food choices is limited. The study shall review recent United States Department of Agriculture research articles and other literature on the topic to develop definitions and methodologies for identifying the existence of food deserts in Nebraska and to inform public policy discussions on the topic. It is further the goal of the study to identify potential policy interventions in order to increase access to and utilization of nutritious food choices for residents of underserved areas.

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

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

GENERAL FILE

LEGISLATIVE BILL 594. The Conrad amendment, AM2317, found in this day's Journal, to the committee amendment, was renewed.

Pending.

AMENDMENTS - Print in Journal

Senator Conrad filed the following amendments to LB594:

AM2327

(Amendments to Standing Committee amendments, AM1699)

- 1 1. On page 2, line 9, after the semicolon insert "and";
- 2 and strike beginning with the semicolon in line 15 through "health"
- 3 in line 18.

AM2328

(Amendments to Standing Committee amendments, AM1699)

- 1 1. On page 3, strike beginning with "to" in line 6
- 2 through "chance" in line 8.

AM2329

(Amendments to Standing Committee amendments, AM1699)

- 1 1. On page 5, strike beginning with "Self-induced" in
- 2 line 2 through "(13)" in line 5; and in line 8 strike "(14)" and
- 3 insert "(13)".
- 4 2. On page 6, line 5, strike "(15)" and insert "(14)".

AM2330

(Amendments to Standing Committee amendments, AM1699)

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

AM2331

(Amendments to Standing Committee amendments, AM1699)

- 1 1. On page 12, line 5, strike the paragraphing and "(1)";
- 2 and strike beginning with the semicolon in line 5 through "28-327"
- 3 in line 11.

AM2332

(Amendments to Standing Committee amendments, AM1699)

- 1 1. On page 12, line 9, strike "a preponderance of" and
- 2 insert "clear and convincing".

AM2333

(Amendments to Standing Committee amendments, AM1699)

- 1 1. On page 12, line 23, strike "twenty-four hours" and
- 2 insert "one hour".

AM2334

(Amendments to Standing Committee amendments, AM1699)

- 1 1. Strike section 8.
- 2 2. Renumber the remaining sections and correct internal
- 3 references accordingly.

AM2335

(Amendments to Standing Committee amendments, AM1699)

- 1 1. On page 13, strike lines 14 through 21; in line 22
- 2 strike "(4)" and insert "(3)"; and in line 26 strike "(5)" and
- 3 insert "(4)".
- 4 2. On page 14, line 7, strike "(6)" and insert "(5)".

AM2336

(Amendments to Standing Committee amendments, AM1699)

- 1 1. On page 13, line 25, after the semicolon insert "and";
- 2 and strike lines 26 and 27.
- 3 2. On page 14, strike lines 1 through 6; and in line 7
- 4 strike "(6)" and insert "(5)".

AM2338

(Amendments to Standing Committee amendments, AM1699)

- 1 1. On page 13, line 25, after the semicolon insert "and".
- 2 2. On page 14, line 6, strike "; and" and insert an
- 3 underscored period; and strike lines 7 through 15.

AM2339

(Amendments to Standing Committee amendments, AM1699)

- 1 1. On page 14, strike beginning with "(1)" in line 16
- 2 through line 20; in line 21 strike "(2)" and insert "(1)"; and in
- 3 line 24 strike "(3)" and insert "(2)".

GENERAL FILE

LEGISLATIVE BILL 594. The Conrad amendment, AM2317, found in this day's Journal, to the committee amendment, was renewed.

Senator Conrad moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Senator Conrad requested a record vote on her amendment.

Voting in the affirmative, 9:

Avery	Conrad	Council	Haar	McGill
Campbell	Cook	Giese	Karpisek	

Voting in the negative, 27:

Adams	Flood	Heidemann	McCoy	Schilz
Carlson	Gay	Janssen	Mello	Utter
Christensen	Gloor	Krist	Nelson	Wallman
Dierks	Hadley	Langemeier	Pankonin	
Dubas	Hansen	Lathrop	Pirsch	
Fischer	Harms	Lautenbaugh	Price	

Present and not voting, 4:

Coash	Louden	Sullivan	Wightman
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Excused and not voting, 9:

Ashford	Fulton	Nordquist	Rogert	White
Cornett	Howard	Pahls	Stuthman	

The Conrad amendment lost with 9 ayes, 27 nays, 4 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

Senator Conrad renewed her amendment, AM2327, found in this day's Journal, to the committee amendment.

SENATOR SULLIVAN PRESIDING**SPEAKER FLOOD PRESIDING**

The Conrad amendment lost with 5 ayes, 20 nays, 15 present and not voting, and 9 excused and not voting.

Senator Conrad withdrew her amendment, AM2328, found in this day's Journal.

Senator Conrad renewed her amendment, AM2329, found in this day's Journal, to the committee amendment.

The Conrad amendment lost with 7 ayes, 23 nays, 9 present and not voting, and 10 excused and not voting.

Senator Conrad renewed her amendment, AM2330, found in this day's Journal, to the committee amendment.

The Conrad amendment lost with 6 ayes, 22 nays, 11 present and not voting, and 10 excused and not voting.

Senator Conrad withdrew her amendments, AM2331, AM2332, AM2333, and AM2334, found in this day's Journal.

Senator Conrad renewed her amendment, AM2335, found in this day's Journal, to the committee amendment.

The Conrad amendment lost with 8 ayes, 24 nays, 10 present and not voting, and 7 excused and not voting.

Senator Conrad withdrew her amendments, AM2336, AM2338, and AM2339, found in this day's Journal.

Committee AM1699, found on page 978 and considered in this day's Journal, as amended, was renewed.

Senator Dierks moved for a call of the house. The motion prevailed with 42 ayes, 0 nays, and 7 not voting.

The committee amendment, as amended, was adopted with 34 ayes, 7 nays, 1 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 7 nays, 1 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

VISITORS

Visitors to the Chamber were students and teachers from colleges of Social Work from across the state; 43 fourth-grade students and teachers from Ackerman Elementary, Millard; and 22 fourth-grade students and teacher from Sutton.

The Doctor of the Day was Dr. Randy Kohl from Firth.

ADJOURNMENT

At 9:27 p.m., on a motion by Senator Wightman, the Legislature adjourned until 9:00 a.m., Friday, March 26, 2010.

Patrick J. O'Donnell
Clerk of the Legislature