

TWENTY-FOURTH DAY - FEBRUARY 8, 2011**LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION****TWENTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, February 8, 2011

PRAYER

The prayer was offered by Senator Wightman.

ROLL CALL

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

The roll was called and all members were present except Senators Christensen, Janssen, and Pankonin who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-third day was approved.

GENERAL FILE

LEGISLATIVE BILL 383. Title read. Considered.

Senator Pahls offered the following amendment:

AM277

- 1 1. Insert the following new section:
- 2 Sec. 5. It is the intent of the Legislature that the
- 3 reductions in state aid made as a result of this legislative bill
- 4 to municipalities, counties, and natural resources districts be
- 5 manifested in the form of reductions in budgets and services by
- 6 municipalities, counties, and natural resources districts and that
- 7 municipalities, counties, and natural resources districts not make
- 8 up the reductions in state aid through any increases in taxes,
- 9 fees, or other revenue sources.
- 10 2. Renumber the remaining sections accordingly.

Pending.

COMMITTEE REPORTS

Agriculture

LEGISLATIVE BILL 160. Placed on General File.

LEGISLATIVE BILL 126. Indefinitely postponed.

(Signed) Tom Carlson, Chairperson

NOTICE OF COMMITTEE HEARINGS

Redistricting

Room 1525

Wednesday, February 16, 2011 12:00 p.m.

LB195

LB233

(Signed) Chris Langemeier, Chairperson

Judiciary

Room 1113

Wednesday, February 16, 2011 1:30 p.m.

LB538

LB138

LB622

LB618

LB516

Thursday, February 17, 2011 1:30 p.m.

LB324

LB694

LB536

LB676

(Signed) Brad Ashford, Chairperson

COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 212. Placed on Select File with amendment.
ER14

- 1 1. On page 1, line 1, after "sections" insert "60-144,";
- 2 and in line 7 after the second "to" insert "applications for
- 3 certificates of title and".

LEGISLATIVE BILL 23. Placed on Select File.

LEGISLATIVE BILL 74. Placed on Select File with amendment.
ER15

- 1 1. On page 7, line 23, strike "(i)"; and in line 25
- 2 strike "(ii)".

LEGISLATIVE BILL 75. Placed on Select File.

LEGISLATIVE BILL 76. Placed on Select File with amendment.
ER16

- 1 1. In the Standing Committee amendments, AM40:
- 2 a. On page 1, line 21, strike the colon and show as
- 3 stricken; and
- 4 b. On page 2, line 3, strike the semicolon and show as
- 5 stricken.
- 6 2. On page 1, line 3, strike "section" and insert
- 7 "sections 8-1110 and"; in line 6 after the semicolon insert "to
- 8 change provisions relating to securities and transactions exempt
- 9 from registration;"; and in line 7 after the first semicolon insert
- 10 "to harmonize provisions;".
- 11 3. On page 35, line 6, strike "section" and insert
- 12 "sections 8-1110 and".

LEGISLATIVE BILL 264. Placed on Select File with amendment.
ER17

- 1 1. On page 6, line 8, after "made" insert an underscored
- 2 comma.
- 3 2. On page 8, line 13, strike the new matter and
- 4 reinstate both stricken occurrences of "of,".

LEGISLATIVE BILL 326. Placed on Select File with amendment.
ER18

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

LEGISLATIVE BILL 12. Placed on Select File.

LEGISLATIVE BILL 146. Placed on Select File.

LEGISLATIVE BILL 331. Placed on Select File.

LEGISLATIVE BILL 332. Placed on Select File.

(Signed) Tyson Larson, Chairperson

GENERAL FILE

LEGISLATIVE BILL 383. The Pahls amendment, AM277, found in this day's Journal, was renewed.

Senator Schilz moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 6 nays, and 15 not voting.

Senator Pahls requested a record vote on his amendment.

Voting in the affirmative, 10:

Bloomfield	Fulton	McCoy	Nelson	Pirsch
Coash	Lautenbaugh	Mello	Pahls	Price

Voting in the negative, 36:

Adams	Council	Harms	Larson	Sullivan
Avery	Dubas	Harr, B.	Lathrop	Utter
Brasch	Fischer	Heidemann	Louden	Wallman
Campbell	Flood	Howard	McGill	Wightman
Carlson	Gloor	Janssen	Nordquist	
Conrad	Haar, K.	Karpisek	Pankonin	
Cook	Hadley	Krist	Schilz	
Cornett	Hansen	Langemeier	Schumacher	

Present and not voting, 3:

Ashford	Christensen	Smith
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The Pahls amendment lost with 10 ayes, 36 nays, and 3 present and not voting.

Pending.

COMMITTEE REPORTS

Government, Military and Veterans Affairs

LEGISLATIVE BILL 218. Placed on General File.

LEGISLATIVE BILL 228. Placed on General File.

LEGISLATIVE BILL 278. Placed on General File.

LEGISLATIVE BILL 368. Placed on General File.

LEGISLATIVE BILL 399. Placed on General File.

LEGISLATIVE BILL 556. Placed on General File.

LEGISLATIVE BILL 161. Placed on General File with amendment.
AM264

- 1 1. On page 4, line 3, reinstate the stricken matter and
- 2 after the reinstated "by" insert "no"; and in line 4 reinstate the
- 3 stricken "32-1119".

LEGISLATIVE BILL 89. Indefinitely postponed.

LEGISLATIVE BILL 101. Indefinitely postponed.

LEGISLATIVE BILL 150. Indefinitely postponed.

LEGISLATIVE BILL 171. Indefinitely postponed.

LEGISLATIVE BILL 187. Indefinitely postponed.

LEGISLATIVE BILL 188. Indefinitely postponed.

(Signed) Bill Avery, Chairperson

BILL ON FIRST READING

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

LEGISLATIVE BILL 178A. Introduced by Fischer, 43.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 178, One Hundred Second Legislature, First Session, 2011.

RESOLUTION

LEGISLATIVE RESOLUTION 70. Introduced by Hadley, 37.

WHEREAS, Mark Johnson, principal of Bryant Elementary School in Kearney, Nebraska, was recently named New Principal of the Year by the Nebraska Association of Elementary School Principals; and

WHEREAS, Mark Johnson has made a significant impact on Bryant Elementary School since taking the position of principal in 2008; and

WHEREAS, Mark Johnson is an enthusiastic leader who makes solid decisions that benefit children, hires outstanding individuals to help address the school's challenges, and possesses a thorough knowledge of curriculum and instruction; and

WHEREAS, Mark Johnson has also made significant contributions across the state and nation, including serving on the state's accreditation committee and being a voice for education while visiting with United States Senators in Washington, D.C.

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

1. That the Legislature congratulates Mark Johnson on being named the New Principal of the Year by the Nebraska Association of Elementary School Principals.

2. That a copy of this resolution be sent to Mark Johnson.

Laid over.

AMENDMENT - Print in Journal

Senator Fischer filed the following amendment to LB212:
AM285

- 1 1. On page 7, strike lines 1 through 3 and show as
- 2 stricken; and in line 4 strike the paragraphing and strike "(2)"
- 3 and show as stricken.

GENERAL FILE

LEGISLATIVE BILL 383. Senator Louden offered the following amendment:

AM288

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 77-27,136, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 77-27,136 ~~The~~ For fiscal years beginning on and after
- 6 July 1, 2013, the Legislature may appropriate funds collected
- 7 by a general sales tax and income tax for aid to incorporated
- 8 municipalities, counties, and natural resources districts.
- 9 Sec. 2. Section 77-27,137.03, Reissue Revised Statutes of
- 10 Nebraska, is amended to read:
- 11 77-27,137.03 ~~The~~ For fiscal years beginning on and after
- 12 July 1, 2013, the Legislature shall appropriate funds as aid to
- 13 counties in an amount equal to a percentage of the total real and
- 14 personal property valuation of all counties, such percent to be not
- 15 less than .0075 percent nor more than .0125 percent.
- 16 Of the appropriation, each county shall receive thirty
- 17 thousand dollars and the remaining amount shall be distributed
- 18 to each county on the basis of the ratio of the total real and
- 19 personal property valuation in the county to the total real and
- 20 personal property valuation in the state.
- 21 The Tax Commissioner shall determine the amount to be
- 22 distributed to the various counties under this section and certify
- 23 such amounts to the Director of Administrative Services on or
- 1 before July 1 of each year. Each amount shall be distributed in
- 2 nine as nearly as possible equal monthly payments on the last
- 3 business day of each month beginning in September.
- 4 Sec. 3. This act becomes operative on July 1, 2011.
- 5 Sec. 4. Original sections 77-27,136 and 77-27,137.03,
- 6 Reissue Revised Statutes of Nebraska, are repealed.
- 7 Sec. 5. Since an emergency exists, this act takes effect
- 8 when passed and approved according to law.

Pending.

COMMITTEE REPORTS

General Affairs

LEGISLATIVE BILL 281. Placed on General File.

LEGISLATIVE BILL 314. Placed on General File.

(Signed) Russ Karpisek, Chairperson

Education

LEGISLATIVE BILL 333. Placed on General File with amendment.
AM261

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

3 Sec. 2. Section 79-720, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 79-720 (1) Each school district, in consultation with the
6 State Department of Education, shall develop for incorporation into
7 all phases of the curriculum of grades kindergarten through twelve
8 a multicultural education program.

9 (2) The department shall create and distribute
10 recommended multicultural education curriculum guidelines to all
11 school districts. Each district shall create its own multicultural
12 education program based on such recommended guidelines. ~~Each~~
13 ~~program shall be reviewed and, if within the guidelines, approved~~
14 ~~by the department, and a copy of each such program shall be on file~~
15 ~~with the department.~~

16 ~~(3) The process of implementation of the multicultural~~
17 ~~education program shall begin in school year 1993-94, and~~
18 ~~such process shall be completed in school year 1994-95. The~~
19 ~~multicultural education program shall be integrated into the~~
20 ~~curriculum of each district each school year thereafter.~~

21 ~~(4)~~(3) The incorporation of the multicultural education
22 program into the curriculum of each district shall not change
23 (a) the number of instructional hours prescribed for elementary
1 and high school students or (b) the number of instructional hours
2 dedicated to the existing curriculum of each district.

3 Sec. 3. Section 79-722, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 79-722 In conjunction with the multicultural education
6 program prescribed in section 79-720, the State Department of
7 Education shall design a process for evaluating the implementation
8 and effectiveness of each multicultural education program,
9 including the collection of baseline data. The collection of
10 baseline data for evaluating the implementation and effectiveness
11 of each multicultural education program shall not include the
12 testing, assessment, or evaluation of individual students'
13 attitudes or beliefs. An evaluation of the implementation and

14 effectiveness of each multicultural education program shall be
 15 conducted ~~during the first quarter of the 1997-98 school year and~~
 16 every five school years. On or before November 1, 2013, and on or
 17 before November 1 every five years thereafter, the thereafter. The
 18 department shall report the results of each evaluation to the Clerk
 19 of the Legislature, the Education Committee of the Legislature,
 20 and the State Board of Education; and each school district, publish
 21 such report on a web site established by the department.

22 2. On page 8, line 6, strike "department" and insert
 23 "State Department of Education"; and in line 9 strike "and" and
 24 after "(vi)" insert "the next one hundred fourteen thousand six
 25 hundred twenty-nine dollars shall fund the multicultural education
 26 program created under section 79-720; and (vii)".

27 3. On page 9, line 4, strike "and" and after "(vi)"
 1 insert "the next one hundred fourteen thousand six hundred
 2 twenty-nine dollars shall be used by the department to fund
 3 the multicultural education program created under section 79-720;
 4 and (vii)".

5 4. On page 10, line 1, strike "and" and insert "(v)"
 6 the next allocation shall be used by the department to fund the
 7 multicultural education program created under section 79-720 in an
 8 aggregated amount up to the amount used in the prior fiscal year
 9 for such purposes increased by the basic allowable growth rate
 10 pursuant to section 79-1025; and".

11 5. On page 25, line 15, strike "sections" and insert
 12 "section"; and in line 16 strike "Sections" through "and" and
 13 insert "Section".

14 6. Amend the repealer and renumber the remaining sections
 15 accordingly.

(Signed) Greg Adams, Chairperson

AMENDMENT - Print in Journal

Senator Council filed the following amendment to LB383:
 AM252

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

3 Section 1. Section 13-518, Revised Statutes Cumulative
 4 Supplement, 2010, is amended to read:

5 13-518 For purposes of sections 13-518 to 13-522:

6 (1) Allowable growth means (a) for governmental units
 7 other than community colleges, the percentage increase in taxable
 8 valuation in excess of the base limitation established under
 9 section 77-3446, if any, due to improvements to real property as
 10 a result of new construction, additions to existing buildings,
 11 any improvements to real property which increase the value of
 12 such property, and any increase in valuation due to annexation
 13 and any personal property valuation over the prior year and (b)

14 for community colleges, (i) for fiscal years prior to fiscal
15 year 2003-04, for fiscal years after fiscal year 2004-05 until
16 fiscal year 2007-08, and for fiscal year 2010-11 and each fiscal
17 year thereafter, the percentage increase in excess of the base
18 limitation, if any, in full-time equivalent students from the
19 second year to the first year preceding the year for which the
20 budget is being determined, (ii) for fiscal year 2003-04 and fiscal
21 year 2004-05, the percentage increase in full-time equivalent
22 students from the second year to the first year preceding the year
23 for which the budget is being determined, and (iii) for fiscal year
1 2007-08 through fiscal year 2009-10, community college areas may
2 exceed the base limitation to equal base revenue need calculated
3 pursuant to section 85-2223;

4 (2) Capital improvements means (a) acquisition of real
5 property or (b) acquisition, construction, or extension of any
6 improvements on real property;

7 (3) Governing body has the same meaning as in section
8 13-503;

9 (4) Governmental unit means every political subdivision
10 which has authority to levy a property tax or authority to
11 request levy authority under section 77-3443 except sanitary and
12 improvement districts which have been in existence for five years
13 or less and school districts;

14 (5) Qualified sinking fund means a fund or funds
15 maintained separately from the general fund to pay for acquisition
16 or replacement of tangible personal property with a useful life of
17 five years or more which is to be undertaken in the future but
18 is to be paid for in part or in total in advance using periodic
19 payments into the fund. The term includes sinking funds under
20 subdivision (13) of section 35-508 for firefighting and rescue
21 equipment or apparatus;

22 (6) Restricted funds means (a) property tax, excluding
23 any amounts refunded to taxpayers, (b) payments in lieu of property
24 taxes, (c) local option sales taxes, (d) motor vehicle taxes, (e)
25 state aid, (f) transfers of surpluses from any user fee, permit
26 fee, or regulatory fee if the fee surplus is transferred to fund a
27 service or function not directly related to the fee and the costs
1 of the activity funded from the fee, (g) any funds excluded from
2 restricted funds for the prior year because they were budgeted for
3 capital improvements but which were not spent and are not expected
4 to be spent for capital improvements, (h) the tax provided in
5 sections 77-27,223 to 77-27,227 beginning in the second fiscal year
6 in which the county will receive a full year of receipts, and (i)
7 any excess tax collections returned to the county under section
8 77-1776. Funds received pursuant to the nameplate capacity tax
9 levied under section 77-6203 for the first five years after a wind
10 energy generation facility has been commissioned are nonrestricted
11 funds; and

12 (7) State aid means:

13 (a) For all governmental units, state aid paid pursuant
14 to sections 60-3,202 and 77-3523;

15 (b) For municipalities, state aid to municipalities
16 paid pursuant to sections 18-2605, 39-2501 to 39-2520, 60-3,190,
17 77-27,136, and 77-27,139.04 and insurance premium tax paid to
18 municipalities;

19 (c) For counties, ~~(i) until July 1, 2011, state aid to~~
20 ~~counties paid pursuant to sections 39-2501 to 39-2520, 47-119.01,~~
21 ~~60-3,184 to 60-3,190, 77-27,136, and 77-3618, insurance premium~~
22 ~~tax paid to counties, and reimbursements to counties from funds~~
23 ~~appropriated pursuant to section 29-3933, and (ii) beginning on~~
24 ~~July 1, 2011, state aid to counties paid pursuant to sections~~
25 ~~39-2501 to 39-2520, 60-3,184 to 60-3,190, and 77-27,137.03,~~
26 ~~insurance premium tax paid to counties, and reimbursements to~~
27 ~~counties from funds appropriated pursuant to section 29-3933;~~

1 (d) For community colleges, state aid to community
2 colleges paid pursuant to the Community College Foundation and
3 Equalization Aid Act or, for fiscal year 2010-11, pursuant to
4 section 90-517;

5 ~~(e) For natural resources districts, state aid to natural~~
6 ~~resources districts paid pursuant to section 77-27,136;~~

7 ~~(f)-(e)~~ For educational service units, state aid
8 appropriated under sections 79-1241.01 to 79-1241.03; and

9 ~~(e)-(f)~~ For local public health departments as defined in
10 section 71-1626, state aid as distributed under section 71-1628.08.

11 Sec. 2. Section 71-5326, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-5326 If a municipality, or county,~~or natural~~
14 ~~resources district~~ fails to make any payment pursuant to a loan
15 within sixty days of the date due, such payment shall be deducted
16 from the amount of aid to municipalities, or counties,~~or natural~~
17 ~~resources districts~~ to which the municipality, or county,~~or~~
18 ~~natural resources district~~ is entitled under sections 77-27,136 to
19 77-27,137.03. Such amount shall be paid directly to the fund from
20 which the loan was made.

21 Sec. 3. Section 77-27,136, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 77-27,136 The Legislature may appropriate funds collected
24 by a general sales tax and income tax for aid to incorporated
25 municipalities, to be calculated and distributed pursuant to
26 section 77-27,137.01, and to counties, and natural resources
27 districts, to be calculated and distributed pursuant to section
1 77-27,137.03.

2 Sec. 4. Section 77-27,137.01, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 77-27,137.01 The Legislature shall appropriate funds as
5 aid to incorporated municipalities in an amount equal to a
6 percentage of the total real and personal property valuation
7 of all incorporated municipalities, such percent to be not less

8 than zero percent nor more than .0225 percent. The appropriation
9 made pursuant to the authority in section 77-27,136 for aid
10 to incorporated municipalities shall be allocated by the Tax
11 Commissioner to the various incorporated municipalities. The Tax
12 Commissioner shall determine the amount to be distributed to the
13 incorporated municipalities and certify such amounts by voucher
14 to the Director of Administrative Services. Each amount shall be
15 distributed in seven as nearly as possible equal monthly payments
16 on the last business day of each month beginning in December.
17 The State Treasurer shall, on the business day preceding the last
18 business day of each month, notify the Director of Administrative
19 Services of the amount of funds available in the General Fund for
20 payment purposes. The Director of Administrative Services shall, on
21 the last business day of each month, draw warrants against funds
22 appropriated. The Tax Commissioner shall compute the amount due the
23 incorporated municipalities on the ratio of the population of the
24 particular incorporated municipality to the total population of all
25 incorporated municipalities in the state as determined by the most
26 recent federal census figures certified by the Tax Commissioner as
27 provided in section 77-3,119, which amounts shall be placed in the
1 general fund of such municipalities.

2 Sec. 5. Section 77-27,137.03, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 77-27,137.03 The Legislature shall appropriate funds as
5 aid to counties in an amount equal to a percentage of the total
6 real and personal property valuation of all counties, such percent
7 to be not less than .0075-zero percent nor more than .0125 percent.

8 Of the appropriation, each county shall receive an equal
9 amount up to thirty thousand dollars and the remaining amount shall
10 be distributed to each county on the basis of the ratio of the
11 total real and personal property valuation in the county to the
12 total real and personal property valuation in the state.

13 The Tax Commissioner shall determine the amount to be
14 distributed to the various counties under this section and certify
15 such amounts to the Director of Administrative Services on or
16 before July 1 of each year. Each amount shall be distributed in
17 nine as nearly as possible equal monthly payments on the last
18 business day of each month beginning in September.

19 Sec. 6. This act becomes operative on July 1, 2011.

20 Sec. 7. Original sections 71-5326, 77-27,136,
21 77-27,137.01, and 77-27,137.03, Reissue Revised Statutes of
22 Nebraska, and section 13-518, Revised Statutes Cumulative
23 Supplement, 2010, are repealed.

24 Sec. 8. The following section is outright repealed:
25 Section 77-27,137.02, Revised Statutes Cumulative Supplement, 2010.

26 Sec. 9. Since an emergency exists, this act takes effect
27 when passed and approved according to law.

VISITORS

Visitors to the Chamber were Senator Carlson's son, Nathan Carlson, from Holdrege; Senator Wallman's brother, niece, and nephew, Gene Wallman, from Longville, Minnesota and Stacy and John Wallman from Beatrice; Mark and Traci Christensen from Stanton; members of the Nebraska Bankers Association Leadership Class from across the state; and Senator Larson's parents, Tuffy and Robyn Larson, from Weeping Water.

The Doctor of the Day was Dr. Ryan Banks from Omaha.

MOTION - Adjournment

Senator Loudon moved to adjourn. The motion prevailed with 18 ayes, 14 nays, 15 present and not voting, and 2 excused and not voting, and at 12:01 p.m., the Legislature adjourned until 9:00 a.m., Wednesday, February 9, 2011.

Patrick J. O'Donnell
Clerk of the Legislature