

**SEVENTY-THIRD DAY - MAY 3, 2011****LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE  
FIRST SESSION****SEVENTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, May 3, 2011

**PRAYER**

The prayer was offered by Pastor Mary Ellen Gaither, First Presbyterian Church, Humboldt.

**ROLL CALL**

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

The roll was called and all members were present except Senator Krist who was excused; and Senators Fulton, Loudon, McCoy, Pahls, Schilz, and Wightman who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventy-second day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 107.** Placed on Select File.

**LEGISLATIVE BILL 155.** Placed on Select File.

**LEGISLATIVE BILL 248.** Placed on Select File.

**LEGISLATIVE BILL 261.** Placed on Select File with amendment.

ER112

- 1 1. On page 1, line 3, after the first semicolon
- 2 insert "to adopt updated federal provisions; to eliminate obsolete
- 3 provisions;".
- 4 2. On page 18, line 9, strike "AmeriCorp.", show as
- 5 stricken, and insert "AmeriCorps.".

**LEGISLATIVE BILL 121.** Placed on Select File.

**LEGISLATIVE BILL 309.** Placed on Select File with amendment.  
ER113

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

3 Section 1. (1) Whenever a tract of land against which a  
4 special assessment has been levied is divided or subdivided by any  
5 plating, replating, or other form of division creating separate  
6 lots or tracts, the governing body of any city of the first class,  
7 city of the second class, or village which has levied such special  
8 assessments may (a) on application of the owner of any part of  
9 the tract or (b) on its own motion, determine the apportionment of  
10 such special assessment remaining unpaid among the various lots and  
11 parcels in the tract resulting from the division or subdivision.  
12 Any such reapportionment shall be on such fair and equitable terms  
13 as the governing body shall determine after notice and hearing  
14 on the reapportionment. No reapportionment of a special assessment  
15 shall be done on a tract of land if a tax sale certificate has  
16 been issued for such tract or if the special assessment being  
17 reapportioned is delinquent.

18 (2) Notice of hearing on the reapportionment shall be  
19 given by publication one time in a newspaper published or of  
20 general circulation in the city or village not less than ten days  
21 prior to the hearing. Notice of the hearing shall be sent by mail  
22 to the owners of record title of each lot or parcel affected by  
23 any proposed or determined reapportionment in the same manner as is  
1 required under section 25-520.01.

2 (3) In making the determination as to reapportionment,  
3 the governing body shall take into consideration its own  
4 requirements as to security for payment of the amounts owing and  
5 may, if determined appropriate, allocate based upon either front  
6 footage or square footage or other such method or reapportionment  
7 as may be determined appropriate based upon the facts and  
8 circumstances. No such reapportionment shall result in a reduction  
9 or remittance of the total amount originally assessed and then  
10 remaining outstanding and unpaid. Notice of the reapportionment  
11 when determined shall be sent by mail to the owners of record title  
12 of each lot or parcel affected by the reapportionment.

13 (4) Any notice required under this section may be waived  
14 in writing by any owner of any lot or parcel affected by any  
15 reapportionment.

16 (5) Any owner of real property who feels aggrieved by  
17 the reapportionment of any special assessment under this section  
18 may appeal such reapportionment in the same manner as applies  
19 for appeals from special assessments under sections 19-2422 to  
20 19-2425, but only matters related to such reapportionment shall be  
21 considered upon any such appeal.

22 (6) The governing body shall file notice of any  
23 reapportionment of a special assessment with the county treasurer  
24 of the county where the lot or parcel is located.

- 25 Sec. 2. Since an emergency exists, this act takes effect  
26 when passed and approved according to law.  
27 2. On page 1, line 2, after "prescribed" insert "; and to  
1 declare an emergency".

**LEGISLATIVE BILL 573.** Placed on Select File with amendment.  
ER114

- 1 1. On page 1, line 3, strike "and" and insert "storm
- 2 spotter; to"; and in line 4 strike "by" and insert "on motor
- 3 vehicles used by emergency management workers and".

**LEGISLATIVE BILL 458.** Placed on Select File with amendment.  
ER115

- 1 1. On page 2, lines 4, 12, 13, and 25; and page 3, line
- 2 9, strike the comma and show as stricken.
- 3 2. On page 3, line 24; and page 4, line 8, after "deeper"
- 4 insert an underscored comma.

**LEGISLATIVE BILL 423.** Placed on Select File.

**LEGISLATIVE BILL 56.** Placed on Select File.

**LEGISLATIVE BILL 480.** Placed on Select File.

**LEGISLATIVE BILL 254.** Placed on Select File.

(Signed) Tyson Larson, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 585.** Title read. Considered.

Committee AM1253, found on page 1334, was considered.

Senator Lathrop renewed his amendment, AM1348, found on page 1393, to the committee amendment.

The Lathrop amendment was adopted with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

The committee amendment, as amended, was adopted with 33 ayes, 0 nays, 11 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 9 present and not voting, and 5 excused and not voting.

**MOTION - Override Veto on LB204**

Senator Council renewed her motion, MO39, found on page 1312, that LB204 becomes law notwithstanding the objections of the Governor.

**SENATOR COASH PRESIDING****SPEAKER FLOOD PRESIDING**

Senator Council moved for a call of the house. The motion prevailed with 36 ayes, 0 nays, and 13 not voting.

Senator Council requested a roll call vote on the motion to override the Governor's veto.

Whereupon the President stated: "The question shall be, 'Shall the bill pass notwithstanding the objections of the Governor?' "

Voting in the affirmative, 21:

Adams	Coash	Dubas	Lathrop	Wallman
Ashford	Conrad	Gloor	McGill	
Avery	Cook	Haar, K.	Mello	
Campbell	Cornett	Harr, B.	Nordquist	
Carlson	Council	Howard	Pirsch	

Voting in the negative, 20:

Bloomfield	Fulton	Janssen	Lautenbaugh	Schilz
Brasch	Hadley	Karpisek	McCoy	Schumacher
Fischer	Hansen	Langemeier	Nelson	Smith
Flood	Heidemann	Larson	Pankonin	Utter

Present and not voting, 4:

Christensen	Harms	Price	Sullivan
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Excused and not voting, 4:

Krist	Louden	Pahls	Wightman
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Having failed to receive a constitutional three-fifths majority voting in the affirmative, the bill failed to pass notwithstanding the objections of the Governor.

The Chair declared the call raised.

**COMMITTEE REPORT**

Judiciary

**LEGISLATIVE BILL 669.** Placed on General File with amendment. AM1342 is available in the Bill Room.

(Signed) Brad Ashford, Chairperson

**COMMITTEE REPORT**

Natural Resources

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Douglas Anderson - Environmental Quality Council  
 John Baker - Environmental Quality Council  
 John Kinter - Environmental Quality Council  
 John Turnbull - Environmental Quality Council  
 Donald Williams - Environmental Quality Council

Aye: 8 Senators Carlson, Christensen, Dubas, K. Haar, Langemeier, McCoy, Schilz, Smith. Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Chris Langemeier, Chairperson

**AMENDMENT - Print in Journal**

Senator Christensen filed the following amendment to LR40CA: AM1371

(Amendments to AM886)

- 1 1. On page 1, strike line 6 and insert " , fishing, and
- 2 harvesting of wildlife. Public hunting, fishing, and harvesting of
- 3 wildlife shall be a preferred means".
- 4 2. In the E and R amendments, ER94, on page 1, line
- 5 4, strike "and fishing" and insert " , fishing, and harvesting of
- 6 wildlife".

**SELECT FILE**

**LEGISLATIVE BILL 575.** ER99, found on page 1320, was adopted.

Senator Mello renewed his amendment, AM1355, found on page 1377.

The Mello amendment was adopted with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 575A.** Senator Price offered the following amendment:

AM1353

- 1 1. Strike original section 1 and insert the following new  
 2 section:  
 3 Section 1. There is hereby appropriated \$27,200 from the  
 4 Education Innovation Fund for FY2012-13 to the State Department of  
 5 Education, for Program 161, to aid in carrying out the provisions  
 6 of Legislative Bill 575, One Hundred Second Legislature, First  
 7 Session, 2011.  
 8 Total expenditures for permanent and temporary salaries  
 9 and per diems from funds appropriated in this section shall not  
 10 exceed \$10,200 for FY2012-13.

The Price amendment was adopted with 35 ayes, 0 nays, 9 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

### GENERAL FILE

**LEGISLATIVE BILL 151.** Title read. Considered.

Committee AM1243, found on page 1334, was adopted with 35 ayes, 0 nays, 9 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 9 present and not voting, and 5 excused and not voting.

### BILL ON FIRST READING

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

**LEGISLATIVE BILL 216A.** Introduced by Coash, 27.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 216, One Hundred Second Legislature, First Session, 2011.

### RESOLUTION

**LEGISLATIVE RESOLUTION 198.** Introduced by Adams, 24.

PURPOSE: The purpose of this resolution is to study the governance and coordination of postsecondary education in Nebraska.

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

### **VISITORS**

Visitors to the Chamber were 42 fourth-grade students, teachers, and sponsors from Plattsmouth; 42 twelfth-grade students and teacher from Centura High School, Cairo; 26 fourth-grade students and teacher from Tri County Public Schools, DeWitt; 56 fourth-grade students, teachers, and sponsors from Lothrop Magnet Center, Omaha; and 50 fourth-grade students and teachers from Fullerton Magnet Center, Omaha.

### **RECESS**

At 12:03 p.m., on a motion by Senator McGill, the Legislature recessed until 1:30 p.m.

### **AFTER RECESS**

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

### **ROLL CALL**

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

### **SPEAKER FLOOD PRESIDING**

### **SELECT FILE**

**LEGISLATIVE BILL 22.** ER40, found on page 699, was adopted.

Senator Conrad asked unanimous consent to withdraw her amendment, AM698, found on page 1241, and replace it with her substitute amendment, AM1373. No objections. So ordered.  
AM1373

- 1 1. Insert the following new sections:
- 2 Sec. 5. Nothing in the Mandate Opt-Out and Insurance
- 3 Coverage Clarification Act shall prohibit or prevent a qualified
- 4 health insurance plan offered through a health insurance exchange
- 5 created pursuant to the federal Patient Protection and Affordable
- 6 Care Act, Public Law 111-148, from offering or providing coverage
- 7 to any individual for ectopic pregnancy or miscarriage.

- 8 Sec. 6. Nothing in the Mandate Opt-Out and Insurance  
 9 Coverage Clarification Act shall prohibit or prevent any health  
 10 insurance plan, contract, or policy delivered or issued for  
 11 delivery in the State of Nebraska from offering or providing  
 12 coverage to any individual for ectopic pregnancy or miscarriage.  
 13 2. On page 2, line 1, strike "4" and insert "6".  
 14 3. Renumber the remaining sections accordingly.

Senator Conrad moved for a call of the house. The motion prevailed with 31 ayes, 0 nays, and 18 not voting.

Senator Conrad requested a roll call vote on her amendment.

Voting in the affirmative, 14:

Avery	Cook	Haar, K.	Karpisek	Sullivan
Campbell	Council	Harr, B.	McGill	Wightman
Conrad	Dubas	Howard	Mello	

Voting in the negative, 26:

Adams	Cornett	Hansen	McCoy	Utter
Bloomfield	Fischer	Harms	Nelson	Wallman
Brasch	Flood	Janssen	Pankonin	
Carlson	Fulton	Larson	Pirsch	
Christensen	Gloor	Lathrop	Schilz	
Coash	Hadley	Louden	Smith	

Present and not voting, 2:

Nordquist	Schumacher
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Excused and not voting, 7:

Ashford	Krist	Lautenbaugh	Price
Heidemann	Langemeier	Pahls	

The Conrad amendment lost with 14 ayes, 26 nays, 2 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Senator Conrad asked unanimous consent to withdraw her amendment, AM1365, found on page 1392, and replace it with her substitute amendment, AM1374. No objections. So ordered.

AM1374

1. On page 4, line 7, after "coverage" insert "(a)"; and
- 2 in line 9 strike "to prevent the death of the woman" and insert
- 3 "(i) due to an emergency situation as defined in section 28-326



4 or (ii) to preserve the life of an unborn child" and strike "to  
5 coverage" and insert "(b)".

6 2. On page 5, strike beginning with "to" in line 7

7 through line 8 and insert "(i) an emergency situation as defined in  
8 section 28-326 or (ii) to preserve the life of an unborn child.".

The Conrad amendment lost with 10 ayes, 20 nays, 10 present and not voting, and 9 excused and not voting.

Pending.

## COMMITTEE REPORTS

### Enrollment and Review

**LEGISLATIVE BILL 641.** Placed on Select File with amendment.  
ER119

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

3 Section 1. Section 53-134, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 53-134 The local governing body of any city or village  
6 with respect to licenses within its corporate limits and the local  
7 governing body of any county with respect to licenses not within  
8 the corporate limits of any city or village but within the county  
9 shall have the following powers, functions, and duties with respect  
10 to retail, craft brewery, and microdistillery licenses:

11 (1) To cancel or revoke for cause retail, craft brewery,  
12 or microdistillery licenses to sell or dispense alcoholic liquor  
13 issued to persons for premises within its jurisdiction, subject to  
14 the right of appeal to the commission;

15 (2) To enter or to authorize any law enforcement officer  
16 to enter at any time upon any premises licensed under the Nebraska  
17 Liquor Control Act to determine whether any provision of the act,  
18 any rule or regulation adopted and promulgated pursuant to the  
19 act, or any ordinance, resolution, rule, or regulation adopted  
20 by the local governing body has been or is being violated and  
21 at such time examine the premises of such licensee in connection  
22 with such determination. Any law enforcement officer who determines  
23 that any provision of the act, any rule or regulation adopted  
1 and promulgated pursuant to the act, or any ordinance, resolution,  
2 rule, or regulation adopted by the local governing body has been  
3 or is being violated shall report such violation in writing to the  
4 executive director of the commission (a) within thirty days after  
5 determining that such violation has occurred, (b) within thirty  
6 days after the conclusion of an ongoing police investigation, or  
7 (c) within thirty days after the verdict in a prosecution related  
8 to such an ongoing police investigation if the prosecuting attorney  
9 determines that reporting such violation prior to the verdict would  
10 jeopardize such prosecution, whichever is later;

11 (3) To receive a signed complaint from any citizen within  
12 its jurisdiction that any provision of the act, any rule or  
13 regulation adopted and promulgated pursuant to the act, or any  
14 ordinance, resolution, rule, or regulation relating to alcoholic  
15 liquor has been or is being violated and to act upon such  
16 complaints in the manner provided in the act;

17 (4) To receive retail license fees, craft brewery license  
18 fees, and microdistillery license fees as provided in sections  
19 53-124 and 53-124.01 and pay the same, after the license has  
20 been delivered to the applicant, to the city, village, or county  
21 treasurer;

22 (5) To examine or cause to be examined any applicant  
23 or any retail licensee, craft brewery licensee, or microdistillery  
24 licensee upon whom notice of cancellation or revocation has been  
25 served as provided in the act, to examine or cause to be examined  
26 the books and records of any applicant or licensee, and to hear  
27 testimony and to take proof for its information in the performance  
1 of its duties. For purposes of obtaining any of the information  
2 desired, the local governing body may authorize its agent or  
3 attorney to act on its behalf;

4 (6) To cancel or revoke on its own motion any license if,  
5 upon the same notice and hearing as provided in section 53-134.04,  
6 it determines that the licensee has violated any of the provisions  
7 of the act or any valid and subsisting ordinance, resolution, rule,  
8 or regulation duly enacted, adopted, and promulgated relating to  
9 alcoholic liquor. Such order of cancellation or revocation may  
10 be appealed to the commission within thirty days after the date  
11 of the order by filing a notice of appeal with the commission.  
12 The commission shall handle the appeal in the manner provided for  
13 hearing on an application in section 53-133; and

14 (7) Upon receipt from the commission of the notice and  
15 copy of application as provided in section 53-131, to fix a time  
16 and place for a hearing at which the local governing body shall  
17 receive evidence, either orally or by affidavit from the applicant  
18 and any other person, bearing upon the propriety of the issuance  
19 of a license. Notice of the time and place of such hearing shall  
20 be published in a legal newspaper in or of general circulation in  
21 such city, village, or county one time not less than seven and not  
22 more than fourteen days before the time of the hearing. Such notice  
23 shall include, but not be limited to, a statement that all persons  
24 desiring to give evidence before the local governing body in  
25 support of or in protest against the issuance of such license may  
26 do so at the time of the hearing. Such hearing shall be held not  
27 more than forty-five days after the date of receipt of the notice  
1 from the commission, and after such hearing the local governing  
2 body shall cause to be recorded in the minute record of their  
3 proceedings a resolution recommending either issuance or refusal of  
4 such license. The clerk of such city, village, or county shall mail  
5 to the commission by first-class mail, postage prepaid, a copy of

6 the resolution which shall state the cost of the published notice,  
 7 except that failure to comply with this provision shall not void  
 8 any license issued by the commission. If the commission refuses to  
 9 issue such a license, the cost of publication of notice shall be  
 10 paid by the commission from the security for costs.

11 Sec. 2. Section 53-197, Reissue Revised Statutes of  
 12 Nebraska, is amended to read:

13 53-197 (1) Every sheriff, deputy sheriff, police officer,  
 14 marshal, or deputy marshal who knows or who is credibly informed  
 15 that any offense has been committed against ~~the provisions of any~~  
 16 law of this state relating to the sale of alcoholic ~~liquors~~ liquor  
 17 shall make complaint against the person so offending within their  
 18 respective jurisdictions to the proper court, and for every neglect  
 19 or refusal to do so, every such officer shall be guilty of a Class  
 20 V misdemeanor.

21 (2) Every sheriff, deputy sheriff, police officer,  
 22 marshal, or deputy marshal who knows or who is credibly informed  
 23 that any offense has been committed against any law of this state  
 24 relating to the sale of alcoholic liquor shall report such offense  
 25 in writing to the executive director of the commission (a) within  
 26 thirty days after such offense is committed, (b) within thirty  
 27 days after such sheriff, deputy sheriff, police officer, marshal,  
 1 or deputy marshal is informed of such offense, (c) within thirty  
 2 days after the conclusion of an ongoing police investigation, or  
 3 (d) within thirty days after the verdict in a prosecution related  
 4 to such an ongoing police investigation if the prosecuting attorney  
 5 determines that reporting such violation prior to the verdict would  
 6 jeopardize such prosecution, whichever is later.

7 Sec. 3. Original sections 53-134 and 53-197, Reissue  
 8 Revised Statutes of Nebraska, are repealed.

**LEGISLATIVE BILL 413.** Placed on Select File.

**LEGISLATIVE BILL 525.** Placed on Select File.

**LEGISLATIVE BILL 525A.** Placed on Select File.

**LEGISLATIVE BILL 591.** Placed on Select File.

**LEGISLATIVE BILL 687.** Placed on Select File.

**LEGISLATIVE BILL 542.** Placed on Select File with amendment.  
 ER120

1 1. Strike the original sections and all amendments  
 2 thereto and insert the following new sections:  
 3 Section 1. Section 71-401, Revised Statutes Cumulative  
 4 Supplement, 2010, is amended to read:

5 71-401 Sections 71-401 to 71-465 and section 2 of this  
 6 act shall be known and may be cited as the Health Care Facility  
 7 Licensure Act.

8 Sec. 2. (1) Each general acute hospital shall take all  
 9 of the following actions in accordance with the guidelines of the  
 10 Centers for Disease Control and Prevention of the United States

11 Public Health Service of the United States Department of Health and  
 12 Human Services as the guidelines existed on January 1, 2011:

13 (a) Annually offer onsite influenza vaccinations to all  
 14 hospital employees when no national vaccine shortage exists; and  
 15 (b) Require all hospital employees to be vaccinated  
 16 against influenza, except that an employee may elect not to be  
 17 vaccinated.

18 (2) The hospital shall keep a record of which employees  
 19 receive the annual vaccination against influenza and which  
 20 employees do not receive such vaccination.

21 Sec. 3. Original section 71-401, Revised Statutes  
 22 Cumulative Supplement, 2010, is repealed.

23 2. On page 1, line 5, strike "or decline in writing" and  
 1 insert "as prescribed".

**LEGISLATIVE BILL 265.** Placed on Select File.

**LEGISLATIVE BILL 406.** Placed on Select File.

**LEGISLATIVE BILL 315.** Placed on Select File with amendment.  
 ER118

1 1. On page 1, strike beginning with "the" in line 1  
 2 through line 7 and insert "corporations; to amend sections 21-2024  
 3 and 21-2201, Reissue Revised Statutes of Nebraska; to permit  
 4 organization under the Business Corporation Act or the Nebraska  
 5 Professional Corporation Act by a designated broker under the  
 6 Nebraska Real Estate License Act; to harmonize provisions; to  
 7 repeal the original sections; and to declare an emergency.".

**LEGISLATIVE BILL 277.** Placed on Select File.

**LEGISLATIVE BILL 292.** Placed on Select File.

**LEGISLATIVE BILL 394.** Placed on Select File.

**LEGISLATIVE BILL 162.** Placed on Select File.

**LEGISLATIVE BILL 494.** Placed on Select File.

**LEGISLATIVE BILL 124.** Placed on Select File.

**LEGISLATIVE BILL 73.** Placed on Select File with amendment.  
 ER121

1 1. Strike the original sections and all amendments  
 2 thereto and insert the following new sections:  
 3 Section 1. Section 44-4217, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 44-4217 ~~The members shall select the board as it is~~  
 6 ~~composed prior to January 1, 2001, except the representative of~~  
 7 ~~the general public and the representative of the health agency who~~  
 8 ~~shall be appointed by the director.~~ The director shall select the  
 9 board, ~~as it is composed on and after January 1, 2001.~~ The board  
 10 shall select ~~one or more insurers to serve as administering insurer~~  
 11 ~~a pool administrator pursuant to section 44-4223.~~ ~~The selection~~  
 12 ~~of the board as it is composed prior to January 1, 2001, and~~

13 ~~the selection of the administering insurer by the board prior to~~  
14 ~~January 1, 2001, or after December 31, 2000, shall be subject to~~  
15 ~~the approval of the director.~~

16 Sec. 2. Section 44-4219, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 44-4219 In its plan of operation, the board shall:

19 (1) Establish procedures for the handling and accounting  
20 of assets and funds of the pool;

21 (2) Select ~~an administering insurer~~ a pool administrator  
22 in accordance with section 44-4223;

23 (3) Establish procedures for the selection, replacement,  
1 term of office, and qualifications of the directors of the board  
2 and rules of procedures for the operation of the board; and

3 (4) Develop and implement a program to publicize the  
4 existence of the pool, the eligibility requirements, and the  
5 procedures for enrollment and to maintain public awareness of the  
6 pool.

7 Sec. 3. Section 44-4220.02, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 44-4220.02 (1)(a) In addition to the requirements of  
10 section 44-4220.01, following the close of each calendar year, the  
11 board shall conduct a review of health care provider reimbursement  
12 rates for benefits payable under pool coverage for covered  
13 services. The board shall report to the director the results  
14 of the review within thirty days after the completion of the  
15 review.

16 (b) The review required by this section shall include  
17 a determination of whether (i) health care provider reimbursement  
18 rates for benefits payable under pool coverage for covered services  
19 are in excess of reasonable amounts and (ii) cost savings in the  
20 operation of the pool could be achieved by establishing the level  
21 of health care provider reimbursement rates for benefits payable  
22 under pool coverage for covered services as a multiplier of an  
23 objective standard.

24 (c) In the determination pursuant to subdivision  
25 (1)(b)(i) of this section, the board shall consider:

26 (i) The success of any efforts by the ~~administering~~  
27 ~~insurer-pool administrator~~ to negotiate reduced health care  
1 provider reimbursement rates for benefits payable under pool  
2 coverage for covered services on a voluntary basis;

3 (ii) The effect of health care provider reimbursement  
4 rates for benefits payable under pool coverage for covered services  
5 on the number and geographic distribution of health care providers  
6 providing covered services to covered individuals;

7 (iii) The administrative cost of implementing a level of  
8 health care provider reimbursement rates for benefits payable under  
9 pool coverage for covered services; and

10 (iv) A filing by the ~~administering insurer-pool~~  
11 administrator which shows the difference, if any, between the

12 aggregate amounts set for health care provider reimbursement rates  
 13 for benefits payable under pool coverage for covered services  
 14 by existing contracts between the ~~administering insurer-pool~~  
 15 administrator and health care providers and the amounts generally  
 16 charged to reimburse health care providers prevailing in the  
 17 commercial market. No such filing shall require the ~~administering~~  
 18 ~~insurer-pool administrator~~ to disclose proprietary information  
 19 regarding health care provider reimbursement rates for specific  
 20 covered services under pool coverage.

21 (d) If the board determines that cost savings in the  
 22 operation of the pool could be achieved, the board shall set forth  
 23 specific findings supporting the determination and may establish  
 24 the level of health care provider reimbursement rates for benefits  
 25 payable under pool coverage for covered services as a multiplier of  
 26 an objective standard.

27 (2) A health care provider who provides covered services  
 1 to a covered individual under pool coverage and requests payment  
 2 is deemed to have agreed to reimbursement according to the health  
 3 care provider reimbursement rates for benefits payable under pool  
 4 coverage for covered services established pursuant to this section.  
 5 Any reimbursement paid to a health care provider for providing  
 6 covered services to a covered person under pool coverage is limited  
 7 to the lesser of billed charges or the health care provider  
 8 reimbursement rates for benefits payable under pool coverage for  
 9 covered services established pursuant to this section. A health  
 10 care provider shall not collect or attempt to collect from a  
 11 covered individual any money owed to the health care provider  
 12 by the pool. A health care provider shall not have any recourse  
 13 against a covered individual for any covered services under pool  
 14 coverage in excess of the copayment, coinsurance, or deductible  
 15 amounts specified in the pool coverage.

16 (3) Nothing in this section shall prohibit a health care  
 17 provider from billing a covered individual under pool coverage for  
 18 services which are not covered services under pool coverage.

19 Sec. 4. Section 44-4223, Reissue Revised Statutes of  
 20 Nebraska, is amended to read:

21 44-4223 (1) The board shall select ~~an insurer or insurers~~  
 22 a pool administrator through a competitive bidding process to  
 23 administer the pool. The pool administrator may be an insurer or a  
 24 third-party administrator authorized to transact business in this  
 25 state. The board shall evaluate bids submitted on the basis of  
 26 criteria established by the board which shall include:

27 (a) The ~~insurer's~~ applicant's proven ability to handle  
 1 individual sickness and accident insurance;

2 (b) The efficiency of the ~~insurer's~~ applicant's  
 3 claim-paying procedures;

4 (c) The ~~insurer's~~ applicant's estimate of total charges  
 5 for administering the pool; ~~and~~

6 (d) The ~~insurer's applicant's~~ ability to administer the  
7 pool in a cost-effective manner; and-

8 (e) The applicant's ability to negotiate reduced health  
9 care provider reimbursement rates for benefits payable under pool  
10 coverage for covered services.

11 (2) The ~~administering insurer-pool~~ administrator shall  
12 serve for a period of three years subject to removal for cause. At  
13 least one year prior to the expiration of each three-year period  
14 of service by ~~an administering insurer, a pool administrator,~~ the  
15 board shall invite all insurers and third-party administrators  
16 authorized to transact business in this state, including the  
17 current administering insurer, pool administrator, to submit bids  
18 to serve as the ~~administering insurer-pool~~ administrator for  
19 the succeeding three-year period. Selection of the ~~administering~~  
20 ~~insurer-pool~~ administrator for the succeeding period shall be made  
21 at least six months prior to the end of the current three-year  
22 period.

23 Sec. 5. Section 44-4224, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 44-4224 The ~~administering insurer-pool~~ administrator  
26 shall:

27 (1) Perform all eligibility verification functions  
1 relating to the pool;

2 (2) Establish a premium billing procedure for collection  
3 of premiums from covered individuals on a periodic basis as  
4 determined by the board;

5 (3) Perform all necessary functions to assure timely  
6 payment of benefits to covered individuals, including:

7 (a) Making available information relating to the proper  
8 manner of submitting a claim for benefits to the pool and  
9 distributing forms upon which submission shall be made; and

10 (b) Evaluating the eligibility of each claim for payment  
11 by the pool;

12 (4) Submit regular reports to the board regarding the  
13 operation of the pool. The frequency, content, and form of the  
14 reports shall be determined by the board;

15 (5) Following the close of each calendar year, report  
16 such income and expense items as directed by the board to the board  
17 and the department on a form prescribed by the director; and

18 (6) Be paid as provided in the plan of operation for its  
19 expenses incurred in the performance of its services to the pool.

20 Sec. 6. Section 44-4225, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 44-4225 (1) Following the close of each calendar year,  
23 the board shall report the board's determination of the paid and  
24 incurred losses for the year, taking into account investment income  
25 and other appropriate gains and losses. The board shall distribute  
26 copies of the report to the director, the Governor, and each member  
27 of the Legislature.

1 (2) The Comprehensive Health Insurance Pool Distributive  
2 Fund is created. Commencing with the premium and related  
3 retaliatory taxes for the taxable year ending December 31,  
4 2001, and for each taxable year thereafter, any premium and  
5 related retaliatory taxes imposed by section 44-150 or 77-908  
6 paid by insurers writing health insurance in this state, except  
7 as otherwise set forth in subdivisions (1) and (2) of section  
8 77-912, shall be remitted to the State Treasurer for credit to  
9 the fund. The fund shall be used for the operation of and payment  
10 of claims made against the pool. Any money in the fund available  
11 for investment shall be invested by the state investment officer  
12 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
13 State Funds Investment Act. ~~Funds held by the administering~~  
14 ~~insurer as of December 31, 2000, shall be carried forward by the~~  
15 ~~administering insurer for payment of claims, costs of operation,~~  
16 ~~and any remaining refunds.~~

17 (3) The board shall make periodic estimates of the amount  
18 needed from the fund for payment of losses resulting from claims,  
19 including a reasonable reserve, and administrative, organizational,  
20 and interim operating expenses and shall notify the director of the  
21 amount needed and the justification of the board for the request.

22 (4) The director shall approve all withdrawals from the  
23 fund and may determine when and in what amount any additional  
24 withdrawals may be necessary from the fund to assure the continuing  
25 financial stability of the pool.

26 (5) No later than May 1, 2002, and each May 1 thereafter,  
27 after funding of the net loss from operation of the pool for the  
1 prior premium and related retaliatory tax year, taking into account  
2 the policyholder premiums, account investment income, claims, costs  
3 of operation, and other appropriate gains and losses, the director  
4 shall transmit any money remaining in the fund as directed by  
5 section 77-912, disregarding the provisions of subdivisions (1)  
6 through (3) of such section. Interest earned on money in the fund  
7 shall be credited proportionately in the same manner as premium and  
8 related retaliatory taxes set forth in section 77-912.

9 ~~(6) By June 30, 2001, the State Treasurer shall~~  
10 ~~transfer three million one hundred sixty five thousand two hundred~~  
11 ~~sixty five dollars from the Department of Insurance Cash Fund to~~  
12 ~~the General Fund.~~

13 Sec. 7. Section 77-918, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 77-918 Insurers transacting insurance in this state whose  
16 annual tax for the preceding taxable year was four thousand dollars  
17 or more shall make prepayments of the annual taxes imposed pursuant  
18 to Chapter 77, article 9, and related retaliatory taxes imposed  
19 pursuant to Chapter 44, article 1.

20 Each insurer required to make prepayments shall remit  
21 such prepayments on or before April 15, June 15, and September 15



22 of the current taxable year. Remittance for such prepayments shall  
23 be accompanied by a prepayment form prescribed by the director.

24 The amount of each such prepayment shall be at least  
25 one-fourth of either (1) the total tax paid for the immediately  
26 preceding taxable year or (2) eighty percent of the actual tax due  
27 for the current taxable year. ~~For the taxable year ending December~~  
1 ~~31, 2001, total tax paid for the immediately preceding taxable year~~  
2 ~~means tax payable prior to any offsets taken under subsection (1)~~  
3 ~~of section 44-4233.~~

4 The director, for good cause shown, may extend for not  
5 more than ten days the time for making a prepayment. The extension  
6 may be granted at any time if a request for such extension is  
7 filed with the director within or prior to the period for which the  
8 extension may be granted. Insurers who fail to pay any premium or  
9 retaliatory tax, including prepayments, when due shall pay interest  
10 at the rate prescribed by section 45-104.02, as such rate may from  
11 time to time be adjusted, until such tax is paid. Any insurer who  
12 fails to make the prepayments within the prescribed time period or  
13 to obtain an extension shall be subject to the penalties prescribed  
14 in section 77-911.

15 The director shall immediately deposit one-half of the  
16 prepayments received in the Premium and Retaliatory Tax Suspense  
17 Fund, which fund is hereby created, and one-half of the prepayments  
18 received in the General Fund. Commencing with the premium and  
19 related retaliatory taxes for the taxable year ending December 31,  
20 2001, and for each taxable year thereafter, the director shall  
21 determine the amount of the premium and related retaliatory taxes  
22 imposed by section 44-150 or 77-908 paid by insurers writing  
23 health insurance in this state, except as otherwise set forth in  
24 subdivisions (1) and (2) of section 77-912, and such amount shall  
25 be credited to the Comprehensive Health Insurance Pool Distributive  
26 Fund. Except as provided in ~~subsections (5) and (6)~~ subsection  
27 (5) of section 44-4225, on May 1 of each year the director shall  
1 transfer all of the interest earned in the Premium and Retaliatory  
2 Tax Suspense Fund on the immediately preceding year's prepayments  
3 to the General Fund and transfer the balance of the preceding  
4 year's prepayments deposited in the Premium and Retaliatory Tax  
5 Suspense Fund to the Insurance Tax Fund. Any money in the Premium  
6 and Retaliatory Tax Suspense Fund available for investment shall be  
7 invested by the state investment officer pursuant to the Nebraska  
8 Capital Expansion Act and the Nebraska State Funds Investment Act.  
9 Sec. 8. Original sections 44-4217, 44-4219, 44-4220.02,  
10 44-4223, 44-4224, 44-4225, and 77-918, Reissue Revised Statutes of  
11 Nebraska, are repealed.

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

14 2. On page 1, line 6, strike "to provide an operative  
15 date;".

**LEGISLATIVE BILL 234.** Placed on Select File.

**LEGISLATIVE BILL 502.** Placed on Select File.

(Signed) Tyson Larson, Chairperson

### **COMMITTEE REPORT**

Health and Human Services

**LEGISLATIVE BILL 507.** Placed on General File with amendment.  
AM670

- 1 1. Insert the following new section:  
2 Sec. 5. It is the intent of the Legislature that the  
3 Department of Health and Human Services carry out the requirements  
4 of sections 2 to 4 of this act within the limits of its annual  
5 appropriation.  
6 2. On page 2, line 3, strike "4" and insert "5"; and in  
7 line 19 after "(1)" insert "For purposes of this section, target  
8 work rate means fifty percent less the caseload reduction credit  
9 submitted by the Nebraska Department of Health and Human Services  
10 to the United States Department of Health and Human Services for  
11 the fiscal year.  
12 (2)".  
13 3. On page 3, strike beginning with "(2)" in line 3  
14 through line 13 and insert:  
15 "(3) No state funds shall be used to carry out this  
16 section unless such state funds meet the definition of qualified  
17 state expenditures under the federal Temporary Assistance to Needy  
18 Families Act, 42 U.S.C. 609(a)(7)(B)(i).  
19 (4) If Nebraska's work participation rate under the  
20 federal Temporary Assistance to Needy Families program, 42 U.S.C.  
21 601 et seq., does not exceed the target work rate by ten percentage  
22 points in any month, the Department of Health and Human Services  
23 may suspend the requirements of subsection (2) of this section  
1 until the work participation rate exceeds the target work rate by  
2 ten percentage points for three consecutive months."  
3 4. Renumber the remaining sections accordingly.

(Signed) Kathy Campbell, Chairperson

### **RESOLUTION**

**LEGISLATIVE RESOLUTION 199.** Introduced by Schilz, 47.

WHEREAS, the Mathewson family of Potter, Nebraska, received the 2011 Leopold Conservation Award in Nebraska; and

WHEREAS, this award is given by the Sand County Foundation in partnership with Nebraska Cattlemen, Cargill, and a diverse group of agriculture and conservation organizations to individuals or families who

demonstrate extraordinary natural resource conservation and land management; and

WHEREAS, the Mathewson family has been committed to conserving natural resources on their ranch for three generations. Rodney Mathewson started the ranching operation in the 1940s, and Rodney's son, Randy, and grandson, Beau, continue to run the ranch today; and

WHEREAS, the Mathewson family has utilized various conservation practices to get the most benefit out of the ranching operation in the most sustainable way possible.

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

1. That the Legislature congratulates the Mathewson family for receiving the 2011 Leopold Conservation Award in Nebraska.

2. That a copy of this resolution be sent to the Mathewson family.

Laid over.

### SELECT FILE

**LEGISLATIVE BILL 22.** Senator K. Haar offered the following amendment:

AM831

- 1 1. On page 4, line 7, after "coverage" insert "(a)"; in
- 2 line 9 strike "or to coverage" and insert ", (b)"; and in line
- 3 10 before the period insert ", or (c) for an abortion that is
- 4 performed because, in the professional judgment of the physician,
- 5 there is a complication or anomaly related to the pregnancy such
- 6 that the fetus has a condition incompatible with life".
- 7 2. On page 5, line 8, before the period insert "or
- 8 because, in the professional judgment of the physician, there is
- 9 a complication or anomaly related to the pregnancy such that the
- 10 fetus has a condition incompatible with life".

Senator K. Haar withdrew his amendment.

The Presiding Officer called for a machine vote on the advancement of the bill.

Advanced to Enrollment and Review for Engrossment with 30 ayes, 8 nays, 7 present and not voting, and 4 excused and not voting.

**GENERAL FILE**

**LEGISLATIVE BILL 142.** Title read. Considered.

**SENATOR CARLSON PRESIDING**

Committee AM934, found on page 1307, was considered.

Pending.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 384.** Placed on Final Reading.

ST33

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

1. In the E & R amendments, ER86, on page 1, line 2, "49-617," has been inserted before "77-123".

2. In the Standing Committee amendments, AM944:

a. On page 21, line 27, "26" has been struck and "27" inserted; and

b. On page 22, line 1; page 26, line 24; page 27, line 3; page 36, line 2; and page 38, line 4, "27" has been struck and "28" inserted.

**LEGISLATIVE BILL 384A.** Placed on Final Reading.

**LEGISLATIVE BILL 386.** Placed on Final Reading.

(Signed) Tyson Larson, Chairperson

**RESOLUTION**

**LEGISLATIVE RESOLUTION 200.** Introduced by Pahls, 31.

**PURPOSE:** The purpose of this resolution is to study whether the insurance laws of Nebraska should be amended to provide that insurance or self-insurance providing coverage to an operator of a motor vehicle not owned by the operator shall be primary to any insurance or self-insurance providing coverage to the motor vehicle. In order to carry out the purpose of this resolution, the study committee should seek and consider the input of interested persons and organizations, including motor vehicle dealers and insurers, as the committee deems necessary and beneficial.

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

### AMENDMENTS - Print in Journal

Senator Cook filed the following amendment to LB628:  
AM1261

(Amendments to Final Reading copy)

- 1 1. On page 5, line 23, after "organization" insert "a
- 2 other than a religious corporation, organization, association, or
- 3 society."
- 4 2. On page 6, line 3, strike "an immediate" and insert
- 5 "a"; and in line 4 after the period insert "For purposes of
- 6 this section, family member means a spouse, child, parent,
- 7 brother, sister, grandchild, or grandparent by blood, marriage,
- 8 or adoption."

Senator Gloor filed the following amendment to LB590:  
AM1364

(Amendments to E & R amendments, ER111)

- 1 1. Insert the following new section:
- 2 Sec. 18. Section 71-7606, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 71-7606 (1) The purpose of the Nebraska Health Care
- 5 Funding Act is to provide for the use of dedicated revenue for
- 6 health-care-related expenditures and administration and enforcement
- 7 of the Master Settlement Agreement as defined in section 69-2702.
- 8 (2) Any funds appropriated or distributed under the act
- 9 shall not be considered ongoing entitlements or obligations on the
- 10 part of the State of Nebraska and shall not be used to replace
- 11 existing funding for existing programs.
- 12 (3) No funds appropriated or distributed under the act
- 13 shall be used for abortion, abortion counseling, referral for
- 14 abortion, or research or activity of any kind involving the use of
- 15 human fetal tissue obtained in connection with the performance of
- 16 an induced abortion or involving the use of human embryonic stem
- 17 cells or for the purpose of obtaining other funding for such use.
- 18 (4) The Department of Health and Human Services shall
- 19 report annually to the Legislature and the Governor regarding the
- 20 use of funds appropriated under the act and the outcomes achieved
- 21 from such use.
- 22 2. On page 19, line 16, strike the last "and" and show as
- 1 stricken; and in line 23 after "69-2702" insert "; and
- 2 (vi) The information required to establish that such
- 3 nonparticipating manufacturer has posted the appropriate bond or
- 4 cash equivalent required under section 9 of this act".

5 3. On page 21, line 25, after "376" insert "and 376a".

6 4. On page 24, line 27, strike beginning with "(1)"  
 7 through "post" and insert the following new subsections:  
 8 "(1) All nonparticipating manufacturers shall post a bond  
 9 or its cash equivalent for the benefit of the state which is  
 10 subject to execution under subsection (3) of this section. The  
 11 bond shall be posted by corporate surety located within the United  
 12 States, or the cash equivalent of the bond shall be posted by the  
 13 nonparticipating manufacturer in an account approved by the state.  
 14 The bond or its cash equivalent shall be posted and evidence of  
 15 such posting shall be provided to the Tax Commissioner at least  
 16 ten days in advance of each calendar quarter as a condition to the  
 17 nonparticipating manufacturer and its brand families being included  
 18 in the directory for that quarter.

19 (2) The amount of the bond shall be determined as  
 20 follows:

21 (a) Unless subdivision (c) of this subsection is  
 22 applicable, for a nonparticipating manufacturer or its affiliates  
 23 which have been listed on any state's directory for at least  
 24 three years or for any nonparticipating manufacturer whose sales  
 25 are authorized pursuant to an agreement under section 22 of this  
 26 act, the amount of the bond required shall be twenty-five thousand  
 27 dollars;

1 (b) Unless subdivision (c) of this subsection is  
 2 applicable, for a nonparticipating manufacturer or its affiliates  
 3 which have not been listed on any state's directory for at least  
 4 three years, the amount of the bond required shall be fifty  
 5 thousand dollars; and

6 (c) For a nonparticipating manufacturer or its affiliates  
 7 which have failed, in the past three years, to make a full and  
 8 timely escrow deposit due under section 69-2703, unless the failure  
 9 was not knowing or intentional and was promptly cured upon notice,  
 10 or for any nonparticipating manufacturer or its affiliates which  
 11 were involuntarily removed from any state's directory, unless the  
 12 removal was determined to have been erroneous or illegal, the  
 13 amount of the bond required shall be the greater of (i) fifty  
 14 thousand dollars or (ii) the greatest amount of escrow owed by the  
 15 nonparticipating manufacturer or its predecessor in any calendar  
 16 year in Nebraska within the preceding five calendar years."

17 5. Strike page 25.

18 6. On page 26, strike lines 1 and 2.

19 7. On page 28, line 2, after the period insert "The Tax  
 20 Commissioner may also share with a nonparticipating manufacturer  
 21 information reported under this section pertaining to such  
 22 nonparticipating manufacturer's cigarettes."

23 8. On page 30, strike lines 21 through 27.

24 9. On page 31, strike lines 1 through 11 and insert the  
 25 following new subsection:

26 "(3) A stamping agent shall not be liable for escrow  
27 deposits under subsections (1) and (2) of this section if,  
1 at the time of purchase of such nonparticipating manufacturer's  
2 cigarettes:

3 (a) The nonparticipating manufacturer is on the directory  
4 pursuant to section 69-2706; and

5 (b) The state denotes on the directory that the  
6 nonparticipating manufacturer has posted the appropriate bond  
7 required under section 9 of this act."; and in line 20 after  
8 "69-2706" insert "or the rules and regulations".

9 10. On page 33, lines 2, 5, 6, 7, and 8, strike "failure"  
10 and insert "violation".

11 11. On page 34, line 1, strike "manufacturer of  
12 cigarettes" and insert "tobacco product manufacturer".

13 12. On page 35, line 15, after the period insert  
14 "This subsection shall not apply to a stamping agent purchasing  
15 cigarettes which are not in violation of subsection (4) of section  
16 69-2706 or section 69-2708."

17 13. On page 37, line 3, strike "77-2604 or section" and  
18 insert "69-2708 or 77-2604 or section 14 or".

19 14. On page 42, line 10, after "process" insert ", that  
20 it fully cured such violation and provided notice of such cure  
21 to the Department of Revenue within thirty days after receipt of  
22 notice of the violation, or that it secured a temporary injunction  
23 against removal from the directory in the district court of  
24 Lancaster County. For purposes of a temporary injunction sought  
25 pursuant to this subsection, loss of the ability to sell tobacco  
26 products as a result of removal from the directory shall not  
27 constitute irreparable harm. If, after thirty days, the tobacco  
1 product manufacturer remains in noncompliance and has not obtained  
2 a temporary injunction pursuant to this subsection, the tobacco  
3 product manufacturer shall be removed from the directory".

4 15. On page 55, line 11, after "forfeiture" insert "if  
5 the stamping agent fails to pay the shortfall amount".

6 16. On page 68, strike lines 11 through 18 and insert the  
7 following new subsection:

8 "(4) If a person's license has been suspended or revoked  
9 and the person's name has been removed for at least ten days from  
10 the list of licensed entities published by the Tax Commissioner  
11 under subsection (4) of section 77-2603, any person that sells  
12 cigarettes to or purchases cigarettes from such person shall be  
13 jointly and severally liable for any taxes applicable to such  
14 cigarettes under section 77-2602 and for any escrow due on such  
15 cigarettes under section 69-2703."

16 17. Renumber the remaining sections and correct internal  
17 references and the repealer section accordingly.

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 590A.** Introduced by Gloor, 35.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 590, One Hundred Second Legislature, First Session, 2011.

**NOTICE OF COMMITTEE HEARING**

General Affairs

Room 1510

Wednesday, May 25, 2011 1:00 p.m.

Helen Abbott Feller - State Racing Commission

(Signed) Russ Karpisek, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 142.** Committee AM934, found on page 1307 and considered in this day's Journal, was renewed.

Pending.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 380.** Placed on Select File with amendment.  
ER108

- 1 1. On page 1, strike lines 2 through 6 and insert
- 2 "sections 81-188.03 and 81-188.05, Reissue Revised Statutes of
- 3 Nebraska, and section 81-188.01, Revised Statutes Cumulative
- 4 Supplement, 2010; to change and eliminate provisions governing
- 5 depreciation charges; to provide an operative date; to repeal
- 6 the original sections; to outright repeal sections 81-188.02,
- 7 81-188.04, and 81-188.06, Revised Statutes Cumulative Supplement,
- 8 2010; and to declare an emergency."

**LEGISLATIVE BILL 379.** Placed on Select File with amendment.  
ER109

- 1 1. In the Standing Committee amendments, AM1250, on page
- 2 6, line 7, after "administrator" insert "of the budget division of
- 3 the Department of Administrative Services".
- 4 2. On page 1, strike beginning with "the" in line
- 5 1 through line 5 and insert "state funds; to amend sections



6 66-1345 and 84-612, Revised Statutes Cumulative Supplement, 2010;  
 7 to provide for fund transfers involving the Ethanol Production  
 8 Incentive Cash Fund and the Cash Reserve Fund; to eliminate  
 9 obsolete provisions; to harmonize provisions; to repeal the  
 10 original sections; and to declare an emergency.".

**LEGISLATIVE BILL 378.** Placed on Select File with amendment.  
 ER116

1 1. In the Standing Committee amendments, AM904:  
 2 a. On page 2, line 2, strike "Local Civic, Cultural, and  
 3 Convention" and insert "Civic and Community"; and  
 4 b. On page 3, line 17, strike "state".  
 5 2. On page 1, strike beginning with "66-1345.04" in  
 6 line 1 through "2010" in line 4 and insert "47-632, 48-1,103,  
 7 48-622.01, 66-1345.04, 81-8,239.02, 81-1120.02, 81-1120.22, 85-122,  
 8 85-125, 85-192, and 85-1,123, Reissue Revised Statutes of Nebraska,  
 9 sections 24-205, 24-227.01, 25-2921, 29-2259.02, 29-2262.07,  
 10 81-1120.23, and 82-331, Revised Statutes Cumulative Supplement,  
 11 2010, and section 9-531, Uniform Commercial Code, Revised Statutes  
 12 Cumulative Supplement, 2010"; and in line 5 after the semicolon  
 13 insert "to create a fund;".

**LEGISLATIVE BILL 377.** Placed on Select File with amendment.  
 ER122

1 1. In the Standing Committee amendments, AM903, on page  
 2 16, lines 2 and 10, after "Agriculture" insert "at Curtis".

**LEGISLATIVE BILL 376.** Placed on Select File with amendment.  
 ER105 is available in the Bill Room.

**LEGISLATIVE BILL 375.** Placed on Select File.

**LEGISLATIVE BILL 374.** Placed on Select File with amendment.  
 ER124

1 1. In the Standing Committee amendments, AM902:  
 2 a. On page 1, line 7, strike the first "July 1" and  
 3 insert "June 30";  
 4 b. On page 7, line 20; and page 9, line 11, strike  
 5 "Nebraska";  
 6 c. On page 48, lines 14 and 15, after "of" insert "the";  
 7 d. On page 92, line 14, strike "4,942,260" and insert  
 8 "4,942,620";  
 9 e. On page 121, line 21, strike the second comma;  
 10 f. On page 164, line 7, after "Fund" insert ", State  
 11 Medicaid Fraud Control Unit Cash Fund"; and in line 10 after the  
 12 comma insert "College Savings Plan Expense Fund,";

- 13 g. On page 165, line 14, after the second "Fund" insert  
 14 ", Nebraska Advantage Transformational Tourism and Redevelopment  
 15 Act Cash Fund";
- 16 h. On page 166, line 6, after the second "Fund" insert  
 17 ", Anthrax Control Act Cash Fund"; and in line 18 after the second  
 18 "Fund" insert ", Professional Employer Organization Cash Fund";
- 19 i. On page 168, line 25, after the second "Fund" insert  
 20 ", Reentry Cash Fund";
- 21 j. On page 170, line 9, after the colon insert  
 22 "Certified";
- 23 k. On page 171, line 1, after "Fund" insert ", Commission  
 1 on Latino-Americans Cash Fund"; in line 14 after "Fund" insert ",  
 2 Civic and Community Center Financing Fund"; and in line 25 after  
 3 "Fund" insert ", Nebraska Crime Victim Fund";
- 4 l. On page 173, line 11, strike "and"; in line 14 strike  
 5 the period and insert "; and"; and after line 14 insert the  
 6 following new subdivision:  
 7 "(73) Commission on Indian Affairs: Designated Collection  
 8 Fund."; and
- 9 m. On page 186, line 16, strike "Local Civic, Cultural,  
 10 and Convention" and insert "Civic and Community".

**LEGISLATIVE BILL 373.** Placed on Select File with amendment.  
 ER117

- 1 1. In the Standing Committee amendments, AM901:  
 2 a. On page 6, line 23, strike "sections" and insert  
 3 "section";
- 4 b. On page 38, line 27, strike the last comma and insert  
 5 a semicolon; and
- 6 c. On page 39, line 1, strike the third comma and insert  
 7 a semicolon and strike the last comma and insert a semicolon; in  
 8 line 3 strike ", and" and insert a semicolon; and in line 4 strike  
 9 the ninth comma and insert a semicolon.
- 10 2. On page 1, strike lines 2 through 5 and insert  
 11 "section 31; Laws 2009, LB 315, section 216; Laws 2009, LB 603A,  
 12 sections 1 and 2; Laws 2009, First Special Session, LB 1, sections  
 13 14, 91, 96, 100, 101, 103, 122, and 217; Laws 2010, LB 935,  
 14 sections 11, 19, 43, 45, 46, 64, 99, 106, 107, 108, 111, and 112;  
 15 and"; and in line 9 after the second semicolon insert "to provide  
 16 for transfer of funds;".

**LEGISLATIVE BILL 585.** Placed on Select File with amendment.  
 ER123

- 1 1. In the Standing Committee amendments, AM1253, on page  
 2 2, line 20, after "2009-03422" insert an underscored comma; and in  
 3 line 24 after "2010-04095" insert an underscored comma.

(Signed) Tyson Larson, Chairperson

**AMENDMENTS - Print in Journal**

Senator Hadley filed the following amendment to LB226:  
AM1381

(Amendments to Standing Committee amendments, AM1068)

- 1 1. On page 2, line 20, after the semicolon insert "an
- 2 employee of the Youth Rehabilitation and Treatment Center-Geneva or
- 3 the Youth Rehabilitation and Treatment Center-Kearney:".

Senator Lathrop filed the following amendment to LB397:  
AM1383

(Amendments to Standing Committee amendments, AM1116)

- 1 1. Insert the following new section:
- 2 Sec. 7. Section 48-815, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 48-815 The commission shall provide itself with a proper
- 5 seal and shall have the power and authority to issue subpoenas and
- 6 to compel the attendance of witnesses and parties and to compel
- 7 the production of relevant books, correspondence, files, records,
- 8 and accounts of any person, corporation, association, or labor
- 9 organization affected, and to make any and all investigations
- 10 necessary to ascertain the truth in regard to the matters
- 11 before the commission. Subpoenas for the production of books,
- 12 correspondence, files, records and accounts shall be issued by the
- 13 commission only after notice to the owner and person in possession
- 14 thereof and opportunity to be heard as to the relevancy of such
- 15 subpoena. When records are sought from private sector employers
- 16 under subsection (2) of section 48-818, the commission shall
- 17 receive documents and provide documents to the parties along with
- 18 a protective order prohibiting dissemination to parties outside
- 19 the litigation and protecting the identity of the employer in any
- 20 proceeding or order.
- 21 2. On page 3, strike lines 12 through 17 and renumber the
- 22 remaining subdivisions accordingly.
- 1 3. On page 7, line 25, after the period insert "If
- 2 a change in the employment status or in wages or terms and
- 3 conditions of employment is necessary, a motion by either party
- 4 or by the parties jointly may be presented to the commission at
- 5 that time and if the commission finds, based on a showing of
- 6 evidence at a hearing thereon, that the requested change is both
- 7 reasonable and necessary to serve an important public interest and
- 8 that the employer has not considered a change in the employment
- 9 status, wages, or terms and conditions of employment as a policy
- 10 alternative on an equal basis with other policy alternatives
- 11 to achieve budgetary savings, the commission may order that the
- 12 requested change be allowed pending final resolution of the pending
- 13 industrial dispute.".
- 14 4. On page 11, line 1, strike "public employer" and
- 15 insert "municipality, municipally owned utility, or county"; and

16 strike beginning with "representing" in line 2 through "personnel"  
17 in line 3.

18 5. On page 17, strike lines 20 through 27.

19 6. On page 18, strike lines 1 through 3; and in line 4  
20 strike "(3)" and insert "(2)".

21 7. On page 19, after line 4 insert the following new  
22 subdivision:

23 "(iv) Nothing in subdivision (2)(b) of this section shall  
24 prevent parties from stipulating to an array member that does not  
25 otherwise meet the criteria in such subdivision, and nothing in  
26 such subdivision shall prevent parties from stipulating to less  
27 than seven or more than thirteen array members;" and renumber the  
1 remaining subdivisions accordingly; in line 15 after "area" insert  
2 "other than the metropolitan statistical area in which the employer  
3 before the commission is located"; in line 25 strike "employees"  
4 and insert "meters served"; and in line 26 after "the" insert  
5 "number of meters served by the".

6 8. On page 20, line 5; and page 26, lines 14 and 27,  
7 strike "(3)" and insert "(2)".

8 9. On page 25, line 22, strike "enrolled actuary" and  
9 insert "actuary holding a current membership with the American  
10 Academy of Actuaries".

11 10. On page 27, line 7, strike "or benefits"; and in  
12 lines 8, 14, and 18 strike "and benefits".

13 11. On page 64, line 15, after "48-813," insert  
14 "48-815,".

15 12. Renumber the remaining sections and correct internal  
16 references accordingly.

Senator Fulton filed the following amendment to LB397:  
AM1379 is available in the Bill Room.

### UNANIMOUS CONSENT - Add Cointroducer

Senator Cook asked unanimous consent to add her name as cointroducer to  
LB575. No objections. So ordered.

### VISITORS

Visitors to the Chamber were 35 fifth- and sixth-grade students, teachers,  
and sponsor from Kenesaw; and 9 eleventh- and twelfth-grade students and  
teachers from Papillion-La Vista, Papillion.

**ADJOURNMENT**

At 4:59 p.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Wednesday, May 4, 2011.

Patrick J. O'Donnell  
Clerk of the Legislature

