

FORTIETH DAY - MARCH 7, 2012**LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE
SECOND SESSION****FORTIETH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 7, 2012

PRAYER

The prayer was offered by Reverend Dr. Leroy Adams Jr., Morning Star Baptist Church, Omaha.

ROLL CALL

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

The roll was called and all members were present except Senators Coash, Conrad, and Heidemann who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-ninth day was approved.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 820A. Placed on Select File.

LEGISLATIVE BILL 821A. Placed on Select File.

LEGISLATIVE BILL 1160A. Placed on Select File.

(Signed) Tyson Larson, Chairperson

SELECT FILE

LEGISLATIVE BILL 821. ER196, found on page 747, was adopted.

Senator Campbell renewed her amendment, AM2304, found on page 795.

Senator Lathrop offered the following amendment to the Campbell amendment:

AM2334

(Amendments to AM2304)

- 1 1. On page 6, line 5, after "(b)" insert "The
 2 commission shall create a committee to examine the structure and
 3 responsibilities of the Office of Juvenile Services as they exist
 4 on the effective date of this act. Such committee shall review the
 5 role and effectiveness of the youth rehabilitation and treatment
 6 centers in the juvenile justice system and make recommendations
 7 to the commission on the future role of the youth rehabilitation
 8 and treatment centers in the juvenile justice continuum of
 9 care. Such committee shall also review the responsibilities of
 10 the Administrator of the Office of Juvenile Services, including
 11 oversight of the youth rehabilitation and treatment centers
 12 and juvenile parole, and make recommendations to the commission
 13 relating to the future responsibilities of the administrator.
 14 (c)".

The Lathrop amendment was adopted with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Senator Lathrop offered the following amendment to the Campbell amendment:

AM2336

(Amendments to AM2304)

- 1 1. On page 16, strike lines 15 through 22 and insert the
 2 following new subsection:
 3 "(3) Notwithstanding the fact that a criminal
 4 investigation, a criminal prosecution, or both is in progress, all
 5 law enforcement agencies and prosecuting attorneys shall cooperate
 6 with the investigations conducted by the Inspector General and
 7 shall provide the Inspector General with all records, information,
 8 documents, and files and access to all relevant persons and
 9 witnesses and to all physical evidence, immediately upon request
 10 by the Inspector General. If the Inspector General in conjunction
 11 with the Public Counsel determines it appropriate, the Inspector
 12 General may, when requested to do so by a law enforcement agency
 13 or prosecuting attorney, suspend an investigation by the office
 14 until a criminal investigation or prosecution is completed or
 15 has proceeded to a point that, in the judgment of the Inspector
 16 General, reinstatement of the Inspector General investigation
 17 will not impede or infringe upon the criminal investigation or
 18 prosecution.".

The Lathrop amendment was adopted with 31 ayes, 0 nays, 16 present and not voting, and 2 excused and not voting.

Senator Campbell moved for a call of the house. The motion prevailed with

26 ayes, 0 nays, and 23 not voting.

The Campbell amendment, as amended, was adopted with 46 ayes, 0 nays, 1 absent and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Lathrop withdrew his amendments, AM2323 and AM2276, found on pages 802 and 803.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 821A. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 1160. ER193, found on page 747, was adopted.

Senator Campbell renewed her amendment, AM2280, found on page 795.

The Campbell amendment was adopted with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 1160A. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 949. ER191, found on page 747, was adopted.

Senator Krist renewed his amendment, AM2269, found on page 765.

The Krist amendment was adopted with 29 ayes, 0 nays, 19 present and not voting, and 1 excused and not voting.

Senator Mello offered the following amendment:
AM2337

(Amendments to E & R amendments, ER191)

- 1 1. On page 1, line 6, before "to" insert "and the
- 2 outcomes relating to such expenditures"; and in line 14 after
- 3 the first "quarter" insert "and the outcomes relating to such
- 4 expenditures".

The Mello amendment was adopted with 27 ayes, 0 nays, 21 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 820. ER192, found on page 750, was adopted.

Senator Campbell renewed her amendment, AM2284, found on page 795.

The Campbell amendment was adopted with 33 ayes, 0 nays, 15 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 820A. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 961. ER194, found on page 750, was adopted.

Senator Campbell renewed her amendment, AM2311, found on page 790.

The Campbell amendment was adopted with 35 ayes, 0 nays, 13 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 751. Placed on Select File with amendment. ER195 is available in the Bill Room.

LEGISLATIVE BILL 751A. Placed on Select File.

LEGISLATIVE BILL 950. Placed on Select File with amendment. ER197

- 1 1. On page 1, line 4, strike "and" and after "section"
- 2 insert "; and to declare an emergency".

LEGISLATIVE BILL 950A. Placed on Select File.

LEGISLATIVE BILL 727. Placed on Select File with amendment. ER200 is available in the Bill Room.

LEGISLATIVE BILL 834. Placed on Select File with amendment. ER198 is available in the Bill Room.

LEGISLATIVE BILL 933. Placed on Select File with amendment. ER201

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 79-209, Revised Statutes Supplement,
- 4 2011, is amended to read:

5 79-209 (1) In all school districts in this state, any
6 superintendent, principal, teacher, or member of the school board
7 who knows of any violation of section 79-201 on the part of any
8 child of school age, his or her parent, the person in actual or
9 legal control of such child, or any other person shall within
10 three days report such violation to the attendance officer of
11 the school, who shall investigate the case. When of his or her
12 personal knowledge, by report or complaint from any resident of the
13 district, or by report or complaint as provided in this section,
14 the attendance officer believes that any child is unlawfully absent
15 from school, the attendance officer shall immediately investigate.

16 (2) All school districts shall have a written policy on
17 excessive absenteeism developed in collaboration with the county
18 attorney of the county in which the principal office of the
19 school district is located. The policy shall include a provision
20 indicating how the school district and the county attorney will
21 handle cases in which excessive absences are due to documented
22 illness that makes attendance impossible or impracticable, and
23 the policy shall state the number of absences or the hourly
1 equivalent upon the occurrence of which the school shall render
2 all services in its power to compel such child to attend some
3 public, private, denominational, or parochial school, which the
4 person having control of the child shall designate, in an attempt
5 to address the problem of excessive absenteeism. The number of
6 absences in the policy shall not exceed five days per quarter
7 or the hourly equivalent. School districts may use excused and
8 unexcused absences for purposes of the policy. Such services shall
9 include, but need not be limited to:

10 (1)-(a) One or more meetings between a school attendance
11 officer, school social worker or the school principal or a
12 member of the school administrative staff designated by the school
13 administration if such school does not have a school social worker,
14 the child's parent or guardian, and the child, if necessary,
15 to report and to attempt to solve the problem of excessive
16 absenteeism;

17 (2)-(b) Educational counseling to determine whether
18 curriculum changes, including, but not limited to, enrolling the
19 child in an alternative education program that meets the specific
20 educational and behavioral needs of the child, would help solve the
21 problem of excessive absenteeism;

22 (3)-(c) Educational evaluation, which may include a
23 psychological evaluation, to assist in determining the specific
24 condition, if any, contributing to the problem of excessive
25 absenteeism, supplemented by specific efforts by the school to
26 help remedy any condition diagnosed; and

27 (4)-(d) Investigation of the problem of excessive
1 absenteeism by the school social worker, or if such school does
2 not have a school social worker, by the school principal or a
3 member of the school administrative staff designated by the school

4 administration, to identify conditions which may be contributing to
 5 the problem. If services for the child and his or her family are
 6 determined to be needed, the school social worker or the school
 7 principal or a member of the school administrative staff performing
 8 the investigation shall meet with the parent or guardian and the
 9 child to discuss any referral to appropriate community agencies
 10 for economic services, family or individual counseling, or other
 11 services required to remedy the conditions that are contributing to
 12 the problem of excessive absenteeism.

13 (3) If the child is absent more than twenty days per
 14 year or the hourly equivalent and all of the absences are
 15 due to documented illness that makes attendance impossible or
 16 impracticable or are otherwise excused by school authorities,
 17 the attendance officer may report such information to the county
 18 attorney of the county in which the person resides. If the
 19 child is absent more than twenty days per year or the hourly
 20 equivalent and any of such absences are not excused, the attendance
 21 officer shall file a report with the county attorney of the
 22 county in which the person resides on a form which includes
 23 the following two statements, one of which must be designated
 24 by the school representative signing the report: (a) The school
 25 representative requests additional time to work with the student
 26 prior to intervention by the county attorney; and (b) the school
 27 representative believes that the school has used all reasonable
 1 efforts to resolve the student's excessive absenteeism without
 2 success and recommends county attorney intervention. If further
 3 action is necessary to address the child's attendance, the initial
 4 meeting between the parent or guardian of the child, the school,
 5 and the county attorney or his or her designee shall be at a
 6 location determined by the school.

7 ~~If the child is absent more than twenty days per year~~
 8 ~~or the hourly equivalent, the attendance officer shall file a~~
 9 ~~report with the county attorney of the county in which such person~~
 10 ~~resides. The county attorney may file a complaint against a person~~
 11 ~~violating section 79-201 before the judge of the county court~~
 12 ~~of the county in which such person resides charging such person~~
 13 ~~with violation of section 79-201 or may file a petition under the~~
 14 ~~Nebraska Juvenile Code alleging the person violating section 79-201~~
 15 ~~is a juvenile described in subdivision (3)(a) or (3)(b) of section~~
 16 ~~43-247.~~

17 (4) Nothing in this section shall preclude a county
 18 attorney from being involved at any stage in the process to address
 19 excessive absenteeism.

20 Sec. 2. Original section 79-209, Revised Statutes
 21 Supplement, 2011, is repealed.

LEGISLATIVE BILL 993A. Placed on Select File.

LEGISLATIVE BILL 983. Placed on Select File.

LEGISLATIVE BILL 842. Placed on Select File with amendment.
ER202

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 68-1721, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 68-1721 (1) Under the self-sufficiency contract developed
- 6 under section 68-1719, the principal wage earner and other
- 7 nonexempt members of the applicant family shall be required to
- 8 participate in one or more of the following approved activities,
- 9 including, but not limited to, education, job skills training, work
- 10 experience, job search, or employment.
- 11 (2) Education shall consist of the general education
- 12 development program, high school, Adult Basic Education, English
- 13 as a Second Language, postsecondary education, or other education
- 14 programs approved in the contract.
- 15 (3) Job skills training shall include vocational
- 16 training in technical job skills and equivalent knowledge.
- 17 Activities shall consist of formalized, technical job skills
- 18 training, apprenticeships, on-the-job training, or training in the
- 19 operation of a microbusiness enterprise. The types of training,
- 20 apprenticeships, or training positions may include, but need not be
- 21 limited to, the ability to provide services such as home repairs,
- 22 automobile repairs, respite care, foster care, personal care, and
- 23 child care. Job skills training shall be prioritized and approved
- 1 for occupations that facilitate economic self-sufficiency.
- 2 (4) The purpose of work experience shall be to improve
- 3 the employability of applicants by providing work experience and
- 4 training to assist them to move promptly into regular public or
- 5 private employment. Work experience shall mean unpaid work in a
- 6 public, private, for-profit, or nonprofit business or organization.
- 7 Work experience placements shall take into account the individual's
- 8 prior training, skills, and experience. A placement shall not
- 9 exceed six months.
- 10 (5) Job search shall assist adult members of recipient
- 11 families in finding their own jobs. The emphasis shall be placed on
- 12 teaching the individual to take responsibility for his or her own
- 13 job development and placement.
- 14 (6) Employment shall consist of work for pay. The
- 15 employment may be full-time or part-time but shall be adequate
- 16 to help the recipient family reach economic self-sufficiency.
- 17 (7) For purposes of creating the self-sufficiency
- 18 contract and meeting the applicant's work activity requirement, an
- 19 applicant shall be allowed to engage in vocational training that
- 20 leads to an associate degree, a diploma, or a certificate for a
- 21 minimum of twenty hours per week for up to thirty-six months. This
- 22 subsection terminates on ~~September 30, 2012~~, December 31, 2016.
- 23 Sec. 2. The Department of Health and Human Services shall
- 24 collect the following data and information yearly:

25 (1) The total number of participants in the aid to
 26 dependent children program described in section 43-512 pursuing an
 27 associate degree;

1 (2) Graduation rates of such participants, the number
 2 of participants that are making satisfactory progress in their
 3 educational pursuits, and the length of time participants
 4 participate in education to fulfill their work requirement under
 5 the program;

6 (3) The monthly earnings, educational level attained, and
 7 employment status of such participants at six months and at twelve
 8 months after terminating participation in the aid to dependent
 9 children program; and

10 (4) A summary of activities performed by the department
 11 to promote postsecondary educational opportunities to participants
 12 in the aid to dependent children program.

13 Sec. 3. (1) The Department of Health and Human Services
 14 shall provide a report to the Governor and the Legislature no
 15 later than December 1 each year regarding the data and information
 16 collected pursuant to section 2 of this act, including a summary of
 17 such data and information.

18 (2) The data and information collected under such section
 19 shall be considered a public record under section 84-712.01.

20 Sec. 4. Original section 68-1721, Reissue Revised
 21 Statutes of Nebraska, is repealed.

22 2. On page 1, line 1, strike "the Welfare Reform Act"
 23 and insert "public assistance"; and in line 4 after the semicolon
 24 insert "to require the Department of Health and Human Services to
 25 collect certain data regarding aid to dependent children and to
 26 provide a report;".

LEGISLATIVE BILL 907. Placed on Select File.

LEGISLATIVE BILL 863. Placed on Select File with amendment.
 ER203

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

3 Section 1. Section 18-2701, Reissue Revised Statutes of
 4 Nebraska, is amended to read:

5 18-2701 Sections 18-2701 to 18-2738 and section 3 of this
 6 act shall be known and may be cited as the Local Option Municipal
 7 Economic Development Act.

8 Sec. 2. Section 18-2709, Revised Statutes Supplement,
 9 2011, is amended to read:

10 18-2709 (1) Qualifying business means any corporation,
 11 partnership, limited liability company, or sole proprietorship
 12 which derives its principal source of income from any of the
 13 following: The manufacture of articles of commerce; the conduct
 14 of research and development; the processing, storage, transport,
 15 or sale of goods or commodities which are sold or traded in

16 interstate commerce; the sale of services in interstate commerce;
 17 headquarters facilities relating to eligible activities as
 18 listed in this section; telecommunications activities, including
 19 services providing advanced telecommunications capability; ~~or~~
 20 tourism-related activities; or the production of films, including
 21 feature, independent, and documentary films, commercials, and
 22 television programs.

23 (2) Qualifying business also means:

1 (a) In cities of the first and second class and villages,
 2 a business that derives its principal source of income from the
 3 construction or rehabilitation of housing;

4 (b) A business that derives its principal source of
 5 income from retail trade, except that no more than forty percent of
 6 the total revenue generated pursuant to the Local Option Municipal
 7 Economic Development Act for an economic development program in any
 8 twelve-month period and no more than twenty percent of the total
 9 revenue generated pursuant to the act for an economic development
 10 program in any five-year period, commencing from the date of
 11 municipal approval of an economic development program, shall be
 12 used by the city for or devoted to the use of retail trade
 13 businesses. For purposes of this subdivision, retail trade means
 14 a business which is principally engaged in the sale of goods or
 15 commodities to ultimate consumers for their own use or consumption
 16 and not for resale; and

17 (c) In cities with a population of two thousand five
 18 hundred inhabitants or less, a business shall be a qualifying
 19 business even though it derives its principal source of income from
 20 activities other than those set out in this section.

21 (3) If a business which would otherwise be a qualifying
 22 business employs people and carries on activities in more than
 23 one city in Nebraska or will do so at any time during the first
 24 year following its application for participation in an economic
 25 development program, it shall be a qualifying business only if, in
 26 each such city, it maintains employment for the first two years
 27 following the date on which such business begins operations in the
 1 city as a participant in its economic development program at a
 2 level not less than its average employment in such city over the
 3 twelve-month period preceding participation.

4 (4) A qualifying business need not be located within the
 5 territorial boundaries of the city from which it is or will be
 6 receiving financial assistance.

7 Sec. 3. A qualifying business which derives its principal
 8 source of income from the production of films, commercials, and
 9 television programs and which is utilizing an economic development
 10 program shall (1) provide notice to the Nebraska Film Office or its
 11 successor of each project for which the qualifying business intends
 12 to utilize the economic development program and (2) acknowledge
 13 in the production credits of the film, commercial, or television
 14 program the State of Nebraska and the city operating the economic

15 development program. The acknowledgment shall be required only when
 16 production credits are displayed and shall not be required if
 17 prohibited by local, state, or federal law, rule, or regulation.

18 Sec. 4. Original section 18-2701, Reissue Revised
 19 Statutes of Nebraska, and section 18-2709, Revised Statutes
 20 Supplement, 2011, are repealed.

21 2. On page 1, strike beginning with "18-2709" in line 2
 22 through line 5 and insert "18-2701, Reissue Revised Statutes of
 23 Nebraska, and section 18-2709, Revised Statutes Supplement, 2011;
 24 to redefine qualifying business to include film production; to
 25 provide duties for qualifying businesses; to harmonize provisions;
 26 and to repeal the original sections."

LEGISLATIVE BILL 1130. Placed on Select File.

LEGISLATIVE BILL 965. Placed on Select File.

LEGISLATIVE RESOLUTION 373CA. Placed on Select File.

(Signed) Tyson Larson, Chairperson

COMMITTEE REPORTS

Judiciary

LEGISLATIVE BILL 816. Placed on General File.

LEGISLATIVE BILL 899. Placed on General File.

LEGISLATIVE BILL 1046. Placed on General File.

LEGISLATIVE BILL 538. Placed on General File with amendment.
 AM2329

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

3 Section 1. Section 29-820, Reissue Revised Statutes of
 4 Nebraska, is amended to read:

5 29-820 (1) Unless other disposition is specifically
 6 provided by law, when property seized or held is no longer required
 7 as evidence, it shall be disposed of by the law enforcement agency
 8 on such showing as the law enforcement agency may deem adequate, as
 9 follows:

10 (a) Property stolen, embezzled, obtained by false
 11 pretenses, or otherwise obtained unlawfully from the rightful owner
 12 thereof shall be restored to the owner;

13 (b) Money shall be restored to the owner unless it was
 14 used in unlawful gambling or lotteries or it was used or intended
 15 to be used to facilitate a violation of Chapter 28, article 4, in
 16 which case the money shall be forfeited and disposed of as required
 17 by Article VII, section 7, of the Constitution of Nebraska;

18 (c) Property which is unclaimed or the ownership of which
 19 is unknown shall be sold at a public auction held by the officer
 20 having custody thereof and the net proceeds disposed of as provided

21 in subdivision (b) of this subsection, as shall any money which is
 22 unclaimed or the ownership of which is unknown;

23 ~~(d) Except as provided in subdivision (2)(b) subsection~~
 1 ~~(2) of this section, articles of contraband shall be destroyed; and~~

2 ~~(e) Except as provided in subdivision (2)(a) of this~~
 3 ~~section, firearms, Firearms, ammunition, explosives, bombs, and~~
 4 ~~like devices which have been used in the commission of crime shall~~
 5 ~~be destroyed; and-~~

6 (f) Firearms which have come into the law enforcement
 7 agency's possession through a seizure or otherwise and (i) have not
 8 been used in the commission of crime, (ii) have not been defaced or
 9 altered in any manner that violates any state or federal law, (iii)
 10 may have a lawful use and be lawfully possessed, and (iv) are not
 11 subject to section 29-440 shall be restored to the owner.

12 (2) When the following property is seized or held and is
 13 no longer required as evidence, such property shall be disposed of
 14 on order of the court as the court may deem adequate:

15 ~~(a) Firearms which may have a lawful use; and~~

16 ~~(b)~~ Goods which are declared to be contraband but may
 17 reasonably be returned to a condition or state in which such goods
 18 may be lawfully used, possessed, or distributed by the public.

19 (3) When any animal as defined by section 28-1008 is
 20 seized or held and is no longer required as evidence, such animal
 21 may be disposed of in such manner as the court may direct. The
 22 court may consider adoption alternatives through humane societies
 23 or comparable institutions and the protection of such animal's
 24 welfare. For a humane society or comparable institution to be
 25 considered as an adoption alternative under this subsection, it
 26 must first be licensed by the Department of Agriculture as having
 27 passed the inspection requirements in the Commercial Dog and Cat
 1 Operator Inspection Act and paid the fee for inspection under the
 2 act. The court may prohibit an adopting or purchasing party from
 3 selling such animal for a period not to exceed one year.

4 (4) Unless otherwise provided by law, all other property
 5 shall be disposed of in such manner as the court in its sound
 6 discretion shall direct.

7 Sec. 2. Original section 29-820, Reissue Revised Statutes
 8 of Nebraska, is repealed.

LEGISLATIVE BILL 722. Placed on General File with amendment.
 AM2327

1 1. On page 2, line 25, strike "cash".

2 2. On page 3, line 1, after "offender" insert "to the
 3 extent that such bond is not otherwise encumbered by a valid lien,
 4 levy, execution, or assignment to counsel of record or the person
 5 who posted the bond".

LEGISLATIVE BILL 787. Placed on General File with amendment.
AM2266

- 1 1. Strike section 2.
- 2 2. Correct the repealer and renumber the remaining
- 3 sections accordingly.

LEGISLATIVE BILL 865. Placed on General File with amendment.
AM2305

- 1 1. On page 3, line 1, strike the new matter and reinstate
- 2 the stricken matter; and in line 2 strike the new matter.

LEGISLATIVE BILL 908. Placed on General File with amendment.
AM2319

- 1 1. Strike the original sections and insert the following
- 2 sections:
- 3 Section 1. Section 29-3921, Revised Statutes Supplement,
- 4 2011, is amended to read:
- 5 29-3921 (1) The Commission on Public Advocacy Operations
- 6 Cash Fund is created. The fund shall be used for the operations
- 7 of the commission, except that transfers may be made from the fund
- 8 to the General Fund at the direction of the Legislature through
- 9 June 30, 2011. The Commission on Public Advocacy Operations Cash
- 10 Fund shall consist of money remitted pursuant to section 33-156.
- 11 It is the intent of the Legislature that the commission shall
- 12 be funded solely from the fund. 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 July 1, 2011, or as soon thereafter as
- 17 administratively possible, the State Treasurer shall transfer
- 18 one hundred thousand dollars from the Commission on Public
- 19 Advocacy Operations Cash Fund to the Supreme Court Education
- 20 Fund. The State Court Administrator shall use these funds to
- 21 assist the juvenile justice system in providing prefilings and
- 22 diversion programming designed to reduce excessive absenteeism and
- 23 unnecessary involvement with the juvenile justice system.
- 1 (3) The State Treasurer shall transfer the following
- 2 amounts from the Commission on Public Advocacy Operations Cash Fund
- 3 to the Court Appointed Special Advocate Fund:
- 4 (a) On July 1, 2011, or as soon thereafter as
- 5 administratively possible, one hundred thousand dollars; and
- 6 (b) On July 1, 2012, or as soon thereafter as
- 7 administratively possible, two hundred thousand dollars.
- 8 (4) No later than July 15 of each year from 2012 through
- 9 2017, the State Court Administrator shall certify to the State
- 10 Treasurer the number of court filings made in any county containing
- 11 a city of the metropolitan class in which the indigent defense
- 12 fee provided in subsection (1) of section 33-156 was paid to the
- 13 Commission on Public Advocacy Operations Cash Fund during the prior

14 fiscal year. The State Treasurer shall transfer an amount equal to
 15 the number of such certified filings multiplied by one dollar and
 16 fifty cents from the fund to the county treasurer of such county
 17 for credit to the Indigent Defense Services Fund of the county on
 18 September 1 or as soon thereafter as administratively possible. Any
 19 county receiving funds under this section shall create an Indigent
 20 Defense Services Fund in the county treasury and all indigent
 21 defense services shall be funded through such fund.

22 Sec. 2. Original section 29-3921, Revised Statutes
 23 Supplement, 2011, is repealed.

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

LEGISLATIVE BILL 948. Placed on General File with amendment.
 AM2310

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

3 Section 1. Section 28-1310, Reissue Revised Statutes of
 4 Nebraska, is amended to read:

5 28-1310 (1) A person commits the offense of intimidation
 6 by telephone ~~call~~ or electronic communication device if, with
 7 intent to terrify, intimidate, threaten, harass, annoy, or offend,
 8 the person:

9 (a) ~~Telephones-Contacts~~ another by telephone or
 10 electronic communication device anonymously, whether or not
 11 conversation ensues, and disturbs the peace, quiet, and right of
 12 privacy of any person at the place where the ~~calls-communications~~
 13 are received; or

14 (b) ~~Telephones-Contacts~~ another by telephone or
 15 electronic communication device and uses indecent, lewd,
 16 lascivious, or obscene language or suggests any indecent, lewd, or
 17 lascivious act; or

18 (c) ~~Telephones-Contacts~~ another by telephone or
 19 electronic communication device and threatens to inflict injury to
 20 any person or to the property of any person; or

21 (d) Intentionally fails to disengage ~~the a telephonic~~
 22 connection; or

23 (e) ~~Telephones-Contacts~~ another by telephone or
 1 electronic communication device and attempts to extort money or
 2 other thing of value from any person.

3 (2) The use of indecent, lewd, or obscene language or
 4 the making of a threat or lewd suggestion shall be prima facie
 5 evidence of intent to terrify, intimidate, threaten, harass, annoy,
 6 or offend.

7 (3) The offense shall be deemed to have been committed
 8 either at the place where ~~the call~~ such communication was made or
 9 where it was received.

10 (4) For purposes of this section, electronic
 11 communication device means any device which, in its ordinary and

12 intended use, transmits by electronic means writings, sounds,
 13 visual images, or data of any nature to another electronic
 14 communication device.
 15 ~~(4)-(5)~~ Intimidation by telephone ~~call or electronic~~
 16 communication device is a Class ~~III-II~~ misdemeanor.
 17 Sec. 2. Original section 28-1310, Reissue Revised
 18 Statutes of Nebraska, is repealed.

LEGISLATIVE BILL 1051. Placed on General File with amendment.
 AM2314

1 1. Strike the original sections and insert the following
 2 new sections:
 3 Section 1. Section 28-348, Reissue Revised Statutes of
 4 Nebraska, is amended to read:
 5 28-348 Sections 28-348 to 28-387 and sections 7, 8, and
 6 13 of this act shall be known and may be cited as the Adult
 7 Protective Services Act.
 8 Sec. 2. Section 28-349, Reissue Revised Statutes of
 9 Nebraska, is amended to read:
 10 28-349 The Legislature recognizes the need for the
 11 investigation and provision of services to certain persons who
 12 are substantially impaired and are unable to protect themselves
 13 from abuse, neglect, or exploitation. Often such persons cannot
 14 find others able or willing to render assistance. The Legislature
 15 intends through the Adult Protective Services Act to establish a
 16 program designed to fill this need and to assure the availability
 17 of the program to all eligible persons. It is also the intent of
 18 the Legislature to authorize the least restriction possible on the
 19 exercise of personal and civil rights consistent with the person's
 20 need for services.
 21 Sec. 3. Section 28-350, Reissue Revised Statutes of
 22 Nebraska, is amended to read:
 23 28-350 For purposes of the Adult Protective Services Act,
 1 unless the context otherwise requires, the definitions found in
 2 sections 28-351 to 28-371 and sections 7 and 8 of this act shall
 3 be used.
 4 Sec. 4. Section 28-351, Reissue Revised Statutes of
 5 Nebraska, is amended to read:
 6 28-351 Abuse ~~shall mean~~ means any knowing, or
 7 intentional, ~~or negligent act or omission~~ on the part of a
 8 caregiver, ~~a vulnerable adult~~, or any other person which results in
 9 physical injury, unreasonable confinement, cruel punishment, sexual
 10 abuse, or sexual exploitation, ~~or denial of essential services to~~
 11 of a vulnerable adult.
 12 Sec. 5. Section 28-352, Reissue Revised Statutes of
 13 Nebraska, is amended to read:
 14 28-352 Adult protective services ~~shall mean~~ means those
 15 services provided by the department for the prevention, correction,
 16 or discontinuance of abuse, neglect, or exploitation. Such services

17 shall be those necessary and appropriate under the circumstances
 18 to protect an abused, neglected, or exploited vulnerable adult,
 19 ensure that the least restrictive alternative is provided, prevent
 20 further abuse, neglect, or exploitation, and promote self-care and
 21 independent living. Such services shall include, but not be limited
 22 to: (1) Receiving and investigating reports of alleged abuse,
 23 neglect, or exploitation; (2) developing social service plans; (3)
 24 arranging for the provision of services such as medical care,
 25 mental health care, legal services, fiscal management, housing, or
 26 home health care; (4) arranging for the provision of items such
 27 as food, clothing, or shelter; and (5) arranging or coordinating
 1 services for caregivers.

2 Sec. 6. Section 28-358, Reissue Revised Statutes of
 3 Nebraska, is amended to read:

4 28-358 Exploitation ~~shall mean~~ means the taking of
 5 property of a vulnerable adult by any person by means of
 6 undue influence, breach of a fiduciary relationship, deception,
 7 or extortion or by any unlawful means.

8 Sec. 7. Section 28-355, Reissue Revised Statutes of
 9 Nebraska, is amended to read:

10 ~~28-355 Denial of essential services shall mean that~~
 11 Neglect means any knowing or intentional act or omission on the
 12 part of a caregiver to provide essential services or the failure
 13 of a vulnerable adult, due to physical or mental impairments,
 14 to perform self-care or obtain essential services ~~are denied or~~
 15 ~~neglected~~ to such an extent that there is actual physical injury
 16 to a vulnerable adult or imminent danger of the vulnerable adult
 17 suffering physical injury or death.

18 Sec. 8. Sexual exploitation includes, but is not
 19 limited to, unlawful intrusion as described in section 28-311.08
 20 and causing, allowing, permitting, inflicting, or encouraging
 21 a vulnerable adult to engage in voyeurism, in exhibitionism,
 22 in prostitution, or in the lewd, obscene, or pornographic
 23 photographing, filming, or depiction of the vulnerable adult.

24 Sec. 9. Section 28-370, Reissue Revised Statutes of
 25 Nebraska, is amended to read:

26 28-370 Unreasonable confinement ~~shall mean~~ means
 27 confinement which intentionally causes physical injury to a
 1 vulnerable adult or false imprisonment as described in section
 2 28-314 or 28-315.

3 Sec. 10. Section 28-372, Reissue Revised Statutes of
 4 Nebraska, is amended to read:

5 28-372 (1) When any physician, psychologist, physician
 6 assistant, nurse, nursing assistant, other medical, developmental
 7 disability, or mental health professional, law enforcement
 8 personnel, caregiver or employee of a caregiver, operator or
 9 employee of a sheltered workshop, owner, operator, or employee
 10 of any facility licensed by the department, or human services
 11 professional or paraprofessional not including a member of the

12 clergy has reasonable cause to believe that a vulnerable adult
 13 has been subjected to abuse, neglect, or exploitation or observes
 14 such adult being subjected to conditions or circumstances which
 15 reasonably would result in abuse, neglect, or exploitation, he or
 16 she shall report the incident or cause a report to be made to the
 17 appropriate law enforcement agency or to the department. Any other
 18 person may report abuse, neglect, or exploitation if such person
 19 has reasonable cause to believe that a vulnerable adult has been
 20 subjected to abuse, neglect, or exploitation or observes such adult
 21 being subjected to conditions or circumstances which reasonably
 22 would result in abuse, neglect, or exploitation.

23 (2) Such report may be made by telephone, with the
 24 caller giving his or her name and address, and, if requested by
 25 the department, shall be followed by a written report within
 26 forty-eight hours. To the extent available the report shall
 27 contain: (a) The name, address, and age of the vulnerable adult;
 1 (b) the address of the caregiver or caregivers of the vulnerable
 2 adult; (c) the nature and extent of the alleged abuse, neglect,
 3 or exploitation or the conditions and circumstances which would
 4 reasonably be expected to result in such abuse, neglect, or
 5 exploitation; (d) any evidence of previous abuse, neglect, or
 6 exploitation including the nature and extent of the abuse, neglect,
 7 or exploitation; and (e) any other information which in the opinion
 8 of the person making the report may be helpful in establishing
 9 the cause of the alleged abuse, neglect, or exploitation and the
 10 identity of the perpetrator or perpetrators.

11 (3) Any law enforcement agency receiving a report of
 12 abuse, neglect, or exploitation shall notify the department no
 13 later than the next working day by telephone or mail.

14 (4) A report of abuse, neglect, or exploitation made
 15 to the department which was not previously made to or by a law
 16 enforcement agency shall be communicated to the appropriate law
 17 enforcement agency by the department no later than the next working
 18 day by telephone or mail.

19 (5) The department shall establish a statewide toll-free
 20 number to be used by any person any hour of the day or night
 21 and any day of the week to make reports of abuse, neglect, or
 22 exploitation.

23 Sec. 11. Section 28-373, Reissue Revised Statutes of
 24 Nebraska, is amended to read:

25 28-373 (1) Upon the receipt of a report concerning abuse,
 26 neglect, or exploitation pursuant to section 28-372, it shall be
 27 the duty of the law enforcement agency (a) to make an investigation
 1 if deemed warranted because of alleged violations of section
 2 28-386, (b) to take immediate steps, if necessary, to protect
 3 the vulnerable adult, and (c) to institute legal proceedings if
 4 appropriate. The law enforcement agency shall notify the department
 5 if an investigation is undertaken. Such notification shall be made
 6 no later than the next working day following receipt of the report.

7 (2) The law enforcement agency shall make a written
8 report or a case summary to the department of all investigated
9 cases of abuse, neglect, or exploitation and action taken with
10 respect to all such cases.

11 Sec. 12. Section 28-374, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 28-374 (1) The department shall investigate each case
14 of alleged abuse, neglect, or exploitation and shall provide such
15 adult protective services as are necessary and appropriate under
16 the circumstances.

17 (2) In each case of alleged abuse, neglect, or
18 exploitation, the department may make a request for further
19 assistance from the appropriate law enforcement agency or initiate
20 such action as may be appropriate under the circumstances.

21 (3) The department shall make a written report or case
22 summary to the appropriate law enforcement agency and to the
23 registry of all reported cases of abuse, neglect, or exploitation
24 and action taken.

25 (4) The department shall deliver a written report or case
26 summary to the appropriate county attorney if the investigation
27 indicates a reasonable cause to believe that a violation of section
1 28-386 has occurred.

2 Sec. 13. (1) Upon completion of the investigation
3 pursuant to sections 28-373 and 28-374, the person who allegedly
4 abused, neglected, or exploited a vulnerable adult shall be given
5 written notice of the determination of the investigation and
6 whether the person who allegedly abused, neglected, or exploited a
7 vulnerable adult will be entered into the registry.

8 (2) If the person who allegedly abused, neglected, or
9 exploited a vulnerable adult will be entered into the registry,
10 the notice shall be sent by certified mail with return receipt
11 requested or first-class mail to the last-known address of the
12 person who allegedly abused, neglected, or exploited a vulnerable
13 adult and shall include:

14 (a) The nature of the report;

15 (b) The classification of the report; and

16 (c) The right of the person who allegedly abused,
17 neglected, or exploited a vulnerable adult to request the
18 department to amend or expunge identifying information from the
19 report or to remove the substantiated report from the registry in
20 accordance with section 28-380.

21 (3) If the person who allegedly abused, neglected, or
22 exploited a vulnerable adult will not be entered in the registry,
23 the notice shall be sent by first-class mail and shall include:

24 (a) The nature of the report; and

25 (b) The classification of the report.

26 Sec. 14. Section 28-376, Revised Statutes Cumulative
27 Supplement, 2010, is amended to read:

1 28-376 (1) The department shall establish and maintain

2 an Adult Protective Services Central Registry ~~for recording each~~
 3 ~~report of alleged abuse, which shall contain any substantiated~~
 4 report regarding a person who has allegedly abused, neglected, or
 5 exploited a vulnerable adult.

6 (2) Upon request, a vulnerable adult who is the subject
 7 of a report or, if the vulnerable adult is legally incapacitated,
 8 the guardian or guardian ad litem of the vulnerable adult and
 9 the person who has allegedly abused, neglected, or exploited the
 10 vulnerable adult shall be entitled to receive a copy of all
 11 information contained in the registry pertaining to ~~his or her~~
 12 ~~case, such report.~~ The department shall not release data that would
 13 be harmful or detrimental to the vulnerable adult or that would
 14 identify or locate a person who, in good faith, made a report or
 15 cooperated in a subsequent investigation unless ordered to do so by
 16 a court of competent jurisdiction.

17 (3) The department shall establish classifications for
 18 all cases in the registry. ~~All cases determined to be unfounded~~
 19 ~~shall be expunged from the registry.~~

20 (4) The department shall determine whether a name-change
 21 order received from the clerk of a district court pursuant to
 22 section 25-21,271 is for a person on the Adult Protective Services
 23 Central Registry and, if so, shall include the changed name with
 24 the former name in the registry and file or cross-reference the
 25 information under both names.

26 Sec. 15. Section 28-386, Reissue Revised Statutes of
 27 Nebraska, is amended to read:

1 28-386 (1) A person commits knowing and intentional
 2 abuse, neglect, or exploitation of a vulnerable adult if he or
 3 she through a knowing and intentional act causes or permits a
 4 vulnerable adult to be:

- 5 (a) Physically injured;
- 6 (b) Unreasonably confined;
- 7 (c) Sexually abused;
- 8 (d) Exploited;
- 9 (e) Cruelly punished; ~~or~~
- 10 (f) ~~Denied essential services.~~ Neglected; or
- 11 (g) Sexually exploited.

12 (2) Knowing and intentional abuse, neglect, or
 13 exploitation of a vulnerable adult is a Class IIIA felony.

14 Sec. 16. Section 28-387, Reissue Revised Statutes of
 15 Nebraska, is amended to read:

16 28-387 (1) A county court may issue an ex parte
 17 order authorizing the provision of short-term involuntary adult
 18 protective services or temporary placement for a vulnerable adult
 19 for up to forty-eight hours, excluding nonjudicial days, pending
 20 the hearing for a need for continuing services, after finding on
 21 the record that:

- 22 (a) The person is a vulnerable adult;
- 23 (b) An emergency exists; and

24 (c) There are compelling reasons for ordering protective
25 services or temporary placement.

26 (2) An ex parte order shall be issued only if other
27 protective custody services are unavailable or other services
1 provide insufficient protection.

2 (3) The department shall contact the appropriate county
3 attorney to file an application for short-term involuntary adult
4 protective services or temporary placement if an investigation
5 indicates probable cause to believe that an emergency exists for a
6 vulnerable adult. The department shall not be given legal custody
7 nor be made guardian of such vulnerable adult. A vulnerable adult
8 shall be responsible for the costs of services provided either
9 through his or her own income or other programs for which he or she
10 may be eligible.

11 (4) A law enforcement officer accompanied by a
12 representative of the department may enter the premises where the
13 vulnerable adult is located after obtaining the court order and
14 announcing his or her authority and purpose. Forcible entry may be
15 made only after the court order has been obtained unless there is
16 probable cause to believe that the delay of such entry would cause
17 the vulnerable adult to be in imminent danger of life-threatening
18 physical injury or ~~the denial of essential services, neglect.~~

19 (5) When, from the personal observations of a
20 representative of the department and a law enforcement officer,
21 it appears probable that the vulnerable adult is likely to be in
22 imminent danger of life-threatening physical injury or ~~the denial~~
23 ~~of essential services, neglect~~ if he or she is not immediately
24 removed from the premises, the law enforcement agency shall, when
25 authorized by the court order, take into custody and transport the
26 vulnerable adult to an appropriate medical or protective placement
27 facility.

1 (6) When action is taken under this section, a hearing
2 shall be held within forty-eight hours of the signing of the court
3 order, excluding nonjudicial days, to establish probable cause for
4 short-term involuntary adult protective services or for protective
5 placement. Unless the vulnerable adult has counsel of his or her
6 own choice or has indicated a desire for an attorney of his or her
7 own choice, the court shall appoint an attorney to represent him
8 or her in the proceeding, who shall have the powers and duties of
9 a guardian ad litem.

10 (7) Notice of the hearing shall be served personally on
11 the vulnerable adult. Waiver of notice by the vulnerable adult
12 shall not be effective unless he or she attends the hearing or such
13 notice is waived by the guardian ad litem. Notice of the hearing
14 shall be given to the following parties whose whereabouts can be
15 readily ascertained: (a) The spouse of the vulnerable adult; (b)
16 children of the vulnerable adult; and (c) any other party specified
17 by the court.

18 (8) A judgment authorizing continuance of short-term
 19 involuntary adult protective services shall prescribe those
 20 specific adult protective services which are to be provided, the
 21 duration of the services which shall not exceed sixty days, and the
 22 person or persons who are authorized or ordered to provide them.

23 Sec. 17. Section 28-713.01, Reissue Revised Statutes of
 24 Nebraska, is amended to read:

25 28-713.01 (1) Upon completion of the investigation
 26 pursuant to section 28-713:

27 ~~(1)-(a)~~ In situations of alleged out-of-home child abuse
 1 or neglect, the person or persons having custody of the allegedly
 2 abused or neglected child or children shall be given written notice
 3 of the results of the investigation and any other information the
 4 law enforcement agency or department deems necessary. Such notice
 5 and information shall be sent by first-class mail; and

6 ~~(2)-(b)~~ The subject of the report of child abuse or
 7 neglect shall be given written notice of the determination of
 8 the case and whether the subject of the report of child abuse
 9 or neglect will be entered into the central register of child
 10 protection cases maintained pursuant to section 28-718 under the
 11 criteria provided in section 28-720.

12 ~~Such (2) If the subject of the report will be entered~~
 13 ~~into the central register, the notice to the subject shall be sent~~
 14 ~~by certified mail with return receipt requested or first-class mail~~
 15 ~~to the last-known address of the subject of the report of child~~
 16 ~~abuse or neglect and shall include:~~

17 (a) The nature of the report;

18 (b) The classification of the report under section
 19 28-720; and

20 (c) Notification of the right of the subject of the
 21 report of child abuse or neglect to ~~a hearing and appeal request~~
 22 ~~the department to amend or expunge identifying information from~~
 23 ~~the report or to remove the substantiated report from the central~~
 24 ~~register in accordance with section 28-723.~~

25 (3) ~~If the subject of the report will not be entered into~~
 26 ~~the central register, the notice to the subject shall be sent by~~
 27 ~~first-class mail and shall include:~~

1 (a) ~~The nature of the report; and~~

2 (b) ~~The classification of the report under section~~
 3 ~~28-720.~~

4 Sec. 18. Original sections 28-348, 28-349, 28-350,
 5 28-351, 28-352, 28-355, 28-358, 28-370, 28-372, 28-373, 28-374,
 6 28-386, 28-387, and 28-713.01, Reissue Revised Statutes of
 7 Nebraska, and section 28-376, Revised Statutes Cumulative
 8 Supplement, 2010, are repealed.

(Signed) Brad Ashford, Chairperson

AMENDMENT - Print in Journal

Senator Nordquist filed the following amendment to LB916:
AM2308

(Amendments to Standing Committee amendments, AM1739)

- 1 1. On page 7, lines 21 and 23; page 10, lines 15 and 17;
- 2 page 36, line 24; page 49, line 16; page 101, line 22; and page
- 3 135, line 6, strike "earned".
- 4 2. On page 19, line 23; and page 115, line 12, after
- 5 "defined contribution" insert "plan assets".
- 6 3. On page 20, strike beginning with "The" in line 8
- 7 through the period in line 23 and show the old matter as stricken.
- 8 4. On page 21, line 1, after the stricken period
- 9 insert "An active member shall make a one-time election beginning
- 10 September 1, 2012, through October 31, 2012, in order to
- 11 participate in the cash balance benefit. If no such election is
- 12 made, the member shall be treated as though he or she elected
- 13 to continue participating in the defined contribution benefit as
- 14 provided in the act prior to January 1, 2003. Members who elect
- 15 to participate in the cash balance benefit beginning September 1,
- 16 2012, through October 31, 2012, shall commence participation in the
- 17 cash balance benefit on January 2, 2013. Any member who made the
- 18 election prior to the effective date of this act does not have
- 19 to make another election of the cash balance benefit beginning
- 20 September 1, 2012, through October 31, 2012."; and in line 6 strike
- 21 "on or after", show as stricken, and insert "beginning".
- 22 5. On page 37, line 27, after "(v)" insert "except for
- 1 purposes of section 23-2323.03.".
- 2 6. On page 50, line 19, after "(v)" insert "except for
- 3 purposes of section 24-710.06.".
- 4 7. On page 68, line 10, strike "current" and show as
- 5 stricken; and in line 13 strike "current" and after "employer"
- 6 insert "that is involved in the termination of employment".
- 7 8. On page 71, line 27, after "(v)" insert "except for
- 8 purposes of section 79-933.02.".
- 9 9. On page 75, line 13, strike "more than" and show the
- 10 old matter as stricken; and in line 14 after "years" insert "or
- 11 more".
- 12 10. On page 99, line 14, after "(v)" insert "except for
- 13 purposes of section 81-2031.04.".
- 14 11. On page 116, strike beginning with "The" in line
- 15 6 through the period in line 21 and show the old matter as
- 16 stricken; and in line 26 after the stricken period insert "An
- 17 active member shall make a one-time election beginning September
- 18 1, 2012, through October 31, 2012, in order to participate in the
- 19 cash balance benefit. If no such election is made, the member shall
- 20 be treated as though he or she elected to continue participating
- 21 in the defined contribution benefit as provided in the act prior
- 22 to January 1, 2003. Members who elect to participate in the cash

- 23 balance benefit beginning September 1, 2012, through October 31,
 24 2012, shall commence participation in the cash balance benefit on
 25 January 2, 2013. Any member who made the election prior to the
 26 effective date of this act does not have to make another election
 27 of the cash balance benefit beginning September 1, 2012, through
 1 October 31, 2012."
 2 12. On page 117, line 4, strike "on or after", show as
 3 stricken, and insert "beginning".
 4 13. On page 123, line 12, after "(v)" insert "except for
 5 purposes of section 84-1313.".

RESOLUTIONS

LEGISLATIVE RESOLUTION 458. Introduced by Howard, 9.

WHEREAS, each year nearly one million children are victims of abuse;
 and

WHEREAS, over four thousand of Nebraska's children are affected by
 child abuse every year; and

WHEREAS, the physical and mental health effects of child abuse last a
 lifetime; and

WHEREAS, children, families, and society all pay the price when child
 abuse occurs; and

WHEREAS, individuals who have the support of their communities are
 more able to provide safe environments for their children; and

WHEREAS, the best time to stop child abuse is before it starts.

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

1. That the Legislature recognizes April 2012 as Child Abuse Prevention
 Month in Nebraska and encourages communities to participate in activities
 designed to increase public awareness about the importance of preventing
 child abuse.

2. That a copy of this resolution be sent to the Department of Health and
 Human Services.

Laid over.

LEGISLATIVE RESOLUTION 459. Introduced by Howard, 9.

WHEREAS, National Adoption Month is a time to celebrate family and to
 bring about awareness that there are hundreds of thousands of adoptive
 children; and

WHEREAS, every child deserves a loving, nurturing, and permanent
 home; and

WHEREAS, adoption gives children a brighter future, brings great joy to
 the adoptive parents, and places fewer demands on social services; and

WHEREAS, adoptive children often need extra patience and support to
 help them overcome previous hardships; and

WHEREAS, children waiting for adoptive parents and families who have adopted these children require and deserve community and public support.

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

1. That the Legislature recognizes November 2012 as Adoption Month in Nebraska.

2. That during the month of November communities are encouraged to participate in activities designed to increase public awareness of adoption.

Laid over.

LEGISLATIVE RESOLUTION 460. Introduced by Nordquist, 7; Ashford, 20; Coash, 27; Cook, 13; Council, 11; Flood, 19; B. Harr, 8; Howard, 9; Krist, 10; McGill, 26; Mello, 5; Nelson, 6; Pirsch, 4.

WHEREAS, Alexander Payne, a Nebraska native and graduate of Creighton Preparatory School, won his second Academy Award for Writing, Adapted Screenplay, for *The Descendants* on February 26, 2012; and

WHEREAS, Alexander Payne takes great pride in his Nebraska roots; and

WHEREAS, Alexander Payne has frequently featured Nebraska cities in his films, most notably in *About Schmidt*, which is a tribute to the great history of creative people that hail from Omaha; and

WHEREAS, Alexander Payne has generously shared his talent in film with his native city of Omaha by serving on the Board of Directors for Film Streams, a nonprofit independent film theater in downtown Omaha; and

WHEREAS, Alexander Payne has invested his passion into other parts of the state, working to preserve a historic film theater in Scottsbluff; and

WHEREAS, Alexander Payne serves as a member of the Board of Governors of the Academy of Motion Picture Arts and Sciences (Directors Branch); and

WHEREAS, throughout his career, Alexander Payne's work has received much acclaim. He has won two Academy Awards for Writing, Adapted Screenplay, has received multiple Academy Award nominations for both Directing and Best Picture, and has won multiple Critics' Choice Awards and Golden Globe Awards.

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

1. That the Legislature honors the work of Alexander Payne and his many contributions and achievements.

2. That the Legislature expresses its sincere congratulations to Alexander Payne on his recent achievement at the 2012 Academy Awards.

3. That a copy of this resolution be sent to Alexander Payne.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 998. Title read. Considered.

Committee AM2041, found on page 623, was adopted with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

Senator Krist withdrew his amendment, AM2279, found on page 777.

Senator Krist renewed his amendment, AM2332, found on page 803.

Pending.

COMMITTEE REPORTS

Appropriations

LEGISLATIVE BILL 131. Placed on General File with amendment. AM2098

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 84-612, Revised Statutes Supplement,
- 4 2011, is amended to read:
- 5 84-612 (1) There is hereby created within the state
- 6 treasury a fund known as the Cash Reserve Fund which shall be under
- 7 the direction of the State Treasurer. The fund shall only be used
- 8 pursuant to this section.
- 9 (2) The State Treasurer shall transfer funds from the
- 10 Cash Reserve Fund to the General Fund upon certification by the
- 11 Director of Administrative Services that the current cash balance
- 12 in the General Fund is inadequate to meet current obligations. Such
- 13 certification shall include the dollar amount to be transferred.
- 14 Any transfers made pursuant to this subsection shall be reversed
- 15 upon notification by the Director of Administrative Services that
- 16 sufficient funds are available.
- 17 (3) In addition to receiving transfers from other funds,
- 18 the Cash Reserve Fund shall receive federal funds received by the
- 19 State of Nebraska for undesignated general government purposes,
- 20 federal revenue sharing, or general fiscal relief of the state.
- 21 ~~(4) The State Treasurer, at the direction of the~~
- 22 ~~budget administrator of the budget division of the Department of~~
- 23 ~~Administrative Services, shall transfer such amounts, as certified~~
- 1 ~~by the Director of Administrative Services, for employee health~~
- 2 ~~insurance claims and expenses, not to exceed twelve million dollars~~
- 3 ~~in total from the Cash Reserve Fund to the State Employees~~
- 4 ~~Insurance Fund between May 1, 2007, and June 30, 2011.~~
- 5 ~~(5) On July 9, 2007, the State Treasurer shall transfer~~
- 6 ~~five million dollars from the Cash Reserve Fund to the Job Training~~
- 7 ~~Cash Fund.~~

8 ~~(6) On July 7, 2008, the State Treasurer shall transfer~~
9 ~~five million dollars from the Cash Reserve Fund to the Job Training~~
10 ~~Cash Fund.~~

11 ~~(7) The State Treasurer, at the direction of the budget~~
12 ~~administrator, shall transfer an amount equal to the total amount~~
13 ~~transferred pursuant to subsection (4) of this section from the~~
14 ~~appropriate health insurance accounts of the State Employees~~
15 ~~Insurance Fund in such amounts as certified by the Director of~~
16 ~~Administrative Services to the Cash Reserve Fund on or before June~~
17 ~~30, 2011.~~

18 ~~(8)-(4) On July 7, 2009, the State Treasurer shall~~
19 ~~transfer five million dollars from the Cash Reserve Fund to the~~
20 ~~Roads Operations Cash Fund. The Department of Roads shall use such~~
21 ~~funds to provide the required state match for federal funding made~~
22 ~~available to the state through congressional earmarks.~~

23 ~~(9) Within five days after the budget division of the~~
24 ~~Department of Administrative Services notifies the State Treasurer~~
25 ~~that matching fund requirements under section 82-331 have been met,~~
26 ~~the State Treasurer shall transfer one million dollars from the~~
27 ~~Cash Reserve Fund to the Nebraska Cultural Preservation Endowment~~
1 ~~Fund.~~

2 ~~(10) On or before June 15, 2011, the State Treasurer,~~
3 ~~at the direction of the budget administrator, shall transfer one~~
4 ~~hundred fifty one million dollars from the Cash Reserve Fund to the~~
5 ~~General Fund.~~

6 ~~(11) On or before June 30, 2011, the State Treasurer,~~
7 ~~at the direction of the budget administrator, shall transfer three~~
8 ~~million dollars from the Cash Reserve Fund to the General Fund.~~

9 ~~(12)-(5) The State Treasurer shall transfer a total of~~
10 ~~thirty-seven million dollars from the Cash Reserve Fund to the~~
11 ~~General Fund on or before June 30, 2012, on such dates and in such~~
12 ~~amounts as directed by the budget administrator.~~

13 ~~(13)-(6) The State Treasurer shall transfer a total of~~
14 ~~sixty-eight million dollars from the Cash Reserve Fund to the~~
15 ~~General Fund on or before June 30, 2013, on such dates and in such~~
16 ~~amounts as directed by the budget administrator.~~

17 ~~(14)-(7) The State Treasurer, at the direction of the~~
18 ~~budget administrator, shall transfer not to exceed twelve million~~
19 ~~dollars in total between July 1, 2011, and November 30, 2012, from~~
20 ~~the Cash Reserve Fund to the Ethanol Production Incentive Cash~~
21 ~~Fund, for ethanol production incentive credits, on such dates and~~
22 ~~in such amounts as certified by the Tax Commissioner.~~

23 ~~(15)-(8) The State Treasurer, at the direction of the~~
24 ~~budget administrator, shall transfer an amount equal to the total~~
25 ~~amount transferred pursuant to subsection (14)-(7) of this section~~
26 ~~from the Ethanol Production Incentive Cash Fund to the Cash Reserve~~
27 ~~Fund in such amounts as certified by the Tax Commissioner on or~~
1 ~~before November 30, 2012.~~

2 (9) The State Treasurer, at the direction of the
 3 budget administrator of the budget division of the Department
 4 of Administrative Services, shall transfer eighty million dollars
 5 from the Cash Reserve Fund to the Nebraska Capital Construction
 6 Fund on or before August 15, 2012.

7 (10) The State Treasurer, at the direction of the
 8 budget administrator of the budget division of the Department
 9 of Administrative Services, shall transfer one million dollars from
 10 the Cash Reserve Fund to the Affordable Housing Trust Fund, on or
 11 before August 15, 2012.

12 Sec. 2. Original section 84-612, Revised Statutes
 13 Supplement, 2011, is repealed.

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

LEGISLATIVE BILL 968. Placed on General File with amendment.
 AM2123 is available in the Bill Room.

LEGISLATIVE BILL 969. Placed on General File with amendment.
 AM2068 is available in the Bill Room.

(Signed) Lavon Heidemann, Chairperson

AMENDMENT - Print in Journal

Senators Wightman and Seiler filed the following amendment to LB996:
 AM2333

1 1. Strike original section 3 and insert the following new
 2 sections:

3 Sec. 2. (1) Notwithstanding the requirements of section
 4 79-201, a child who is at least sixteen years of age but less than
 5 eighteen years of age may withdraw from school before graduation
 6 and be exempt from such requirements if such child meets the
 7 requirements of this section for withdrawal.

8 (2) On or before August 1, 2012, the school board or
 9 board of education of each school district shall designate the
 10 appropriate employees of the school district to conduct exit
 11 interviews for (a) children enrolled in a school operated by the
 12 school district and (b) children who reside in the school district,
 13 are not enrolled in a school operated by a school district in
 14 Nebraska, and are not otherwise exempt from the requirements of
 15 section 79-201. Each school board and board of education shall also
 16 assure that such designations are revised as necessary.

17 (3) The exit interview shall be personally attended by:
 18 (a) The child's parent or legal guardian; (b) the child; (c)
 19 each designated appropriate school employee; and (d) the child's
 20 principal or the principal's designee if the child at the time of
 21 the exit interview is enrolled in a school operated by the school
 22 district. The withdrawal shall only be granted if it is due to: (i)

23 Financial hardship and the child must be employed to support his
 1 or her family or a dependent; (ii) illness; or (iii) an order by a
 2 court that has jurisdiction over the child.

3 (4) A withdrawal shall only be effective upon agreement
 4 of: (a) The child's parent or legal guardian; (b) the child;
 5 and (c) the principal or the principal's designee if the child
 6 is enrolled in a school operated by the school district or a
 7 designated appropriate school employee if the child at the time
 8 of the exit interview is not enrolled in a school operated by
 9 the school district. The child's parent or legal guardian and the
 10 principal, principal's designee, or designated appropriate school
 11 employee shall indicate agreement to the withdrawal by providing
 12 written consent for the child to withdraw from school. The child
 13 shall indicate agreement to the withdrawal by providing written
 14 acknowledgment of withdrawal which shall include a statement that
 15 the child and the child's parent or legal guardian understand that:

16 (a) Withdrawing from school is likely to reduce the
 17 child's future earnings and increase the child's likelihood of
 18 being unemployed in the future; and

19 (b) Alternative educational opportunities, including
 20 vocational courses of study, have been offered to the child by the
 21 school district.

22 Sec. 3. Sections 1 and 4 of this act become operative
 23 August 1, 2012. Section 2 of this act becomes operative July
 24 15, 2012. The other section of this act becomes operative on its
 25 effective date.

26 2. On page 3, line 1, reinstate the stricken "(c)" and
 27 insert "Has withdrawn from school pursuant to section 2 of this
 1 act;"; and in lines 4, 13, and 24 strike the new matter and
 2 reinstate the stricken matter.

3 3. Renumber the remaining sections accordingly.

UNANIMOUS CONSENT - Add Cointroducer

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB821, LB1160, and LB949. No objections. So ordered.

VISITORS

Visitors to the Chamber were 10 twelfth-grade students and teacher from Lawrence-Nelson High School, Nelson; 6 members from Project Everlast; and 47 fourth-grade students and teachers from Eagle.

RECESS

At 11:55 a.m., on a motion by Senator Langemeier, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Flood presiding.

ROLL CALL

The roll was called and all members were present except Senators Conrad and Lautenbaugh who was excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 998. The Krist amendment, AM2332, found on page 803 and considered in this day's Journal, was renewed.

SENATOR COASH PRESIDING

The Krist amendment was adopted with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 43 ayes, 0 nays, 4 present and not voting, and 2 excused and not voting.

AMENDMENTS - Print in Journal

Senator Lautenbaugh filed the following amendment to LB806:
AM2331

(Amendments to Standing Committee amendments, AM1852)

- 1 1. On page 3, line 10, strike "equitable treatment
- 2 of equine species" and insert "programs which facilitate equine
- 3 therapy for youth and veterans in Nebraska".
- 4 2. Insert the following new amendment:
- 5 2. On page 3, line 3, strike "3 to 5" and insert "2 to
- 6 4"; and in line 4 after the period insert "If the use of historic
- 7 horseracing machines at licensed racetrack enclosures as regulated
- 8 by the commission results in a final order of a court of competent
- 9 jurisdiction determining that such activity allows for casino
- 10 gaming, the authorization of wagering on historic horseracing under
- 11 this subdivision and sections 2 to 4 of this act terminates one
- 12 year after the date of the final order.".

Senator Flood filed the following amendment to LB968:
FA38

Amend AM2123
Strike section 1.

Senator Flood filed the following amendment to LB968:
FA39
Strike section 1.

Senator Flood filed the following amendment to LB131:
FA40
Amend AM2098
Strike section 1.

Senator Flood filed the following amendment to LB131:
FA41
Strike section 1.

RESOLUTIONS

LEGISLATIVE RESOLUTION 461. Introduced by Brasch, 16.

WHEREAS, the top-ranked Guardian Angels Central Catholic Bluejays girls' basketball team won the 2012 Class D-1 Girls' State Basketball Championship; and

WHEREAS, the Bluejays won their fifth state title with a 49-43 victory over the Humphrey Bulldogs; and

WHEREAS, the Bluejays hadn't lost to another Class D-1 school all season; and

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

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

1. That the Legislature congratulates the Guardian Angels Central Catholic Bluejays on winning the 2012 Class D-1 Girls' State Basketball Championship.

2. That a copy of this resolution be sent to the Bluejays and their coach, Jerry Stracke.

Laid over.

LEGISLATIVE RESOLUTION 462. Introduced by McCoy, 39.

PURPOSE: The purpose of this resolution is to study whether Nebraska's insurance laws, particularly the Motor Vehicle Service Contract Reimbursement Insurance Act, should be amended to address the sale of ancillary service contracts and ancillary protection product warranties. The study should include a review of issues raised during consideration of LB 1054 (McCoy), which was introduced in 2012 and referenced to the Banking, Commerce and Insurance Committee of the Legislature. In order to carry out the purpose of this resolution, the study committee should seek the assistance of the Department of Insurance 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 SECOND 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 806. Senator McCoy renewed his amendment, AM2229, found on page 741 and considered on pages 789, 796, and 802, to the committee amendment.

Pending.

NOTICE OF COMMITTEE HEARING

Health and Human Services

Room 1510

Tuesday, March 20, 2012 1:00 p.m.

Scott Wiebe - Board of Emergency Medical Services

(Signed) Kathy Campbell, Chairperson

AMENDMENT - Print in Journal

Senator Smith filed the following amendment to LB959:
AM2345

(Amendments to Standing Committee amendments, AM2010)

- 1 1. On page 1, line 13, before the semicolon insert
- 2 "and provided to the employee during the course of his or her
- 3 employment".

COMMITTEE REPORTS

Executive Board

LEGISLATIVE BILL 711. Placed on General File with amendment.
AM2214

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 50-401.01, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 50-401.01 (1) The Legislative Council shall have an
- 6 executive board, to be known as the Executive Board of the
- 7 Legislative Council, which shall consist of a chairperson, a

8 vice-chairperson, and six members of the Legislature, to be chosen
9 by the Legislature at the commencement of each regular session of
10 the Legislature when the speaker is chosen, and the Speaker of
11 the Legislature. The Legislature at large shall elect two of its
12 members from legislative districts Nos. ~~1, 2, 15, 21 to 30, 32,~~
13 ~~34, and 46,~~ 1, 17, 30, 32 to 38, 40 to 44, 47, and 48, two from
14 legislative districts Nos. ~~3 to 14, 18, 20, 31, 39, and 45,~~ 2,
15 3, 15, 16, 19, 21 to 29, 45, and 46, and two from legislative
16 districts Nos. ~~16, 17, 19, 33, 35 to 38, 40 to 44, and 47 to 49.~~
17 4 to 14, 18, 20, 31, 39, and 49. The Chairperson of the Committee
18 on Appropriations shall serve as a nonvoting ex officio member
19 of the executive board whenever the board is considering fiscal
20 administration.

21 (2) The executive board shall:

22 (a) Supervise all services and service personnel of the
23 Legislature and may employ and fix compensation and other terms of
1 employment for such personnel as may be needed to carry out the
2 intent and activities of the Legislature or of the board, unless
3 otherwise directed by the Legislature, including the adoption of
4 policies by the executive board which permit (i) the purchasing
5 of an annuity for an employee who retires or (ii) the crediting
6 of amounts to an employee's deferred compensation account under
7 section 84-1504. The payments to or on behalf of an employee may be
8 staggered to comply with other law; and

9 (b) Appoint persons to fill the positions of Legislative
10 Fiscal Analyst, Director of Research, Revisor of Statutes, and
11 Legislative Auditor. The persons appointed to these positions shall
12 have training and experience as determined by the executive board
13 and shall serve at the pleasure of the executive board. The
14 Legislative Performance Audit Committee shall recommend the person
15 to be appointed Legislative Auditor. Their respective salaries
16 shall be set by the executive board.

17 (3) Notwithstanding any other provision of law, the
18 executive board may contract to obtain legal, auditing, accounting,
19 actuarial, or other professional services or advice for or on
20 behalf of the executive board, the Legislative Council, the
21 Legislature, or any member of the Legislature. The providers
22 of such services or advice shall meet or exceed the minimum
23 professional standards or requirements established or specified by
24 their respective professional organizations or licensing entities
25 or by federal law. Such contracts, the deliberations of the
26 executive board with respect to such contracts, and the work
27 product resulting from such contracts shall not be subject to
1 review or approval by any other entity of state government.

2 Sec. 2. Original section 50-401.01, Reissue Revised
3 Statutes of Nebraska, is repealed.

(Signed) John Wightman, Chairperson

Revenue

LEGISLATIVE BILL 1097. Placed on General File.

LEGISLATIVE BILL 902. Placed on General File with amendment.
AM2281

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

3 Section 1. Section 77-202, Revised Statutes Supplement,
4 2011, is amended to read:

5 77-202 (1) The following property shall be exempt from
6 property taxes:

7 (a) Property of the state and its governmental
8 subdivisions to the extent used or being developed for use by
9 the state or governmental subdivision for a public purpose. For
10 purposes of this subdivision: ~~public~~

11 (i) Property of the state and its governmental
12 subdivisions means (A) property held in fee title by the state or a
13 governmental subdivision or (B) property beneficially owned by the
14 state or a governmental subdivision in that it is used for a public
15 purpose and is being acquired under a lease-purchase agreement,
16 financing lease, or other instrument which provides for transfer
17 of legal title to the property to the state or a governmental
18 subdivision upon payment of all amounts due thereunder; and

19 (ii) Public purpose means use of the property (±)
20 (A) to provide public services with or without cost to the
21 recipient, including the general operation of government, public
22 education, public safety, transportation, public works, civil and
23 criminal justice, public health and welfare, developments by a
1 public housing authority, parks, culture, recreation, community
2 development, and cemetery purposes, or (ii)-(B) to carry out
3 the duties and responsibilities conferred by law with or without
4 consideration. Public purpose does not include leasing of property
5 to a private party unless the lease of the property is at fair
6 market value for a public purpose. Leases of property by a public
7 housing authority to low-income individuals as a place of residence
8 are for the authority's public purpose;

9 (b) Unleased property of the state or its governmental
10 subdivisions which is not being used or developed for use for
11 a public purpose but upon which a payment in lieu of taxes is
12 paid for public safety, rescue, and emergency services and road
13 or street construction or maintenance services to all governmental
14 units providing such services to the property. Except as provided
15 in Article VIII, section 11, of the Constitution of Nebraska,
16 the payment in lieu of taxes shall be based on the proportionate
17 share of the cost of providing public safety, rescue, or emergency
18 services and road or street construction or maintenance services
19 unless a general policy is adopted by the governing body of the
20 governmental subdivision providing such services which provides for

21 a different method of determining the amount of the payment in
22 lieu of taxes. The governing body may adopt a general policy by
23 ordinance or resolution for determining the amount of payment in
24 lieu of taxes by majority vote after a hearing on the ordinance
25 or resolution. Such ordinance or resolution shall nevertheless
26 result in an equitable contribution for the cost of providing such
27 services to the exempt property;

1 (c) Property owned by and used exclusively for
2 agricultural and horticultural societies;

3 (d) Property owned by educational, religious, charitable,
4 or cemetery organizations, or any organization for the exclusive
5 benefit of any such educational, religious, charitable, or cemetery
6 organization, and used exclusively for educational, religious,
7 charitable, or cemetery purposes, when such property is not

8 (i) owned or used for financial gain or profit to either the
9 owner or user, (ii) used for the sale of alcoholic liquors for
10 more than twenty hours per week, or (iii) owned or used by
11 an organization which discriminates in membership or employment
12 based on race, color, or national origin. For purposes of this
13 subdivision, educational organization means (A) an institution
14 operated exclusively for the purpose of offering regular courses
15 with systematic instruction in academic, vocational, or technical
16 subjects or assisting students through services relating to the
17 origination, processing, or guarantying of federally reinsured
18 student loans for higher education or (B) a museum or historical
19 society operated exclusively for the benefit and education of the
20 public. For purposes of this subdivision, charitable organization
21 means an organization operated exclusively for the purpose of the
22 mental, social, or physical benefit of the public or an indefinite
23 number of persons; and

24 (e) Household goods and personal effects not owned or
25 used for financial gain or profit to either the owner or user.

26 (2) The increased value of land by reason of shade and
27 ornamental trees planted along the highway shall not be taken into
1 account in the valuation of land.

2 (3) Tangible personal property which is not depreciable
3 tangible personal property as defined in section 77-119 shall be
4 exempt from property tax.

5 (4) Motor vehicles required to be registered for
6 operation on the highways of this state shall be exempt from
7 payment of property taxes.

8 (5) Business and agricultural inventory shall be exempt
9 from the personal property tax. For purposes of this subsection,
10 business inventory includes personal property owned for purposes
11 of leasing or renting such property to others for financial gain
12 only if the personal property is of a type which in the ordinary
13 course of business is leased or rented thirty days or less and
14 may be returned at the option of the lessee or renter at any time
15 and the personal property is of a type which would be considered

16 household goods or personal effects if owned by an individual. All
 17 other personal property owned for purposes of leasing or renting
 18 such property to others for financial gain shall not be considered
 19 business inventory.

20 (6) Any personal property exempt pursuant to subsection
 21 (2) of section 77-4105 or section 77-5209.02 shall be exempt from
 22 the personal property tax.

23 (7) Livestock shall be exempt from the personal property
 24 tax.

25 (8) Any personal property exempt pursuant to the Nebraska
 26 Advantage Act shall be exempt from the personal property tax.

27 (9) Any depreciable tangible personal property used
 1 directly in the generation of electricity using wind as the fuel
 2 source shall be exempt from the property tax levied on depreciable
 3 tangible personal property. Depreciable tangible personal property
 4 used directly in the generation of electricity using wind as the
 5 fuel source includes, but is not limited to, wind turbines, rotors
 6 and blades, towers, trackers, generating equipment, transmission
 7 components, substations, supporting structures or racks, inverters,
 8 and other system components such as wiring, control systems,
 9 switchgears, and generator step-up transformers.

10 Sec. 2. Section 77-2704.15, Revised Statutes Supplement,
 11 2011, is amended to read:

12 77-2704.15 ~~(1)(a)~~ Sales and use taxes shall not be
 13 imposed on the gross receipts from the sale, lease, or rental
 14 of and the storage, use, or other consumption in this state of
 15 purchases by the state, including public educational institutions
 16 recognized or established under the provisions of Chapter 85,
 17 or by any county, township, city, village, rural or suburban
 18 fire protection district, city airport authority, county airport
 19 authority, joint airport authority, drainage district organized
 20 under sections 31-401 to 31-450, natural resources district,
 21 elected county fair board, housing agency as defined in section
 22 71-1575 except for purchases for any commercial operation that
 23 does not exclusively benefit the residents of an affordable
 24 housing project, cemetery created under section 12-101, or joint
 25 entity or agency formed to fulfill the purposes described in the
 26 ~~Integrated Solid Waste Management Act~~ by any combination of two
 27 or more counties, townships, cities, ~~or~~ villages, or other exempt
 1 governmental units pursuant to the Interlocal Cooperation Act,
 2 the Integrated Solid Waste Management Act, or the Joint Public
 3 Agency Act, except for purchases for use in the business of
 4 furnishing gas, water, electricity, or heat, or by any irrigation
 5 or reclamation district, the irrigation division of any public
 6 power and irrigation district, or public schools or learning
 7 communities established under Chapter 79.

8 (b) For purposes of this subsection, purchases by the
 9 state or by a governmental unit listed in subdivision (a) of
 10 this subsection include purchases by a nonprofit corporation under

11 a lease-purchase agreement, financing lease, or other instrument
 12 which provides for transfer of title to the property to the state
 13 or governmental unit upon payment of all amounts due thereunder.

14 (2) The appointment of purchasing agents shall be
 15 recognized for the purpose of altering the status of the
 16 construction contractor as the ultimate consumer of building
 17 materials which are physically annexed to the structure and which
 18 subsequently belong to the state or the governmental unit. The
 19 appointment of purchasing agents shall be in writing and occur
 20 prior to having any building materials annexed to real estate in
 21 the construction, improvement, or repair. The contractor who has
 22 been appointed as a purchasing agent may apply for a refund of or
 23 use as a credit against a future use tax liability the tax paid
 24 on inventory items annexed to real estate in the construction,
 25 improvement, or repair of a project for the state or a governmental
 26 unit.

27 (3) Any governmental unit listed in subsection (1) of
 1 this section, except the state, which enters into a contract
 2 of construction, improvement, or repair upon property annexed to
 3 real estate without first issuing a purchasing agent authorization
 4 to a contractor or repairperson prior to the building materials
 5 being annexed to real estate in the project may apply to the Tax
 6 Commissioner for a refund of any sales and use tax paid by the
 7 contractor or repairperson on the building materials physically
 8 annexed to real estate in the construction, improvement, or repair.

9 Sec. 3. Sections 2 and 5 of this act become operative on
 10 July 1, 2012. The other sections of this act become operative on
 11 their effective date.

12 Sec. 4. Original section 77-202, Revised Statutes
 13 Supplement, 2011, is repealed.

14 Sec. 5. Original section 77-2704.15, Revised Statutes
 15 Supplement, 2011, is repealed.

16 Sec. 6. Since an emergency exists, this act takes effect
 17 when passed and approved according to law.

(Signed) Abbie Cornett, Chairperson

Urban Affairs

LEGISLATIVE BILL 1121. Placed on General File with amendment.
 AM1872

1 1. On page 2, line 16, strike "they signed" and insert
 2 "the initial petition papers are issued under subsection (7) of
 3 this section".

(Signed) Amanda McGill, Chairperson

GENERAL FILE

LEGISLATIVE BILL 806. The McCoy amendment, AM2229, found on page 741 and considered on pages 789, 796, 802, and in this day's Journal, to the committee amendment, was renewed.

SENATOR ADAMS PRESIDING**SENATOR COUNCIL PRESIDING**

Senator McCoy withdrew his amendment.

Senator McCoy withdrew his amendment, AM2219, found on page 741.

Senator Harms withdrew his amendments, AM2226 and AM2230, found on page 742.

Senator Nelson withdrew his amendment, AM2223, found on page 742.

Senator Avery withdrew his amendments, AM2217, AM2216, AM2225, and AM2218, found on pages 742 and 743.

Senator Christensen withdrew his amendment, AM2227, found on page 743.

Senator Fulton withdrew his amendments, AM2220, AM2221, and AM2222, found on page 743.

Committee AM1852, found on page 439 and considered on page 789, was renewed.

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

Senator Ashford requested a roll call vote, in reverse order, on the committee amendment.

Voting in the affirmative, 25:

Ashford	Dubas	Karpisek	McGill	Schilz
Coash	Gloor	Larson	Mello	Schumacher
Conrad	Haar, K.	Lathrop	Nordquist	Seiler
Cook	Hadley	Lautenbaugh	Pahls	Sullivan
Cornett	Harr, B.	Louden	Pirsch	Wallman

Voting in the negative, 17:

Adams	Campbell	Fulton	McCoy	Wightman
Avery	Carlson	Hansen	Nelson	
Bloomfield	Christensen	Harms	Price	
Brasch	Fischer	Lambert	Smith	

Present and not voting, 1:

Council

Absent and not voting, 1:

Krist

Excused and not voting, 5:

Flood	Heidemann	Howard	Janssen	Langemeier
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The committee amendment was adopted with 25 ayes, 17 nays, 1 present and not voting, 1 absent and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Lautenbaugh offered the following amendment:

FA42

Strike section 5.

Senator Lautenbaugh withdrew his amendment.

Senator Lautenbaugh offered the following amendment:

FA43

Strike section 1.

Senator Lautenbaugh withdrew his amendment.

Senator Fulton offered the following motion:

MO81

Indefinitely postpone.

Pending.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 905A. Introduced by Carlson, 38.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 905, One Hundred Second Legislature, Second Session, 2012.

LEGISLATIVE BILL 1057A. Introduced by Carlson, 38.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1057, One Hundred Second Legislature, Second Session, 2012.

COMMITTEE REPORT

Urban Affairs

LEGISLATIVE BILL 1126. Placed on General File with amendment. AM1990

- 1 1. Strike the original sections and insert the following
 2 new sections:
 3 Section 1. Section 13-327, Reissue Revised Statutes of
 4 Nebraska, is amended to read:
 5 13-327 (1) The governing body of any city of the first
 6 ~~class or city of the second class~~ or village may, by majority
 7 vote of its members, request that the county board formally cede
 8 and transfer to the city or village extraterritorial jurisdiction
 9 over land outside the area extending two miles from the corporate
 10 boundaries of a city of the first class and one mile from the
 11 corporate boundaries of a city of the second class or village.
 12 In making its request, the city or village shall describe the
 13 territory over which jurisdiction is being sought by metes and
 14 bounds or by reference to an official map, except that a village
 15 shall not request jurisdiction over any territory that is more
 16 than one-quarter mile outside the area extending one mile from the
 17 corporate boundaries of a village.
 18 (2) Unless prohibited pursuant to section 13-328, the
 19 county board may, by majority vote of its members, grant the
 20 request with regard to some or all of the requested territory if:
 21 (a) The county has formally adopted a comprehensive
 22 development plan and zoning resolution pursuant to section 23-114
 23 not less than two years immediately preceding the date of the
 1 city's or village's request;
 2 (b) The city or village, on the date of the request, is
 3 exercising extraterritorial jurisdiction over territory within the
 4 boundaries of the county;
 5 (c) The requested territory is within the projected
 6 growth pattern of the city or village and would be within the
 7 city's or village's extraterritorial jurisdiction by reason of
 8 annexation within a reasonable period of years;
 9 (d) Not more than a total of twenty-five percent of the
 10 territory of the county located outside the corporate boundaries
 11 of any city or village within the county shall be ceded to the
 12 jurisdiction of one city or village within ten years after the date
 13 upon which the initial request for the cession of territory to the
 14 city or village was approved by the governing body of the city or
 15 village; and

16 (e) No portion of the territory ceded to the city's or
 17 village's jurisdiction by the county lies within an area extending
 18 one-half mile from the extraterritorial jurisdiction of any other
 19 city of the first or second class or village on the date the
 20 request is approved by the governing body of the city or village.

21 (3) If the county board approves the cession and transfer
 22 of extraterritorial jurisdiction to a city or village pursuant to
 23 this section, such transfer shall take effect on the effective
 24 date of the ordinance as provided for in subsection (1) of section
 25 16-902 in the case of a city of the first class or as provided for
 26 in subsection (1) of section 17-1002 in the case of a city of the
 27 second class or village. Upon the effective date of such transfer,
 1 the transferred jurisdiction shall be treated for all purposes
 2 as if such land were located within two miles of the corporate
 3 boundaries of a city of the first class or within one mile of the
 4 corporate boundaries of a city of the second class or village.

5 Sec. 2. Section 13-328, Reissue Revised Statutes of
 6 Nebraska, is amended to read:

7 13-328 A county which encompasses a city of the
 8 metropolitan class or city of the primary class shall not cede or
 9 transfer extraterritorial jurisdiction over land to a city of the
 10 first ~~class or city of the~~ second class or village if, on the date
 11 the county receives a request pursuant to subsection (1) of section
 12 13-327, such land lies within the area extending three miles from
 13 the extraterritorial jurisdiction boundaries of such city of the
 14 metropolitan class or city of the primary class.

15 Sec. 3. Original sections 13-327 and 13-328, Reissue
 16 Revised Statutes of Nebraska, are repealed.

(Signed) Amanda McGill, Chairperson

AMENDMENTS - Print in Journal

Senator Loudon filed the following amendment to LB824:
 AM2325

1 1. Insert the following new section:

2 Sec. 5. The commission may prohibit the sale of certain
 3 alcoholic liquor products for consumption off the premises based on
 4 alcohol content, manufacturing process, or price.

5 2. On page 2, line 3, strike "section 4" and insert
 6 "sections 4 and 5".

7 3. Renumber the remaining sections accordingly.

Senator McCoy filed the following amendment to LB882:
 AM2355

1 1. Insert the following new section:

2 Sec. 2. This act becomes operative on January 1, 2013.

3 2. On page 3, line 8, strike "effective" and insert

4 "operative"; and after line 8 insert the following new subsection:

5 "(6) This section terminates on December 31, 2015.".

Senator McCoy filed the following amendment to LB882:

AM2361

- 1 1. On page 2, line 11, strike "cancer" and insert
- 2 "anticancer"; and in line 19 after "treatment" insert "involving
- 3 intravenously administered or injected anticancer medications".

Senator Schilz filed the following amendment to LB882:

AM2356

- 1 1. Insert the following new section:
- 2 Sec. 2. This act becomes operative on January 1, 2013.
- 3 2. On page 3, line 8, strike "effective" and insert
- 4 "operative"; and after line 8 insert the following new subsection:
- 5 "(6) The Director of Insurance shall grant a waiver from
- 6 the requirements of this section to a small employer providing
- 7 benefits under a policy, certificate, contract, or plan if the
- 8 small employer demonstrates to the director by actual claims
- 9 experience over any consecutive twelve-month period that compliance
- 10 with this section has increased the premium costs of the policy,
- 11 certificate, contract, or plan by at least one and one-half percent
- 12 over the twelve-month period.".

Senator Fischer filed the following amendment to LB751:

AM2351

(Amendments to E & R amendments, ER195)

- 1 1. On page 49, line 18; and page 84, line 10, strike
- 2 "first-class", show as stricken, and insert "regular United
- 3 States".
- 4 2. On page 62, strike beginning with "or" in line 14
- 5 through "60-4,124" in line 15.
- 6 3. On page 110, line 6, after "3" insert ", for the
- 7 purposes of enforcing Chapter 75, article 3".

Senator Cornett filed the following amendment to LB882:

AM2162

- 1 1. Insert the following new section:
- 2 Sec. 2. Notwithstanding section 44-3,131, (1) any
- 3 individual or group sickness and accident insurance policy,
- 4 certificate, or subscriber contract with an out-of-pocket expense
- 5 limit delivered, issued for delivery, or renewed in this state and
- 6 any hospital, medical, or surgical expense-incurred policy with
- 7 an out-of-pocket expense limit, except for policies that provide
- 8 coverage for a specified disease or other limited-benefit coverage,
- 9 and (2) any self-funded employee benefit plan with an out-of-pocket
- 10 expense limit to the extent not preempted by federal law that
- 11 provides for prescription drug coverage shall include expenses for
- 12 prescription drugs in the out-of-pocket expense limit or provide
- 13 for a separate out-of-pocket expense limit for prescription drugs.

Senator McCoy filed the following amendment to LB882:
AM2357

- 1 1. Insert the following new section:
- 2 Sec. 2. This act becomes operative on January 1, 2013.
- 3 2. On page 2, strike beginning with "(a)" in line 1
- 4 through "(b)" in line 6; in line 8 after "that" insert "only
- 5 insures employees of the State of Nebraska, including their spouses
- 6 and dependents, and that"; and in lines 12 and 13, 14 and 15, and
- 7 20 strike "policy, certificate, contract, or".
- 8 3. On page 3, lines 2, 3 and 4, and 6 and 7, strike
- 9 "policy, certificate, contract, or"; in line 8 strike "effective"
- 10 and insert "operative"; and after line 8 insert the following new
- 11 subsection:
- 12 "(6) The Director of Administrative Services shall,
- 13 on or before December 31, 2014, submit to the Appropriations
- 14 Committee and the Banking, Commerce and Insurance Committee of
- 15 the Legislature a report indicating the impact of the requirements
- 16 of this section on the employee benefit plan of the State of
- 17 Nebraska, including data on the utilization of and the costs
- 18 resulting from such requirements. The report shall also include a
- 19 recommendation as to whether the State of Nebraska should continue
- 20 to be required to provide benefits pursuant to this section or a
- 21 statement indicating that the director is not able to make such a
- 22 recommendation without additional utilization and cost data.".

Senator McCoy filed the following amendment to LB882:
AM2354

- 1 1. Insert the following new section:
- 2 Sec. 2. This act becomes operative on January 1, 2013.
- 3 2. On page 3, after line 2, insert the following new
- 4 subsection:
- 5 "(4) A policy, certificate, contract, or plan provider
- 6 is not in violation of this section if it does not include
- 7 orally administered anticancer medication in the fourth tier of its
- 8 pharmaceutical benefits."; in line 3 strike "(4)" and insert "(5)";
- 9 in line 6 strike "(5)" and insert "(6)"; and in line 8 strike
- 10 "effective" and insert "operative".

MESSAGE FROM THE GOVERNOR

March 7, 2012

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 216, 216A, 269, 370, 427, 459, 470, 498, 507, 612, 646e, 677, 714e, 725e, 770, 771e, 800, 828e, 836e, 852, 853, 854, 873e, 879, 886, 890, 911, 942, 1043e, and 1118e were received in my office on March 1, 2012.

These bills were signed and delivered to the Secretary of State on March 7, 2012.

Sincerely,
(Signed) Dave Heineman
Governor

VISITOR

The Doctor of the Day was Dr. Michael Schooff from Papillion.

ADJOURNMENT

At 5:01 p.m., on a motion by Senator Campbell, the Legislature adjourned until 9:00 a.m., Thursday, March 8, 2012.

Patrick J. O'Donnell
Clerk of the Legislature