

**FORTY-FIFTH DAY - MARCH 16, 2012****LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE  
SECOND SESSION****FORTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, March 16, 2012

**PRAYER**

The prayer was offered by Pastor John Duling, First Presbyterian Church, Nebraska City.

**ROLL CALL**

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

The roll was called and all members were present except Senator Carlson who was excused; and Senators Conrad, Gloor, Karpisek, Lautenbaugh, Loudon, and Schilz who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-fourth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 1072.** Placed on Select File.

**LEGISLATIVE BILL 824.** Placed on Select File with amendment.  
ER214

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 53-101, Revised Statutes Supplement,
- 4 2011, is amended to read:
- 5 53-101 Sections 53-101 to 53-1,122 and section 4 of this
- 6 act shall be known and may be cited as the Nebraska Liquor Control
- 7 Act.
- 8 Sec. 2. Section 53-103, Reissue Revised Statutes of
- 9 Nebraska, is amended to read:
- 10 53-103 For purposes of the Nebraska Liquor Control Act,
- 11 the definitions found in sections 53-103.01 to 53-103.42 and
- 12 section 4 of this act apply.

13 Sec. 3. Section 53-103.03, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 53-103.03 Beer means a beverage obtained by alcoholic  
16 fermentation of an infusion or concoction of barley or other grain,  
17 malt, and hops in water and includes, but is not limited to, beer,  
18 ale, stout, lager beer, porter, ~~and~~-near beer, and flavored malt  
19 beverage.

20 Sec. 4. Flavored malt beverage means a beer that derives  
21 not more than forty-nine percent of its total alcohol content from  
22 flavors or flavorings containing alcohol obtained by distillation,  
23 except that in the case of a malt beverage with an alcohol content  
1 of more than six percent by volume, not more than one and one-half  
2 percent of the volume of the malt beverage may consist of alcohol  
3 derived from flavors, flavorings, or other nonbeverage ingredients  
4 containing alcohol obtained by distillation.

5 Sec. 5. Section 53-103.38, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 53-103.38 Spirits means any beverage which contains  
8 alcohol obtained by distillation, mixed with water or other  
9 substance in solution. Spirits, ~~and~~-includes brandy, rum, whiskey,  
10 gin, or other spirituous liquors and such liquors when rectified,  
11 blended, or otherwise mixed with alcohol or other substances.  
12 Spirits does not include flavored malt beverages.

13 Sec. 6. Section 53-160, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 53-160 (1) For the purpose of raising revenue, a tax  
16 is imposed upon the privilege of engaging in business as a  
17 manufacturer or a wholesaler at a rate of thirty-one cents per  
18 gallon on all beer; ninety-five cents per gallon for wine, except  
19 for wines produced and released from bond in farm wineries; six  
20 cents per gallon for wine produced and released from bond in farm  
21 wineries; and three dollars and seventy-five cents per gallon on  
22 alcohol and spirits manufactured and sold by such manufacturer or  
23 shipped for sale in this state by such wholesaler in the course of  
24 such business. The gallonage tax imposed by this subsection shall  
25 be imposed only on alcoholic liquor upon which a federal excise tax  
26 is imposed.

27 (2) Manufacturers or wholesalers of alcoholic liquor  
1 shall be exempt from the payment of the gallonage tax on such  
2 alcoholic liquor upon satisfactory proof, including bills of lading  
3 furnished to the commission by affidavit or otherwise as the  
4 commission may require, that such alcoholic liquor was manufactured  
5 in this state but shipped out of the state for sale and consumption  
6 outside this state.

7 (3) Dry wines or fortified wines manufactured or shipped  
8 into this state solely and exclusively for sacramental purposes and  
9 uses shall not be subject to the gallonage tax.

10 (4) The gallonage tax shall not be imposed upon any  
11 alcoholic liquor, whether manufactured in or shipped into this

12 state, when sold to a licensed nonbeverage user for use in  
13 the manufacture of any of the following when such products are  
14 unfit for beverage purposes: Patent and proprietary medicines and  
15 medicinal, antiseptic, and toilet preparations; flavoring extracts,  
16 syrups, food products, and confections or candy; scientific,  
17 industrial, and chemical products, except denatured alcohol; or  
18 products for scientific, chemical, experimental, or mechanical  
19 purposes.

20 (5) The gallonage tax shall not be imposed upon the  
21 privilege of engaging in any business in interstate commerce or  
22 otherwise, which business may not, under the Constitution and  
23 statutes of the United States, be made the subject of taxation by  
24 this state.

25 (6) The gallonage tax shall be in addition to all other  
26 occupation or privilege taxes imposed by this state or by any  
27 municipal corporation or political subdivision thereof.

1 (7) The commission shall collect the gallonage tax and  
2 shall account for and remit to the State Treasurer at least once  
3 each week all money collected pursuant to this section. If any  
4 alcoholic liquor manufactured in or shipped into this state is  
5 sold to a licensed manufacturer or wholesaler of this state to be  
6 used solely as an ingredient in the manufacture of any beverage  
7 for human consumption, the tax imposed upon such manufacturer or  
8 wholesaler shall be reduced by the amount of the taxes which have  
9 been paid as to such alcoholic liquor so used under the Nebraska  
10 Liquor Control Act. The net proceeds of all revenue arising under  
11 this section shall be credited to the General Fund.

12 Sec. 7. Section 53-164.01, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 53-164.01 Payment of the tax provided for in section  
15 53-160 on alcoholic liquor shall be paid by the manufacturer or  
16 wholesaler as follows:

17 (1)(a) All manufacturers or wholesalers, except farm  
18 winery producers, whether inside or outside this state shall, on  
19 or before the twenty-fifth day of each calendar month following  
20 the month in which shipments were made, submit a report to the  
21 commission upon forms furnished by the commission showing the total  
22 amount of alcoholic liquor in gallons or fractional parts thereof  
23 shipped by such manufacturer or wholesaler, whether inside or  
24 outside this state, during the preceding calendar month;

25 (b) All beer wholesalers shall, on or before the  
26 twenty-fifth day of each calendar month following the month in  
27 which shipments were made, submit a report to the commission  
1 upon forms furnished by the commission showing the total amount  
2 of beer in gallons or fractional parts thereof shipped by all  
3 manufacturers, whether inside or outside this state, during the  
4 preceding calendar month to such wholesaler;

5 (c)(i) Except as provided in subdivision (ii) of this  
6 subdivision, farm winery producers which paid less than one

7 thousand dollars of excise taxes pursuant to section 53-160 for the  
 8 previous calendar year and which will pay less than one thousand  
 9 dollars of excise taxes pursuant to section 53-160 for the current  
 10 calendar year shall, on or before the twenty-fifth day of the  
 11 calendar month following the end of the year in which wine was  
 12 packaged ~~or bottled for sale,~~ and released from bond, submit a  
 13 report to the commission upon forms furnished by the commission  
 14 showing the total amount of wine in gallons or fractional parts  
 15 thereof packaged ~~or bottled~~ and released from bond by such producer  
 16 during the preceding calendar year; and

17 (i) Farm winery producers which paid one thousand  
 18 dollars or more of excise taxes pursuant to section 53-160 for  
 19 the previous calendar year or which become liable for one thousand  
 20 dollars or more of excise taxes pursuant to section 53-160 during  
 21 the current calendar year shall, on or before the twenty-fifth  
 22 day of each calendar month following the month in which wine was  
 23 packaged ~~or bottled for sale,~~ and released from bond, submit a  
 24 report to the commission upon forms furnished by the commission  
 25 showing the total amount of wine in gallons or fractional parts  
 26 thereof packaged ~~or bottled~~ and released from bond by such producer  
 27 during the preceding calendar month. A farm winery producer which  
 1 becomes liable for one thousand dollars or more of excise taxes  
 2 pursuant to section 53-160 during the current calendar year shall  
 3 also pay such excise taxes immediately;

4 (d) A craft brewery shall, on or before the twenty-fifth  
 5 day of each calendar month following the month in which the beer  
 6 was ~~produced~~ released from bond for sale, submit a report to the  
 7 commission on forms furnished by the commission showing the total  
 8 amount of beer in gallons or fractional parts thereof produced for  
 9 sale by the craft brewery during the preceding calendar month;

10 (e) A microdistillery shall, on or before the  
 11 twenty-fifth day of each calendar month following the month in  
 12 which the distilled liquor was ~~produced~~ released from bond for  
 13 sale, submit a report to the commission on forms furnished by  
 14 the commission showing the total amount of distilled liquor in  
 15 gallons or fractional parts thereof produced for sale by the  
 16 microdistillery during the preceding calendar month; and

17 (f) Reports submitted pursuant to subdivision (a), (b),  
 18 or (c) of this subdivision shall also contain a statement of  
 19 the total amount of alcoholic liquor, except beer, in gallons or  
 20 fractional parts thereof shipped to licensed retailers inside this  
 21 state and such other information as the commission may require;

22 (2) The wholesaler or farm winery producer shall at the  
 23 time of the filing of the report pay to the commission the tax  
 24 due on alcoholic liquor, except beer, shipped to licensed retailers  
 25 inside this state at the rate fixed in accordance with section  
 26 53-160. The tax due on beer shall be paid by the wholesaler on beer  
 27 shipped from all manufacturers;

1 (3) The tax imposed pursuant to section 53-160 shall be

2 due on the date the report is due less a discount of one percent  
3 of the tax on alcoholic liquor for submitting the report and paying  
4 the tax in a timely manner. The discount shall be deducted from the  
5 payment of the tax before remittance to the commission and shall be  
6 shown in the report to the commission as required in this section.  
7 If the tax is not paid within the time provided in this section,  
8 the discount shall not be allowed and shall not be deducted from  
9 the tax;

10 (4) If the report is not submitted by the twenty-fifth  
11 day of the calendar month or if the tax is not paid to the  
12 commission by the twenty-fifth day of the calendar month, the  
13 following penalties shall be assessed on the amount of the tax:  
14 One to five days late, three percent; six to ten days late, six  
15 percent; and over ten days late, ten percent. In addition, interest  
16 on the tax shall be collected at the rate of one percent per month,  
17 or fraction of a month, from the date the tax became due until  
18 paid;

19 (5) No tax shall be levied or collected on alcoholic  
20 liquor manufactured inside this state and shipped or transported  
21 outside this state for sale and consumption outside this state;

22 (6) In order to insure the payment of all state taxes  
23 on alcoholic liquor, together with interest and penalties, persons  
24 required to submit reports and payment of the tax shall, at  
25 the time of application for a license under sections 53-124 and  
26 53-124.01, enter into a surety bond with corporate surety, both the  
27 bond form and surety to be approved by the commission. Subject to  
1 the limitations specified in this subdivision, the amount of the  
2 bond required of any taxpayer shall be fixed by the commission and  
3 may be increased or decreased by the commission at any time. In  
4 fixing the amount of the bond, the commission shall require a bond  
5 equal to the amount of the taxpayer's estimated maximum monthly  
6 excise tax ascertained in a manner as determined by the commission.  
7 Nothing in this section shall prevent or prohibit the commission  
8 from accepting and approving bonds which run for a term longer  
9 than the license period. The amount of a bond required of any one

10 taxpayer shall not be less than one thousand dollars. The bonds  
11 required by this section shall be filed with the commission; and  
12 (7) When a manufacturer or wholesaler sells and delivers  
13 alcoholic liquor upon which the tax has been paid to any  
14 instrumentality of the armed forces of the United States engaged  
15 in resale activities as provided in section 53-160.01, the  
16 manufacturer or wholesaler shall be entitled to a credit in  
17 the amount of the tax paid in the event no tax is due on such  
18 alcoholic liquor as provided in such section. The amount of the  
19 credit, if any, shall be deducted from the tax due on the following  
20 monthly report and subsequent reports until liquidated.

21 Sec. 8. Original sections 53-103, 53-103.03, 53-103.38,  
22 53-160, and 53-164.01, Reissue Revised Statutes of Nebraska, and  
23 section 53-101, Revised Statutes Supplement, 2011, are repealed.

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

26 2. On page 1, strike lines 2 through 6 and insert  
27 "sections 53-103, 53-103.03, 53-103.38, 53-160, and 53-164.01,  
1 Reissue Revised Statutes of Nebraska, and section 53-101, Revised  
2 Statutes Supplement, 2011; to define and redefine terms; to change  
3 provisions relating to beer, spirits, the gallonage tax, and  
4 reports involving the gallonage tax; to harmonize provisions; to  
5 repeal the original sections; and to declare an emergency."

**LEGISLATIVE BILL 799.** Placed on Select File with amendment.  
ER215

1 1. On page 1, line 3, after the semicolon insert "to  
2 define a term;"

(Signed) Tyson Larson, Chairperson

### AMENDMENTS - Print in Journal

Senator Schumacher filed the following amendment to LB902:  
AM2472

(Amendments to Final Reading copy)

1 1. On page 1, line 5, after the semicolon insert "to  
2 require voter approval in order to qualify for exemptions as  
3 prescribed;"

4 2. On page 2, line 16, after "thereunder" insert ". If  
5 the property to be beneficially owned by a governmental subdivision  
6 has a total acquisition cost that exceeds the threshold amount  
7 or will be used as the site of a public building with a total  
8 estimated construction cost that exceeds the threshold amount, then  
9 such property shall qualify for an exemption under this section  
10 only if the question of acquiring such property or constructing  
11 such public building has been submitted at a primary, general, or  
12 special election held within the governmental subdivision and has  
13 been approved by the voters of the governmental subdivision. For  
14 purposes of this subdivision, threshold amount means the greater of  
15 fifty thousand dollars or four-tenths of one percent of the total  
16 actual value of real and personal property of the governmental  
17 subdivision that will beneficially own the property as of the end  
18 of the governmental subdivision's prior fiscal year."

19 3. On page 7, line 16, after the period insert  
20 "If a nonprofit corporation will be making purchases under a  
21 lease-purchase agreement, financing lease, or other instrument  
22 as part of a project with a total estimated cost that exceeds  
1 the threshold amount, then such purchases shall qualify for an  
2 exemption under this section only if the question of proceeding  
3 with such project has been submitted at a primary, general, or  
4 special election held within the governmental unit that will be a  
5 party to the lease-purchase agreement, financing lease, or other

6 instrument and has been approved by the voters of such governmental  
 7 unit. For purposes of this subdivision, (i) project means the  
 8 acquisition of real property or the construction of a public  
 9 building and (ii) threshold amount means the greater of fifty  
 10 thousand dollars or four-tenths of one percent of the total actual  
 11 value of real and personal property of the governmental unit that  
 12 will be a party to the lease-purchase agreement, financing lease,  
 13 or other instrument as of the end of the governmental unit's prior  
 14 fiscal year.".

Senator Wightman filed the following amendment to LB996:  
 AM2389

1 1. Strike original section 3 and insert the following new  
 2 section:  
 3 Sec. 2. (1) A person who has legal or actual charge or  
 4 control of a child who is at least sixteen years of age but less  
 5 than eighteen years of age may withdraw such child from school  
 6 before graduation and be exempt from the mandatory attendance  
 7 requirements of section 79-201 if an exit interview is conducted  
 8 and the withdrawal form is signed as required by this section.  
 9 (2) Upon the written request of any person who has  
 10 legal or actual charge or control of a child who is at least  
 11 sixteen years of age but less than eighteen years of age,  
 12 the superintendent of a school district or the superintendent's  
 13 designee shall conduct an exit interview if the child (a) is  
 14 enrolled in a school operated by the school district or (b)  
 15 resides in the school district and is enrolled in a private,  
 16 denominational, or parochial school or a school which elects  
 17 pursuant to section 79-1601 not to meet accreditation or approval  
 18 requirements.  
 19 (3) The superintendent or the superintendent's designee  
 20 shall set the time and place for the exit interview which shall  
 21 be personally attended by: (a) The child, unless the withdrawal is  
 22 being requested due to an illness of the child making attendance at  
 23 the exit interview impossible or impracticable; (b) the person who  
 1 has legal or actual charge or control of the child who requested  
 2 the exit interview; (c) the superintendent or the superintendent's  
 3 designee; (d) the child's principal or the principal's designee  
 4 if the child at the time of the exit interview is enrolled in a  
 5 school operated by the school district; and (e) any other person  
 6 requested by any of the required parties who agrees to attend  
 7 the exit interview and is available at the time designated for  
 8 the exit interview which may include, but need not be limited  
 9 to, other school district personnel or the child's principal or  
 10 such principal's designee if the child is enrolled in a private,  
 11 denominational, or parochial school.  
 12 (4) At the exit interview, the person making the written  
 13 request pursuant to subsection (2) of this section shall present  
 14 evidence that (a) the person has legal or actual charge or control

15 of the child and (b) the child would be withdrawing due to  
 16 either (i) financial hardships requiring the child to be employed  
 17 to support the child's family or one or more dependents of the  
 18 child or (ii) an illness of the child making attendance impossible  
 19 or impracticable. The superintendent or superintendent's designee  
 20 shall identify all known alternative educational opportunities,  
 21 including vocational courses of study, that are available to the  
 22 child in the school district and how withdrawing from school  
 23 is likely to reduce potential future earnings for the child  
 24 and increase the likelihood of the child being unemployed in  
 25 the future. Any other relevant information may be presented and  
 26 discussed by any of the parties in attendance.

27 (5)(a) At the conclusion of the exit interview, the  
 1 person making the written request pursuant to subsection (2) of  
 2 this section may sign the withdrawal form provided by the school  
 3 district agreeing to the withdrawal of the child or may rescind the  
 4 written request for the withdrawal.

5 (b) Any withdrawal form signed by the person making  
 6 the written request pursuant to subsection (2) of this section  
 7 shall be valid only if (i) the child signs the form unless the  
 8 withdrawal is being requested due to an illness of the child making  
 9 attendance at the exit interview impossible or impracticable and  
 10 (ii) the superintendent or superintendent's designee signs the form  
 11 acknowledging that the interview was held, the required information  
 12 was provided and discussed at the interview, and, in the opinion  
 13 of the superintendent or the superintendent's designee, the person  
 14 making the written request pursuant to subsection (2) of this  
 15 section does in fact have legal or actual charge or control of the  
 16 child and the child is experiencing either (A) financial hardships  
 17 requiring the child to be employed to support the child's family  
 18 or one or more dependents of the child or (B) an illness making  
 19 attendance impossible or impracticable.

20 (6) A child who has been withdrawn from school pursuant  
 21 to this section may enroll in a school district at a later  
 22 date as provided in section 79-215 or may enroll in a private,  
 23 denominational, or parochial school or a school which elects  
 24 pursuant to section 79-1601 not to meet accreditation or approval  
 25 requirements. Any such enrollment shall void the withdrawal form  
 26 previously entered, and the provisions of sections 79-201 through  
 27 79-210 shall apply to the child.

1 (7) The Commissioner of Education shall prescribe the  
 2 required form for withdrawals pursuant to this section and  
 3 determine and direct either that (a) withdrawal forms of school  
 4 districts for any child who is withdrawn from school pursuant to  
 5 this section and subdivision (3)(c) of section 79-201 shall be  
 6 provided annually to the State Department of Education or (b) data  
 7 regarding such students shall be collected under subsection (2) of  
 8 section 79-528.

9 2. On page 3, line 1, reinstate the stricken "(c)" and



- 10 insert "Has reached sixteen years of age and has been withdrawn  
 11 from school pursuant to section 2 of this act;"; and in lines 4,  
 12 13, and 24 strike the new matter and reinstate the stricken matter.  
 13 3. Renumber the remaining sections accordingly.

## REPORTS

The following reports were received by the Legislature:

### **Agriculture, Department of**

2009 Recommendations of the United States Public Health Service Food  
 and Drug Administration Food Code

### **Coordinating Commission for Postsecondary Education, Nebraska**

2012 Nebraska Higher Education Progress Report

### **Dairy Industry Licensing Board, Nebraska**

Annual Report, July 1, 2010 - June 30, 2011

## REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of March 15, 2012,  
 in accordance with Section 49-1481, Revised Statutes of Nebraska.  
 Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
 Clerk of the Legislature

Kissel/E&S Associates, LLC  
 AmeriHealth Mercy

## SELECT FILE

**LEGISLATIVE BILL 131.** ER210, found on page 934, was adopted.

Senator Flood withdrew his amendment, FA40, found on page 833.

Senator Flood renewed his amendment, AM2493, found on page 952.

## **SENATOR COASH PRESIDING**

Senator Council offered the following amendment to the Flood amendment:  
 FA53

Amend AM2493

On page 1, lines 1 and 3, strike "\$10,000,000" and insert "\$28,000,000" and  
 on line 8 strike "ten" and insert "twenty-eight".

Pending.

**AMENDMENT - Print in Journal**

Senator B. Harr filed the following amendment to LB902:  
AM2473

(Amendments to Final Reading copy)

- 1 1. On page 1, lines 5 and 6, strike "to state intent;".
- 2 2. On page 6, lines 9 through 11; and page 8, lines 13
- 3 through 15, strike the new matter.

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 486.** Introduced by Mello, 5.

**PURPOSE:** The purpose of this interim study is to examine the issues surrounding state procurement policies. This study shall include, but not be limited to:

- (1) A review of the current procurement procedures utilized by the Department of Administrative Services and other state agencies;
- (2) A review of domestic and local preference requirements in other states and at the federal level;
- (3) A review of existing state contracts' usage of services and products from outside of the United States; and
- (4) A review of the potential economic benefits to Nebraska businesses and taxpayers of adopting domestic and local preference requirements.

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

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

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 487.** Introduced by Mello, 5.

**PURPOSE:** The purpose of this interim study is to examine issues surrounding restrictions on registered sex offender participation in state and federal holiday activities that are centered around children. This study shall include an examination of such restrictions in other states, as well as potential logistical, procedural, and constitutional barriers to such restrictions.

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

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

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

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 488.** Introduced by Mello, 5.

PURPOSE: The purpose of this interim study is to examine issues surrounding the use of state settlement funds. The issues addressed by this interim study shall include, but not be limited to:

(1) An examination of whether state settlement funds should be treated as fines or penalties subject to Article VII, section 5, of the Constitution of Nebraska;

(2) An examination of past and present procedures used by the office of the Attorney General to allocate state settlement funds, including settlements under the Consumer Protection Act, supplemental environmental project settlements, and multistate settlements to which the State of Nebraska is a party;

(3) A review of the use of the State Settlement Cash Fund and the State Settlement Trust Fund, including the extent to which both funds have been utilized for settlements which do not fall under the Consumer Protection Act; and

(4) A review of the mechanisms used in other states to allocate state settlement funds.

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

1. That the Appropriations and Judiciary Committees of the Legislature shall be designated to conduct a joint interim study to carry out the purposes of this resolution.

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

Referred to the Executive Board.

**AMENDMENT - Print in Journal**

Senator Sullivan filed the following amendment to LB1104:  
AM2324

1 1. Insert the following new section:

2 Sec. 2. Section 85-1429, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 85-1429 On or before March 15 of each year, the

5 Coordinating Commission for Postsecondary Education shall provide a

6 report that evaluates progress toward attainment of the priorities

7 listed in subdivision (3) of section 85-1428. ~~The Education~~

8 ~~Committee of the Legislature shall review the report at a public~~

- 9 ~~hearing and report its findings to the Legislature.~~  
 10 2. Renumber the remaining sections and amend the repealer  
 11 accordingly.

### SELECT FILE

**LEGISLATIVE BILL 131.**The Council amendment, FA53, found in this day's Journal, to the Flood amendment, was renewed.

### SENATOR LANGEMEIER PRESIDING

### SENATOR COASH PRESIDING

Senator Wallman moved the previous question. The question is, "Shall the debate now close?"

Senator Lautenbaugh moved for a call of the house. The motion prevailed with 32 ayes, 0 nays, and 17 not voting.

The motion to cease debate prevailed with 26 ayes, 1 nay, 18 present and not voting, and 4 excused and not voting.

The Council amendment lost with 6 ayes, 28 nays, 11 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator K. Haar offered the following amendment to the Flood amendment:  
 FA54

Amend AM2493

On page 1, lines 1 and 3, strike "\$10,000,000" and insert "\$5,000,000" and on line 8 strike "ten" and insert "five".

The K. Haar amendment lost with 3 ayes, 24 nays, 17 present and not voting, and 5 excused and not voting.

The Flood amendment, AM2493, found on page 952 and considered in this day's Journal, was renewed.

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

Senator Flood requested a roll call vote on his amendment.

Voting in the affirmative, 25:

|            |             |          |             |          |
|------------|-------------|----------|-------------|----------|
| Adams      | Christensen | Hadley   | Lambert     | Pirsch   |
| Ashford    | Coash       | Howard   | Langemeier  | Schilz   |
| Avery      | Cornett     | Janssen  | Lautenbaugh | Smith    |
| Bloomfield | Fischer     | Karpisek | McCoy       | Sullivan |
| Brasch     | Flood       | Krist    | Pahls       | Wallman  |

Voting in the negative, 16:

|         |           |        |            |
|---------|-----------|--------|------------|
| Conrad  | Gloor     | Louden | Nordquist  |
| Cook    | Hansen    | McGill | Schumacher |
| Council | Harms     | Mello  | Seiler     |
| Fulton  | Heidemann | Nelson | Wightman   |

Present and not voting, 4:

|          |       |          |         |
|----------|-------|----------|---------|
| Campbell | Dubas | Haar, K. | Lathrop |
|----------|-------|----------|---------|

Excused and not voting, 4:

|         |          |        |       |
|---------|----------|--------|-------|
| Carlson | Harr, B. | Larson | Price |
|---------|----------|--------|-------|

The Flood amendment was adopted with 25 ayes, 16 nays, 4 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Krist offered the following amendment:

FA55

On page 4, line 4, strike "eighty million" and insert "fifty million.".

Senator Krist withdrew his amendment.

Advanced to Enrollment and Review for Engrossment.

**SENATOR LANGEMEIER PRESIDING**

**LEGISLATIVE BILL 968.** ER209, found on page 933, was adopted.

Senator Flood asked unanimous consent to withdraw his amendment, FA39, found on page 832, and replace it with his substitute amendment, AM2486. No objections. So ordered.

AM2486

(Amendments to Standing Committee amendments, AM2123)

- 1 1. Purpose: State aid for special education has not
- 2 been increased since FY2008-09. This amendment increases the
- 3 General Fund appropriation for state aid for special education
- 4 for FY2011-12 by \$1.0 million and for FY2012-13 by \$9.0 million.
- 5 Amendment:

6 a. On page 18, line 21, strike "1,006,042,169  
 7 1,038,433,125" and insert "1,007,042,169 1,047,433,125"; in line  
 8 25 strike "1,300,385,203 1,332,776,159" and insert "1,301,385,203  
 9 1,341,776,159"; and in line 27 strike "\$1,006,042,169", show as  
 10 stricken, and insert "\$1,007,042,169"; and

11 b. On page 19, line 4, strike "\$1,038,433,125" and  
 12 insert "\$1,047,433,125"; in line 19, strike "\$184,893,842", show  
 13 as stricken, and insert "\$185,893,842", and in line 21 strike  
 14 "\$184,893,842", show as stricken, and insert "\$193,893,842".

15 2. Purpose: Laws 2011, LB 390, eliminated the Community  
 16 Corrections Council and transferred community corrections  
 17 appropriations from the Nebraska Commission on Law Enforcement and  
 18 Criminal Justice to the Supreme Court beginning with the current  
 19 2011-13 (FY2011-12 and FY2012-13) budget biennium. This amendment  
 20 eliminates the remaining unobligated Nebraska Commission on Law  
 21 Enforcement and Criminal Justice Community Corrections Council  
 22 General Fund reappropriation of \$424,727 left from FY2010-11 which  
 1 has no continuing purpose.

2 Amendment:

3 a. Insert the following new section:

4 Sec. 70. Laws 2011, LB390, section 34, is amended to  
 5 read:

6 Sec. 34. AGENCY NO. 78 - NEBRASKA COMMISSION ON LAW  
 7 ENFORCEMENT AND CRIMINAL JUSTICE

8 Program No. 220 - Community Corrections Council Office

|                  | FY2011-12 | FY2012-13 |
|------------------|-----------|-----------|
| 10 GENERAL FUND  | 281,298   | 285,298   |
| 11 CASH FUND     | 405,917   | 406,951   |
| 12 PROGRAM TOTAL | 687,215   | 692,249   |
| 13 SALARY LIMIT  | 218,643   | 223,016   |

14 The unexpended General Fund appropriation balance  
 15 existing on June 30, 2011, less \$424,727, is hereby reappropriated.

16 b. On page 72, line 10, strike "section 33" and insert  
 17 "sections 33 and 34"; and

18 c. Renumber the remaining sections and correct internal  
 19 references accordingly.

20 3. Purpose: The Department of Health and Human Services  
 21 February 23, 2012, letter to the chairpersons of the Appropriations  
 22 Committee and the Health and Human Services Committee requested a  
 23 reallocation of \$20.0 million of current FY2011-12 appropriations,  
 24 including \$3.7 million in General Fund appropriations from  
 25 Behavioral Health Aid Program 38, to finance child welfare  
 26 service changes and costs for the remainder of current FY2011-12.

27 An evaluation of year-to-date and estimated expenditures for  
 1 behavioral health aid is less than current appropriations.

2 Appropriations Committee amendments, AM2123, includes this change  
 3 for FY2011-12 as explained on pages 24-25 of the Committee report.

4 The department has also indicated that estimated expenditures will

5 continue to be less than the appropriation for Behavioral Health  
6 Aid Program 38 in FY2012-13 by as much as \$3.7 million. This  
7 amendment reduces the FY2012-13 General Fund appropriation for that  
8 program by \$1,850,000, one-half of that estimate.

9 Amendment:

10 a. On page 28, line 4, strike "75,133,219" and  
11 insert "73,283,219"; in line 8 strike "100,220,470" and insert  
12 "98,370,470"; and in line 13 strike "\$75,133,219" and insert  
13 "\$73,283,219".

14 4. Purpose: The Governor's mid-biennium recommendations  
15 included a reduction of \$5 million in the General Fund  
16 appropriations in both the FY2011-12 and FY2012-13 appropriation  
17 for Medicaid Program 348 because an evaluation of year-to-date  
18 and estimated expenditures is less than the current appropriation.  
19 The Appropriations Committee amendments, AM2123, reduced these  
20 appropriations by \$3 million for both fiscal years as explained on  
21 pages 26 and 27 of the Committee report. This amendment reduces  
22 the same appropriations by an additional \$2.0 million General Funds  
23 in both FY2011-12 and FY2012-13.

24 Amendment:

25 a. On page 34, strike line 6 and insert "GENERAL FUND  
26 580,313,492 644,573,194"; strike line 11 and insert "PROGRAM TOTAL  
27 1,599,593,142 1,699,508,714"; in line 13 strike "\$582,313,492" and  
1 insert "\$580,313,492"; and in line 17 strike "\$646,573,194" and  
2 insert "\$644,573,194".

Senator Mello requested a division of the question on the Flood amendment.

The Chair sustained the division of the question.

The first Flood amendment is as follows:

AM2504

(Amendments to Standing Committee amendments, AM2123)

1 Purpose: The Governor's mid-biennium recommendations  
2 included a reduction of \$5 million in the General Fund  
3 appropriations in both the FY2011-12 and FY2012-13 appropriation  
4 for Medicaid Program 348 because an evaluation of year-to-date  
5 and estimated expenditures is less than the current appropriation.  
6 The Appropriations Committee amendments, AM2123, reduced these  
7 appropriations by \$3 million for both fiscal years as explained on  
8 pages 26 and 27 of the Committee report. This amendment reduces  
9 the same appropriations by an additional \$2.0 million General Funds  
10 in both FY2011-12 and FY2012-13.

11 Amendment:

12 1. On page 34, strike line 6 and insert "GENERAL FUND  
13 580,313,492 644,573,194"; strike line 11 and insert "PROGRAM TOTAL  
14 1,599,593,142 1,699,508,714"; in line 13 strike "\$582,313,492" and  
15 insert "\$580,313,492"; and in line 17 strike "\$646,573,194" and  
16 insert "\$644,573,194".

The second Flood amendment is as follows:

AM2503

(Amendments to Standing Committee amendments, AM2123)

1 Purpose: The Department of Health and Human Services  
 2 February 23, 2012, letter to the chairpersons of the Appropriations  
 3 Committee and the Health and Human Services Committee requested a  
 4 reallocation of \$20.0 million of current FY2011-12 appropriations,  
 5 including \$3.7 million in General Fund appropriations from  
 6 Behavioral Health Aid Program 38, to finance child welfare  
 7 service changes and costs for the remainder of current FY2011-12.  
 8 An evaluation of year-to-date and estimated expenditures for  
 9 behavioral health aid is less than current appropriations.  
 10 Appropriations Committee amendments, AM2123, includes this change  
 11 for FY2011-12 as explained on pages 24-25 of the Committee report.  
 12 The department has also indicated that estimated expenditures will  
 13 continue to be less than the appropriation for Behavioral Health  
 14 Aid Program 38 in FY2012-13 by as much as \$3.7 million. This  
 15 amendment reduces the FY2012-13 General Fund appropriation for that  
 16 program by \$1,850,000, one-half of that estimate.

17 Amendment:

18 1. On page 28, line 4, strike "75,133,219" and  
 19 insert "73,283,219"; in line 8 strike "100,220,470" and insert  
 20 "98,370,470"; and in line 13 strike "\$75,133,219" and insert  
 21 "\$73,283,219".

The third Flood amendment is as follows:

AM2502

(Amendments to Standing Committee amendments, AM2123)

1 1. Purpose: State aid for special education has not  
 2 been increased since FY2008-09. This amendment increases the  
 3 General Fund appropriation for state aid for special education  
 4 for FY2011-12 by \$1.0 million and for FY2012-13 by \$9.0 million.

5 Amendment:

6 a. On page 18, line 21, strike "1,006,042,169  
 7 1,038,433,125" and insert "1,007,042,169 1,047,433,125"; in line  
 8 25 strike "1,300,385,203 1,332,776,159" and insert "1,301,385,203  
 9 1,341,776,159"; and in line 27 strike "\$1,006,042,169", show as  
 10 stricken, and insert "\$1,007,042,169"; and

11 b. On page 19, line 4, strike "\$1,038,433,125" and  
 12 insert "\$1,047,433,125"; in line 19, strike "\$184,893,842", show  
 13 as stricken, and insert "\$185,893,842", and in line 21 strike  
 14 "\$184,893,842", show as stricken, and insert "\$193,893,842".

15 2. Purpose: Laws 2011, LB 390, eliminated the Community  
 16 Corrections Council and transferred community corrections  
 17 appropriations from the Nebraska Commission on Law Enforcement and  
 18 Criminal Justice to the Supreme Court beginning with the current  
 19 2011-13 (FY2011-12 and FY2012-13) budget biennium. This amendment  
 20 eliminates the remaining unobligated Nebraska Commission on Law  
 21 Enforcement and Criminal Justice Community Corrections Council



22 General Fund reappropriation of \$424,727 left from FY2010-11 which  
 1 has no continuing purpose.

2 Amendment:

3 a. Insert the following new section:

4 Sec. 70. Laws 2011, LB390, section 34, is amended to  
 5 read:

6 Sec. 34. AGENCY NO. 78 - NEBRASKA COMMISSION ON LAW  
 7 ENFORCEMENT AND CRIMINAL JUSTICE

8 Program No. 220 - Community Corrections Council Office

|                  | FY2011-12 | FY2012-13 |
|------------------|-----------|-----------|
| 10 GENERAL FUND  | 281,298   | 285,298   |
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| 12 PROGRAM TOTAL | 687,215   | 692,249   |
| 13 SALARY LIMIT  | 218,643   | 223,016   |

14 The unexpended General Fund appropriation balance  
 15 existing on June 30, 2011, less \$424,727, is hereby reappropriated.

16 b. On page 72, line 10, strike "section 33" and insert  
 17 "sections 33 and 34"; and

18 c. Renumber the remaining sections and correct internal  
 19 references accordingly.

The first Flood amendment, AM2504, found in this day's Journal, was renewed.

**SENATOR COASH PRESIDING**

Pending.

**COMMITTEE REPORTS**

Urban Affairs

**LEGISLATIVE BILL 1115.** Placed on General File with amendment.  
 AM2495 is available in the Bill Room.

(Signed) Amanda McGill, Chairperson

Judiciary

**LEGISLATIVE BILL 804.** Placed on General File with amendment.  
 AM2268

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

3 Section 1. Section 28-1416, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:

5 28-1416 (1) In any prosecution based on conduct which is  
 6 justifiable under sections 28-1406 to 28-1416, justification is an  
 7 affirmative defense.

8 ~~(2) The fact that conduct is justifiable under sections~~  
 9 ~~28-1406 to 28-1416 does not abolish or impair any remedy for such~~

10 ~~conduct which is available in any civil action.~~

11 (2) The justification defenses provided for under  
 12 sections 28-1406 to 28-1416 shall be available in any civil action  
 13 for assault and battery or intentional wrongful death and, where  
 14 applicable, shall be a bar to recovery.

15 Sec. 2. Original section 28-1416, Reissue Revised  
 16 Statutes of Nebraska, is repealed.

(Signed) Brad Ashford, Chairperson

### AMENDMENTS - Print in Journal

Senator Mello filed the following amendment to LB357:  
 AM2494

1 1. On page 2, line 13, after the period insert "Any city  
 2 of the metropolitan class that proposes to impose a municipal sales  
 3 and use tax at a rate greater than one and one-half percent or  
 4 increase a municipal sales and use tax to a rate greater than  
 5 one and one-half percent shall use the proceeds from the first  
 6 three-tenths percent of such tax rate or tax rate increase that  
 7 is in excess of one and one-half percent for a municipal project  
 8 to reduce overflows from a combined sewer system pursuant to a  
 9 long-term control plan approved by the Department of Environmental  
 10 Quality for a period of twenty-five years after imposition of the  
 11 tax or increase or until the project is completed, whichever is  
 12 earlier, and shall reduce other funding sources for the project by  
 13 a similar amount for such period.".

Senator Howard filed the following amendment to LB968:  
 AM2491

(Amendments to Standing Committee amendments, AM2123)

1 1. On page 32, line 18, strike "266,818,578" and  
 2 insert "260,818,578"; in line 22 strike "413,866,592" and insert  
 3 "407,866,592"; and in line 24 strike "\$266,818,578" and insert  
 4 "\$260,818,578".

5 2. On page 33, after line 25 insert:

6 "The appropriation included in this program for FY2011-12  
 7 and FY2012-13 does not include funding for transition costs  
 8 relating to the termination of the contract with KVC. It is  
 9 the intent of the Legislature that these costs not be paid to  
 10 KVC.".

Senator Ashford filed the following amendment to LB968:  
 AM2498

(Amendments to Standing Committee amendments, AM2123)

1 1. Insert the following new sections:  
 2 Sec. 70. The Department of Health and Human Services  
 3 is hereby authorized to renovate the second-floor sleeping areas  
 4 of the Bryant/Creighton living unit at the Youth Rehabilitation

5 and Treatment Center-Kearney. The purpose of the renovation is  
 6 to provide the youth with a more private, homelike environment  
 7 and with a climate that is more conducive to treatment and  
 8 rehabilitation programs provided at the facility, including the  
 9 ability to provide space for the separation of juveniles exhibiting  
 10 behavior that is a danger to themselves or others.

11 There is hereby appropriated \$906,773 from the General  
 12 Fund for FY2012-13 to the Department of Health and Human Services,  
 13 for Program 942, for the renovation of the Bryant/Creighton living  
 14 unit at the Youth Rehabilitation and Treatment Center-Kearney. It  
 15 is the intent of the Legislature that all statutory requirements  
 16 of the state building division of the Department of Administrative  
 17 Services be met for this project before work begins.

18 Sec. 71. The Department of Health and Human Services  
 19 is hereby authorized to remodel the second-floor sleeping areas  
 20 of the Lincoln/Washington living unit at the Youth Rehabilitation  
 21 and Treatment Center-Kearney. The purpose of the renovation is  
 22 to provide the youth with a more private, homelike environment  
 1 and with a climate that is more conducive to treatment and  
 2 rehabilitation programs provided at the facility, including the  
 3 ability to provide space for the separation of juveniles exhibiting  
 4 behavior that is a danger to themselves or others.

5 There is hereby appropriated \$906,773 from the  
 6 General Fund for FY2013-14 to the Department of Health and  
 7 Human Services, for Program 942, for the renovation of the  
 8 Lincoln/Washington living unit at the Youth Rehabilitation and  
 9 Treatment Center-Kearney. It is the intent of the Legislature  
 10 that all statutory requirements of the state building division of  
 11 the Department of Administrative Services be met for this project  
 12 before work begins.

13 2. Renumber the remaining sections and correct internal  
 14 references accordingly.

Senator Ashford filed the following amendment to LB968:  
AM2500

(Amendments to Standing Committee amendments, AM2123)

1 Purpose: To appropriate \$60,000 in cash funds to the  
 2 Nebraska State Patrol to contract with the University of Nebraska  
 3 to study sex offender recidivism data before and after the passage  
 4 of Laws 2009, LB285, which changed the Nebraska sex offender  
 5 classification system from an evaluation of risk assessment system  
 6 to an offense-based assessment system in the attempt by the state  
 7 to comply with federal requirements under the Adam Walsh Child  
 8 Protection and Safety Act of 2006.

9 Amendment:

10 1. Insert the following new section:

11 Sec. 56. Laws 2011, LB374, section 181, is amended to  
 12 read:

|    |   |                       |                       |
|----|---|-----------------------|-----------------------|
| 13 | Sec. 181. AGENCY NO. 64 - NEBRASKA STATE PATROL |                       |                       |
| 14 | Program No. 100 - Public Protection             |                       |                       |
| 15 |   | FY2011-12             | FY2012-13             |
| 16 | GENERAL FUND                                    | 51,473,222            | 52,031,516            |
| 17 | <del>CASH FUND</del>                            | <del>4,368,935</del>  | <del>4,391,029</del>  |
| 18 | <u>CASH FUND</u>                                | <u>4,428,935</u>      | <u>4,391,029</u>      |
| 19 | FEDERAL FUND est.                               | 126,483               | 157,150               |
| 20 | <del>PROGRAM TOTAL</del>                        | <del>55,968,640</del> | <del>56,579,695</del> |
| 1  | <u>PROGRAM TOTAL</u>                            | <u>56,028,640</u>     | <u>56,579,695</u>     |
| 2  | SALARY LIMIT                                    | 33,648,596            | 34,287,851            |

3 The unexpended General Fund appropriation balance  
4 existing on June 30, 2011, is hereby reappropriated.

5 The Department of Administrative Services shall monitor  
6 the appropriations and expenditures for this program according to  
7 the following program classifications:

- 8 No. 189 - Command and Support
- 9 No. 190 - Criminal Investigations
- 10 No. 195 - Road Operations

11 There is included in the appropriation to this program  
12 for FY2011-12 \$150,000 General Funds and \$100,000 Federal Funds  
13 from the Byrne Criminal History Improvement set-aside funds,  
14 subject to available federal appropriation, which shall only be  
15 expended for criminal justice information systems improvements.  
16 There is included in the appropriation to this program for  
17 FY2012-13 \$150,000 General Funds and \$100,000 Federal Funds from  
18 the Byrne Criminal History Improvement set-aside funds, subject  
19 to available federal appropriation, which shall only be expended  
20 for criminal justice information systems improvements. Federal  
21 Funds transferred to the Nebraska State Patrol pursuant to this  
22 section shall be expended consistent with all applicable federal  
23 laws, rules, and regulations pertaining to Byrne Criminal History  
24 Improvement set-aside funds.

25 There is included in the appropriation to this program  
26 for FY2011-12 \$485,979 Cash Funds and for FY2012-13 \$485,979  
1 Cash Funds, which appropriation amounts shall only be expended  
2 to provide law enforcement coverage along state road construction  
3 zones. The Department of Roads shall contract with the Nebraska  
4 State Patrol for such law enforcement coverage and shall pay for  
5 such services from the Roads Operations Cash Fund to the Nebraska  
6 State Patrol Cash Fund in four equal quarterly amounts to be  
7 transferred by the State Treasurer on or before July 15, October  
8 15, January 15, and April 15, for both FY2011-12 and FY2012-13.

9 2. On page 72, line 8, after "132," insert "181,".

10 3. Renumber the remaining sections and correct internal  
11 references accordingly.

Senator Lautenbaugh filed the following amendment to LB968:  
AM2523

(Amendments to Standing Committee amendments, AM2123)

1 1. On page 34, line 6, strike "646,573,194" and insert  
 2 "636,913,051"; in line 10 strike "1,030,591,108" and insert  
 3 "1,018,118,684"; in line 11 strike "1,701,508,714" and insert  
 4 "1,679,376,147"; in line 17 strike "\$646,573,194" and insert  
 5 "\$636,913,051"; and in line 18 strike "\$1,030,591,108" and insert  
 6 "\$1,018,118,684".

Senator Langemeier filed the following amendment to LB968:  
 AM2527

(Amendments to Standing Committee amendments, AM2123)

1 Purpose: AM2123 contains an appropriation of \$5,000,000  
 2 in the Governor's Emergency Program as a reserve for future  
 3 disasters. This amendment would reduce this reserve to \$2,000,000.

4 Amendment:

5 a. On page 44, line 26, strike "9,400,000" and insert  
 6 "6,400,000".

7 b. On page 45, line 2, strike "13,900,000" and insert  
 8 "10,900,000"; and in line 7 strike "\$9,400,000" and insert  
 9 "\$6,400,000".

Senator Lautenbaugh filed the following amendment to LB969:  
 AM2497

(Amendments to Standing Committee amendments, AM2068)

1 1. Insert the following new sections:

2 Section 1. Laws 2011, LB374, section 209, is amended to  
 3 read:

4 Sec. 209. AGENCY NO. 65 - DEPARTMENT OF ADMINISTRATIVE  
 5 SERVICES

6 Program No. 685 - Office of the Nebraska Capitol  
 7 Commission

|                              | FY2011-12            | FY2012-13            |
|------------------------------|----------------------|----------------------|
| 9 <del>GENERAL FUND</del>    | <del>3,567,941</del> | <del>3,592,277</del> |
| 10 <del>CASH FUND</del>      | <del>35,387</del>    | <del>35,387</del>    |
| 11 <del>REVOLVING FUND</del> | <del>4,750</del>     | <del>4,750</del>     |
| 12 <del>PROGRAM TOTAL</del>  | <del>3,608,078</del> | <del>3,632,414</del> |
| 13 <del>SALARY LIMIT</del>   | <del>1,149,602</del> | <del>1,171,623</del> |
| 14 <u>GENERAL FUND</u>       | <u>3,567,941</u>     | <u>-0-</u>           |
| 15 <u>CASH FUND</u>          | <u>35,387</u>        | <u>-0-</u>           |
| 16 <u>REVOLVING FUND</u>     | <u>4,750</u>         | <u>-0-</u>           |
| 17 <u>PROGRAM TOTAL</u>      | <u>3,608,078</u>     | <u>-0-</u>           |
| 18 <u>SALARY LIMIT</u>       | <u>1,149,602</u>     | <u>-0-</u>           |

19 ~~The unexpended General Fund appropriation balance~~  
 20 ~~existing on June 30, 2011, is hereby reappropriated. It is the~~  
 21 ~~intent of the Legislature that any reappropriated balance be used~~  
 22 ~~for unexpected increases in utility expenses.~~

1 Sec. 2. There is hereby appropriated \$3,592,277 from the  
 2 General Fund for FY2012-13 to the Attorney General to provide for  
 3 investigation and enforcement of remedies that provide for the  
 4 equitable treatment of tobacco users.

5 2. Renumber the remaining sections and correct internal  
6 references and the repealer accordingly with the sections added by  
7 this amendment to become operative on the effective date of this  
8 act.

Senator Cornett filed the following amendment to LB1050:  
AM2181

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

3 Section 1. Section 77-2701, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to  
6 77-27,236 and section 2 of this act shall be known and may be cited  
7 as the Nebraska Revenue Act of 1967.

8 Sec. 2. (1) It is the intent of the Legislature that  
9 the incentive created by this section be used solely to induce  
10 procurement processing companies to locate in this state, resulting  
11 in significant new sales tax revenue generated for this state.

12 (2) For purposes of this section:

13 (a) Affiliated entity means a person who directly,  
14 or indirectly through one or more intermediaries, controls, is  
15 controlled by, or is under common control with another person;

16 (b) Department means the Department of Revenue;

17 (c) New taxable sales means the sales of property and  
18 services upon which sales and use taxes are paid under the Nebraska  
19 Revenue Act of 1967 and which occur in this state as a result of  
20 the operation in this state of a procurement processing company;

21 (d) Procurement processing company means a person engaged  
22 in managing the activities of unrelated purchasing companies; and

23 (e) Purchasing company means a person engaged in the  
1 activity of selling property and services to affiliated entities.

2 (3) The Tax Commissioner may enter into a contract with  
3 a procurement processing company in which such company agrees  
4 to locate its business operations in this state in return for  
5 the incentive provided in subsection (4) of this section if the  
6 Governor determines the contract to be in the best interest of this  
7 state. The Governor's determination shall be based on (a) the new  
8 taxable sales that would be generated as a result of the contract  
9 and (b) the department's certification to the Governor that the  
10 contract does not result in a reduction of net sales tax revenue.

11 (4)(a) A contract entered into under this section may  
12 include as an incentive to the procurement processing company a  
13 rebate of sales and use taxes paid under the Nebraska Revenue Act  
14 of 1967 by purchasing companies that are managed by the procurement  
15 processing company.

16 (b) The department may withhold up to ten percent of any  
17 incentive due under this subsection and hold such funds in escrow  
18 for a period not to exceed thirty-six months from the earlier of  
19 the date the sales tax was remitted to the state or the date

20 the sales tax became legally due. Any funds held in escrow under  
 21 this subsection shall be maintained in the escrow account for the  
 22 purpose set forth in subsection (5) of this section.

23 (5) If an incentive paid under this section is  
 24 subsequently determined to have been paid in error, any remaining  
 25 incentives shall be reduced by the amount of the incentive paid in  
 26 error. If remaining incentives are insufficient to cover an amount  
 27 paid in error, the difference shall be paid from the escrow account  
 1 authorized in subdivision (4)(b) of this section.

2 (6) For determining the amount of sales tax on new  
 3 taxable sales credited to the State Highway Capital Improvement  
 4 Fund and the Highway Allocation Fund as a result of this section,  
 5 the net proceeds of the sales and use taxes collected on new  
 6 taxable sales, after deducting applicable rebates under this  
 7 section, shall be the amount used to determine the allocation  
 8 under subdivision (2)(b) of section 77-27,132.

9 (7) A contract entered into under this section may not  
 10 exceed an initial term of twenty years.

11 (8) A contract entered into under this section is exempt  
 12 from the requirements of sections 73-201 to 73-204 and 73-501 to  
 13 73-509.

14 (9) Purchasing companies shall be subject to the  
 15 reporting, audit, enforcement, and confidentiality provisions of  
 16 the Nebraska Revenue Act of 1967 that are applicable to other  
 17 sellers in this state. The state may not contractually waive this  
 18 requirement.

19 (10) On or before July 15 each year, the Tax Commissioner  
 20 shall submit a report to the Legislature regarding any contract  
 21 entered into under this section. The report shall include total  
 22 sales occurring in this state as a result of this section and total  
 23 sales tax revenue generated on those sales for this state.

24 Sec. 3. Original section 77-2701, Reissue Revised  
 25 Statutes of Nebraska, is repealed.

Senator Cornett filed the following amendment to LB1080:  
 AM1826

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 purpose means use of the  
 11 property (i) to provide public services with or without cost to the  
 12 recipient, including the general operation of government, public  
 13 education, public safety, transportation, public works, civil and

14 criminal justice, public health and welfare, developments by a  
15 public housing authority, parks, culture, recreation, community  
16 development, and cemetery purposes, or (ii) to carry out the  
17 duties and responsibilities conferred by law with or without  
18 consideration. Public purpose does not include leasing of property  
19 to a private party unless the lease of the property is at fair  
20 market value for a public purpose. Leases of property by a public  
21 housing authority to low-income individuals as a place of residence  
22 are for the authority's public purpose;

23 (b) Unleased property of the state or its governmental  
1 subdivisions which is not being used or developed for use for  
2 a public purpose but upon which a payment in lieu of taxes is  
3 paid for public safety, rescue, and emergency services and road  
4 or street construction or maintenance services to all governmental  
5 units providing such services to the property. Except as provided  
6 in Article VIII, section 11, of the Constitution of Nebraska,  
7 the payment in lieu of taxes shall be based on the proportionate  
8 share of the cost of providing public safety, rescue, or emergency  
9 services and road or street construction or maintenance services  
10 unless a general policy is adopted by the governing body of the  
11 governmental subdivision providing such services which provides for  
12 a different method of determining the amount of the payment in  
13 lieu of taxes. The governing body may adopt a general policy by  
14 ordinance or resolution for determining the amount of payment in  
15 lieu of taxes by majority vote after a hearing on the ordinance  
16 or resolution. Such ordinance or resolution shall nevertheless  
17 result in an equitable contribution for the cost of providing such  
18 services to the exempt property;

19 (c) Property owned by and used exclusively for  
20 agricultural and horticultural societies;

21 (d) Property owned by educational, religious, charitable,  
22 or cemetery organizations, or any organization for the exclusive  
23 benefit of any such educational, religious, charitable, or cemetery  
24 organization, and used exclusively for educational, religious,  
25 charitable, or cemetery purposes, when such property is not

26 (i) owned or used for financial gain or profit to either the  
27 owner or user, (ii) used for the sale of alcoholic liquors for  
1 more than twenty hours per week, or (iii) owned or used by  
2 an organization which discriminates in membership or employment  
3 based on race, color, or national origin. For purposes of this  
4 subdivision, educational organization means (A) an institution  
5 operated exclusively for the purpose of offering regular courses  
6 with systematic instruction in academic, vocational, or technical  
7 subjects or assisting students through services relating to the  
8 origination, processing, or guarantying of federally reinsured  
9 student loans for higher education or (B) a museum or historical  
10 society operated exclusively for the benefit and education of the  
11 public. For purposes of this subdivision, charitable organization  
12 means an organization operated exclusively for the purpose of the



13 mental, social, or physical benefit of the public or an indefinite  
14 number of persons; and

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

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

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

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

26 (5) Business and agricultural inventory shall be exempt  
27 from the personal property tax. For purposes of this subsection,  
1 business inventory includes personal property owned for purposes  
2 of leasing or renting such property to others for financial gain  
3 only if the personal property is of a type which in the ordinary  
4 course of business is leased or rented thirty days or less and  
5 may be returned at the option of the lessee or renter at any time  
6 and the personal property is of a type which would be considered  
7 household goods or personal effects if owned by an individual. All  
8 other personal property owned for purposes of leasing or renting  
9 such property to others for financial gain shall not be considered  
10 business inventory.

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

14 (7) Livestock shall be exempt from the personal property  
15 tax.

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

18 (9) Any depreciable tangible personal property used  
19 directly in the generation of electricity using wind as the fuel  
20 source shall be exempt from the property tax levied on depreciable  
21 tangible personal property. Depreciable tangible personal property  
22 used directly in the generation of electricity using wind as the  
23 fuel source includes, but is not limited to, wind turbines, rotors  
24 and blades, towers, trackers, generating equipment, transmission  
25 components, substations, supporting structures or racks, inverters,  
26 and other system components such as wiring, control systems,  
27 switchgears, and generator step-up transformers.

1 (10) Any tangible personal property that is acquired by  
2 a person operating a data center located in this state, that is  
3 assembled, engineered, processed, fabricated, manufactured into,  
4 attached to, or incorporated into other tangible personal property,  
5 both in component form or that of an assembled product, for  
6 the purpose of subsequent use at a physical location outside  
7 this state by the person operating a data center shall be

8 exempt from the personal property tax. Such exemption extends  
9 to keeping, retaining, or exercising any right or power over  
10 tangible personal property in this state for the purpose of  
11 subsequently transporting it outside this state for use thereafter  
12 outside this state. For purposes of this subsection, data center  
13 means computers, supporting equipment, and other organized assembly  
14 of hardware or software that are designed to centralize the  
15 storage, management, or dissemination of data and information,  
16 environmentally controlled structures or facilities or interrelated  
17 structures or facilities that provide the infrastructure for  
18 housing the equipment, such as raised flooring, electricity supply,  
19 communication and data lines, Internet access, cooling, security,  
20 and fire suppression, and any building housing the foregoing.

21 Sec. 2. Section 77-2701, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to  
24 77-27,236 and sections 4 and 5 of this act shall be known and may  
25 be cited as the Nebraska Revenue Act of 1967.

26 Sec. 3. Section 77-2701.04, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1 77-2701.04 For purposes of sections 77-2701.04 to  
2 77-2713 and sections 4 and 5 of this act, unless the context  
3 otherwise requires, the definitions found in sections 77-2701.05 to  
4 77-2701.53 and section 4 of this act shall be used.

5 Sec. 4. Data center means computers, supporting  
6 equipment, and other organized assembly of hardware or software  
7 that are designed to centralize the storage, management, or  
8 dissemination of data and information, environmentally controlled  
9 structures or facilities or interrelated structures or facilities  
10 that provide the infrastructure for housing the equipment, such as  
11 raised flooring, electricity supply, communication and data lines,  
12 Internet access, cooling, security, and fire suppression, and any  
13 building housing the foregoing.

14 Sec. 5. Sales and use taxes shall not be imposed on the  
15 gross receipts from the sale, lease, or rental of and the storage,  
16 use, or other consumption in this state of tangible personal  
17 property and services acquired by a person operating a data center  
18 located in this state that are assembled, engineered, processed,  
19 fabricated, manufactured into, attached to, or incorporated into  
20 other tangible personal property for the purpose of subsequent use  
21 at a physical location outside this state. Such exemption extends  
22 to keeping, retaining, or exercising any right or power over  
23 such tangible personal property in this state for the purpose of  
24 subsequently transporting it outside this state for use thereafter  
25 outside this state.

26 Sec. 6. Sections 2, 3, 4, 5, and 7 of this act become  
27 operative on July 1, 2012. The other sections of this act become  
1 operative on their effective date.

2 Sec. 7. Original sections 77-2701 and 77-2701.04, Reissue

- 3 Revised Statutes of Nebraska, are repealed.  
 4 Sec. 8. Original section 77-202, Revised Statutes  
 5 Supplement, 2011, is repealed.  
 6 Sec. 9. Since an emergency exists, this act takes effect  
 7 when passed and approved according to law.

Senator Schilz filed the following amendment to LB670:  
 AM2496 is available in the Bill Room.

Senator McCoy filed the following amendment to LB782:  
 AM2392

- 1 1. Strike original sections 77, 204, 218, 220, 233, 238,  
 2 239, 240, and 241 and insert the following new section:  
 3 Sec. 211. Section 81-2022, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 81-2022 Any funds of the Nebraska State Patrol Retirement  
 6 System available for investment shall be invested by the Nebraska  
 7 Investment Council pursuant to the Nebraska Capital Expansion Act  
 8 and the Nebraska State Funds Investment Act. Payment for investment  
 9 services by the council shall be charged directly against the gross  
 10 investment returns of the funds. Charges so incurred shall not  
 11 be a part of the board's annual budget request. The amounts of  
 12 payment for such services, as of December 31 of each year, shall  
 13 be reported not later than March 31 of the following year to the  
 14 council, the board, and the Nebraska Retirement Systems Committee  
 15 of the Legislature. The report submitted to the committee shall be  
 16 submitted electronically.  
 17 The state investment officer shall sell any securities  
 18 upon request from the director so as to provide money for the  
 19 payment of benefits or annuities.  
 20 2. On page 31, line 3, after "Committee" insert "of  
 21 the Legislature. The report submitted to the committee shall be  
 22 submitted electronically."  
 23 3. On page 52, lines 10 through 12 and 15 through 17,  
 1 reinstate the stricken matter.  
 2 4. On page 112, line 7, after the period insert "The  
 3 notification submitted to the Clerk of the Legislature shall be  
 4 submitted electronically."  
 5 5. On page 153, line 6, after the period insert "The  
 6 notification submitted to the Legislature shall be submitted  
 7 electronically."  
 8 6. On page 181, line 16, strike the first occurrence of  
 9 "a", show as stricken, and insert "an electronic".  
 10 7. On page 236, line 3, after "submit" insert  
 11 "electronically".  
 12 8. On page 239, line 14, after "provide" insert  
 13 "electronically".  
 14 9. On page 245, line 7, after "approval" insert "by the  
 15 Legislature".

- 16 10. On page 252, line 2, strike the new matter.
- 17 11. On page 262, line 20, strike "a subsequent  
18 Legislature for", show as stricken, and insert "the Legislature  
19 which shall render".
- 20 12. On page 270, line 22, after "plans" insert "and any  
21 updates or revisions".
- 22 13. On page 290, strike lines 9-10.
- 23 14. On page 291, after line 19 insert the following new  
24 paragraph:  
25 "The reports and summaries submitted to the Clerk of the  
26 Legislature shall be submitted electronically".
- 27 15. On page 302, line 10, after "report" insert  
1 "electronically".
- 2 16. On page 304, strike lines 22 through 24.
- 3 17. On page 360, line 17, after "report" insert  
4 "electronically".
- 5 18. On page 374, line 20, strike "electronically"; and in  
6 line 23 strike "may", show as stricken, and insert "shall".
- 7 19. On page 381, line 9, strike "50-414,"; in line 23  
8 strike "81-15,101,"; in line 24 after the second comma insert  
9 "81-2022,"; and in line 25 strike "83-111," and "83-908,".
- 10 20. On page 382, line 1, strike "84-1205.03"; in line 2  
11 strike "85-414, 85-417, 85-424,"; in line 6 strike "85-421,"; in  
12 line 17 strike "43-4002, 43-4003,"; and in lines 19 and 20, strike  
13 "sections 46-2,140 and" and insert "section".
- 14 21. Renumber the remaining sections and correct internal  
15 references accordingly.

Senator Adams filed the following amendment to LB870:  
AM2512

(Amendments to E & R amendments, ER212)

- 1 1. On page 1, line 11, strike "beginning with school year  
2 2012-13"; in line 14 strike "assessments" and insert "assessment  
3 instruments"; in line 19 strike "shall" and insert "may"; in  
4 line 21 before the period insert "beginning with school year  
5 2013-14"; in line 22 after "report" insert "any performance levels  
6 established by the board regarding"; and in lines 22 and 23 strike  
7 "level of".
- 8 2. On page 2, line 1, strike "on" through "system".
- 9 3. On page 3, line 10, strike "the" and insert "a";  
10 in line 11 strike "holistic" through "find" and insert "students  
11 with"; in line 12 strike "alternative" through "educational"; in  
12 line 23 after the semicolon insert "and"; strike beginning with  
13 line 24 through "technology" in line 26 and insert:  
14 "(c) Provide a rigorous academic curriculum"; and in line  
15 27 strike "youth" and insert "students".
- 16 4. On page 4, strike lines 2 through 5; in line 6 strike  
17 "(4)" and insert "(3)"; in line 9 strike "(5)" and insert "(4)";  
18 after the comma in line 13 insert "including, but not limited to,

- 19 the number of students enrolled in a career academy and their grade  
20 levels,"; and in line 16 after the period insert:  
21 "(5) The State Board of Education may adopt and  
22 promulgate rules and regulations to carry out this section.".

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

Senator Price asked unanimous consent to add his name as cointroducer to LB804. No objections. So ordered.

Senators Brasch, Janssen, Lambert, Larson, Price, and Schilz asked unanimous consent to add their names as cointroducers to LB970. No objections. So ordered.

### **WITHDRAW - Cointroducer**

Senator Larson withdrew his name as cointroducer to LR358CA.

### **VISITORS**

Visitors to the Chamber were Elsa and Luke McGrain, Omaha; 33 fifth-grade students and teachers from Meadows Elementary, Omaha; 40 fourth-grade students, teachers, and sponsors from Jackson Elementary, Omaha; 40 eleventh- and twelfth-grade students and teachers from Elwood High; and 12 fourth-grade students and teacher from Omaha Christian School.

The Doctor of the Day was Dr. Ronald Morse from Creighton.

### **ADJOURNMENT**

At 3:02 p.m., on a motion by Senator Cornett, the Legislature adjourned until 10:00 a.m., Monday, March 19, 2012.

Patrick J. O'Donnell  
Clerk of the Legislature

