

FIFTY-NINTH DAY - APRIL 11, 2013
LEGISLATIVE JOURNAL
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
FIFTY-NINTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, April 11, 2013

PRAYER

The prayer was offered by Senator Brasch.

ROLL CALL

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

The roll was called and all members were present except Senators McCoy, McGill, and Price and who were excused; and Senators Ashford, Carlson, Conrad, Davis, Harms, Mello, Murante, Schilz, and Sullivan who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-eighth day was approved.

REPORTS

Agency reports electronically filed with the Legislature can be found on the Nebraska Legislature's website at:
<http://www.nebraskalegislature.gov/agencies/view.php>

GENERAL FILE

LEGISLATIVE BILL 579. Title read. Considered.

Committee AM663, found on page 743, was adopted with 26 ayes, 1 nay, 16 present and not voting, and 6 excused and not voting.

Senator Karpisek offered his amendment, AM997, found on page 969.

SPEAKER ADAMS PRESIDING

Pending.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 124 and 125 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 124 and 125.

GENERAL FILE

LEGISLATIVE BILL 579. The Karpisek amendment, AM997, found on page 969 and in this day's Journal, was renewed.

SENATOR GLOOR PRESIDING

Pending.

COMMITTEE REPORTS

Business and Labor

LEGISLATIVE BILL 141. Placed on General File.

LEGISLATIVE BILL 476. Placed on General File with amendment. AM984

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 81-1201.21, Revised Statutes
- 4 Cumulative Supplement, 2012, is amended to read:
- 5 81-1201.21 (1) There is hereby created the Job Training
- 6 Cash Fund. The fund shall be under the direction of the Department
- 7 of Economic Development. Money may be transferred to the fund
- 8 pursuant to subdivision (1)(b)(iii) of section 48-621 and from
- 9 the Cash Reserve Fund at the direction of the Legislature. The
- 10 department shall establish a subaccount for all money transferred
- 11 from the Cash Reserve Fund to the Job Training Cash Fund on or
- 12 after July 1, 2005.
- 13 (2) The department shall use the Job Training Cash Fund
- 14 or the subaccount established in subsection (1) of this section (a)
- 15 to provide reimbursements for job training activities, including
- 16 employee assessment, preemployment training, on-the-job training,
- 17 training equipment costs, and other reasonable costs related to
- 18 helping industry and business locate or expand in Nebraska, (b)
- 19 to provide upgrade skills training of the existing labor force
- 20 necessary to adapt to new technology or the introduction of new
- 21 product lines, or (c) to provide ~~job training~~ grants pursuant to
- 22 section 81-1210.02.
- 23 (3) The department shall establish a subaccount within
- 1 the fund to provide training grants for training employees and

2 potential employees of businesses that (a) employ twenty-five or
3 fewer employees on the application date, (b) employ, or train for
4 potential employment, residents of rural areas of Nebraska, or
5 (c) are located in or employ, or train for potential employment,
6 residents of high-poverty areas as defined in section 81-1203.
7 The department shall calculate the amount of prior year investment
8 income earnings accruing to the fund and allocate such amount
9 to the subaccount for training grants under this subsection. The
10 subaccount shall also be used as provided in the Teleworker Job
11 Creation Act and as provided in section 81-1210.02.

12 (4) Any money in the fund available for investment
13 shall be invested by the state investment officer pursuant to
14 the Nebraska Capital Expansion Act and the Nebraska State Funds
15 Investment Act.

16 Sec. 2. Section 81-1210.01, Revised Statutes Cumulative
17 Supplement, 2012, is amended to read:

18 81-1210.01 For purposes of sections 81-1210.01 to
19 81-1210.03:

20 (1) Department means the Department of Economic
21 Development;

22 ~~(2) Distressed area means a municipality, county with a~~
23 ~~population of fewer than one hundred thousand inhabitants according~~
24 ~~to the most recent federal decennial census, unincorporated area~~
25 ~~within a county, or census tract in Nebraska that (a) has an~~
26 ~~unemployment rate which exceeds the statewide average unemployment~~
27 ~~rate, (b) has a per capita income below the statewide average per~~
1 ~~capita income, or (c) had a population decrease between the two~~
2 ~~most recent federal decennial censuses;~~

3 (3) Eligible company has the same meaning as qualified
4 business in subsection (1) of section 77-5715;

5 ~~(4) Intern means any person who is working in a~~
6 ~~professional environment for a limited period of time to gain~~
7 ~~sufficient practical work experience in a professional or technical~~
8 ~~position to allow for career decisionmaking and to provide~~
9 ~~the employer valuable skills to accelerate short term business~~
10 ~~objectives and who (a) is enrolled full time in a four year~~
11 ~~college or university in Nebraska and has achieved junior or senior~~
12 ~~status by such institution's criteria, (b) is enrolled full time~~
13 ~~in a two year college in Nebraska and has successfully completed~~
14 ~~a minimum of one half of the total credit hours required for an~~
15 ~~associate degree, or (c) having residency in Nebraska, is enrolled~~
16 ~~full time in a four year college or university in a state other~~
17 ~~than Nebraska and has achieved junior or senior status by such~~
18 ~~institution's criteria; and~~

19 ~~(5)-(2) Internship means any internship that did~~
20 ~~not exist before June 1, 2011; employment of a student in a~~
21 ~~professional or technical position for a limited period of time, by~~
22 ~~a business in Nebraska, in which the student (a) gains valuable~~
23 ~~work experience, (b) increases knowledge that assists with career~~

24 decisionmaking, and (c) assists the business in accelerating
 25 short-term business objectives; and

26 (3) Student means any person who:

27 (a) Is enrolled full-time in a college, university, or
 1 other institution of higher education in Nebraska;

2 (b) Has residency in Nebraska and is enrolled full-time
 3 in a college, university, or other institution of higher education
 4 in a state other than Nebraska; or

5 (c) Applies for an internship within six months following
 6 graduation from (i) a college, university, or other institution
 7 of higher education in Nebraska or (ii) a college, university,
 8 or other institution of higher education in a state other than
 9 Nebraska if such person had residency in Nebraska during his or her
 10 enrollment in such college, university, or institution.

11 Sec. 3. Section 81-1210.02, Revised Statutes Cumulative
 12 Supplement, 2012, is amended to read:

13 81-1210.02 (1) The intent of sections 81-1210.01 to
 14 81-1210.03 is to ~~connect Nebraska~~ provide students ~~pursuing~~
 15 ~~postsecondary degrees with targeted industries with valuable~~
 16 internship opportunities in order to retain such students and
 17 attract workers to Nebraska by assisting ~~companies~~ Nebraska
 18 businesses willing to provide paid internships.

19 (2) ~~An eligible company~~ A business may apply to the
 20 department for a ~~job training grant~~ to assist in ~~the hiring of an~~
 21 intern providing a student an internship if:

22 (a) ~~The company~~ business certifies that the internship
 23 meets the definition of internship in section 81-1210.01;

24 (b) ~~The internship pays at least the federal minimum~~
 25 wage;

26 (c) ~~The intern will work a minimum of two hundred hours~~
 27 ~~in a twelve week period but no more than one thousand hours in a~~
 1 ~~fifty week period; and~~

2 (d) ~~The intern applies for the internship prior to~~
 3 ~~graduation, even though the internship may be completed after~~
 4 ~~graduation.~~

5 (b) The business will pay the student at least the
 6 federal minimum hourly wage for the internship;

7 (c) The internship will be completed within the State of
 8 Nebraska;

9 (d) The internship will be completed within a period of
 10 no more than twelve months; and

11 (e) The internship will be for a duration sufficient to
 12 allow the student to gain significant valuable work experience and
 13 knowledge.

14 (3) The department may provide ~~a job training grant of~~
 15 grants for internships in the following amounts:

16 (a) If the student receiving the internship is a Federal
 17 Pell Grant recipient at the time of grant application, the grant
 18 may be up to the lesser of seventy-five percent of the cost

19 of the internship or seven thousand five hundred dollars. The
 20 business applying for the grant shall provide the department with
 21 documentation to prove that the student is a Federal Pell Grant
 22 recipient; and

23 (b) For all other students, the grant may be up to
 24 the lesser of forty-seven percent of the cost of the
 25 internship or three thousand five hundred dollars, except that if
 26 the internship is in a distressed area, the job training grant may
 27 be up to the lesser of sixty percent of the cost of the internship
 1 or five thousand dollars.

2 (4) An eligible company-A business may apply for no more
 3 than two job training grants for the same intern, student, shall
 4 not be awarded more than five job training grants at any one
 5 location in any twelve-month period, and shall not be awarded more
 6 than ten job training grants total in any twelve-month period.

7 (5) An eligible company-A business may allow an intern-a
 8 student to telecommute if the eligible company-business is located
 9 more than thirty miles from the college, or university, or other
 10 institution of higher education in which the intern-student is
 11 enrolled and if the college, or university, or other institution of
 12 higher education is in Nebraska.

13 (6) The department shall, to the extent possible, assure
 14 that the distribution of job training grants under sections
 15 81-1210.01 to 81-1210.03 provides equitable access to the grants by
 16 all geographic areas of the state.

17 (7) The department shall, to the extent possible, assure
 18 that the grants awarded pursuant to sections 81-1210.01 to
 19 81-1210.03 are for internships which provide valuable learning
 20 opportunities for students who will be seeking employment in a
 21 professional or technical field.

22 (7)-(8) The department shall not allocate more than one
 23 million five hundred thousand dollars in each of FY2011-12 and
 24 FY2012-13 any one fiscal year from the Job Training Cash Fund or
 25 its subaccounts for purposes of this section. The department may
 26 receive funds from public, private, or other sources for purposes
 27 of this section.

1 (9) The department shall develop a qualified action plan
 2 by January 1 of each even-numbered year. The plan shall, at
 3 a minimum, set forth the department's priorities and selection
 4 criteria for awarding grants for internships. In order to encourage
 5 students from across Nebraska to pursue internships, the plan shall
 6 also include strategies for affirmatively marketing internships
 7 to Nebraska students in high schools, colleges, universities,
 8 and other institutions of higher education in Nebraska. Such
 9 strategies shall place an emphasis on marketing to underserved
 10 student populations as defined by the department in the plan. The
 11 department shall submit the plan to the Governor for approval.

12 Sec. 4. Section 81-1210.03, Revised Statutes Cumulative
 13 Supplement, 2012, is amended to read:

14 81-1210.03 The department may adopt and promulgate rules
 15 and regulations to govern the award and disbursement of ~~job~~
 16 ~~training grants under section 81-1210.02, pursuant to sections~~
 17 81-1210.01 to 81-1210.03.
 18 Sec. 5. This act becomes operative on October 1, 2013.
 19 Sec. 6. Original sections 81-1201.21, 81-1210.01,
 20 81-1210.02, and 81-1210.03, Revised Statutes Cumulative Supplement,
 21 2012, are repealed.

LEGISLATIVE BILL 536. Placed on General File with amendment.
 AM904

1 1. Strike original section 1 and insert the following new
 2 section:
 3 Section 1. The following sums of money, or so much
 4 thereof as may be required, are hereby appropriated from the
 5 General Fund or from other funds as indicated in the state
 6 treasury, not otherwise appropriated, for the payment of claims
 7 arising out of miscellaneous items of indebtedness owing by the
 8 State of Nebraska.
 9 \$72,808.58 for Miscellaneous Claim Number 2013-12559,
 10 against the State of Nebraska, pay to Nebraska Press Advertising
 11 Service, 845 "S" Street, Lincoln, NE 68508, out of the General
 12 Fund.
 13 \$302,461.44 for Miscellaneous Claim Number 2013-12852,
 14 against the Nebraska State Patrol, pay to Dornan, Lustgarten and
 15 Troia, PC, LLO, 1403 Farnam Street, Suite 232, Omaha, NE 68102, out
 16 of the General Fund.
 17 The claims included in this section shall be paid through
 18 Program 536 in Agency 65.
 19 For informational purposes only, the appropriations
 20 contained in this section and fund source:

<u>FUND SOURCE</u>	<u>DOLLAR AMOUNT</u>
<u>GENERAL FUND</u>	<u>\$375,270.02</u>
<u>CASH FUND</u>	<u>\$-0-</u>
<u>REVOLVING FUND</u>	<u>\$-0-</u>
<u>TOTAL</u>	<u>\$375,270.02</u>

3 2. On page 3, lines 6 and 17, strike "\$950,000.00" and
 4 insert "\$1,200,000.00"; and in line 19 strike "\$1,400,000.00" and
 5 insert "\$1,650,000.00".
 6 3. On page 5, line 13, strike "\$212.76" and insert
 7 "\$200.43"; and in line 25 strike "\$2,015,439.81" and insert
 8 "\$2,000,345.73".

(Signed) Steve Lathrop, Chairperson

Judiciary

LEGISLATIVE BILL 51. Placed on General File.
LEGISLATIVE BILL 233. Placed on General File.

LEGISLATIVE BILL 151. Placed on General File with amendment.
AM335

1 1. On page 3, line 3, strike "(5)", show as stricken, and
2 insert "(5)(a)"; in line 15 strike the semicolon, show as stricken,
3 and insert an underscored period; in line 16 strike "(6)" and
4 insert "(b)"; in line 18 after "acquired" insert "in the regular
5 course of business"; and in line 25 after "witness" insert ";
6 Subdivision (5)(b) of this section shall not apply in any criminal
7 proceeding".

8 2. On page 4, lines 1, 9, 15, and 18; page 5, lines 1,
9 5, 12, 18, and 24; page 6, lines 4, 6, 9, 17, and 23; and page 7,
10 lines 2, 4, 12, and 15, strike the new matter and reinstate the
11 stricken matter.

12 3. On page 4, line 3, strike the new matter.

LEGISLATIVE BILL 161. Placed on General File with amendment.
AM399

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

3 Section 1. Section 14-415, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 14-415 The city, in addition to other remedies, may
6 institute any appropriate action or proceedings to prevent
7 an unlawful erection, construction, reconstruction, alteration,
8 conversion, maintenance, or use of any building or structure
9 in violation of any ordinance or regulations enacted or issued
10 pursuant to sections 14-401 to 14-418, to restrain, correct,
11 or abate such violation, to prevent the occupancy of ~~said the~~
12 building, structure, or land, or to prevent any illegal act,
13 conduct, business, or use in or about such premises. ~~Said The~~
14 ordinance or regulations shall be enforced by the city as it
15 may provide. In addition to and not in restriction of any other
16 powers, the city may cause any building, structure, place, or
17 premises to be inspected and examined and to order in writing the
18 remedying of any condition found to exist therein or thereat in
19 violation of any provision of the ordinance or regulations made
20 under authority of ~~said such~~ sections. The owner, general agent,
21 lessee, or tenant of a building or premises or of any part of
22 such building or premises; where a violation of any provision of
23 ~~said the ordinance or~~ regulations has been committed or shall
1 exist; or the general agent, architect, builder, contractor, or
2 any other person who commits, takes part, or assists in any such
3 violation or who maintains any building or premises in which
4 any such violation shall exist, shall be guilty of a Class IV
5 misdemeanor ~~punishable by a fine of not less than ten dollars and~~
6 ~~not more than one hundred dollars for each and every day that such~~
7 ~~violation continues. for a first or second violation and a Class~~
8 ~~II misdemeanor for a third or subsequent violation, if the third~~

9 or subsequent violation is committed within two years after the
 10 commission of the prior violation.

LEGISLATIVE BILL 483. Placed on General File with amendment.
 AM940

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

3 Section 1. (1) The Legislature finds that:

4 (a) Research reveals that children who have parents
 5 involved in their lives perform better academically and socially in
 6 school, experience fewer mental health and substance abuse issues,
 7 and are less likely to commit serious crime;

8 (b) Strategies to address family stability and
 9 intergenerational poverty are specifically needed for children with
 10 incarcerated parents; and

11 (c) Research reveals that family-based reentry planning,
 12 including relationship development and housing and employment
 13 strategies, results in lower recidivism and greater family economic
 14 stability.

15 (2) The Department of Correctional Services shall
 16 establish a two-year pilot program for the purpose of providing in
 17 Nebraska adult correctional facilities an evidence-based program of
 18 parent education, early literacy, relationship skills development,
 19 and reentry planning involving family members of incarcerated
 20 parents prior to their release. Incarcerated parents of children
 21 between birth and five years of age shall have priority for
 22 participation in the program. The department may award a contract
 23 to operate the pilot program. Such contract shall be based on
 1 competitive bids as provided in sections 73-101 to 73-105. The
 2 department shall track data related to program participation and
 3 recidivism.

4 (3) It is the intent of the Legislature to appropriate
 5 \$250,000 from the Correctional Industries Revolving Fund to the
 6 department in each of FY2013-14 and FY2014-15 for purposes of
 7 funding the pilot program required by this section.

8 Sec. 2. Section 83-150, Reissue Revised Statutes of
 9 Nebraska, is amended to read:

10 83-150 All funds received by the Department of
 11 Correctional Services under sections 83-144 to 83-152 shall be
 12 remitted to the State Treasurer for credit to the Correctional
 13 Industries Revolving Fund, which fund is hereby created. The fund
 14 shall be administered by the Director of Correctional Services.
 15 The fund (1) shall be used to pay all proper expenses incident
 16 to the administration of sections 83-144 to 83-152 and (2) may be
 17 used to carry out section 1 of this act, except that transfers
 18 from the fund to the General Fund may be made at the direction of
 19 the Legislature. Any money in the Correctional Industries Revolving
 20 Fund available for investment shall be invested by the state
 21 investment officer pursuant to the Nebraska Capital Expansion Act

22 and the Nebraska State Funds Investment Act.
 23 Sec. 3. Original section 83-150, Reissue Revised Statutes
 24 of Nebraska, is repealed.

(Signed) Brad Ashford, Chairperson

Agriculture

LEGISLATIVE BILL 647. Placed on General File.

LEGISLATIVE BILL 544. Placed on General File with amendment.

AM942

1 1. Insert the following new section:
 2 Section 1. Section 2-3812, Reissue Revised Statutes of
 3 Nebraska, is amended to read:
 4 2-3812 There is hereby created the Nebraska Agricultural
 5 Products Marketing Cash Fund. The fund shall consist of
 6 administrative costs collected under subsection (4) of section
 7 54-742 and money appropriated by the Legislature which is received
 8 as gifts or grants or collected as fees or charges from any source,
 9 including federal, state, public, and private. The fund shall be
 10 utilized for the purpose of carrying out the Nebraska Agricultural
 11 Products Marketing Act and for purposes of subsection (4) of
 12 section 54-742. Any money in such fund available for investment
 13 shall be invested by the state investment officer pursuant to
 14 the Nebraska Capital Expansion Act and the Nebraska State Funds
 15 Investment Act.

16 2. On page 3, strike line 25 and insert
 17 "(3) Any person who reasonably suspects that any beef
 18 or dairy breeding bull belonging to him or her or which he
 19 or she has in his or her possession or custody is infected
 20 with bovine trichomoniasis shall not sell or transport such
 21 animal, except for consignment directly to a licensed slaughter
 22 establishment, unless such person causes such animal to be tested
 23 for bovine trichomoniasis. Any person who owns or has possession
 1 or custody of a beef or dairy breeding bull, or who has a
 2 beef or dairy breeding bull belonging to another under his or
 3 her observation, for which a laboratory confirmed diagnosis of
 4 bovine trichomoniasis has been made, shall report such diagnosis
 5 to the department within five business days after receipt of
 6 the laboratory confirmation. Any such breeding bull for which a
 7 laboratory confirmation of bovine trichomoniasis has been made
 8 shall not be sold or transported except for consignment directly to
 9 a licensed slaughter establishment.

10 (4)(a) An owner or manager of any beef or dairy
 11 breeding bull for which a laboratory confirmed diagnosis of bovine
 12 trichomoniasis has been made shall notify each adjacent".

13 3. On page 4, strike line 1; in line 11 after "diagnosis"
 14 insert "and shall include the names of adjacent landowners or land

15 managers who were notified and their contact information"; strike
 16 lines 12 through 21 and insert the following new subdivision:
 17 "(c) If an owner or manager does not, within such
 18 fourteen-day period, submit the form or affidavit indicating
 19 that adjacent landowners or land managers have been notified
 20 as required under this subsection, the department shall notify each
 21 adjacent landowner or land manager of the diagnosis. The department
 22 shall assess the administrative costs of the department to notify
 23 the adjacent landowners or land managers against the owner or
 24 manager that failed to comply with this subsection. The department
 25 shall determine the definition of adjacent based on the disease
 26 characteristics and modes of transmission. The department shall
 27 remit any administrative costs collected under this subsection
 1 to the State Treasurer for credit to the Nebraska Agricultural
 2 Products Marketing Cash Fund."; and in line 22 strike "38-3330" and
 3 insert "2-3812, 38-3330".
 4 4. Renumber the remaining sections accordingly.

(Signed) Ken Schilz, Chairperson

Judiciary

LEGISLATIVE BILL 289. Placed on General File with amendment.
 AM571

1 1. Strike the original sections and insert the following
 2 new sections:
 3 Section 1. This act shall be known and may be cited as
 4 the Commercial Real Estate Broker Lien Act.
 5 Sec. 2. For purposes of the Commercial Real Estate Broker
 6 Lien Act:
 7 (1) Commercial real estate means any real estate other
 8 than real estate containing no more than four residential units or
 9 real estate on which no buildings or structures are located and
 10 that is zoned for single-family residential use. Commercial real
 11 estate does not include single-family residential units such as
 12 condominiums, town houses, or homes in a subdivision when sold,
 13 leased, or otherwise conveyed on a unit-by-unit basis, even though
 14 these units may be a part of a larger building or parcel of real
 15 estate containing more than four residential units;
 16 (2) Commission means any and all compensation that may
 17 be due a commercial real estate broker for performance of licensed
 18 services; and
 19 (3) Commission agreement means a written agreement
 20 with a designated commercial real estate broker as required by
 21 subdivisions (2) through (6) of section 76-2422.
 22 Sec. 3. (1)(a) A commercial real estate broker shall
 23 have a lien upon commercial real estate or any interest in that
 1 commercial real estate that is the subject of a purchase, lease,
 2 or other conveyance to a buyer or tenant of an interest in the

3 commercial real estate in the amount of commissions that the
4 commercial real estate broker is due.

5 (b) The lien shall be available only to the commercial
6 real estate broker named in a commission agreement signed by an
7 owner, buyer, or tenant or their respective authorized agents as
8 applicable and is not available to an employee, agent, subagent, or
9 independent contractor of a commercial real estate broker.

10 (2) A lien under this section shall attach to commercial
11 real estate or any interest in the commercial real estate when:

12 (a) The commercial real estate broker is entitled to
13 a commission provided in a commission agreement signed by the
14 owner, buyer, tenant, or their respective authorized agents, as
15 applicable; and

16 (b) The commercial real estate broker records a notice
17 of lien in the office of the register of deeds of the county in
18 which the commercial real estate is located, prior to the actual
19 conveyance or transfer of the commercial real estate against which
20 the commercial real estate broker is claiming a lien, except as
21 provided in this section. The lien shall attach as of the date of
22 the recording of the notice of lien and shall not relate back to
23 the date of the commission agreement.

24 (3) In the case of a lease, including a sublease or an
25 assignment of a lease, the notice of lien shall be recorded not
26 later than ninety days after the tenant takes possession of the
27 leased premises. The lien shall attach as of the recording of
1 the notice of lien and shall not relate back to the date of the
2 commission agreement.

3 (4)(a) If a commercial real estate broker is due an
4 additional commission as a result of future actions, including, but
5 not limited to, the exercise of an option to expand the leased
6 premises or to renew or extend a lease pursuant to a commission
7 agreement signed by the then owner or tenant, the commercial real
8 estate broker may record its notice of lien at any time after
9 execution of the lease or other commission agreement which contains
10 such option, but not later than ninety days after the event or
11 occurrence on which the future commission is claimed occurs.

12 (b) In the event that the commercial real estate is
13 sold or otherwise conveyed prior to the date on which a future
14 commission is due, and if the commercial real estate broker
15 has filed a valid notice of lien prior to the sale or other
16 conveyance of the commercial real estate, then the purchaser or
17 transferee shall be deemed to have notice of and shall take title
18 to the commercial real estate subject to the notice of lien. If
19 a commercial real estate broker claiming a future commission fails
20 to record its notice of lien for future commission prior to the
21 recording of a deed conveying legal title to the commercial real
22 estate to the purchaser or transferee, then such commercial real
23 estate broker shall not claim a lien on the commercial real estate.
24 This subsection shall not limit or otherwise affect claims or

25 defenses a commercial real estate broker or owner or any other
26 party may have on any other basis, in law or in equity.

27 (5) If a commercial real estate broker has a commission
1 agreement as described in subdivision (4)(a) of this section with
2 a prospective buyer or tenant, then the lien shall attach upon the
3 prospective buyer purchasing or otherwise accepting a conveyance
4 or transfer of the commercial real estate and the recording of a
5 notice of lien by the commercial real estate broker in the office
6 of the register of deeds of the county in which the commercial
7 real estate, or any interest in the commercial real estate, is
8 located, within ninety days after the purchase or other conveyance
9 or transfer to the buyer or tenant. The lien shall attach as of the
10 date of the recording of the notice of lien and shall not relate
11 back to the date of the commission agreement.

12 Sec. 4. The commercial real estate broker shall, within
13 ten days after recording its notice of lien, either mail a copy of
14 the notice of lien to the owner of record of the commercial real
15 estate by registered or certified mail at the address of the owner
16 stated in the commission agreement on which the claim for lien is
17 based or, if no such address is given, then to the address of the
18 commercial real estate on which the claim of lien is based. Mailing
19 of the copy of the notice of lien is effective when deposited in
20 a United States mailbox with postage prepaid. The commercial real
21 estate broker's lien shall be unenforceable if mailing or service
22 of the copy of notice of lien does not occur at the time and in the
23 manner required by this section.

24 Sec. 5. The notice of lien shall state the name of
25 the commercial real estate broker, the name as reflected in
26 the commercial real estate broker's records of any person the
27 commercial real estate broker believes to be an owner of the
1 commercial real estate on which the lien is claimed, the name
2 as reflected in the commercial real estate broker's records of
3 any person whom the commercial real estate broker believes to be
4 obligated to pay the commission under the commission agreement, a
5 description legally sufficient for identification of the commercial
6 real estate upon which the lien is claimed, and the amount for
7 which the lien is claimed. The notice of lien shall recite that
8 the information contained in the notice is true and accurate to the
9 knowledge of the signatories. The notice of lien shall be signed
10 by the commercial real estate broker or by a person authorized to
11 sign on behalf of the commercial real estate broker and shall be
12 notarized.

13 Sec. 6. (1) Except as provided in subsections (2) and (3)
14 of this section, a lien that has become enforceable as provided
15 in section 3 of this act shall continue to be enforceable for two
16 years after the recording of the lien.

17 (2) Except as provided in subsection (3) of this section,
18 if an owner, holder of a security interest, mortgage, or trust
19 deed, or other person having an interest in the commercial real

20 estate gives the commercial real estate broker written demand to
21 institute a judicial proceeding within thirty days, the lien lapses
22 unless, within thirty days after receipt of the written demand, the
23 commercial real estate broker institutes judicial proceedings.

24 (3) If a judicial proceeding to enforce a lien is
25 instituted while a lien is effective under subsection (1) or (2)
26 of this section, the lien continues during the pendency of the
27 proceeding.

1 Sec. 7. (1) Recorded liens, mortgages, trust deeds, and
2 other encumbrances on commercial real estate, including a recorded
3 lien securing revolving credit and future advances for a loan,
4 recorded before the date the commercial real estate broker's lien
5 is recorded, shall have priority over the commercial real estate
6 broker's lien.

7 (2) A construction lien claim that is recorded after the
8 commercial real estate broker's notice of lien but that relates
9 back to a date prior to the recording date of the commercial real
10 estate broker's notice of lien has priority over the commercial
11 real estate broker's lien.

12 (3) A purchase-money lien executed by the buyer of
13 commercial real estate in connection with a loan for which any
14 part of the proceeds are used to pay the purchase price of the
15 commercial real estate has priority over a commercial real estate
16 broker's lien claimed for the commission owed by the buyer against
17 the commercial real estate purchased by the buyer.

18 Sec. 8. (1) Whenever a notice of a commercial real estate
19 broker's lien has been recorded, the record owner of the commercial
20 real estate, or the tenant in case of a lien upon the leasehold
21 estate, may have the lien released by depositing funds equal to
22 the full amount stated in the notice of lien plus fifteen percent
23 to be applied towards any lien under section 3 of this act. These
24 funds shall be held in escrow by such person and by such process
25 which may be agreed to by the parties, either in the commission
26 agreement or otherwise, for the payment to the commercial real
27 estate broker or otherwise for resolution for their dispute or,
1 in the absence of any such mutually agreed person or process, the
2 funds may be deposited with the district court by the filing of
3 an interpleader. Upon such deposit of funds by interpleader, the
4 commercial real estate shall be considered released from such lien
5 or claim of lien. Upon written notice to the commercial real estate
6 broker that the funds have been escrowed or an interpleader filed,
7 the commercial real estate broker shall, within ten business days,
8 record in the office of the register of deeds where the notice of
9 commercial real estate broker's lien was filed pursuant to section
10 3 of this act a document stating that the lien is released and the
11 commercial real estate released by an escrow established pursuant
12 to this section or by interpleader. If the commercial real estate
13 broker fails to file such document, the person holding the funds
14 may sign and file such document and deduct from the escrow the

15 reasonable cost of preparing and filing the document. Upon the
 16 filing of such document, the commercial real estate broker shall
 17 be deemed to have an equitable lien on the escrow funds pending a
 18 resolution of the commercial real estate broker's claim for payment
 19 and the funds shall not be paid to any person, except for such
 20 payment to the holder of the funds as set forth in this section,
 21 until a resolution of the commercial real estate broker's claim for
 22 payment has been agreed to by all necessary parties or ordered by
 23 a court having jurisdiction.

24 (2) Except as otherwise provided in this section,
 25 whenever a commercial real estate broker's lien has been recorded
 26 and an escrow account is established either from the proceeds from
 27 the transaction, conveyance, or any other source of funds computed
 1 as one-hundred-fifteen percent of the amount of the claim for
 2 lien, then the lien against the commercial real estate shall be
 3 extinguished and immediately become a lien on the funds contained
 4 in the escrow account. The requirement to establish an escrow
 5 account, as provided in this section, shall not be cause for any
 6 party to refuse to complete or close the transaction.

LEGISLATIVE BILL 441. Placed on General File with amendment.
 AM975

- 1 1. Strike original sections 1 and 2.
- 2 2. On page 9, strike beginning with the period in line 11
- 3 through "subsection" in line 14.
- 4 3. On page 12, strike line 25.
- 5 4. On page 13, strike lines 1 through 5; and in line 6
- 6 strike "(3)" and insert "(2)".
- 7 5. Renumber the remaining sections and correct internal
- 8 references and the repealer accordingly.

(Signed) Brad Ashford, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 148. Introduced by Johnson, 23; Bloomfield, 17; Davis, 43; Janssen, 15; Schumacher, 22.

WHEREAS, Rhonda Cerny was named the 2013 winner of the National Volunteer Fire Council Fire Prevention Award; and

WHEREAS, Rhonda Cerny has been a member and secretary of the Linwood, Nebraska, Volunteer Fire Department since 1990; and

WHEREAS, Rhonda Cerny travels throughout Nebraska stressing the importance of fire prevention to firefighters and community members; and

WHEREAS, this award recognizes Rhonda Cerny's exemplary service and outstanding commitment to strengthening the fire and emergency services in Nebraska and in her community.

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

1. That the Legislature congratulates Rhonda Cerny on winning the 2013 National Volunteer Fire Council Fire Prevention Award.

2. That a copy of this resolution be sent to Rhonda Cerny.

Laid over.

LEGISLATIVE RESOLUTION 149. Introduced by Lathrop, 12; Ashford, 20; Cook, 13; Crawford, 45; B. Harr, 8; Howard, 9; Krist, 10; Nordquist, 7; Pirsch, 4; Smith, 14.

WHEREAS, the Creighton University men's basketball team had yet another outstanding season; and

WHEREAS, the Bluejays won the 2013 Missouri Valley Conference Tournament by defeating Wichita State in a thrilling victory; and

WHEREAS, the victory marked the Bluejays' twelfth conference tournament championship and their eighth in the past fifteen seasons; and

WHEREAS, the Bluejays were led by Missouri Valley Conference Larry Bird Player of the Year and the tournament's Most Valuable Player Doug McDermott, who was joined on the All-Tournament Team by Gregory Echenique; and

WHEREAS, the championship earned the Bluejays an NCAA Men's Division I Basketball Tournament bid; and

WHEREAS, the Bluejays defeated Cincinnati 67-63 in an exciting second round match-up in the NCAA Tournament; and

WHEREAS, the Bluejays have an excellent coaching staff led by Head Coach Greg McDermott, who led them to twenty-eight wins this season.

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

1. That the Legislature congratulates the Creighton University men's basketball team for their outstanding achievements during the 2012-13 basketball season.

2. That a copy of this resolution be sent to Creighton University Athletic Director Bruce Rasmussen and Head Coach Greg McDermott.

Laid over.

LEGISLATIVE RESOLUTION 150. Introduced by Lathrop, 12; Ashford, 20; Cook, 13; Crawford, 45; B. Harr, 8; Howard, 9; Krist, 10; Nordquist, 7; Pirsch, 4; Smith, 14.

WHEREAS, the Creighton University women's basketball team had an exceptional 2012-13 basketball season; and

WHEREAS, the Bluejays finished with fifteen wins in the Missouri Valley Conference, tied for most in the league; and

WHEREAS, the Bluejays earned their fifth NCAA Women's Division I Basketball Tournament bid; and

WHEREAS, the Bluejays earned their first NCAA tournament victory since 1994 by defeating Syracuse 61-56; and

WHEREAS, the Bluejays finished the season with a record of 25-8, the seventh time in eleven seasons that they have won at least twenty games under Coach Jim Flanery and his outstanding coaching staff.

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

1. That the Legislature congratulates the Creighton University women's basketball team for their outstanding achievements during the 2012-13 basketball season.

2. That a copy of this resolution be sent to Creighton University Athletic Director Bruce Rasmussen and Head Coach Jim Flanery.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 44. Senator Chambers withdrew his motion, MO42, found on page 954.

Advanced to Enrollment and Review Initial with 30 ayes, 2 nays, 11 present and not voting, and 6 excused and not voting.

COMMITTEE REPORT

Judiciary

LEGISLATIVE BILL 107. Placed on General File with amendment. AM870

- 1 1. On page 2, line 24, after "waived" insert "in
- 2 writing".
- 3 2. On page 3, lines 2 and 6, after "waived" insert "in
- 4 writing"; in line 5 after "if" insert "(i)"; in line 6 after the
- 5 comma insert "(ii)"; in line 8 after the comma insert "(iii)"; and
- 6 in line 9 after the second "and" insert "(iv)".

(Signed) Brad Ashford, Chairperson

VISITORS

Visitors to the Chamber were 51 fourth-grade students and teachers from St. Gerald School, Ralston; 22 fourth-grade students and teacher from Concordia Academy School, Omaha; and 16 fourth-grade students and teacher from Christ Lutheran School, Lincoln.

ADJOURNMENT

At 11:19 a.m., on a motion by Senator Wightman, the Legislature adjourned until 10:00 a.m., Tuesday, April 16, 2013.

Patrick J. O'Donnell
Clerk of the Legislature

