

THIRTY-THIRD DAY - FEBRUARY 26, 2014**LEGISLATIVE JOURNAL****ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION****THIRTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, February 26, 2014

PRAYER

The prayer was offered by Pastor John Hogue, Arlington Community Church, Arlington.

ROLL CALL

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

The roll was called and all members were present except Senators Lautenbaugh and Murante who were excused; and Senator Conrad who was excused until she arrives.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-second day was approved.

COMMITTEE REPORTS

Banking, Commerce and Insurance

LEGISLATIVE BILL 993. Placed on General File.

LEGISLATIVE BILL 735. Placed on General File with amendment.
AM2081

- 1 1. On page 2, line 4, before "entitled" insert "legally";
- 2 and in line 5 after "death" insert "if the request has been made
- 3 within one year after the insured's death".

(Signed) Mike Gloor, Chairperson

Health and Human Services

LEGISLATIVE BILL 276. Placed on General File.

LEGISLATIVE BILL 994. Placed on General File.

LEGISLATIVE BILL 887. Placed on General File with amendment.
AM2032 is available in the Bill Room.

LEGISLATIVE BILL 931. Placed on General File with amendment.
AM1924

- 1 1. On page 2, line 5, strike "and"; in line 9 after
- 2 "crisis" insert "; and
- 3 (3) A mental health first aid program is an education
- 4 program recognized on the Substance Abuse and Mental Health
- 5 Services Administration's National Registry of Evidence-based
- 6 Programs and Practices"; in line 15 after "The" insert "Division
- 7 of Behavioral Health of the"; and in line 23 strike "through" and
- 8 insert "administered by".
- 9 2. On page 3, line 21, strike "Department" through
- 10 "Services" and insert "behavioral health regions established
- 11 pursuant to section 71-807"; in line 22 strike "to" and insert
- 12 "and work with"; and strike line 25 and insert "agencies, and local
- 13 health departments,".
- 14 3. On page 4, line 1, strike "authorities," and after
- 15 "to" insert "develop a program that offers grants to"; and in line
- 16 2 after "Act" insert "in ways that are representative and inclusive
- 17 with respect to the economic and cultural diversity of this state".

LEGISLATIVE BILL 1050. Placed on General File with amendment.
AM1827

- 1 1. Insert the following new section:
- 2 Sec. 2. Section 71-1911, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 71-1911 (1) A person may operate child care for three or
- 5 fewer children without having a license issued by the department.
- 6 A person who is not required to be licensed may choose to apply
- 7 for a license and, upon obtaining a license, shall be subject to
- 8 the Child Care Licensing Act. A person who has had a license issued
- 9 pursuant to this section and has had such license suspended or
- 10 revoked other than for nonpayment of fees shall not operate or
- 11 offer to operate a program for or provide care to any number of
- 12 children until the person is licensed pursuant to this section.
- 13 (2) No person shall operate or offer to operate a program
- 14 for four or more children under his or her direct supervision,
- 15 care, and control at any one time from families other than that
- 16 of such person without having in full force and effect a written
- 17 license issued by the department upon such terms as may be
- 18 prescribed by the rules and regulations adopted and promulgated
- 19 by the department. The license may be a provisional license or
- 20 an operating license. A city, village, or county which has rules,
- 21 regulations, or ordinances in effect on July 10, 1984, which apply
- 22 to programs operating for two or three children from different
- 23 families may continue to license persons providing such programs.
- 1 If the license of a person is suspended or revoked other than
- 2 for nonpayment of fees, such person shall not be licensed by any
- 3 city, village, or county rules, regulations, or ordinances until

4 the person is licensed pursuant to this section.

5 (3) A provisional license shall be issued to all
6 applicants following the completion of preservice orientation
7 training approved or delivered by the department for the first
8 year of operation. At the end of one year of operation, the
9 department shall either issue an operating license, extend the
10 provisional license, or deny the operating license. The provisional
11 license may be extended once for a period of no more than six
12 months. The decision regarding extension of the provisional license
13 is not appealable. The provisional license may be extended if:

14 (a) A licensee is unable to comply with all licensure
15 requirements and standards, is making a good faith effort to
16 comply, and is capable of compliance within the next six months;

17 (b) The effect of the current inability to comply with
18 a rule or regulation does not present an unreasonable risk to the
19 health, safety, or well-being of children or staff; and

20 (c) The licensee has a written plan of correction that
21 has been approved by the department which is to be completed within
22 the renewal period.

23 (4) The department may place a provisional or operating
24 license on corrective action status. Corrective action status
25 is voluntary and may be in effect for up to six months. The
26 decision regarding placement on corrective action status is not
27 a disciplinary action and is not appealable. If the written plan
1 of correction is not approved by the department, the department
2 may discipline the license. A probationary license may be issued
3 for the licensee to operate under corrective action status if the
4 department determines that:

5 (a) The licensee is unable to comply with all licensure
6 requirements and standards or has had a history of noncompliance;

7 (b) The effect of noncompliance with any rule or
8 regulation does not present an unreasonable risk to the health,
9 safety, or well-being of children or staff; and

10 (c) The licensee has a written plan of correction that
11 has been approved by the department.

12 (5) Operating licenses issued under the Child Care
13 Licensing Act shall remain in full force and effect subject to
14 annual inspections and fees. The department may amend a license
15 upon change of ownership or location. Amending a license requires
16 a site inspection by the department at the time of amendment, ~~;~~
17 ~~except that for amendment of a family child care home I license,~~
18 ~~an inspection shall occur within sixty days.~~ When a program is to
19 be permanently closed, the licensee shall return the license to the
20 department within one week after the closing.

21 (6) The license, including any applicable status or
22 amendment, shall be displayed by the licensee in a prominent place
23 so that it is clearly visible to parents and others. License record
24 information and inspection reports shall be made available by the
25 licensee for public inspection upon request.

26 2. Renumber the remaining sections and amend the repealer
27 accordingly.

LEGISLATIVE BILL 1072. Placed on General File with amendment.
AM1955

1 1. Strike the original sections and insert the following
2 new sections:
3 Section 1. Section 71-2454, Revised Statutes Cumulative
4 Supplement, 2012, is amended to read:
5 71-2454 It is the intent of the Legislature that
6 an entity described in section 71-2455 establish a system of
7 prescription drug monitoring for the purposes of (1) preventing
8 the misuse of ~~prescription drugs controlled substances that are~~
9 prescribed in an efficient and cost-effective manner and (2)
10 allowing doctors and pharmacists to monitor the care and treatment
11 of patients for whom such a prescription drug is prescribed
12 to ensure that such prescription drugs are used for medically
13 appropriate purposes and that the State of Nebraska remains on the
14 cutting edge of medical information technology.

15 Sec. 2. Section 71-2455, Revised Statutes Cumulative
16 Supplement, 2012, is amended to read:
17 71-2455 The Department of Health and Human Services, in
18 collaboration with the Nebraska Health Information Initiative or
19 any successor public-private statewide health information exchange
20 that facilitates the secure exchange of clinical information
21 among physicians and other health care providers in real time
22 at the point of care, shall enhance or establish technology for
23 prescription drug monitoring to carry out the purposes of section
24 71-2454. ~~No state funding shall be used to implement or operate the~~
25 ~~prescription drug monitoring system provided for in this section.~~
26 The department may use state funds and accept grants, gifts, or
27 other funds in order to implement and operate the technology.
The department may adopt and promulgate rules and regulations to
authorize use of electronic health information, if necessary to
carry out the purposes of sections 71-2454 and 71-2455.

8 Sec. 3. The Prescription Drug Monitoring Program Fund
9 is created. The Department of Health and Human Services shall
10 administer the fund which shall include any state funds, grants, or
11 gifts received by the department for the purposes of carrying out
12 the purposes of sections 71-2454 and 71-2455. Any money in the fund
13 available for investment shall be invested by the state investment
14 officer pursuant to the Nebraska Capital Expansion Act and the
15 Nebraska State Funds Investment Act.

16 Sec. 4. (1) The Prescription Drug Monitoring Program Task
17 Force is created. The task force members shall include:

18 (a) The chief medical officer of the Department of Health
19 and Human Services;

20 (b) A representative of a statewide organization that
21 represents physicians;

22 (c) A physician who works in the field of pain
23 management;
24 (d) A representative of a statewide organization that
25 represents pharmacists and pharmaceutical representatives;
26 (e) A representative from a statewide health information
27 exchange program;
1 (f) A representative of a company that provides health
2 insurance plans in Nebraska;
3 (g) A representative of a pharmacy benefit manager in
4 Nebraska; and
5 (h) A representative of a statewide association that
6 represents hospitals and health systems.
7 (2) The members of the task force designated in
8 subdivisions (1)(b) through (h) of this section shall be appointed
9 by the Governor on or before July 1, 2014. The Governor shall
10 appoint the chairperson of the task force from among the members of
11 the task force. Members shall be reimbursed for their actual and
12 necessary expenses incurred while serving as a member of the task
13 force as provided in sections 81-1174 to 81-1177.
14 (3) The task force may gather information from interested
15 parties through public hearings and other appropriate means to
16 assure ample opportunities for outside input to be received for
17 consideration. The Division of Public Health of the Department
18 of Health and Human Services shall provide administrative support
19 to the task force and shall be responsible for production and
20 distribution of the final report. The task force shall complete
21 its work and issue a final report outlining its findings and
22 recommendations to the Governor and the Legislature no later than
23 December 1, 2014.
24 (4) The task force shall study the following topics and
25 make recommendations for policies and potential legislation to the
26 Governor and the Legislature:
27 (a) The effectiveness and history of prescription drug
1 monitoring programs in other states;
2 (b) The effectiveness and history of the Nebraska Health
3 Information Exchange as a prescription drug monitoring program;
4 (c) Options available to Nebraska for establishing and
5 monitoring a new prescription drug monitoring program or enhancing
6 any existing prescription drug monitoring program;
7 (d) The costs involved in establishing and maintaining an
8 effective and widely used prescription drug monitoring program;
9 (e) Options for funding any costs involved in
10 establishing and maintaining an effective and widely used
11 prescription drug monitoring program; and
12 (f) Legislation that would be required to establish an
13 effective and widely used prescription drug monitoring program in
14 Nebraska.
15 (5) It is the intent of the Legislature that any
16 money appropriated by the Legislature for this study shall be

17 appropriated to the Division of Public Health of the Department of
 18 Health and Human Services.
 19 Sec. 5. Original sections 71-2454 and 71-2455, Revised
 20 Statutes Cumulative Supplement, 2012, are repealed.

(Signed) Kathy Campbell, Chairperson

COMMITTEE REPORTS
 Enrollment and Review

LEGISLATIVE BILL 661. Placed on Select File with amendment.
 ER140 is available in the Bill Room.

LEGISLATIVE BILL 661A. Placed on Select File.

LEGISLATIVE BILL 474. Placed on Select File with amendment.
 ER141

1 1. On page 1, strike lines 2 through 11 and insert
 2 "14-109, 15-202, 15-203, 16-205, and 17-525, Reissue Revised
 3 Statutes of Nebraska; to change provisions relating to occupation
 4 taxes imposed by cities and villages; and to repeal the original
 5 sections."

LEGISLATIVE BILL 671. Placed on Select File with amendment.
 ER142

1 1. On page 1, lines 1 and 2, strike "sections 37-452 and
 2 37-559" and insert "section 37-452"; and in line 5 strike the first
 3 "sections" and insert "section" and strike "sections 37-472 and"
 4 and insert "section".

LEGISLATIVE BILL 920. Placed on Select File.

LEGISLATIVE BILL 920A. Placed on Select File.

LEGISLATIVE BILL 983A. Placed on Select File.

(Signed) John Murante, Chairperson

AMENDMENTS - Print in Journal

Senator Johnson filed the following amendment to LB980:
 AM2069

1 1. On page 2, line 12, after "attempts" insert ",
 2 including, but not limited to, by publishing notice of the
 3 vacancies in a newspaper of general circulation in the county
 4 and on the county web site, if applicable.".

Senator Dubas filed the following amendment to LB983:
 AM1984 is available in the Bill Room.

RESOLUTION

LEGISLATIVE RESOLUTION 451. Introduced by Johnson, 23.

WHEREAS, the David City High School wrestling team won the 2014 Class C State Wrestling Championship; and

WHEREAS, the David City Scouts showed outstanding determination, teamwork, and skill in winning the state championship with a team score of 125 points; and

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

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

1. That the Legislature congratulates the David City High School wrestling team on winning the 2014 Class C State Wrestling Championship.

2. That a copy of this resolution be sent to the David City High School wrestling team.

Laid over.

BILL ON FIRST READING

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

LEGISLATIVE BILL 1028A. Introduced by Coash, 27.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1028, One Hundred Third Legislature, Second Session, 2014; to provide an operative date; and to declare an emergency.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 441, 442, 443, and 445 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 441, 442, 443, and 445.

SENATOR KRIST PRESIDING**GENERAL FILE**

LEGISLATIVE BILL 690. Senator Kintner renewed his amendment, FA201, found on page 638.

Senator Dubas moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 8 nays, and 15 not voting.

Senator Kintner withdrew his amendment.

Senator Bolz moved for a call of the house. The motion prevailed with 30 ayes, 0 nays, and 19 not voting.

Senator Bolz requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 31:

Adams	Cook	Harms	McGill	Sullivan
Ashford	Crawford	Harr, B.	Mello	Wallman
Avery	Davis	Howard	Nelson	Wightman
Bolz	Dubas	Karpisek	Nordquist	
Campbell	Gloor	Kolowski	Scheer	
Chambers	Haar, K.	Krist	Schumacher	
Conrad	Hadley	Lathrop	Seiler	

Voting in the negative, 11:

Bloomfield	Christensen	Janssen	McCoy
Brasch	Garrett	Johnson	Pirsch
Carlson	Hansen	Kintner	

Present and not voting, 3:

Coash	Schilz	Smith
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Excused and not voting, 4:

Larson	Lautenbaugh	Murante	Watermeier
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Advanced to Enrollment and Review Initial with 31 ayes, 11 nays, 3 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1114A. Introduced by Mello, 5.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1114, One Hundred Third Legislature, Second Session, 2014.

LEGISLATIVE BILL 751A. Introduced by Conrad, 46.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 751, One Hundred Third Legislature, Second Session, 2014.

LEGISLATIVE BILL 901A. Introduced by McGill, 26.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 901, One Hundred Third Legislature, Second Session, 2014.

AMENDMENTS - Print in Journal

Senator Mello filed the following amendment to LB1114:

AM2051

1 1. On page 4, line 1, strike "studies" and insert "a
2 study"; and strike lines 9 through 23 and insert:
3 "(2) It is the intent of the Legislature that fifty
4 thousand dollars of General Funds be appropriated to the High
5 Growth Business Development Cash Fund for the department to
6 contract with the private, nonprofit organization selected
7 pursuant to subsection (3) of section 81-12,133 to provide
8 research, analysis of best practices in other states, and make
9 recommendations on ways to support and increase venture capital in
10 Nebraska. A report of the findings of the research and analysis and
11 recommendations shall be presented to the Clerk of the Legislature
12 no later than December 1, 2014. The report shall be submitted
13 electronically."

Senator Watermeier filed the following amendment to LB986:

AM2060

(Amendments to Standing Committee amendments, AM2041)

1 1. Insert the following new section:
2 Sec. 4. Section 77-3513, Reissue Revised Statutes of
3 Nebraska, is amended to read:
4 77-3513 (1) Except as required by section 77-3514, if
5 an owner is granted a homestead exemption as provided in section
6 77-3507 or 77-3509 or subdivision (1)(b)(ii), ~~or (iii), or (iv)~~
7 of section 77-3508, no reapplication need be filed for succeeding
8 years, in which case the county assessor and Tax Commissioner
9 shall determine whether the claimant qualifies for the homestead
10 exemption in such succeeding years as otherwise provided in
11 sections 77-3501 to 77-3529 as though a claim were made.
12 (2) It shall be the duty of each claimant who wants the
13 homestead exemption provided in subdivision (1)(b)(i) of section
14 77-3508 to file an application therefor with the county assessor on
15 or before June 30 of each year. Failure to do so shall constitute a

16 waiver of the exemption for such year, except that:

17 (a) The county board of the county in which the homestead
18 is located may, by majority vote, extend the deadline for an
19 applicant to on or before July 20. An extension shall not
20 be granted to an applicant who received an extension in the
21 immediately preceding year; and

22 (b) A claimant may file a late application pursuant
1 to section 77-3514.01 if he or she includes documentation of a
2 medical condition which impaired the claimant's ability to file the
3 application in a timely manner.

4 (3) The county assessor shall mail a notice on or before
5 April 1 to claimants who are the owners of a homestead which
6 was granted an exemption under subdivision (1)(b)(i) of section
7 77-3508 in the preceding year unless the claimant has already filed
8 the application for the current year or the county assessor has
9 reason to believe there has been a change of circumstances so that
10 the claimant no longer qualifies. The notice shall include the
11 claimant's name, the application deadlines for the current year, a
12 list of documents that must be filed with the application, and the
13 county assessor's office address and telephone number.

14 2. On page 4, line 12, strike "and" and show as stricken;
15 in line 15 strike the period, show as stricken, and insert "; and";
16 after line 15 insert the following new subdivision:

17 "(iv) Beginning January 1, 2015, individuals who have a
18 developmental disability as defined in section 83-1205."; in line
19 20 strike "or", show as stricken, and insert an underscored comma;
20 in line 23 after "subsection" insert ", or certification from the
21 Department of Health and Human Services for subdivision (b)(iv) of
22 this subsection"; and in line 25 after "nurse" insert "or from the
23 Department of Health and Human Services".

24 3. Renumber the remaining sections and correct the
25 repealer accordingly.

COMMITTEE REPORT

Government, Military and Veterans Affairs

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Larry Johnson - State Emergency Response Commission

Aye: 6 Avery, Bloomfield, Garrett, Karpisek, Scheer, Wallman. Nay: 0.
Absent: 2 Lautenbaugh, Murante. Present and not voting: 0.

(Signed) Bill Avery, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 452. Introduced by Janssen, 15; Avery, 28; Bloomfield, 17; Carlson, 38; Coash, 27; Cook, 13; Crawford, 45; Garrett, 3; Hadley, 37; Harms, 48; Karpisek, 32; Kintner, 2; McCoy, 39; Mello, 5; Nordquist, 7; Pirsch, 4; Schilz, 47; Seiler, 33; Smith, 14; Sullivan, 41.

WHEREAS, Donald K. Schwab, a native of Hooper, Nebraska, who served his country in the 3rd Infantry Division of the United States Army during World War II, will be awarded the Medal of Honor on March 18, 2014; and

WHEREAS, Donald Schwab, who was also awarded the Distinguished Service Cross, the Bronze Star, and three Purple Hearts during service in North Africa, Sicily, Italy, and France, will become only the 21st Nebraska recipient ever to receive the Medal of Honor; and

WHEREAS, Donald Schwab, serving as a first lieutenant in France on September 17, 1944, heroically charged a German pistol nest alone, captured the gunner, and brought him back behind friendly lines all while under a hail of machine gun fire; and

WHEREAS, Donald Schwab's actions on the battlefield so disorganized the enemy's troops that they abandoned their posts and withdrew; and

WHEREAS, through his extraordinary bravery and sense of duty, Donald Schwab saved countless American lives and inspired his company and fellow servicemen to press on for Allied victory in Europe; and

WHEREAS, after his service to his country, Donald Schwab returned to Dodge County, Nebraska, becoming a successful farmer and later a rural mail carrier for the United States Postal Service until his retirement in 1980; and

WHEREAS, in honor of his actions, and through a comprehensive twelve-year review by the Pentagon of military service during World War II, the Korean War, and the Vietnam War, Donald Schwab, who passed away on February 19, 2005, will be awarded the Medal of Honor posthumously by the President at the White House.

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

1. That the Legislature commends Donald K. Schwab for his gallant service to his country and honors him as a posthumous recipient of the Medal of Honor.

2. That a copy of this resolution be sent to the family of Donald K. Schwab.

Laid over.

SENATOR COASH PRESIDING

GENERAL FILE

LEGISLATIVE BILL 776. Title read. Considered.

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 844. Title read. Considered.

Advanced to Enrollment and Review Initial with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 1016. Title read. Considered.

Committee AM1884, found on page 512, was offered.

Senator Nordquist offered the following amendment to the committee amendment:

AM2082

(Amendments to Standing Committee amendments, AM1884)

- 1 1. On page 4, after line 19 insert the following new
- 2 subsection:
- 3 "(5) It is the intent of the Legislature that the use of
- 4 state-owned, chartered, or rented aircraft by the department shall
- 5 be for the sole purpose of state business. The department shall
- 6 electronically file with the Clerk of the Legislature a quarterly
- 7 report on the department's use of all state-owned, chartered, or
- 8 rented aircraft that includes the following information for each
- 9 trip: The name of the agency or other entity traveling; the
- 10 name of each individual passenger; all purposes of the trip; the
- 11 destination and intermediate stops; and the miles flown."

The Nordquist amendment was adopted with 28 ayes, 0 nays, 14 present and not voting, and 7 excused and not voting.

Pending.

AMENDMENTS - Print in Journal

Senator Harms filed the following amendment to LB728:

AM2093

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 83-1217.01, Reissue Revised Statutes
- 4 of Nebraska, is amended to read:
- 5 83-1217.01 ~~Employees~~ (1) Each employee of state-operated
- 6 services and facilities providing developmental disabilities
- 7 services shall be subject to the criminal history record
- 8 information check requirements of subdivision (9) of section

9 83-1217 and ~~section 83-1217.02~~, shall file a complete set of his
 10 or her legible fingerprints with the department. The department
 11 shall transmit such fingerprints to the Nebraska State Patrol
 12 which shall transmit a copy of the applicant's fingerprints to the
 13 Identification Division of the Federal Bureau of Investigation for
 14 a national criminal history record information check.

15 (2) The national criminal history record information
 16 check shall include information concerning the employee from
 17 federal repositories of such information and repositories of such
 18 information in other states if authorized by federal law for use by
 19 the department.

20 (3) The Nebraska State Patrol shall undertake a search
 21 for Nebraska criminal history record information concerning the
 22 employee. The Nebraska State Patrol shall issue a report to the
 23 department which contains the results of the criminal history
 1 record information check conducted by the Nebraska State Patrol.

2 (4) Criminal history record information subject to
 3 federal confidentiality requirements shall remain confidential
 4 and may be released only upon the written authorization of the
 5 employee.

6 (5) The department, in cooperation with the Nebraska
 7 State Patrol, shall adopt and promulgate rules and regulations to
 8 carry out this section.

9 Sec. 2. Original section 83-1217.01, Reissue Revised
 10 Statutes of Nebraska, is repealed.

11 Sec. 3. The following section is outright repealed:

12 Section 83-1217.02, Revised Statutes Cumulative Supplement, 2012.

Senator Larson filed the following amendment to LB699:
 AM2102

(Amendments to Standing Committee amendments, AM1754)

- 1 1. Insert the following new section:
- 2 Sec. 7. Since an emergency exists, this act takes effect
- 3 when passed and approved according to law.

COMMITTEE REPORT

Transportation and Telecommunications

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

Barbara J. Keegan - Board of Public Roads Classifications and Standards
 James Litchfield - Board of Public Roads Classifications and Standards
 Mick Syslo - Board of Public Roads Classifications and Standards
 Edward Wootton - Board of Public Roads Classifications and Standards

Aye: 8 Brasch, Dubas, Hadley, Janssen, McCoy, Murante, Smith, Watermeier. Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Annette Dubas, Chairperson

COMMITTEE REPORTS

Transportation and Telecommunications

LEGISLATIVE BILL 892. Placed on General File.

LEGISLATIVE BILL 930. Placed on General File with amendment. AM2039

- 1 1. Strike the original sections and insert the following
 2 new sections:
 3 Section 1. Section 76-2301, Revised Statutes Supplement,
 4 2013, is amended to read:
 5 76-2301 Sections 76-2301 to 76-2330 and section 2 of this
 6 act shall be known and may be cited as the One-Call Notification
 7 System Act.
 8 Sec. 2. Unless otherwise agreed by the operator and
 9 excavator in writing, no excavation shall be performed within
 10 twenty-five feet of an underground natural gas transmission line
 11 as defined in 49 C.F.R. Part 192.3 unless a representative of
 12 the operator of the underground natural gas transmission line
 13 is present at the planned excavation area. If the representative
 14 of the operator fails to appear at the proposed excavation area
 15 at the time work is scheduled to commence, the excavator shall
 16 notify the operator that the representative failed to appear and
 17 excavation operations can begin if reasonable precautions are
 18 taken to protect the underground facility. This section does
 19 not prohibit an operator from either voluntarily having its
 20 representative present during excavation or from entering into
 21 an agreement voluntarily with an excavator that allows an operator
 22 representative to be present during excavation.
 23 Sec. 3. Section 76-2323, Reissue Revised Statutes of
 1 Nebraska, is amended to read:
 2 76-2323 (1) Upon receipt of the information contained in
 3 the notice pursuant to section 76-2321, an operator shall advise
 4 the excavator of the approximate location of underground facilities
 5 in the area of the proposed excavation by marking or identifying
 6 the location of the underground facilities with stakes, flags,
 7 paint, or any other clearly identifiable marking or reference point
 8 and shall indicate if the underground facilities are subject to
 9 section 2 of this act. The location of the underground facility
 10 given by the operator shall be within a strip of land eighteen
 11 inches on either side of the marking or identification plus
 12 one-half of the width of the underground facility. If in the
 13 opinion of the operator the precise location of a facility cannot
 14 be determined and marked as required, the operator shall provide

15 all pertinent information and field locating assistance to the
16 excavator at a mutually agreed to time. The location shall be
17 marked or identified using color standards prescribed by the
18 center. The operator shall respond no later than two business
19 days after receipt of the information in the notice or at a time
20 mutually agreed to by the parties.

21 (2) The marking or identification shall be done in a
22 manner that will last for a minimum of five business days on
23 any nonpermanent surface and a minimum of ten business days on
24 any permanent surface. If the excavation will continue for longer
25 than five business days, the operator shall remark or reidentify
26 the location of the underground facility upon the request of the
27 excavator. The request for remarking or reidentification shall be
1 made through the center.

2 (3) An operator who determines that it does not have any
3 underground facility located in the area of the proposed excavation
4 shall notify the excavator of the determination prior to the date
5 of commencement of the excavation.

6 Sec. 4. Section 76-2324, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 76-2324 An excavator who fails to give notice of an
9 excavation pursuant to section 76-2321 or who fails to comply with
10 section 2 of this act and who damages an underground facility by
11 such excavation shall be strictly liable to the operator of the
12 underground facility for the cost of all repairs to the underground
13 facility. An excavator who gives the notice and who damages an
14 underground facility shall be liable to the operator for the cost
15 of all repairs to the underground facility unless the damage to
16 the underground facility was due to the operator's failure to
17 comply with section 76-2323. An excavator who fails to give notice
18 of an excavation pursuant to section 76-2321 and who damages an
19 underground facility that is operated by the excavator shall not be
20 in violation of the One-Call Notification System Act.

21 In addition to any liability provided in this section an
22 operator of a damaged underground facility shall be entitled to any
23 other remedies available at law or in equity provided by statute or
24 otherwise.

25 Sec. 5. Section 76-2325, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 76-2325 Any person who violates the provisions of section
1 76-2320, 76-2321, 76-2322, 76-2323, 76-2326, or 76-2330 or section
2 2 of this act shall be subject to a civil penalty as follows:

3 (1) For a violation related to a gas or hazardous liquid
4 underground pipeline facility, an amount not to exceed ten thousand
5 dollars for each violation for each day the violation persists, up
6 to a maximum of five hundred thousand dollars; and

7 (2) For a violation related to any other underground
8 facility, an amount not to exceed five hundred dollars for each day
9 the violation persists, up to a maximum of five thousand dollars.

10 An action to recover a civil penalty shall be brought
 11 by the Attorney General or a prosecuting attorney on behalf of
 12 the State of Nebraska in any court of competent jurisdiction of
 13 this state. The trial shall be before the court, which shall
 14 consider the nature, circumstances, and gravity of the violation
 15 and, with respect to the person found to have committed the
 16 violation, the degree of culpability, the absence or existence of
 17 prior violations, whether the violation was a willful act, any
 18 good faith attempt to achieve compliance, and such other matters as
 19 justice may require in determining the amount of penalty imposed.
 20 All penalties shall be ~~handled and distributed pursuant to~~ remitted
 21 to the State Treasurer for distribution in accordance with Article
 22 VII, section 5, of the Constitution of Nebraska.
 23 Sec. 6. Original sections 76-2323, 76-2324, and 76-2325,
 24 Reissue Revised Statutes of Nebraska, and section 76-2301, Revised
 25 Statutes Supplement, 2013, are repealed.

(Signed) Annette Dubas, Chairperson

UNANIMOUS CONSENT - Add Cointroducers

Senator Garrett asked unanimous consent to add his name as cointroducer to LB505. No objections. So ordered.

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB171, LB390, and LB1110. No objections. So ordered.

VISITORS

Visitors to the Chamber were 35 Farmers Insurance Agents and Employees from across the state; 30 members of the Nebraska Civic Leadership Program from UNO; 25 people celebrating Madison County Day at the Capitol from Norfolk; and 46 fourth-grade students, teachers, and sponsors from Arlington.

The Doctor of the Day was Dr. Kip Anderson from Columbus.

ADJOURNMENT

At 11:59 a.m., on a motion by Senator Campbell, the Legislature adjourned until 9:00 a.m., Thursday, February 27, 2014.

Patrick J. O'Donnell
 Clerk of the Legislature