

FORTY-FIRST DAY - MARCH 11, 2014

LEGISLATIVE JOURNAL

**ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION**

FORTY-FIRST DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, March 11, 2014

PRAYER

The prayer was offered by Vicar Glenda Ferguson, Grace Lutheran Church, Wahoo.

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 Coash, Cook, Davis, Janssen, Lautenbaugh, and Watermeier who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fortieth day was approved.

COMMITTEE REPORT

Education

LEGISLATIVE BILL 967. Placed on General File with amendment. AM2199 is available in the Bill Room.

(Signed) Kate Sullivan, Chairperson

GENERAL FILE

LEGISLATIVE BILL 905. Senator Bloomfield renewed his amendment, AM2308, found on page 844, to the committee amendment.

Senator Bloomfield withdrew his amendment.

Committee AM2019, found on page 791 and considered on page 842, was renewed.

SPEAKER ADAMS PRESIDING

Senator Kintner requested a division of the question on the committee amendment.

The Chair ruled the Appropriations Committee amendment is not divisible therefore the request is ruled out of order.

Senator Lautenbaugh challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?"

Senator Murante requested a record vote on the motion to overrule the Chair.

Voting in the affirmative, 6:

Bloomfield	Kintner	Murante
Hansen	Lautenbaugh	Pirsch

Voting in the negative, 29:

Adams	Conrad	Hadley	Krist	Seiler
Brasch	Cook	Harms	Mello	Smith
Campbell	Crawford	Harr, B.	Nelson	Sullivan
Carlson	Dubas	Johnson	Nordquist	Wallman
Chambers	Gloor	Karpisek	Scheer	Wightman
Coash	Haar, K.	Kolowski	Schumacher	

Present and not voting, 14:

Ashford	Christensen	Howard	Lathrop	Schilz
Avery	Davis	Janssen	McCoy	Watermeier
Bolz	Garrett	Larson	McGill	

The Lautenbaugh motion to overrule the Chair failed with 6 ayes, 29 nays, and 14 present and not voting.

SENATOR GLOOR PRESIDING

The committee amendment was adopted with 34 ayes, 0 nays, and 15 present and not voting.

Senator Chambers offered the following amendment:
 FA245
 Amend AM2019
 Strike Section 58.

Senator Chambers withdrew his amendment.

Advanced to Enrollment and Review Initial with 37 ayes, 2 nays, 7 present and not voting, and 3 excused and not voting.

COMMITTEE REPORTS
 Enrollment and Review

LEGISLATIVE BILL 974. Placed on Select File with amendment.
 ER166

1 1. Strike the original sections and all amendments
 2 thereto and insert the following new sections:
 3 Section 1. Section 79-1145, Reissue Revised Statutes of
 4 Nebraska, is amended to read:
 5 79-1145 (1) For each fiscal year prior to fiscal
 6 year 2014-15, the aggregate amount of General Funds appropriated
 7 for special education programs and support services pursuant to
 8 sections 79-1129, 79-1132, and 79-1144 shall not exceed the
 9 aggregate amount of General Funds appropriated pursuant to such
 10 sections for the previous fiscal year, ~~multiplied by one plus a~~
 11 ~~rate of increased by~~ five percent.
 12 (2) For fiscal year 2014-15 and each fiscal year
 13 thereafter, the aggregate amount of General Funds appropriated
 14 for special education programs and support services pursuant to
 15 sections 79-1129, 79-1132, and 79-1144 shall not exceed the
 16 aggregate amount of General Funds appropriated pursuant to such
 17 sections for the previous fiscal year, increased by ten percent.
 18 Sec. 2. Section 81-132, Revised Statutes Cumulative
 19 Supplement, 2012, is amended to read:
 20 81-132 All departments, offices, and institutions of
 21 the state government requesting appropriations shall file in the
 22 office of the Director of Administrative Services the budget forms
 23 furnished them by the director under the provisions of sections
 1 81-1113 and 81-1113.01. The budget forms required by this section
 2 shall be filed on or before September 15 of each even-numbered
 3 year, ~~except that in 2002, the budget administrator of the~~
 4 ~~budget division of the Department of Administrative Services~~
 5 ~~may extend the filing deadline for budget forms to a date~~
 6 ~~no later than October 15, 2002.~~ The forms shall show their
 7 total estimated requirements for the next biennium for each unit
 8 of their organization and activity classified as to object of
 9 expenditure. With such forms, each department, office, institution,
 10 and expending agency shall file a report showing all money received
 11 by such department, office, institution, or expending agency

12 together with the estimated receipts for the coming biennium.
13 Such estimates shall be accompanied by a statement in writing
14 giving facts and explanations of reasons for each item of increased
15 appropriation requested. The report submitted by the Department of
16 Health and Human Services shall include, but not be limited to, the
17 key goals, benchmarks, and progress reports required pursuant to
18 section 81-3133 and sections 7 to 9 of this act.

19 Sec. 3. Section 81-1111.01, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 81-1111.01 For agencies with fewer than seven full-time
22 employees, preaudits shall be conducted by the accounting
23 bureau or by a state agency authorized by the Director of
24 Administrative Services to conduct its own preaudits. The Director
25 of Administrative Services may authorize departments and agencies
26 that have seven or more full-time employees to perform their own
27 preaudits, subject to monitoring by the accounting bureau. The
1 preaudits shall be performed in accordance with the provisions of
2 subdivisions (3)(a) through (f) of section 81-1111.

3 Sec. 4. Section 81-1113, Revised Statutes Cumulative
4 Supplement, 2012, is amended to read:

5 81-1113 The budget division shall prepare the executive
6 budget in accordance with the wishes and policies of the Governor.
7 The budget division shall have the following duties, powers, and
8 responsibilities:

9 (1) Shall prescribe the forms and procedures to be
10 employed by all departments and agencies of the state in compiling
11 and submitting their individual budget requests and shall set
12 up a budget calendar which shall provide for (a) the date, not
13 later than July 15 of each even-numbered year, for distribution
14 of instructions, (b) the date by which time requests for
15 appropriations by each agency shall be submitted, and (c) the
16 period during which such public hearings as the Governor may elect
17 shall be held for each department and agency. The budget request
18 shall be submitted each even-numbered year no later than the date
19 provided in section 81-132, shall include the intended receipts
20 and expenditures by programs, subprograms, and activities and such
21 additional information as the administrator may deem appropriate
22 for each fiscal year, shall be made upon a biennial basis, and
23 shall include actual receipts and actual expenditures for each
24 fiscal year of the most recently completed biennium and the first
25 year of the current biennium and estimates for the second year of
26 the current biennium and each year of the next ensuing biennium;

27 (2) Shall work with each governmental department and
1 agency in developing performance standards for each program,
2 subprogram, and activity to measure and evaluate present as well
3 as projected levels of expenditures. The budget division shall
4 also work with ~~the Division of Children and Family Services of~~
5 the Department of Health and Human Services to develop key goals,
6 benchmarks, and methods of quantification of progress required

7 pursuant to section 81-3133 and sections 7 to 9 of this act;

8 (3) Shall, following passage of legislative
9 appropriations, be responsible for the administration of the
10 approved budget through budgetary allotments;

11 (4) Shall be responsible for a monthly budgetary report
12 for each department and agency showing comparisons between actual
13 expenditures and allotments, which report shall be subject to
14 review by the director and budget administrator; and

15 (5) Shall be responsible for the authorization of
16 employee positions. Such authorizations shall be based on the
17 following:

18 (a) A requirement that a sufficient budget program
19 appropriation and salary limitation exist to fully fund all
20 authorized positions;

21 (b) A requirement that permanent full-time positions
22 which have been vacant for ninety days or more be reviewed
23 and reauthorized prior to being filled. If requested by the
24 budget division, the personnel division of the Department of
25 Administrative Services shall review such vacant position to
26 determine the proper classification for the position;

27 (c) A requirement that authorized positions accurately
1 reflect legislative intent contained in legislative appropriation
2 and intent bills; and

3 (d) Other relevant criteria as determined by the budget
4 administrator.

5 Sec. 5. Section 81-1125.01, Revised Statutes Cumulative
6 Supplement, 2012, is amended to read:

7 81-1125.01 It shall be the duty of the Director of
8 Administrative Services to digest, prepare, and report to the
9 Governor, the Tax Commissioner, ~~and the Clerk of the Legislature,~~
10 and the Legislative Fiscal Analyst, at least twenty days before the
11 commencement of each regular session of the Legislature:

12 (1) ~~A full and detailed statement of The Annual Budgetary~~
13 Report showing the condition of the treasury, and the amount of the
14 expenditures for the last fiscal year;

15 (2) ~~A full and detailed statement of the public debt, The~~
16 Comprehensive Annual Financial Report showing fully all liabilities
17 and resources of the state; and

18 (3) Such plans as he or she may deem expedient for (a)
19 the support of public credit, (b) lessening the public expenses,
20 (c) using the public money to the best advantage, (d) promoting
21 frugality and economy in public offices, and generally for the
22 better management and more perfect understanding of the fiscal
23 affairs of the state, and (e) securing uniformity and efficiency in
24 the levying and collecting of taxes, systematizing the work to be
25 done by officers having duties to perform under the revenue law.

26 The ~~report reports~~ submitted to the ~~Clerk of the~~
27 Legislature shall be submitted electronically. Each member of
1 the Legislature shall receive an electronic copy of the ~~report~~

2 reports required by this section by making a request for it to the
3 director.

4 Sec. 6. Section 81-3110, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 81-3110 Sections 81-3110 to 81-3124 and sections 7 to 9
7 of this act shall be known and may be cited as the Health and Human
8 Services Act.

9 Sec. 7. (1) For the biennium ending June 30, 2017, and
10 the biennium ending June 30, 2019, the Division of Behavioral
11 Health of the Department of Health and Human Services shall, as
12 part of the appropriations request process pursuant to section
13 81-132, include a strategic plan that identifies the main purpose
14 or purposes of each program, verifiable and auditable key goals
15 that the division believes are fair measures of its progress in
16 meeting each program's main purpose or purposes, and benchmarks
17 for improving performance on the key goals. The division shall
18 also report whether the benchmarks are being met and, if not,
19 the expected timeframes for meeting them. Such key goals and
20 benchmarks shall be developed by the division with the assistance
21 of the budget division of the Department of Administrative Services
22 pursuant to subdivision (2) of section 81-1113.

23 (2) Not later than September 15, 2015, and not later
24 than September 15, 2017, the Division of Behavioral Health of the
25 Department of Health and Human Services shall report electronically
26 to the Health and Human Services Committee of the Legislature and
27 the Appropriations Committee of the Legislature on the progress
1 towards the key goals identified pursuant to this section that
2 occurred in the previous twelve months. The division shall annually
3 appear at a joint hearing of the two legislative committees and
4 present the report.

5 Sec. 8. (1) For the biennium ending June 30, 2017, and
6 the biennium ending June 30, 2019, the Division of Developmental
7 Disabilities of the Department of Health and Human Services shall,
8 as part of the appropriations request process pursuant to section
9 81-132, include a strategic plan that identifies the main purpose
10 or purposes of each program, verifiable and auditable key goals
11 that the division believes are fair measures of its progress in
12 meeting each program's main purpose or purposes, and benchmarks
13 for improving performance on the key goals. The division shall
14 also report whether the benchmarks are being met and, if not,
15 the expected timeframes for meeting them. Such key goals and
16 benchmarks shall be developed by the division with the assistance
17 of the budget division of the Department of Administrative Services
18 pursuant to subdivision (2) of section 81-1113.

19 (2) Not later than September 15, 2015, and not later
20 than September 15, 2017, the Division of Developmental Disabilities
21 of the Department of Health and Human Services shall report
22 electronically to the Health and Human Services Committee of the
23 Legislature and the Appropriations Committee of the Legislature on

24 the progress towards the key goals identified pursuant to this
25 section that occurred in the previous twelve months. The division
26 shall annually appear at a joint hearing of the two legislative
27 committees and present the report.

1 Sec. 9. (1) For the biennium ending June 30, 2017, and
2 the biennium ending June 30, 2019, the Division of Medicaid and
3 Long-Term Care of the Department of Health and Human Services
4 shall, as part of the appropriations request process pursuant to
5 section 81-132, include a strategic plan that identifies the main
6 purpose or purposes of each program, verifiable and auditable
7 key goals that the division believes are fair measures of its
8 progress in meeting each program's main purpose or purposes, and
9 benchmarks for improving performance on the key goals. The division
10 shall also report whether the benchmarks are being met and, if
11 not, the expected timeframes for meeting them. Such key goals and
12 benchmarks shall be developed by the division with the assistance
13 of the budget division of the Department of Administrative Services
14 pursuant to subdivision (2) of section 81-1113.

15 (2) Not later than September 15, 2015, and not later
16 than September 15, 2017, the Division of Medicaid and Long-Term
17 Care of the Department of Health and Human Services shall report
18 electronically to the Health and Human Services Committee of the
19 Legislature and the Appropriations Committee of the Legislature on
20 the progress towards the key goals identified pursuant to this
21 section that occurred in the previous twelve months. The division
22 shall annually appear at a joint hearing of the two legislative
23 committees and present the report.

24 Sec. 10. Section 81-3133, Revised Statutes Supplement,
25 2013, is amended to read:

26 81-3133 (1)(a) On or before July 30, 2012, the Division
27 of Children and Family Services of the Department of Health and
1 Human Services shall report in writing its expenditures between
2 January 1, 2012, and June 30, 2012, and the outcomes relating
3 to such expenditures to the Appropriations Committee of the
4 Legislature and the Health and Human Services Committee of the
5 Legislature. Such report shall identify any changes or movement
6 of funds in excess of two hundred fifty thousand dollars relating
7 to child welfare between subprograms within Budget Program 347 and
8 Budget Program 354.

9 (b) Beginning with the third calendar quarter of 2012,
10 the division shall report electronically its expenditures for each
11 quarter and the outcomes relating to such expenditures within
12 thirty days after the end of the quarter to the Appropriations
13 Committee of the Legislature and the Health and Human Services
14 Committee of the Legislature. Such report shall identify any
15 changes or movement of funds in excess of two hundred fifty
16 thousand dollars relating to child welfare between subprograms
17 within Budget Program 347 and Budget Program 354.

18 (2)(a) For the biennium ending June 30, 2015, ~~and~~ the

19 biennium ending June 30, 2017, and the biennium ending June
20 30, 2019, the Division of Children and Family Services of the
21 Department of Health and Human Services shall, as part of the
22 appropriations request pursuant to section 81-132, include
23 a strategic plan that identifies the main purpose or purposes
24 of each program, verifiable and auditable key goals that the
25 division believes are fair measures of its progress in meeting each
26 program's main purpose or purposes, and benchmarks for improving
27 performance on the key goals for the state as a whole and for each
1 Department of Health and Human Services service area designated
2 pursuant to section 81-3116. The division shall also report whether
3 the benchmarks are being met and, if not, the expected timeframes
4 for meeting them. Such key goals and benchmarks shall be developed
5 by the Division of Children and Family Services with the assistance
6 of the budget division of the Department of Administrative Services
7 pursuant to subdivision (2) of section 81-1113.

8 (b) Not later than September 15, 2013, ~~and not later~~
9 ~~than September 15, 2015, and not later than September 15, 2017,~~
10 the Division of Children and Family Services of the Department
11 of Health and Human Services shall report electronically to the
12 Health and Human Services Committee of the Legislature and the
13 Appropriations Committee of the Legislature on the progress towards
14 the key goals identified pursuant to this subsection that occurred
15 in the previous twelve months. The division shall annually appear
16 at a joint hearing of the two legislative committees and present
17 the report.

18 Sec. 11. Original sections 79-1145, 81-1111.01, and
19 81-3110, Reissue Revised Statutes of Nebraska, sections 81-132,
20 81-1113, and 81-1125.01, Revised Statutes Cumulative Supplement,
21 2012, and section 81-3133, Revised Statutes Supplement, 2013, are
22 repealed.

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

25 2. On page 1, strike beginning with "agency" in line 1
26 through line 7 and insert "state government; to amend sections
27 79-1145, 81-1111.01, and 81-3110, Reissue Revised Statutes of
1 Nebraska, sections 81-132, 81-1113, and 81-1125.01, Revised
2 Statutes Cumulative Supplement, 2012, and section 81-3133,
3 Revised Statutes Supplement, 2013; to change limitations on the
4 appropriation of General Funds for special education; to eliminate
5 obsolete provisions regarding budget forms; to provide and change
6 reporting requirements for the Department of Health and Human
7 Services; to change provisions relating to agency preaudits; to
8 change powers and duties of the Department of Administrative
9 Services; to harmonize provisions; to repeal the original sections;
10 and to declare an emergency.".

LEGISLATIVE BILL 768. Placed on Select File with amendment.

ER163

- 1 1. In the Standing Committee amendment, AM1945:
- 2 a. On page 1, line 16, strike "buyer's", show as
- 3 stricken, and insert "purchaser's";
- 4 b. On page 2, line 9, strike "buyer.", show as stricken,
- 5 and insert "purchaser."; and
- 6 c. On page 14, line 14, after "14" insert "of this act".
- 7 2. On page 1, strike beginning with "54-1,120" in line
- 8 1 through line 6 and insert "54-172, 54-1,110, 54-1,111, 54-1,120,
- 9 54-1,122.01, and 54-415, Reissue Revised Statutes of Nebraska,
- 10 section 54-1,108, Revised Statutes Cumulative Supplement, 2012, and
- 11 sections 54-170 and 54-171, Revised Statutes Supplement, 2013; to
- 12 define and redefine terms; to provide for brand inspection service
- 13 areas under the Livestock Brand Act; to provide and change fees
- 14 under the act; to change terminology relating to purchasers; to
- 15 change provisions relating to estrays; to provide operative dates;
- 16 to repeal the original sections; and to declare an emergency."

LEGISLATIVE BILL 854. Placed on Select File.

LEGISLATIVE BILL 941. Placed on Select File with amendment.

ER164

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. (1) On or before November 15, 2014, the
- 4 Director of Agriculture shall provide a report to the Legislature,
- 5 in electronic format, that contains:
- 6 (a) A quantitative and qualitative description of dairy
- 7 production in Nebraska, including an overview on the numbers,
- 8 sizes, and ownership characteristics of dairy operations in the
- 9 state, current quantity and value of milk production, trends in
- 10 milk production, and measures of productivity of dairy production
- 11 in Nebraska;
- 12 (b) A comparison of volume and value of milk production
- 13 and trends in milk production in Nebraska to that of neighboring
- 14 states and nationally;
- 15 (c) A listing and description of milk processing
- 16 facilities in Nebraska and a description of marketing
- 17 affiliations and final consumer markets and destinations,
- 18 including self-processing and direct marketing, for milk produced
- 19 in Nebraska;
- 20 (d) An evaluation of the potential for expanded milk
- 21 production in Nebraska with respect to (i) the ability of
- 22 agricultural, institutional, and commercial assets within the state
- 23 to support expanded production, (ii) the capacity of instate
- 1 processors to utilize increased instate milk production, (iii) the
- 2 potential for expansion of self-processing and direct marketing of
- 3 Nebraska milk and dairy products, (iv) serving new or expanding

4 markets outside of Nebraska, and (v) the potential for investment
 5 in new or expanded dairy processing facilities;

6 (e) A discussion of constraints to the establishment of
 7 new milk production facilities, expansion of milk production, and
 8 relocation of dairy operations into Nebraska;

9 (f) A review of public and private programs and
 10 initiatives to stimulate expanded milk production in Nebraska and
 11 to recruit milk production to relocate to Nebraska; and

12 (g) A compilation and overview of state incentives and
 13 outreach and marketing programs for the recruitment or relocation
 14 of dairy production and processing or the stimulation of investment
 15 in new or expanded dairy production and processing for states
 16 surrounding Nebraska.

17 (2) In the report, the Director of Agriculture may
 18 include any recommendations to the Legislature regarding actions
 19 state government may take to aid and encourage expansion of milk
 20 production and markets for milk production in Nebraska. It is the
 21 intent of the Legislature that the Agriculture Committee of the
 22 Legislature shall hold a public hearing to receive the report and
 23 to take public comment on the report and any recommendations.

24 Sec. 2. Section 54-857, Revised Statutes Cumulative
 25 Supplement, 2012, is amended to read:

26 54-857 All money received pursuant to the Commercial Feed
 27 Act shall be remitted by the director to the State Treasurer
 1 for credit to the Commercial Feed Administration Cash Fund which
 2 is hereby created. Such fund shall be used by the department
 3 to aid in defraying the expenses of administering the act, to
 4 provide resources to prepare the Nebraska dairy industry report as
 5 provided in section 1 of this act, and to aid in defraying the
 6 expenses related to a cooperative agreement with the United States
 7 Department of Agriculture Market News reporting program. Transfers
 8 may be made from the fund to the General Fund at the direction of
 9 the Legislature. Any money in the Commercial Feed Administration
 10 Cash Fund available for investment shall be invested by the state
 11 investment officer pursuant to the Nebraska Capital Expansion Act
 12 and the Nebraska State Funds Investment Act.

13 Sec. 3. Original section 54-857, Revised Statutes
 14 Cumulative Supplement, 2012, is repealed.

LEGISLATIVE BILL 941A. Placed on Select File.

LEGISLATIVE BILL 560. Placed on Select File with amendment.

ER161

1 1. Strike the original sections and all amendments

2 thereto and insert the following new sections:

3 Section 1. Section 48-1228, Reissue Revised Statutes of
 4 Nebraska, is amended to read:

5 48-1228 Sections 48-1228 to 48-1232 and sections 2 and 3
 6 of this act shall be known and may be cited as the Nebraska Wage

7 Payment and Collection Act.

8 Sec. 2. The Commissioner of Labor shall have the
9 authority to subpoena records and witnesses related to the
10 enforcement of the Nebraska Wage Payment and Collection Act. The
11 commissioner or his or her agent may inspect all related records
12 and gather testimony on any matter relative to the enforcement
13 of the act when the information sought is relevant to a lawful
14 investigative purpose and is reasonable in scope.

15 Sec. 3. (1) The Commissioner of Labor shall issue a
16 citation to an employer when an investigation reveals that the
17 employer may have violated the Nebraska Wage Payment and Collection
18 Act, other than a violation of subsection (2) of section 48-1230.

19 (2) When a citation is issued, the commissioner shall
20 notify the employer of the proposed administrative penalty, if
21 any, by certified mail or any other manner of delivery by
22 which the United States Postal Service can verify delivery. The
23 administrative penalty shall be not more than five hundred dollars
1 in the case of a first violation and not more than five thousand
2 dollars in the case of a second or subsequent violation.

3 (3) The employer has fifteen working days after the date
4 of the citation or penalty to contest such citation or penalty.
5 Notice of contest shall be sent to the commissioner who shall
6 provide a hearing in accordance with the Administrative Procedure
7 Act.

8 Sec. 4. Section 48-1230, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 48-1230 (1) Except as otherwise provided in this section,
11 each employer shall pay all wages due its employees on regular
12 days designated by the employer or agreed upon by the employer and
13 employee. Thirty days' written notice shall be given to an employee
14 before regular paydays are altered by an employer. An employer
15 may deduct, withhold, or divert a portion of an employee's wages
16 only when the employer is required to or may do so by state or
17 federal law or by order of a court of competent jurisdiction or
18 the employer has written agreement with the employee to deduct,
19 withhold, or divert.

20 ~~(2) Within ten working days after a written request is~~
21 ~~made by an employee, an employer shall furnish such employee with~~
22 ~~an itemized statement listing the wages earned and the deductions~~
23 ~~made from the employee's wages under subsection (1) of this section~~
24 ~~for each pay period that earnings and deductions were made. The~~
25 ~~statement may be in print or electronic format.~~

26 (2) On each regular payday, the employer shall deliver
27 or make available to each employee, by mail or electronically, or
1 shall provide at the employee's normal place of employment during
2 employment hours for all shifts a wage statement showing, at a
3 minimum, the identity of the employer, the hours the employee
4 worked, the wages earned by the employee, and deductions made for
5 the employee. However, the employer need not provide information

6 on hours worked for employees who are exempt from overtime under
7 the federal Fair Labor Standards Act of 1938, under 29 C.F.R. part
8 541, unless the employer has established a policy or practice of
9 paying to or on behalf of exempt employees overtime, or bonus or a
10 payment based on hours worked, whereupon the employer shall send or
11 otherwise provide a statement to the exempt employees showing the
12 hours the employee worked or the payments made to the employee by
13 the employer, as applicable.

14 (3) Except as otherwise provided in section 48-1230.01:

15 (a) Whenever an employer, other than a political
16 subdivision, separates an employee from the payroll, the unpaid
17 wages shall become due on the next regular payday or within two
18 weeks of the date of termination, whichever is sooner; and

19 (b) Whenever a political subdivision separates an
20 employee from the payroll, the unpaid wages shall become due within
21 two weeks of the next regularly scheduled meeting of the governing
22 body of the political subdivision if such employee is separated
23 from the payroll at least one week prior to such meeting, or if an
24 employee of a political subdivision is separated from the payroll
25 less than one week prior to the next regularly scheduled meeting of
26 the governing body of the political subdivision, the unpaid wages
27 shall be due within two weeks of the following regularly scheduled
1 meeting of the governing body of the political subdivision.

2 Sec. 5. Section 48-1231, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 48-1231 (1) An employee having a claim for wages which
5 are not paid within thirty days of the regular payday designated or
6 agreed upon may institute suit for such unpaid wages in the proper
7 court. If an employee establishes a claim and secures judgment
8 on the claim, such employee shall be entitled to recover (a) the
9 full amount of the judgment and all costs of such suit and (b)
10 if such employee has employed an attorney in the case, an amount
11 for attorney's fees assessed by the court, which fees shall not be
12 less than twenty-five percent of the unpaid wages. If the cause is
13 taken to an appellate court and the plaintiff recovers a judgment,
14 the appellate court shall tax as costs in the action, to be paid
15 to the plaintiff, an additional amount for attorney's fees in such
16 appellate court, which fees shall not be less than twenty-five
17 percent of the unpaid wages. If the employee fails to recover a
18 judgment in excess of the amount that may have been tendered within
19 thirty days of the regular payday by an employer, such employee
20 shall not recover the attorney's fees provided by this section. If
21 the court finds that no reasonable dispute existed as to the fact
22 that wages were owed or as to the amount of such wages, the court
23 may order the employee to pay the employer's attorney's fees and
24 costs of the action as assessed by the court.

25 (2) An employer who fails to furnish ~~an itemized~~
26 ~~statement requested by an employee a wage statement~~ under
27 subsection (2) of section 48-1230 shall be guilty of an infraction

1 as defined in section 29-431 and shall be subject to a fine
 2 pursuant to section 29-436.
 3 Sec. 6. Original sections 48-1228, 48-1230, and 48-1231,
 4 Reissue Revised Statutes of Nebraska, are repealed.
 5 2. On page 1, strike beginning with "labor" in line 1
 6 through line 9 and insert "the Nebraska Wage Payment and Collection
 7 Act; to amend sections 48-1228, 48-1230, and 48-1231, Reissue
 8 Revised Statutes of Nebraska; to provide powers and duties for the
 9 Commissioner of Labor; to provide for enforcement of the Nebraska
 10 Wage Payment and Collection Act; to change requirements for
 11 employers to provide wage statements as prescribed; to harmonize
 12 provisions; and to repeal the original sections."

LEGISLATIVE BILL 1076. Placed on Select File.

LEGISLATIVE BILL 692. Placed on Select File.

LEGISLATIVE BILL 851. Placed on Select File with amendment.

ER167

1 1. On page 1, line 13, after "applicability" insert "of
 2 changes to the Nebraska Advantage Act".

LEGISLATIVE BILL 744. Placed on Select File.

LEGISLATIVE BILL 744A. Placed on Select File.

(Signed) John Murante, Chairperson

COMMITTEE REPORT

Education

LEGISLATIVE BILL 1060. Indefinitely postponed.

(Signed) Kate Sullivan, Chairperson

BILL ON FIRST READING

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

LEGISLATIVE BILL 974A. 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 974, One Hundred Third Legislature, Second Session, 2014.

VISITORS

Visitors to the Chamber were 40 Girl Scouts from Troops 43204, 420, 43125, 41438, and 45201 from across the state; 15 twelfth-grade students and teacher from Mead; 40 members of Delta Kappa Gamma Society from

across the state; Spencer Biersfeund, Regan Garey, and Jessa Lemon from Curtis; and Alexis and Annette Linehan from Omaha.

RECESS

At 12:01 p.m., on a motion by Senator Campbell, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senator Kolowski who was excused; and Senators Ashford, Janssen, Larson, and Lautenbaugh who were excused until they arrive.

AMENDMENT - Print in Journal

Senator Mello filed the following amendment to LB851:
AM2307

- 1 1. Insert the following new section:
- 2 Sec. 4. Section 77-367, Revised Statutes Cumulative
- 3 Supplement, 2012, is amended to read:
- 4 77-367 (1) The Department of Revenue may contract to
- 5 procure products and services to develop, deploy, or administer
- 6 systems or programs which identify nonfilers of returns,
- 7 underreporters, or nonpayers of taxes administered by the
- 8 department or improper or fraudulent payments made through programs
- 9 administered by the department. The department shall enter into
- 10 at least one such contract by October 31, 2014, and such contract
- 11 shall be for the purposes of identifying nonfilers of returns with
- 12 a tax liability in any amount and underreporters and nonpayers of
- 13 taxes with an outstanding tax liability of at least five thousand
- 14 dollars. Fees for services, reimbursements, costs incurred by the
- 15 department, or other remuneration may be funded from the amount of
- 16 tax, penalty, interest, or other recovery actually collected and
- 17 shall be paid only after the amount is collected. The Legislature
- 18 intends to appropriate an amount from the tax, penalty, interest,
- 19 and other recovery actually collected, not to exceed the amount
- 20 collected, which is sufficient to pay for services, reimbursements,
- 21 costs incurred by the department, or other remuneration pursuant to
- 22 this section. Vendors entering into a contract with the department
- 23 pursuant to this section are subject to the requirements and
 - 1 penalties of the confidentiality laws of this state regarding tax
 - 2 information.
 - 3 (2) Ten percent of all proceeds received during each
 - 4 calendar year due to the contracts entered into pursuant to this

5 section shall be deposited in the Department of Revenue Enforcement
6 Fund for purposes of identifying nonfilers, underreporters,
7 nonpayers, and improper or fraudulent payments.

8 (3) The Tax Commissioner shall submit electronically an
9 annual report to the Revenue Committee of the Legislature and
10 Appropriations Committee of the Legislature on the amount of
11 dollars generated during the previous fiscal year pursuant to this
12 section.

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

15 3. Correct the operative date and repealer sections so
16 that the section added by this amendment becomes operative three
17 calendar months after the adjournment of this legislative session.

GENERAL FILE

LEGISLATIVE BILL 906. Title read. Considered.

Committee AM2175, found on page 791, was adopted with 31 ayes, 0 nays,
13 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 31 ayes, 1 nay, 12 present
and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 130. Title read. Considered.

Committee AM2180, found on page 791, was adopted with 35 ayes, 0 nays,
9 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 8 present
and not voting, and 5 excused and not voting.

NOTICE OF COMMITTEE HEARING Government, Military and Veterans Affairs

Room 1507

Monday, March 24, 2014 9:30 a.m.

Lisa Burke - Nebraska Tourism Commission
John P. Chapo - Nebraska Tourism Commission
Roger L. Jasnoch - Nebraska Tourism Commission
Debra Nelson-Loseke - Nebraska Tourism Commission

(Signed) Bill Avery, Chairperson

COMMITTEE REPORTS

Revenue

LEGISLATIVE BILL 836. Placed on General File.

LEGISLATIVE BILL 1067. Placed on General File.

(Signed) Galen Hadley, Chairperson

GENERAL FILE

LEGISLATIVE BILL 949. Title read. Considered.

Committee AM2068, found on page 779, was adopted with 33 ayes, 0 nays, 10 present and not voting, and 6 excused and not voting.

Senator Lathrop offered his amendment, AM2309, found on page 845.

The Lathrop amendment was adopted with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 8 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 987. Title read. Considered.

Advanced to Enrollment and Review Initial with 36 ayes, 1 nay, 5 present and not voting, and 7 excused and not voting.

AMENDMENT - Print in Journal

Senator Nelson filed the following amendment to LB867:

AM2223

(Amendments to E & R amendments, ER155)

- 1 1. Insert the following new section:
- 2 Sec. 4. Section 76-902, Revised Statutes Supplement,
- 3 2013, is amended to read:
- 4 76-902 The tax imposed by section 76-901 shall not apply
- 5 to:
- 6 (1) Deeds recorded prior to November 18, 1965;
- 7 (2) Deeds to property transferred by or to the United
- 8 States of America, the State of Nebraska, or any of their agencies
- 9 or political subdivisions;
- 10 (3) Deeds which secure or release a debt or other
- 11 obligation;
- 12 (4) Deeds which, without additional consideration,
- 13 confirm, correct, modify, or supplement a deed previously recorded
- 14 but which do not extend or limit existing title or interest;
- 15 (5)(a) Deeds between spouses, between ex-spouses for
- 16 the purpose of conveying any rights to property acquired or

17 held during the marriage, or between parent and child, without
18 actual consideration therefor, and (b) deeds to or from a family
19 corporation, partnership, or limited liability company when all the
20 shares of stock of the corporation or interest in the partnership
21 or limited liability company are owned by members of a family, or a
22 trust created for the benefit of a member of that family, related
1 to one another within the fourth degree of kindred according to the
2 rules of civil law, and their spouses, for no consideration other
3 than the issuance of stock of the corporation or interest in the
4 partnership or limited liability company to such family members or
5 the return of the stock to the corporation in partial or complete
6 liquidation of the corporation or deeds in dissolution of the
7 interest in the partnership or limited liability company. In order
8 to qualify for the exemption for family corporations, partnerships,
9 or limited liability companies, the property shall be transferred
10 in the name of the corporation or partnership and not in the name
11 of the individual shareholders, partners, or members;

12 (6) Tax deeds;

13 (7) Deeds of partition;

14 (8) Deeds made pursuant to mergers, consolidations,
15 sales, or transfers of the assets of corporations pursuant to
16 plans of merger or consolidation filed with the office of Secretary
17 of State. A copy of such plan filed with the Secretary of State
18 shall be presented to the register of deeds before such exemption
19 is granted;

20 (9) Deeds made by a subsidiary corporation to its parent
21 corporation for no consideration other than the cancellation or
22 surrender of the subsidiary's stock;

23 (10) Cemetery deeds;

24 (11) Mineral deeds;

25 (12) Deeds executed pursuant to court decrees;

26 (13) Land contracts;

27 (14) Deeds which release a reversionary interest, a
1 condition subsequent or precedent, a restriction, or any other
2 contingent interest;

3 (15) Deeds of distribution executed by a personal
4 representative conveying to devisees or heirs property passing by
5 testate or intestate succession;

6 (16) Transfer on death deeds or revocations of transfer
7 on death deeds;

8 (17) Certified or authenticated death certificates;

9 (18) Deeds transferring property located within the
10 boundaries of an Indian reservation if the grantor or grantee
11 is a reservation Indian;

12 (19) Deeds transferring property into a trust if the
13 transfer of the same property would be exempt if the transfer was
14 made directly from the grantor to the beneficiary or beneficiaries
15 under the trust. No such exemption shall be granted unless the
16 register of deeds is presented with a signed statement certifying

17 that the transfer of the property is made under such circumstances
 18 as to come within one of the exemptions specified in this section
 19 and that evidence supporting the exemption is maintained by the
 20 person signing the statement and is available for inspection by the
 21 Department of Revenue;

22 (20) Deeds transferring property from a trustee to a
 23 beneficiary of a trust;

24 (21) Deeds which convey property held in the name of any
 25 partnership or limited liability company not subject to subdivision
 26 (5) of this section to any partner in the partnership or member of
 27 the limited liability company or to his or her spouse;

1 (22) Leases;

2 (23) Easements; ~~or~~

3 (24) Deeds which transfer title from a trustee to a
 4 beneficiary pursuant to a power of sale exercised by a trustee
 5 under a trust deed; ~~or~~;

6 (25) Deeds transferring property, without actual
 7 consideration therefor, to a nonprofit organization that is exempt
 8 from federal income tax under section 501(c)(3) of the Internal
 9 Revenue Code and is not a private foundation as defined in section
 10 509(a) of the Internal Revenue Code.

11 2. Renumber the remaining sections and correct internal
 12 references accordingly.

13 3. Correct the operative date and repealer sections so
 14 that the section added by this amendment becomes operative three
 15 calendar months after the adjournment of this legislative session.

GENERAL FILE

LEGISLATIVE BILL 863. Senator Kintner withdrew his amendment, FA244, found on page 837.

The second committee amendment, AM2298, found on page 827 and considered on page 837, was renewed.

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

The third committee amendment, AM2299, found on page 830, was offered.

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

The fourth committee amendment, AM2300, found on page 831, was offered.

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

The fifth committee amendment, AM2301, found on page 834, was offered.

The fifth committee amendment lost with 0 ayes, 24 nays, 20 present and not voting, and 5 excused and not voting.

The sixth committee amendment, AM2302, found on page 835, was offered.

The sixth committee amendment was adopted with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

The seventh committee amendment, AM2303, found on page 836, was offered.

The seventh committee amendment was adopted with 38 ayes, 0 nays, 6 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 5 present and not voting, and 6 excused and not voting.

COMMITTEE REPORT

Judiciary

LEGISLATIVE BILL 999. Placed on General File with amendment.

AM2173

- 1 1. Strike the original sections and insert the following
- 2 new section:
- 3 Section 1. (1) The Hastings Correctional Mental Health
- 4 Facility shall be created at the Hastings Regional Center. The
- 5 Hastings Correctional Mental Health Facility shall be administered
- 6 by the Division of Behavioral Health of the Department of Health
- 7 and Human Services to meet the long-term needs of mentally ill
- 8 inmates in the correctional system and to provide alcohol and drug
- 9 treatment for inmates who have drug or alcohol addictions. The
- 10 division may contract with other entities to provide services at
- 11 the facility.
- 12 (2) The facility shall be housed in building seven of the
- 13 Hastings Regional Center and the building shall be upgraded to meet
- 14 the needs of the facility. The division shall prepare documents
- 15 for the rehabilitation of building seven to have approximately two
- 16 hundred beds for inmates and shall acquire estimates of the costs
- 17 for such rehabilitation. The division shall also acquire estimates
- 18 of the costs to rehabilitate the administration building at the
- 19 Hastings Regional Center to update the building for office space.

(Signed) Brad Ashford, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 481. Introduced by Brasch, 16.

WHEREAS, Jordan Nielsen, a senior at Blair High School and the son of Micky and Lisa Nielsen, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, Jordan has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. For his community service project, Jordan created handicapped-accessible fishing areas at Dead Timber State Recreation Area in Dodge County; and

WHEREAS, only a small percentage of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Jordan, through his hard work and perseverance, has joined other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientists, and athletes.

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

1. That the Legislature congratulates Jordan Nielsen on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Jordan Nielsen.

Laid over.

AMENDMENTS - Print in Journal

Senator Wallman filed the following amendment to LB1001:
AM2316

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. (1) A postsecondary institution in this state
- 4 or the Department of Agriculture may grow or cultivate industrial
- 5 hemp if the industrial hemp is grown or cultivated for purposes
- 6 of research conducted under an agricultural pilot program or other
- 7 agricultural or academic research.
- 8 (2) Sites used for growing or cultivating industrial
- 9 hemp must be certified by, and registered with, the Department of
- 10 Agriculture.
- 11 (3) The Department of Agriculture shall adopt and

12 promulgate rules and regulations with respect to the growth
13 or cultivation of industrial hemp and the certification and
14 registration of sites growing or cultivating industrial hemp as
15 authorized under this section.

16 (4) For purposes of this section:

17 (a) Agricultural pilot program means a pilot program to
18 study the growth, cultivation, or marketing of industrial hemp;

19 (b) Industrial hemp means the plant Cannabis sativa L.
20 and any part of such plant, whether growing or not, with a delta-9
21 tetrahydrocannabinol concentration of not more than three-tenths
22 percent on a dry weight basis; and

23 (c) Postsecondary institution means a postsecondary
1 institution as defined in section 85-2403 that also meets the
2 requirements of 20 U.S.C. 1001, as such section existed on January
3 1, 2014.

4 Sec. 2. Section 28-401, Revised Statutes Supplement,
5 2013, is amended to read:

6 28-401 As used in the Uniform Controlled Substances Act,
7 unless the context otherwise requires:

8 (1) Administer shall mean to directly apply a controlled
9 substance by injection, inhalation, ingestion, or any other means
10 to the body of a patient or research subject;

11 (2) Agent shall mean an authorized person who acts on
12 behalf of or at the direction of another person but shall not
13 include a common or contract carrier, public warehouse keeper, or
14 employee of a carrier or warehouse keeper;

15 (3) Administration shall mean the Drug Enforcement
16 Administration, United States Department of Justice;

17 (4) Controlled substance shall mean a drug, biological,
18 substance, or immediate precursor in Schedules I to V of section
19 28-405. Controlled substance shall not include distilled spirits,
20 wine, malt beverages, tobacco, or any nonnarcotic substance if such
21 substance may, under the Federal Food, Drug, and Cosmetic Act, 21
22 U.S.C. 301 et seq., as such act existed on January 1, 2009, and
23 the law of this state, be lawfully sold over the counter without a
24 prescription;

25 (5) Counterfeit substance shall mean a controlled
26 substance which, or the container or labeling of which, without
27 authorization, bears the trademark, trade name, or other
1 identifying mark, imprint, number, or device, or any likeness
2 thereof, of a manufacturer, distributor, or dispenser other than
3 the person or persons who in fact manufactured, distributed, or
4 dispensed such substance and which thereby falsely purports or is
5 represented to be the product of, or to have been distributed by,
6 such other manufacturer, distributor, or dispenser;

7 (6) Department shall mean the Department of Health and
8 Human Services;

9 (7) Division of Drug Control shall mean the personnel of
10 the Nebraska State Patrol who are assigned to enforce the Uniform

11 Controlled Substances Act;

12 (8) Dispense shall mean to deliver a controlled substance
13 to an ultimate user or a research subject pursuant to a medical
14 order issued by a practitioner authorized to prescribe, including
15 the packaging, labeling, or compounding necessary to prepare the
16 controlled substance for such delivery;

17 (9) Distribute shall mean to deliver other than by
18 administering or dispensing a controlled substance;

19 (10) Prescribe shall mean to issue a medical order;

20 (11) Drug shall mean (a) articles recognized in
21 the official United States Pharmacopoeia, official Homeopathic
22 Pharmacopoeia of the United States, official National Formulary,
23 or any supplement to any of them, (b) substances intended for use
24 in the diagnosis, cure, mitigation, treatment, or prevention of
25 disease in human beings or animals, and (c) substances intended for
26 use as a component of any article specified in subdivision (a) or
27 (b) of this subdivision, but shall not include devices or their
1 components, parts, or accessories;

2 (12) Deliver or delivery shall mean the actual,
3 constructive, or attempted transfer from one person to another
4 of a controlled substance, whether or not there is an agency
5 relationship;

6 (13) Marijuana shall mean all parts of the plant of
7 the genus cannabis, whether growing or not, the seeds thereof,
8 and every compound, manufacture, salt, derivative, mixture, or
9 preparation of such plant or its seeds, but shall not include
10 the mature stalks of such plant, hashish, tetrahydrocannabinols
11 extracted or isolated from the plant, fiber produced from such
12 stalks, oil or cake made from the seeds of such plant, any other
13 compound, manufacture, salt, derivative, mixture, or preparation of
14 such mature stalks, or the sterilized seed of such plant which is
15 incapable of germination. When the weight of marijuana is referred
16 to in the Uniform Controlled Substances Act, it shall mean its
17 weight at or about the time it is seized or otherwise comes into
18 the possession of law enforcement authorities, whether cured or
19 uncured at that time. When industrial hemp as defined in section 1
20 of this act is in the possession of a person as authorized under
21 section 1 of this act, it is not considered marijuana for purposes
22 of the Uniform Controlled Substances Act;

23 (14) Manufacture shall mean the production, preparation,
24 propagation, conversion, or processing of a controlled substance,
25 either directly or indirectly, by extraction from substances of
26 natural origin, independently by means of chemical synthesis, or
27 by a combination of extraction and chemical synthesis, and shall
1 include any packaging or repackaging of the substance or labeling
2 or relabeling of its container. Manufacture shall not include
3 the preparation or compounding of a controlled substance by an
4 individual for his or her own use, except for the preparation or
5 compounding of components or ingredients used for or intended to

6 be used for the manufacture of methamphetamine, or the preparation,
7 compounding, conversion, packaging, or labeling of a controlled
8 substance: (a) By a practitioner as an incident to his or her
9 prescribing, administering, or dispensing of a controlled substance
10 in the course of his or her professional practice; or (b) by a
11 practitioner, or by his or her authorized agent under his or her
12 supervision, for the purpose of, or as an incident to, research,
13 teaching, or chemical analysis and not for sale;

14 (15) Narcotic drug shall mean any of the following,
15 whether produced directly or indirectly by extraction from
16 substances of vegetable origin, independently by means of chemical
17 synthesis, or by a combination of extraction and chemical
18 synthesis: (a) Opium, opium poppy and poppy straw, coca leaves,
19 and opiates; (b) a compound, manufacture, salt, derivative, or
20 preparation of opium, coca leaves, or opiates; or (c) a substance
21 and any compound, manufacture, salt, derivative, or preparation
22 thereof which is chemically equivalent to or identical with any
23 of the substances referred to in subdivisions (a) and (b) of this
24 subdivision, except that the words narcotic drug as used in the
25 Uniform Controlled Substances Act shall not include decocainized
26 coca leaves or extracts of coca leaves, which extracts do not
27 contain cocaine or ecgonine, or isoquinoline alkaloids of opium;

1 (16) Opiate shall mean any substance having an
2 addiction-forming or addiction-sustaining liability similar to
3 morphine or being capable of conversion into a drug having
4 such addiction-forming or addiction-sustaining liability. Opiate
5 shall not include the dextrorotatory isomer of 3-methoxy-n
6 methylmorphinan and its salts. Opiate shall include its racemic and
7 levorotatory forms;

8 (17) Opium poppy shall mean the plant of the species
9 *Papaver somniferum* L., except the seeds thereof;

10 (18) Poppy straw shall mean all parts, except the seeds,
11 of the opium poppy after mowing;

12 (19) Person shall mean any corporation, association,
13 partnership, limited liability company, or one or more individuals;

14 (20) Practitioner shall mean a physician, a physician
15 assistant, a dentist, a veterinarian, a pharmacist, a podiatrist,
16 an optometrist, a certified nurse midwife, a certified registered
17 nurse anesthetist, a nurse practitioner, a scientific investigator,
18 a pharmacy, a hospital, or any other person licensed, registered,
19 or otherwise permitted to distribute, dispense, prescribe, conduct
20 research with respect to, or administer a controlled substance in
21 the course of practice or research in this state, including an
22 emergency medical service as defined in section 38-1207;

23 (21) Production shall include the manufacture, planting,
24 cultivation, or harvesting of a controlled substance;

25 (22) Immediate precursor shall mean a substance which is
26 the principal compound commonly used or produced primarily for use
27 and which is an immediate chemical intermediary used or likely

1 to be used in the manufacture of a controlled substance, the
2 control of which is necessary to prevent, curtail, or limit such
3 manufacture;

4 (23) State shall mean the State of Nebraska;

5 (24) Ultimate user shall mean a person who lawfully
6 possesses a controlled substance for his or her own use, for the
7 use of a member of his or her household, or for administration
8 to an animal owned by him or her or by a member of his or her
9 household;

10 (25) Hospital shall have the same meaning as in section
11 71-419;

12 (26) Cooperating individual shall mean any person, other
13 than a commissioned law enforcement officer, who acts on behalf of,
14 at the request of, or as agent for a law enforcement agency for the
15 purpose of gathering or obtaining evidence of offenses punishable
16 under the Uniform Controlled Substances Act;

17 (27) Hashish or concentrated cannabis shall mean: (a)
18 The separated resin, whether crude or purified, obtained from a
19 plant of the genus cannabis; or (b) any material, preparation,
20 mixture, compound, or other substance which contains ten percent
21 or more by weight of tetrahydrocannabinols. When resins extracted
22 from industrial hemp as defined in section 1 of this act are in
23 the possession of a person as authorized under section 1 of this
24 act, they are not considered hashish or concentrated cannabis for
25 purposes of the Uniform Controlled Substances Act;

26 (28) Exceptionally hazardous drug shall mean (a)
27 a narcotic drug, (b) thiophene analog of phencyclidine,
1 (c) phencyclidine, (d) amobarbital, (e) secobarbital, (f)
2 pentobarbital, (g) amphetamine, or (h) methamphetamine;

3 (29) Imitation controlled substance shall mean a
4 substance which is not a controlled substance but which, by way
5 of express or implied representations and consideration of other
6 relevant factors including those specified in section 28-445,
7 would lead a reasonable person to believe the substance is a
8 controlled substance. A placebo or registered investigational drug
9 manufactured, distributed, possessed, or delivered in the ordinary
10 course of practice or research by a health care professional shall
11 not be deemed to be an imitation controlled substance;

12 (30)(a) Controlled substance analogue shall mean a
13 substance (i) the chemical structure of which is substantially
14 similar to the chemical structure of a Schedule I or Schedule
15 II controlled substance as provided in section 28-405 or (ii)
16 which has a stimulant, depressant, analgesic, or hallucinogenic
17 effect on the central nervous system that is substantially similar
18 to or greater than the stimulant, depressant, analgesic, or
19 hallucinogenic effect on the central nervous system of a Schedule I
20 or Schedule II controlled substance as provided in section 28-405.
21 A controlled substance analogue shall, to the extent intended for
22 human consumption, be treated as a controlled substance under

23 Schedule I of section 28-405 for purposes of the Uniform Controlled
24 Substances Act; and

25 (b) Controlled substance analogue shall not include (i)
26 a controlled substance, (ii) any substance generally recognized as
27 safe and effective within the meaning of the Federal Food, Drug,
1 and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on
2 January 1, 2009, (iii) any substance for which there is an approved
3 new drug application, or (iv) with respect to a particular person,
4 any substance if an exemption is in effect for investigational use
5 for that person, under section 505 of the Federal Food, Drug, and
6 Cosmetic Act, 21 U.S.C. 355, as such section existed on January
7 1, 2009, to the extent conduct with respect to such substance is
8 pursuant to such exemption;

9 (31) Anabolic steroid shall mean any drug or hormonal
10 substance, chemically and pharmacologically related to testosterone
11 (other than estrogens, progestins, and corticosteroids), that
12 promotes muscle growth and includes any controlled substance in
13 Schedule III(d) of section 28-405. Anabolic steroid shall not
14 include any anabolic steroid which is expressly intended for
15 administration through implants to cattle or other nonhuman species
16 and has been approved by the Secretary of Health and Human Services
17 for such administration, but if any person prescribes, dispenses,
18 or distributes such a steroid for human use, such person shall
19 be considered to have prescribed, dispensed, or distributed an
20 anabolic steroid within the meaning of this subdivision;

21 (32) Chart order shall mean an order for a controlled
22 substance issued by a practitioner for a patient who is in the
23 hospital where the chart is stored or for a patient receiving
24 detoxification treatment or maintenance treatment pursuant to
25 section 28-412. Chart order shall not include a prescription;

26 (33) Medical order shall mean a prescription, a
27 chart order, or an order for pharmaceutical care issued by a
1 practitioner;

2 (34) Prescription shall mean an order for a controlled
3 substance issued by a practitioner. Prescription shall not include
4 a chart order;

5 (35) Registrant shall mean any person who has a
6 controlled substances registration issued by the state or the
7 administration;

8 (36) Reverse distributor shall mean a person whose
9 primary function is to act as an agent for a pharmacy, wholesaler,
10 manufacturer, or other entity by receiving, inventorying, and
11 managing the disposition of outdated, expired, or otherwise
12 nonsaleable controlled substances;

13 (37) Signature shall mean the name, word, or mark of
14 a person written in his or her own hand with the intent to
15 authenticate a writing or other form of communication or a digital
16 signature which complies with section 86-611 or an electronic
17 signature;

18 (38) Facsimile shall mean a copy generated by a
 19 system that encodes a document or photograph into electrical
 20 signals, transmits those signals over telecommunications lines,
 21 and reconstructs the signals to create an exact duplicate of the
 22 original document at the receiving end;
 23 (39) Electronic signature shall have the definition found
 24 in section 86-621;
 25 (40) Electronic transmission shall mean transmission
 26 of information in electronic form. Electronic transmission may
 27 include computer-to-computer transmission or computer-to-facsimile
 1 transmission; and
 2 (41) Long-term care facility shall mean an intermediate
 3 care facility, an intermediate care facility for persons with
 4 developmental disabilities, a long-term care hospital, a mental
 5 health center, a nursing facility, or a skilled nursing facility,
 6 as such terms are defined in the Health Care Facility Licensure
 7 Act.
 8 Sec. 3. Original section 28-401, Revised Statutes
 9 Supplement, 2013, is repealed.

Senator Lathrop filed the following amendment to LB1074:
 AM2360 is available in the Bill Room.

NOTICE OF COMMITTEE HEARING
 Natural Resources

Room 1525

Tuesday, March 18, 2014 11:30 a.m.

AM2360 to LB1074

Hearing Time: 11:30 a.m. - 1:30 p.m.

(Signed) Tom Carlson, Chairperson

UNANIMOUS CONSENT - Add Cointroducer

Senator Krist asked unanimous consent to add his name as cointroducer to
 LB987. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 1012. Title read. Considered.

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 12 present
 and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 1103. Title read. Considered.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

EXPLANATION OF VOTE

Had I been present, I would have voted "aye" on AM2282 and AM2019 to LB905.

(Signed) Charlie Janssen

VISITORS

Visitors to the Chamber were 53 fourth-grade students, teachers, and sponsors from Bryan Elementary, Lexington.

The Doctor of the Day was Dr. Richard Gustafson from Lincoln.

ADJOURNMENT

At 5:10 p.m., on a motion by Senator Howard, the Legislature adjourned until 9:00 a.m., Wednesday, March 12, 2014.

Patrick J. O'Donnell
Clerk of the Legislature

