

THIRTY-THIRD DAY - FEBRUARY 23, 2023

LEGISLATIVE JOURNAL

**ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION**

THIRTY-THIRD DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, February 23, 2023

PRAYER

The prayer was offered by Reverend Jeffrey Bloom, Immanuel Lutheran Church, Lincoln.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was offered by Senator Armendariz.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Kelly presiding.

The roll was called and all members were present except Senators Geist and Walz who were excused; and Senators Day, B. Hansen, Hunt, McDonnell, and Wayne who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-second day was approved.

NOTICE OF COMMITTEE HEARINGS

Revenue
Room 1524 1:30 PM

Thursday, March 2, 2023

LB407
LB616
LB165
LB699
LR30CA

Room 1524 1:30 PM

Friday, March 3, 2023

LB79

LR6CA

LR7CA

(Signed) Lou Ann Linehan, Chairperson

COMMITTEE REPORT

Enrollment and Review

LEGISLATIVE BILL 94. Placed on Select File with amendment.[ER2](#)

- 1 1. On page 161, line 18, after the first comma insert "a" and after
- 2 "or" insert "a".
- 3 2. On page 1, line 19, strike "to define, redefine, and eliminate
- 4 terms" and insert "to provide, change, and eliminate definitions"; in
- 5 line 20, after the second semicolon insert "to provide an operative
- 6 date;"; and in line 21 strike "to provide an operative date;".

LEGISLATIVE BILL 279. Placed on Select File with amendment.[ER3](#)

- 1 1. On page 1, line 2, after "to" insert "change and".

LEGISLATIVE BILL 52. Placed on Select File with amendment.[ER6](#)

- 1 1. Strike the original sections and all amendments thereto and
- 2 insert the following new sections:
- 3 Section 1. Section 85-505, Revised Statutes Cumulative Supplement,
- 4 2022, is amended to read:
- 5 85-505 Any member of the Nebraska National Guard who enrolls in any
- 6 state-supported university, college, or community college or any
- 7 independent, not-for-profit, accredited college or university in this
- 8 state shall be entitled to a credit of one hundred percent of the
- 9 resident tuition charges of such school for a diploma, certificate,
- 10 associate degree, or baccalaureate degree program or fifty percent of the
- 11 resident tuition charges of such school for a graduate or professional
- 12 degree program, except that any member who attends an independent, not-
- 13 for-profit, accredited college or university in this state shall receive
- 14 a credit in an amount no higher than such member would receive if
- 15 attending the University of Nebraska-Lincoln. Such entitlement shall,
- 16 subject to the requirements of sections 85-505 to 85-508, continue for as
- 17 long as the member maintains satisfactory performance with the guard and
- 18 pursues a course of study in such institution in a manner which satisfies
- 19 the normal requirements of the institution. The number of individuals
- 20 granted tuition credit shall not exceed the number specified in section
- 21 85-505.01 during any fiscal year, ~~and the amount of tuition credits~~
- 22 ~~granted shall not exceed nine hundred thousand dollars during any fiscal~~
- 23 ~~year.~~ When determining to whom such tuition credit shall be awarded,
- 24 priority shall be given to those individuals who have previously received
- 25 tuition credits while a National Guard member, and the Nebraska National
- 26 Guard shall apply those program qualifications and limitations consistent
- 27 with efficient and effective program management as determined by the
- 1 Adjutant General.

2 Sec. 2. Original section 85-505, Revised Statutes Cumulative
 3 Supplement, 2022, is repealed.
 4 Sec. 3. Since an emergency exists, this act takes effect when
 5 passed and approved according to law.
 6 2. On page 1, strike beginning with "change" in line 2 through
 7 "allowed" in line 3 and insert "eliminate a limitation on the amount of
 8 tuition credits available to National Guard members".

LEGISLATIVE BILL 250. Placed on Select File with amendment.

[ER4](#)

1 1. In the Standing Committee amendments, AM107:
 2 a. On page 1, line 14, before "Guard" insert "National"; and
 3 b. On page 2, line 3, before "Guard" insert "National".
 4 2. On page 1, strike beginning with "Army" in line 1 through line 3
 5 and insert "National Guard; to state legislative findings; to require
 6 periodic command climate surveys of the National Guard as prescribed; to
 7 provide duties; and to require a report by the Adjutant General."

LEGISLATIVE BILL 68. Placed on Select File with amendment.

[ER5](#)

1 1. Strike the original sections and all amendments thereto and
 2 insert the following new sections:
 3 Section 1. Section 44-2824, Reissue Revised Statutes of Nebraska, is
 4 amended to read:
 5 44-2824 (1) To be qualified under the Nebraska Hospital-Medical
 6 Liability Act, a health care provider or such health care provider's
 7 employer, employee, partner, or limited liability company member shall:
 8 (a) File with the director proof of financial responsibility,
 9 pursuant to section 44-2827 or 44-2827.01, in the amount of eight hundred
 10 thousand five hundred thousand dollars for each occurrence. ~~An In the~~
 11 ~~case of physicians or certified registered nurse anesthetists and their~~
 12 ~~employers, employees, partners, or limited liability company members an~~
 13 ~~aggregate liability amount of three one million dollars for all~~
 14 ~~occurrences or claims made in any policy year or risk-loss trust year for~~
 15 ~~each named insured shall be provided. In the case of hospitals and their~~
 16 ~~employees, an aggregate liability amount of three million dollars for all~~
 17 ~~occurrences or claims made in any policy year or risk-loss trust year~~
 18 ~~shall be provided.~~ Such policy may be written on either an occurrence or
 19 a claims-made basis. Any risk-loss trust shall be established and
 20 maintained only on an occurrence basis. Such qualification shall remain
 21 effective only as long as insurance coverage or risk-loss trust coverage
 22 as required remains effective; and
 23 (b) Pay the surcharge and any special surcharge levied on all health
 24 care providers pursuant to sections 44-2829 to 44-2831.
 25 (2) Subject to the requirements in subsections (1) and (4) of this
 26 section, the qualification of a health care provider shall be either on
 27 an occurrence or claims-made basis and shall be the same as the insurance
 1 coverage provided by the insured's policy.
 2 (3) The director shall have authority to permit qualification of
 3 health care providers who have retired or ceased doing business if such
 4 health care providers have primary insurance coverage under subsection
 5 (1) of this section.
 6 (4) A health care provider who is not qualified under the act at the
 7 time of the alleged occurrence giving rise to a claim shall not, for
 8 purposes of that claim, qualify under the act notwithstanding subsequent
 9 filing of proof of financial responsibility and payment of a required
 10 surcharge.
 11 (5) Qualification of a health care provider under the Nebraska
 12 Hospital-Medical Liability Act shall continue only as long as the health

13 care provider meets the requirements for qualification. A health care
 14 provider who has once qualified under the act and who fails to renew or
 15 continue his or her qualification in the manner provided by law and by
 16 the rules and regulations of the Department of Insurance shall cease to
 17 be qualified under the act.

18 Sec. 2. Section 44-2825, Reissue Revised Statutes of Nebraska, is
 19 amended to read:

20 44-2825 (1) The total amount recoverable under the Nebraska
 21 Hospital-Medical Liability Act from any and all health care providers and
 22 the Excess Liability Fund for any occurrence resulting in any injury or
 23 death of a patient may not exceed (a) five hundred thousand dollars for
 24 any occurrence on or before December 31, 1984, (b) one million dollars
 25 for any occurrence after December 31, 1984, and on or before December 31,
 26 1992, (c) one million two hundred fifty thousand dollars for any
 27 occurrence after December 31, 1992, and on or before December 31, 2003,
 28 (d) one million seven hundred fifty thousand dollars for any occurrence
 29 after December 31, 2003, and on or before December 31, 2014, and (e) two
 30 million two hundred fifty thousand dollars for any occurrence after
 31 December 31, 2014.

1 (2) A health care provider qualified under the act shall not be
 2 liable to any patient or his or her representative who is covered by the
 3 act for an amount in excess of ~~eight hundred thousand five hundred~~
 4 ~~thousand~~ dollars for all claims or causes of action arising from any
 5 occurrence during the period that the act is effective with reference to
 6 such patient.

7 (3) Subject to the overall limits from all sources as provided in
 8 subsection (1) of this section, any amount due from a judgment or
 9 settlement which is in excess of the total liability of all liable health
 10 care providers shall be paid from the Excess Liability Fund pursuant to
 11 sections 44-2831 to 44-2833.

12 (4) Nothing in the Nebraska Hospital-Medical Liability Act shall be
 13 construed to require the Excess Liability Fund to serve as primary
 14 coverage or to provide a defense for or on behalf of a qualified health
 15 care provider for claims filed against such provider after such claims
 16 have exhausted the provider's per incident or annual aggregate limit of
 17 liability amount as set forth in sections 44-2824 and 44-2827, whether
 18 paid by a professional liability insurer or directly by such provider.

19 Sec. 3. Section 44-2827, Reissue Revised Statutes of Nebraska, is
 20 amended to read:

21 44-2827 Financial responsibility of a health care provider may be
 22 established only by filing with the director proof that the health care
 23 provider is insured pursuant to sections 44-2837 to 44-2839 or by a
 24 policy of professional liability insurance in a company authorized to do
 25 business in Nebraska. Such insurance shall be in the amount of ~~eight~~
 26 ~~hundred thousand five hundred thousand~~ dollars per occurrence, and, ~~in~~
 27 ~~cases involving physicians or certified registered nurse anesthetists,~~
 28 ~~but not with respect to hospitals, an aggregate liability of at least one~~
 29 ~~million dollars for all occurrences or claims made in any policy year~~
 30 ~~shall be provided. In the case of hospitals and their employees, an~~
 31 aggregate liability amount of three million dollars for all occurrences
 1 or claims made in any policy year shall be provided. The filing shall
 2 state the premium charged for the policy of insurance.

3 Sec. 4. Section 44-2831.01, Reissue Revised Statutes of Nebraska, is
 4 amended to read:

5 44-2831.01 (1) Any health care provider who has furnished proof of
 6 financial responsibility prior to January 1, ~~2025~~ 2005, under sections
 7 44-2824 and 44-2827 shall be qualified under section 44-2824 for the
 8 remainder of the policy year or risk-loss trust year.

9 (2) The increases in coverage requirements made by Laws 2004, LB
 10 998, in sections 44-2824 and 44-2827 shall apply to policies issued or

11 renewed and risk-loss trust years ~~that which~~ commence after January 1,
12 2005, and before January 1, 2025.

13 (3) The changes made to sections 44-2825, 44-2832, and 44-2833 by
14 Laws 2004, LB 998, apply commencing with policies issued or renewed and
15 risk-loss trust years ~~that which~~ commence after January 1, 2005, and
16 before January 1, 2025.

17 (4) The increases in coverage requirements made by this legislative
18 bill in sections 44-2824 and 44-2827 shall apply to policies issued or
19 renewed and risk-loss trust years that commence on or after January 1,
20 2025.

21 (5) The changes made to sections 44-2825, 44-2832, and 44-2833 by
22 this legislative bill apply commencing with policies issued or renewed
23 and risk-loss trust years that commence on or after January 1, 2025.

24 Sec. 5. Section 44-2832, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 44-2832 (1) The Director of Administrative Services shall issue a
27 warrant drawn on the fund in the amount of each claim submitted by the
28 director. All claims against the fund shall be made on a voucher or other
29 appropriate request by the director after he or she has received:

30 (a) A certified copy of a final judgment in excess of eight hundred
31 ~~thousand five hundred thousand~~ dollars against a health care provider and
1 in excess of the amount recoverable from all health care providers;

2 (b) A certified copy of a court-approved settlement in excess of
3 eight hundred thousand ~~five hundred thousand~~ dollars against a health
4 care provider and in excess of the amount recoverable from all health
5 care providers; or

6 (c) In case of claims based on primary insurance issued by the risk
7 manager under sections 44-2837 to 44-2839, a certified copy of a final
8 judgment or court-approved settlement requiring payment from the fund.

9 (2) The amount paid from the fund for excess liability when added to
10 the payments by all health care providers may not exceed the maximum
11 amount recoverable pursuant to subsection (1) of section 44-2825. The
12 amount paid from the fund on account of a primary insurance policy issued
13 by the risk manager to a health care provider under sections 44-2837 to
14 44-2839 may not exceed eight hundred thousand ~~five hundred thousand~~
15 dollars for any one occurrence covered by such policy under any
16 circumstances.

17 Sec. 6. Section 44-2833, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 44-2833 (1) If the insurer of a health care provider shall agree to
20 settle its liability on a claim against its insured by payment of its
21 policy limits of eight hundred thousand ~~five hundred thousand~~ dollars and
22 the claimant shall demand an amount in excess thereof for a complete and
23 final release and if no other health care provider is involved, the
24 procedures prescribed in this section shall be followed.

25 (2) A motion shall be filed by the claimant with the court in which
26 the action is pending against the health care provider or, if no action
27 is pending, the claimant shall file a complaint in one of the district
28 courts of the State of Nebraska, seeking approval of an agreed
29 settlement, if any, or demanding payment of damages from the Excess
30 Liability Fund.

31 (3) A copy of such motion or complaint shall be served on the
1 director, the health care provider, and the health care provider's
2 insurer and shall contain sufficient information to inform the parties
3 concerning the nature of the claim and the additional amount demanded.
4 The health care provider and his or her insurer shall have a right to
5 intervene and participate in the proceedings.

6 (4) The director, with the consent of the health care provider, may
7 agree to a settlement with the claimant from the Excess Liability Fund.
8 Either the director or the health care provider may file written

9 objections to the payment of the amount demanded. The agreement or
 10 objections to the payment demanded shall be filed within twenty days
 11 after the motion or complaint is filed.

12 (5) After the motion or complaint, agreement, and objections, if
 13 any, have been filed, the judge shall set the matter for trial as soon as
 14 practicable. The court shall give notice of the trial to the claimant,
 15 the health care provider, and the director.

16 (6) At the trial, the director, the claimant, and the health care
 17 provider may introduce relevant evidence to enable the court to determine
 18 whether or not the settlement should be approved if it has been submitted
 19 on agreement without objections. If the director, the health care
 20 provider, and the claimant shall be unable to agree on the amount, if
 21 any, to be paid out of the Excess Liability Fund, the amount of
 22 claimant's damages, if any, in excess of the eight hundred thousand five
 23 ~~hundred thousand~~ dollars already paid by the insurer of the health care
 24 provider shall be determined at trial.

25 (7) The court shall determine the amount for which the fund is
 26 liable and render a finding and judgment accordingly. In approving a
 27 settlement or determining the amount, if any, to be paid from the Excess
 28 Liability Fund in such a case, the court shall consider the liability of
 29 the health care provider as admitted and established by evidence.

30 (8) Any settlement approved by the court may not be appealed. Any
 31 judgment of the court fixing damages recoverable in any such contested
 1 proceeding shall be appealable pursuant to the rules governing appeals in
 2 any other civil case.

3 Sec. 7. This act becomes operative on January 1, 2025.

4 Sec. 8. Original sections 44-2824, 44-2825, 44-2827, 44-2831.01,
 5 44-2832, and 44-2833, Reissue Revised Statutes of Nebraska, are repealed.

LEGISLATIVE BILL 3. Placed on Select File with amendment.

[ER7](#)

1 1. On page 1, line 4, strike "for bond sinking funds" and insert
 2 "and propositions"; and in line 5 strike "bonds" and insert "a bond".

LEGISLATIVE BILL 93. Placed on Select File.

LEGISLATIVE BILL 278. Placed on Select File.

LEGISLATIVE BILL 536. Placed on Select File.

(Signed) Beau Ballard, Chairperson

GENERAL FILE

LEGISLATIVE BILL 147. Title read. Considered.

Senator M. Cavanaugh offered [MO35](#), found on page 584, to
 bracket until February 24, 2023.

Senator M. Cavanaugh withdrew her motion to bracket.

Senator M. Cavanaugh offered the following motion:

[MO37](#)

Bracket until March 1, 2023.

Senator M. Cavanaugh withdrew her motion to bracket.

Senator M. Cavanaugh offered the following motion:

[MO38](#)

Bracket until March 2, 2023.

Senator M. Cavanaugh moved for a call of the house. The motion prevailed with 13 ayes, 7 nays, and 29 not voting.

Senator M. Cavanaugh requested a roll call vote, in reverse order, on the motion to bracket.

Voting in the affirmative, 3:

Conrad McKinney Wayne

Voting in the negative, 40:

Aguilar	Brandt	Dover	Ibach	Murman
Albrecht	Brewer	Erdman	Jacobson	Raybould
Arch	Briese	Fredrickson	Kauth	Riepe
Armendariz	Clements	Halloran	Linehan	Sanders
Ballard	Day	Hansen	Lippincott	Slama
Blood	DeBoer	Hardin	Lowe	Vargas
Bostar	DeKay	Holdcroft	McDonnell	von Gillern
Bostelman	Dorn	Hughes	Moser	Wishart

Present and not voting, 4:

Cavanaugh, J. Cavanaugh, M. Dungan Hunt

Excused and not voting, 2:

Geist Walz

The M. Cavanaugh motion to bracket failed with 3 ayes, 40 nays, 4 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator M. Cavanaugh offered the following motion:

[MO39](#)

Reconsider the vote on MO38.

Pending.

COMMITTEE REPORTS
Banking, Commerce and Insurance

LEGISLATIVE BILL 152. Placed on General File.

LEGISLATIVE BILL 308. Placed on General File with amendment.

[AM270](#)

1 1. On page 5, line 8, strike "on behalf of a consumer".

(Signed) Julie Slama, Chairperson

NOTICE OF COMMITTEE HEARINGS

Nebraska Retirement Systems

Room 1525 12:00 PM

Thursday, March 2, 2023

LB196

LB378

(Signed) Mike McDonnell, Chairperson

Judiciary

Room 1113 1:30 PM

Thursday, March 2, 2023

LB110

LB631

LB76

LB479

LB348

(Signed) Justin Wayne, Chairperson

AMENDMENTS - Print in Journal

Senator M. Cavanaugh filed the following amendment to [LB206](#):

[AM524](#)

(Amendments to Standing Committee amendments, AM138)

1 1. Strike the original amendment and insert the following new

2 amendment:

3 1. Strike the enacting clause.

Senator M.Cavanaugh filed the following amendment to [LB74](#):

[AM523](#)

(Amendments to Standing Committee amendments, AM169)

1 1. Strike the original amendment and insert the following new

2 amendment:

3 1. Strike the enacting clause.

Senator M. Cavanaugh filed the following amendment to [LB4](#):

[AM522](#)

(Amendments to Standing Committee amendments, AM284)

1 1. Strike the original amendment and insert the following new

2 amendment:

3 1. Strike the enacting clause.

Senator M. Cavanaugh filed the following amendment to LB98:
[AM531](#)

1 1. Strike the enacting clause.

Senator M. Cavanaugh filed the following amendment to LB395:
[AM530](#)

1 1. Strike the enacting clause.

Senator M. Cavanaugh filed the following amendment to LB289:
[AM529](#)

1 1. Strike the enacting clause.

Senator M. Cavanaugh filed the following amendment to LB102:
[AM527](#)

(Amendments to Standing Committee amendments, AM183)

1 1. Strike the original amendments and insert the following new

2 amendment:

3 1. Strike the enacting clause.

Senator M. Cavanaugh filed the following amendment to LB47:
[AM525](#)

1 1. Strike the enacting clause.

Senator M. Cavanaugh filed the following amendment to LB33:
[AM532](#)

1 1. Strike the enacting clause.

Senator M. Cavanaugh filed the following amendment to LB28:
[AM533](#)

(Amendments to Standing Committee amendments, AM351)

1 1. Strike the original amendment and insert the following new

2 amendment:

3 1. Strike the enacting clause.

Senator M. Cavanaugh filed the following amendment to LB81:
[AM534](#)

1 1. Strike the enacting clause.

Senator M. Cavanaugh filed the following amendment to LB83:
[AM535](#)

1 1. Strike the enacting clause.

Senator M. Cavanaugh filed the following amendment to LB183:
[AM536](#)

1 1. Strike the enacting clause.

Senator Linehan filed the following amendment to LB206:
[AM556](#) is available in the Bill Room.

Senator Hunt filed the following amendment to LB753:
[AM507](#)

(Amendments to Standing Committee amendments, AM338)

1 1. On page 2, strike beginning with "complies" in line 16 through
 2 "2023" in line 17 and insert "does not discriminate on the basis of race,
 3 color, religion, national origin, ancestry, citizenship status, gender,
 4 sexual orientation, gender identity, disability, or special education
 5 status".

Senator Hunt filed the following amendment to LB422:

AM489

1 1. On page 2, strike beginning with "is" in line 15 through
 2 "deceive" in line 16 and insert "interferes with a patient's ability to
 3 receive care in a timely manner".

Senator Erdman filed the following amendment to LB28:

AM435

(Amendments to Standing Committee amendments, AM351)

1 1. Strike amendment 1 and insert the following new amendment:
 2 1. Strike the original sections and insert the following new
 3 sections:
 4 Section 1. Section 77-5003, Reissue Revised Statutes of Nebraska, is
 5 amended to read:
 6 77-5003 (1) The Tax Equalization and Review Commission is created.
 7 The Tax Commissioner has no supervision, authority, or control over the
 8 actions or decisions of the commission relating to its duties prescribed
 9 by law. Beginning July 1, 2023 ~~Prior to July 1, 2011, the commission~~
 10 ~~shall have four commissioners, one commissioner from each congressional~~
 11 ~~district and one at-large commissioner. On July 1, 2011, the term of each~~
 12 ~~commissioner shall expire, and thereafter the commission shall have three~~
 13 ~~commissioners, one from each congressional district, with terms as~~
 14 ~~provided in subsection (2) of this section. All commissioners shall be~~
 15 ~~appointed by the Governor with the approval of a majority of the members~~
 16 ~~of the Legislature. The salaries of the commissioners shall be fixed by~~
 17 ~~the Governor.~~
 18 (2) The term of the commissioner from district 1 expires January 1,
 19 ~~2028~~ 2016, the term of the commissioner from district 2 expires January
 20 ~~1, 2024~~ 2018, and the term of the commissioner from district 3 expires
 21 ~~January 1, 2026, and the term of the at-large commissioner expires~~
 22 ~~January 1, 2028~~ 2014. After the terms of the commissioners are completed
 23 as provided in this subsection, each subsequent term shall be for six
 24 years beginning and ending on January 1 of the applicable year. Vacancies
 25 occurring during a term shall be filled by appointment for the unexpired
 26 term. Upon the expiration of his or her term of office, a commissioner
 1 shall continue to serve until his or her successor has been appointed.
 2 (3) The commission shall designate pursuant to rule and regulation
 3 its chairperson and vice-chairperson on a two-year, rotating basis.
 4 (4) A commissioner may be removed by the Governor for misfeasance,
 5 malfeasance, or willful neglect of duty or other cause after notice and a
 6 public hearing unless notice and hearing are expressly waived in writing
 7 by the commissioner.
 8 Sec. 2. Section 77-5004, Revised Statutes Cumulative Supplement,
 9 2022, is amended to read:
 10 77-5004 (1) Each commissioner shall be a qualified voter and
 11 resident of the state and a domiciliary of the district ~~from which he or~~
 12 ~~she is appointed represents~~.
 13 (2) Each commissioner shall devote his or her full time and efforts
 14 to the discharge of his or her duties and shall not hold any other office
 15 under the laws of this state, any city or county in this state, or the
 16 United States Government while serving on the commission. Each
 17 commissioner shall possess:

18 (a) Appropriate knowledge of terms commonly used in or related to
19 real property appraisal and of the writing of appraisal reports;
20 (b) Adequate knowledge of depreciation theories, cost estimating,
21 methods of capitalization, and real property appraisal mathematics;
22 (c) An understanding of the principles of land economics, appraisal
23 processes, and problems encountered in the gathering, interpreting, and
24 evaluating of data involved in the valuation of real property, including
25 complex industrial properties and mass appraisal techniques;
26 (d) Knowledge of the law relating to taxation, civil and
27 administrative procedure, due process, and evidence in Nebraska;
28 (e) At least thirty hours of successfully completed class hours in
29 courses of study, approved by the Real Property Appraiser Board, which
30 relate to appraisal and which include the fifteen-hour National Uniform
31 Standards of Professional Appraisal Practice Course. If a commissioner
1 has not received such training prior to his or her appointment, such
2 training shall be completed within one year after appointment; and
3 (f) Such other qualifications and skills as reasonably may be
4 requisite for the effective and reliable performance of the commission's
5 duties.

6 (3) At least one commissioner shall possess the certification or
7 training required to become a licensed residential real property
8 appraiser as set forth in section 76-2230.

9 (4) ~~At least two commissioners~~ one commissioner shall have been
10 engaged in the practice of law in the State of Nebraska for at least five
11 years, which may include prior service as a judge, and shall be currently
12 admitted to practice before the Nebraska Supreme Court. The attorney
13 commissioners shall be presiding hearing officers for commission
14 proceedings involving appeal hearings and other proceedings involving
15 panels of more than one commissioner.

16 (5) No commissioner or employee of the commission shall hold any
17 position of profit or engage in any occupation or business interfering
18 with or inconsistent with his or her duties as a commissioner or
19 employee. A person is not eligible for appointment and may not hold the
20 office of commissioner or be appointed by the commission to or hold any
21 office or position under the commission if he or she holds any official
22 office or position.

23 (6) Each commissioner shall annually attend a seminar or class of at
24 least two days' duration that is:

25 (a) Sponsored by a recognized assessment or appraisal organization,
26 in each of these areas: Utility and railroad appraisal; appraisal of
27 complex industrial properties; appraisal of other hard to assess
28 properties; and mass appraisal, residential or agricultural appraisal, or
29 assessment administration; or

30 (b) Pertaining to management, law, civil or administrative
31 procedure, or other knowledge or skill necessary for performing the
1 duties of the office.

2 (7) Each commissioner shall within two years after his or her
3 appointment attend at least thirty hours of instruction that constitutes
4 training for judges or administrative law judges.

5 (8) The commissioners shall be considered employees of the state for
6 purposes of sections 81-1320 to 81-1328 and 84-1601 to 84-1615.

7 (9) The commissioners shall be reimbursed as prescribed in sections
8 81-1174 to 81-1177 for expenses in the performance of their official
9 duties pursuant to the Tax Equalization and Review Commission Act.

10 (10) Due to the domicile requirements of subsection (1) of this
11 section and subsection (1) of section 77-5003, each commissioner shall be
12 reimbursed for mileage at the rate provided in section 81-1176 for actual
13 round trip travel from the commissioner's residence to the state office
14 building described in section 81-1108.37 or to the location of any
15 hearing or other official business of the commission. Reimbursements

16 under this subsection shall be made from the Tax Equalization and Review
17 Commission Cash Fund.

18 (11) The salary for commissioners serving as a presiding hearing
19 officer for commission hearings and proceedings involving a panel of more
20 than one commissioner shall be in an amount equal to eighty-five percent
21 of the salary set for the Chief Justice and judges of the Supreme Court.
22 The salary for commissioners not serving as a presiding hearing officer
23 for commission hearings or proceedings involving a panel of more than one
24 commissioner shall be in an amount equal to seventy percent of the salary
25 set for the Chief Justice and judges of the Supreme Court.

26 Sec. 3. Section 77-5015.02, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 77-5015.02 (1) A single commissioner may hear an appeal and cross
29 appeal and appeals and cross appeals consolidated with any such appeal
30 and cross appeal when:

31 (a) The taxable value of each parcel is ~~two~~ ~~one~~ million dollars or
1 less as determined by the county board of equalization; and

2 (b) The appeal and cross appeal has been designated for hearing
3 pursuant to this section by the chairperson of the commission or in such
4 manner as the commission may provide in its rules and regulations.

5 (2) A proceeding held before a single commissioner shall be
6 informal. The usual common-law or statutory rules of evidence, including
7 rules of hearsay, shall not apply, and the commissioner may consider and
8 utilize all matters presented at the proceeding in making his or her
9 determination.

10 (3) Any party to an appeal designated for hearing before a single
11 commissioner pursuant to this section may, prior to a hearing, elect in
12 writing to have the appeal heard by the commission. The commissioner
13 conducting a proceeding pursuant to this section may at any time
14 designate the appeal for hearing by the commission.

15 (4) Documents necessary to establish jurisdiction of the commission
16 shall constitute the record of a proceeding before a single commissioner.
17 No recording shall be made of a proceeding before a single commissioner.

18 (5) A party to a proceeding before a single commissioner may request
19 a rehearing pursuant to section 77-5005.

20 (6) An order entered by a single commissioner pursuant to this
21 section may not be appealed pursuant to section 77-5019 or any other
22 provision of law.

23 (7) Subdivisions (3), (6), (8), (9), (10), (11), and (12) of section
24 77-5016 apply to proceedings before a single commissioner.

25 Sec. 4. This act becomes operative on July 1, 2023.

26 Sec. 5. If any section in this act or any part of any section is
27 declared invalid or unconstitutional, the declaration shall not affect
28 the validity or constitutionality of the remaining portions.

29 Sec. 6. Original sections 77-5003 and 77-5015.02, Reissue Revised
30 Statutes of Nebraska, and section 77-5004, Revised Statutes Cumulative
31 Supplement, 2022, are repealed.

1 Sec. 7. Since an emergency exists, this act takes effect when
2 passed and approved according to law.

Senator DeKay filed the following amendment to LB453:

AM333

1 1. Insert the following new section:

2 Sec. 4. Section 39-1351, Revised Statutes Cumulative Supplement,

3 2022, is amended to read:

4 39-1351 (1) Except as provided in subsection (2) of this section,
5 any person desiring to submit to the department a bid for the performance
6 of any contract for the construction, reconstruction, improvement,
7 maintenance, or repair of roads, bridges, and their appurtenances, which
8 the department proposes to let, shall apply to the department for

9 prequalification. Such application shall be made not later than five days
 10 before the letting of the contract unless fewer than five days is
 11 specified by the department. The department shall determine the extent of
 12 any applicant's qualifications by a full and appropriate evaluation of
 13 the applicant's experience, bonding capacity as determined by a bonding
 14 agency licensed to do business in the State of Nebraska or other
 15 sufficient financial showing deemed satisfactory by the department, and
 16 performance record. In determining the qualification of an applicant to
 17 bid on any particular contract, the department shall consider the
 18 resources available for the particular contract contemplated.
 19 (2) The department may, in its sole discretion, grant an exemption
 20 from all prequalification requirements for (a) any contract for the
 21 construction, reconstruction, improvement, maintenance, or repair of
 22 roads, bridges, and their appurtenances if the estimate of the department
 23 for such work is ~~two hundred fifty one hundred~~ thousand dollars or less
 24 or (b) any contract for the construction, reconstruction, improvement,
 25 maintenance, or repair of roads, bridges, and their appurtenances if such
 26 work is of an emergency nature.
 27 2. Renumber the remaining sections and correct the repealer
 1 accordingly.

Senator Blood filed the following amendment to LB40:
AM469

1 1. Strike the original sections and insert the following new
 2 sections:
 3 Section 1. Sections 1 to 11 of this act shall be known and may be
 4 cited as the Riparian Protection and Water Quality Practices Act.
 5 Sec. 2. For the purposes of the Riparian Protection and Water
 6 Quality Practices Act:
 7 (1) Buffer means an area consisting of perennial vegetation,
 8 excluding invasive plants and noxious weeds, adjacent to all bodies of
 9 water within the state that protects the water resources of the state
 10 from runoff pollution, stabilizes soils, shores, and banks, and protects
 11 or provides riparian corridors;
 12 (2) Buffer-protection map means buffer maps established and
 13 maintained by the department;
 14 (3) Department means the Department of Natural Resources;
 15 (4) Director means the Director of Natural Resources;
 16 (5) Local water management authority means a natural resources
 17 district, metropolitan utilities district, county, city, or village
 18 operating separately or jointly in its role as a local water management
 19 authority; and
 20 (6) Normal water level means the level evidenced by the long-term
 21 presence of surface water as indicated directly by hydrophytic plants or
 22 hydric soils or indirectly determined via hydrological models or
 23 analysis.
 24 Sec. 3. (1) The Legislature hereby declares it is the policy of
 25 this state to establish riparian buffers and water quality practices to
 26 (a) protect state water resources from erosion and runoff pollution, (b)
 27 stabilize soils, shores, and banks, and (c) protect or provide riparian
 1 corridors.
 2 (2) It is the purpose of the Riparian Protection and Water Quality
 3 Practices Act to utilize riparian buffers and water quality practices to
 4 help purify the public waters and ground water of this state from
 5 nitrates, pesticides, and other chemical contaminants. The department
 6 shall have the authority and responsibility to implement and administer
 7 the act.
 8 Sec. 4. (1) This section does not apply to a landowner in any
 9 county that falls in the bottom third tier of nitrate levels in ground
 10 water as measured by the Department of Environment and Energy.

11 (2) Except as otherwise provided in subsection (3) of this section,
12 a landowner owning property adjacent to a water body identified and
13 mapped on a buffer-protection map created by the department may apply for
14 available grant funding as provided under section 5 of this act to plant
15 and maintain a buffer to protect the state's water resources as follows:
16 (a) For all public waters of this state, the more restrictive of:
17 (i) A fifty-foot-average width, a thirty-foot-minimum width, with a
18 continuous buffer of perennially rooted vegetation; or
19 (ii) State standards and criteria set by the department pursuant to
20 rules and regulations adopted and promulgated pursuant to the Riparian
21 Protection and Water Quality Practices Act; or
22 (b) For public drainage systems, a sixteen and one-half-foot-minimum
23 width continuous buffer. The buffer vegetation shall not impede future
24 maintenance of the ditch.
25 (3) A landowner owning property adjacent to a water body identified
26 on a buffer-protection map created by the department and whose property
27 is used for cultivation farming may qualify for grant funding provided
28 under section 5 of this act by adopting an alternative riparian water
29 quality practice, or a combination of structural, vegetative, and
30 management practices, based on common alternative practices or other
31 practices approved by the department, or practices based on local
1 conditions approved by the local water management authority consistent
2 with the practices approved by the department, and that provide riparian
3 water quality protection comparable to the buffer protection for the
4 water body that the property abuts. Such practices include retention
5 ponds and alternative measures that prevent overland flow to the water
6 resource.
7 (4) The width of a buffer on any public waters of this state shall
8 be measured from the top or crown of the bank. For public waters where
9 there is no defined bank, measurement shall be from the edge of the
10 normal water level. The width of the buffer on public drainage systems
11 shall be measured outward from the top edge of the constructed channel or
12 to the crown of the leveled spoil bank, whichever is greater.
13 (5) Nothing in this section limits the eligibility of a landowner or
14 the authorized agent or operator of a landowner to participate in federal
15 or other state conservation programs, including enrolling or reenrolling
16 in federal conservation programs.
17 (6) Only seed mixes verified by the department to prevent
18 contamination with Palmer amaranth or other noxious weed seeds shall be
19 used to plant buffers pursuant to this section.
20 Sec. 5. The department shall establish and administer the Riparian
21 Protection and Water Quality Practices Grant Program which is hereby
22 created. The purpose of the program is to provide grants to plant buffers
23 pursuant to section 4 of this act. A landowner may apply for grant
24 funding on a form prescribed by the department. No applicant may receive
25 more than one grant per year, and no single grant shall exceed XX
26 dollars. Grants may be awarded until grant funds are no longer available.
27 Sec. 6. Land adjacent to waters described in section 4 of this act
28 is not eligible for grant funding under the Riparian Protection and Water
29 Quality Practices Act if it is:
30 (1) Utilized for grazing, pasture, or grassland;
31 (2) Enrolled in the federal Conservation Reserve Program;
1 (3) Used as a public or private water access or recreational use
2 area including stairways, landings, picnic areas, access paths, or beach
3 and watercraft access areas;
4 (4) Covered by a road, trail, building, or other structure; or
5 (5) Regulated by a national pollutant discharge elimination system
6 in any of the following categories:
7 (a) A municipal separate storm sewer system;
8 (b) Construction stormwater; or

9 (c) Industrial stormwater;

10 (6) Part of a water-inundation cropping system; or

11 (7) Located in a temporary non-vegetated condition due to drainage

12 tile installation and maintenance, alfalfa or other perennial crop or

13 plant seeding, or construction or conservation projects authorized by a

14 federal, state, or local government unit.

15 Sec. 7. (1) Local water management authorities may, by agreement

16 with the department, assist landowners receiving grant funding under

17 section 5 of this act with implementation of the riparian water quality

18 protection standards established under the Riparian Protection and Water

19 Quality Practices Act. Such assistance may include planning, technical

20 assistance, implementation of approved alternative practices, and

21 tracking progress toward compliance with such standards.

22 (2) Upon request by a landowner or the authorized agent or operator

23 of a landowner, a technical professional employee or contractor of the

24 local water management authority authorized by agreement with the

25 department may issue a validation of compliance certifying compliance

26 with the requirements of section 4 of this act. Denial of such validation

27 may be appealed as provided in section 9 of this act.

28 (3) The department shall provide sufficient resources, dependent on

29 available funding, to local water management authorities to assist in

30 implementing this section.

31 Sec. 8. (1) A local water management authority may notify the

1 department if it determines that a landowner who has received grant

2 funding under section 5 of this act is not in compliance with the

3 Riparian Protection and Water Quality Practices Act. Upon such

4 notification, the department shall provide the landowner with a list of

5 corrective actions needed to come into compliance and a reasonable

6 timeline to meet the standards under the act. A corrective action is not

7 required for conditions resulting from a flood or other act of nature. If

8 such landowner does not comply with the list of actions and timeline

9 provided, the department may, following notice and hearing, enforce the

10 act by issuing an order imposing an administrative penalty. Such penalty

11 shall not exceed one thousand dollars for any single violation. Any

12 penalty collected pursuant to this subsection shall be remitted to the

13 State Treasurer for distribution in accordance with Article VII, section

14 5, of the Constitution of Nebraska. Any grant recipient who fails to

15 comply with this subsection shall repay any grant funds received under

16 section 5 of this act upon order of the department.

17 (2) An order issued under subsection (1) of this section may be

18 appealed to the department as provided under section 9 of this act.

19 (3) A landowner, landowner agent, or operator of a landowner shall

20 not remove or willfully degrade a riparian buffer, wholly or partially,

21 unless the landowner, agent, or operator has obtained a signed statement

22 from the department stating that permission for the work has been granted

23 by the department. A buffer planted using grant funds obtained pursuant

24 to section 5 of this act shall not be removed or degraded except as

25 permitted pursuant to rules and regulations adopted and promulgated

26 pursuant to the Riparian Protection and Water Quality Practices Act.

27 Sec. 9. A landowner or an agent or operator of such landowner may

28 appeal the denial of a validation by a local water management authority

29 as described in section 7 of this act or an administrative order of the

30 department issued pursuant to section 8 of this act within thirty days of

31 receipt of notice of denial of such validation or such order. The request

1 for an appeal shall be in writing. If a written request for appeal is not

2 submitted within thirty days, the validation denial or order shall be

3 final. The director shall review the request and supporting evidence and

4 issue a decision within sixty days of receipt of the appeal request. The

5 director's decision is appealable pursuant to the Administrative

6 Procedure Act.

7 Sec. 10. A landowner may contact the department for information on
 8 how to apply for local, state, or federal cost-sharing grants, contracts,
 9 or loans that are available to establish buffers or other water resource
 10 protection measures in addition to grant funding available under the
 11 Riparian Protection and Water Quality Practices Act.

12 Sec. 11. The department shall adopt and promulgate rules and
 13 regulations to carry out the Riparian Protection and Water Quality
 14 Practices Act.

15 Sec. 12. Section 2-15,122, Reissue Revised Statutes of Nebraska, is
 16 amended to read:

17 2-15,122 (1) There is hereby created the Natural Resources Water
 18 Quality Fund. The State Treasurer shall credit to the fund for the uses
 19 and purposes of section 2-15,123 such money as is specifically
 20 appropriated or transferred by the Legislature, such funds, fees,
 21 donations, gifts, services, or devises or bequests of real or personal
 22 property received by the department from any source, federal, state,
 23 public, or private, to be used by the department for the purpose of
 24 funding programs listed in subsection (2) of section 2-15,123 and for
 25 purposes of section 5 of this act, and such money credited under sections
 26 2-2634, 2-2638, and 2-2641. The department shall allocate money from the
 27 fund pursuant to section 2-15,123 and section 5 of this act. The fund
 28 shall be exempt from provisions relating to lapsing of appropriations,
 29 and the unexpended and unencumbered balance existing in the fund on June
 30 30 each year shall be reappropriated, except that transfers may be made
 31 from the fund to the General Fund at the direction of the Legislature.

1 Any money in the Natural Resources Water Quality Fund available for
 2 investment shall be invested by the state investment officer pursuant to
 3 the Nebraska Capital Expansion Act and the Nebraska State Funds
 4 Investment Act.

5 (2) It is the intent of the Legislature to transfer XX million
 6 dollars from the General Fund to the Natural Resources Water Quality Fund
 7 for fiscal year 2023-24 for the purpose of providing grants under the
 8 Riparian Protection and Water Quality Practices Grant Program.

9 Sec. 13. This act becomes operative on January 1, 2024.

10 Sec. 14. Original section 2-15,122, Reissue Revised Statutes of
 11 Nebraska, is repealed.

GENERAL FILE

LEGISLATIVE BILL 147. Senator M. Cavanaugh renewed [MO39](#), found in this day's Journal, to reconsider the vote on MO38.

Senator M. Cavanaugh requested a roll call vote on the motion to reconsider the vote on MO38.

The M. Cavanaugh motion to reconsider the vote on MO38, failed with 5 ayes, 23 nays, 3 present and not voting, 14 absent and not voting, and 4 excused and not voting.

Senator M. Cavanaugh offered the following motion:

[MO40](#)

Recommit to Revenue Committee.

Pending.

AMENDMENTS - Print in Journal

Senator Briese filed the following amendment to LB51:

[AM541](#)

- 1 1. On page 2, line 30, strike "and the cost of the call" and show as
- 2 stricken.
- 3 2. On page 3, strike beginning with the second "the" in line 4
- 4 through "and" in line 5 and show as stricken.

Senator M. Cavanaugh filed the following amendment to LB147:

[FA21](#)

Strike the enacting clause.

Senator M. Cavanaugh filed the following amendment to LB147:

[AM557](#)

- 1 1. On page 2, line 25, after "writing" insert "and electronically".

Senator M. Cavanaugh filed the following amendment to LB147:

[AM558](#)

- 1 1. On page 2, line 26, strike "(i)"; and strike beginning with "or"
- 2 in line 27 through "subdivision" in line 29.

Senator M. Cavanaugh filed the following amendment to LB147:

[AM521](#)

- 1 1. On page 2, line 23, strike "one thousand" and insert "two
- 2 hundred".

BILL ON FIRST READING

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

LEGISLATIVE BILL 395A. Introduced by Erdman, 47.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 395, One Hundred Eighth Legislature, First Session, 2023.

UNANIMOUS CONSENT - Add Cointroducers

Unanimous consent to add Senators as cointroducers. No objections. So ordered.

Senator Albrecht name added to LB91.
Senator Murman name added to LB562.
Senator Linehan name added to LB562.
Senator Halloran name added to LB562.
Senator Conrad name added to LB637.
Senator Dover name added to LB805.

VISITORS

Visitors to the Chamber were Kara Hahn, Julie Williams, and members of the Nebraska School Counselor Association; Cause Collective and other Nebraska Nonprofits, Lincoln and Omaha; students from Norfolk High School; students from Columbia Independent School, Columbia, Missouri; members of the Nebraska Petroleum Producers Association; members of the Nebraska Nurses Association; students from Knickrehm Elementary School, Grand Island; community organizers from Heartland Workers Center; military family from Offut Air Force Base.

The Doctor of the Day was Dr. David Hoelting of Pender.

ADJOURNMENT

At 11:56 a.m., on a motion by Senator Slama, the Legislature adjourned until 9:00 a.m., Friday, February 24, 2023.

Brandon Metzler
Clerk of the Legislature