

SEVENTY-SECOND DAY - MAY 4, 2023

LEGISLATIVE JOURNAL

ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

SEVENTY-SECOND DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, May 4, 2023

PRAYER

The prayer was offered by Senator Murman.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was offered by Senator Erdman.

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 Blood and Briese who were excused; and Senators Bostar, Bostelman, Conrad, Day, DeBoer, Dover, Hunt, Walz, and Wayne who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the seventy-first day was approved.

AMENDMENT - Print in Journal

Senator Raybould filed the following amendment to [LB754](#):
[AM1517](#)

(Amendments to Standing Committee amendments, AM906)

- 1 1. On page 8, line 17, after the comma insert "except as otherwise
- 2 provided in subsection (8) of this section."
- 3 2. On page 10, after line 18 insert the following new subsection:
- 4 "(8)(a) On or before July 15, 2023, and on or before July 15 of each
- 5 year thereafter, the Tax Commissioner shall certify the rate reduction
- 6 scheduled to begin pursuant to subdivision (2)(c) of this section for the
- 7 immediately following January 1 if:
- 8 (i) The actual General Fund net receipts for the most recently
- 9 completed fiscal year are equal to or greater than the actual General
- 10 Fund net receipts for the previous fiscal year increased by the inflation

11 percentage plus three percent;

12 (ii) The balance of the Cash Reserve Fund is at least equal to
13 sixteen percent of the total General Fund expenditures for the most
14 recently completed fiscal year; and

15 (iii) The actual General Fund net receipts for the second most
16 recently completed fiscal year are at least equal to ninety-eight percent
17 of the actual General Fund net receipts for the third most recently
18 completed fiscal year.

19 (b) If the conditions in subdivision (8)(a) of this section are not
20 met, the Tax Commissioner shall suspend the rate reduction scheduled to
21 begin pursuant to subdivision (2)(c) of this section for the immediately
22 following January 1. Such suspension shall end when the conditions in
23 subdivision (8)(a) of this section are met. When that occurs, the
24 suspended rate reduction shall go into effect on the immediately
25 following January 1. Any subsequent rate reductions under subdivision (2)

26 (c) of this section shall go into effect on a modified schedule that
1 takes into account any suspensions occurring under this subsection.
2 (c) For purposes of this subsection, inflation percentage means the
3 percentage change in the Consumer Price Index for All Urban Consumers for
4 the twelve-month period ending on the immediately preceding December
5 31."

6 3. On page 42, line 1, strike "subsection (2)", show as stricken,
7 and insert "subsections (2) and (5)".

8 4. On page 44, after line 1 insert the following new subsection:

9 "(5)(a) On or before July 15, 2023, and on or before July 15 of each
10 year thereafter, the Tax Commissioner shall certify the rate reduction
11 scheduled to begin pursuant to subsection (1) of this section for the
12 immediately following January 1 if:

13 (i) The actual General Fund net receipts for the most recently
14 completed fiscal year are equal to or greater than the actual General
15 Fund net receipts for the previous fiscal year increased by the inflation
16 percentage plus three percent;

17 (ii) The balance of the Cash Reserve Fund is at least equal to
18 sixteen percent of the total General Fund expenditures for the most
19 recently completed fiscal year; and

20 (iii) The actual General Fund net receipts for the second most
21 recently completed fiscal year are at least equal to ninety-eight percent
22 of the actual General Fund net receipts for the third most recently
23 completed fiscal year.

24 (b) If the conditions in subdivision (5)(a) of this section are not
25 met, the Tax Commissioner shall suspend the rate reduction scheduled to
26 begin pursuant to subsection (1) of this section for the immediately
27 following January 1. Such suspension shall end when the conditions in
28 subdivision (5)(a) of this section are met. When that occurs, the
29 suspended rate reduction shall go into effect on the immediately
30 following January 1. Any subsequent rate reductions under subsection (1)
31 of this section shall go into effect on a modified schedule that takes
1 into account any suspensions occurring under this subsection.

2 (c) For purposes of this subsection, inflation percentage means the
3 percentage change in the Consumer Price Index for All Urban Consumers for
4 the twelve-month period ending on the immediately preceding December
5 31."

GENERAL FILE

LEGISLATIVE BILL 818. Title read. Considered.

Committee [AM1172](#), found on page 1318, was offered.

Senator Moser offered [AM1584](#), found on page 1348, to the committee amendment.

The Moser amendment, to the committee amendment, was adopted with 36 ayes, 0 nays, 6 present and not voting, and 7 excused and not voting.

Pending.

AMENDMENT - Print in Journal

Senator Ibach filed the following amendment to [LB50](#):
[AM1610](#) is available in the Bill Room.

GENERAL FILE

LEGISLATIVE BILL 818. Committee [AM1172](#), found on page 1318 and considered in this day's Journal, was renewed.

Senator J. Cavanaugh offered the following amendment, to the committee amendment:

[AM1609](#)

(Amendments to Standing Committee amendments, AM1172)

1 1. On page 39, line 9, strike "five hundred seventy-four" and insert
2 "four hundred forty-nine".

SENATOR DEBOER PRESIDING

Pending.

VISITORS

Visitors to the Chamber were students from Malcolm Public School, Malcolm; members of Community Action of Nebraska; students and sponsors from St. Patrick Elementary, McCook; students from Patriot Elementary, Papillion.

RECESS

At 11:56 a.m., on a motion by Senator Fredrickson, the Legislature recessed until 1:00 p.m.

AFTER RECESS

The Legislature reconvened at 1:00 p.m., Senator DeBoer presiding.

ROLL CALL

The roll was called and all members were present except Senators Blood and Briese who were excused; and Senators Armendariz, Ballard, Bosn, Bostar, Conrad, Day, Dorn, Dover, B. Hansen, Hunt, Ibach, Jacobson, Kauth, Linehan, Riepe, Vargas, and Wayne who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 818. Committee [AM1172](#), found on page 1318 and considered in this day's Journal, was renewed.

Senator J. Cavanaugh renewed [AM1609](#), found and considered in this day's Journal, to the committee amendment.

Senator J. Cavanaugh moved for a call of the house. The motion prevailed with 18 ayes, 5 nays, and 26 not voting.

Senator Erdman requested a roll call vote on the J. Cavanaugh amendment, to the committee amendment.

Voting in the affirmative, 11:

Cavanaugh, J.	Day	Hunt	Walz
Cavanaugh, M.	Dungan	McKinney	Wayne
Conrad	Fredrickson	Raybould	

Voting in the negative, 32:

Aguilar	Brandt	Halloran	Linehan	Slama
Albrecht	Brewer	Hansen	Lippincott	Vargas
Arch	Clements	Hardin	Lowe	von Gillern
Armendariz	DeKay	Holdcroft	McDonnell	Wishart
Ballard	Dorn	Hughes	Moser	
Bosn	Dover	Ibach	Murman	
Bostelman	Erdman	Kauth	Sanders	

Present and not voting, 1:

DeBoer

Excused and not voting, 5:

Blood	Bostar	Briese	Jacobson	Riepe
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The J. Cavanaugh amendment, to the committee amendment, lost with 11 ayes, 32 nays, 1 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Wayne offered the following amendment, to the committee amendment:

[AM1608](#)

(Amendments to Standing Committee amendments, AM1172)

1 1. Strike section 16 and insert the following new section:

2 Sec. 16. Section 71-7611, Revised Statutes Cumulative Supplement,

3 2022, is amended to read:

4 71-7611 (1) The Nebraska Health Care Cash Fund is created. The State
5 Treasurer shall transfer (a) sixty million three hundred thousand dollars
6 on or before July 15, 2014, (b) sixty million three hundred fifty
7 thousand dollars on or before July 15, 2015, (c) sixty million three
8 hundred fifty thousand dollars on or before July 15, 2016, (d) sixty
9 million seven hundred thousand dollars on or before July 15, 2017, (e)
10 five hundred thousand dollars on or before May 15, 2018, (f) sixty-one
11 million six hundred thousand dollars on or before July 15, 2018, (g)
12 sixty-two million dollars on or before July 15, 2019, (h) sixty-one
13 million four hundred fifty thousand dollars on or before July 15, 2020,
14 (i) sixty-six million two hundred thousand dollars on or before July 15,
15 2022, and (j) sixty-one million seven hundred thousand dollars on or
16 before July 15, 2023, (k) sixty-one million five hundred thousand dollars
17 on or before July 15, 2024, and (l) fifty-five million four hundred
18 thousand fifty-one million dollars on or before every July 15 thereafter
19 from the Nebraska Medicaid Intergovernmental Trust Fund and the Nebraska
20 Tobacco Settlement Trust Fund to the Nebraska Health Care Cash Fund,
21 except that such amount shall be reduced by the amount of the unobligated
22 balance in the Nebraska Health Care Cash Fund at the time the transfer is
23 made. The state investment officer shall advise the State Treasurer on
24 the amounts to be transferred first from the Nebraska Medicaid
25 Intergovernmental Trust Fund until the fund balance is depleted and from
26 the Nebraska Tobacco Settlement Trust Fund thereafter in order to sustain
1 such transfers in perpetuity. The state investment officer shall report
2 electronically to the Legislature on or before October 1 of every even-
3 numbered year on the sustainability of such transfers. The Nebraska
4 Health Care Cash Fund shall also include money received pursuant to
5 section 77-2602. Except as otherwise provided by law, no more than the
6 amounts specified in this subsection may be appropriated or transferred
7 from the Nebraska Health Care Cash Fund in any fiscal year.
8 The State Treasurer shall transfer ten million dollars from the
9 Nebraska Medicaid Intergovernmental Trust Fund to the General Fund on
10 June 28, 2018, and June 28, 2019.
11 Except as otherwise provided in subsections ~~(5) and (6) and (7)~~ of
12 this section, it is the intent of the Legislature that no additional
13 programs are funded through the Nebraska Health Care Cash Fund until
14 funding for all programs with an appropriation from the fund during
15 FY2012-13 are restored to their FY2012-13 levels.
16 (2) Any money in the Nebraska Health Care Cash Fund available for
17 investment shall be invested by the state investment officer pursuant to
18 the Nebraska Capital Expansion Act and the Nebraska State Funds
19 Investment Act.
20 (3) The University of Nebraska and postsecondary educational
21 institutions having colleges of medicine in Nebraska and their affiliated
22 research hospitals in Nebraska, as a condition of receiving any funds
23 appropriated or transferred from the Nebraska Health Care Cash Fund,
24 shall not discriminate against any person on the basis of sexual
25 orientation.
26 ~~(4) The State Treasurer shall transfer fifty thousand dollars on or~~
27 ~~before July 15, 2016, from the Nebraska Health Care Cash Fund to the~~
28 ~~Board of Regents of the University of Nebraska for the University of~~
29 ~~Nebraska Medical Center. It is the intent of the Legislature that these~~
30 ~~funds be used by the College of Public Health for workforce training.~~
31 ~~(4) (5) It is the intent of the Legislature that the cost of the~~
1 staff and operating costs necessary to carry out the changes made by Laws
2 2018, LB439, and not covered by fees or federal funds shall be funded
3 from the Nebraska Health Care Cash Fund for fiscal years 2018-19 and
4 2019-20.
5 ~~(5) (6) It is the intent of the Legislature to fund the grants to be~~

6 awarded pursuant to section 75-1101 with the Nebraska Health Care Cash
7 Fund for FY2019-20 and FY2020-21.

8 (6) (7) The State Treasurer shall transfer fifteen million dollars
9 from the Nebraska Health Care Cash Fund on or after July 1, 2022, but
10 before June 30, 2023, to the Board of Regents of the University of
11 Nebraska for the University of Nebraska Medical Center for pancreatic
12 cancer research at the University of Nebraska Medical Center. Transfers
13 from the Nebraska Health Care Cash Fund in this subsection shall be
14 contingent upon receipt of any matching funds from private or other
15 sources, up to fifteen million dollars, certified by the budget
16 administrator of the budget division of the Department of Administrative
17 Services. Upon receipt of any matching funds certified by the budget
18 administrator, the State Treasurer shall transfer an equal amount of
19 funds to the Board of Regents of the University of Nebraska.

The Wayne amendment, to the committee amendment, was adopted with 28
ayes, 9 nays, 8 present and not voting, and 4 excused and not voting.

Senator McKinney offered the following amendment, to the committee
amendment:

[AM1613](#)

(Amendments to Standing Committee amendments, AM1172)

1 1. Insert the following new section:
2 Sec. 35. Section 83-973, Revised Statutes Cumulative Supplement,
3 2022, is amended to read:
4 83-973 The Prison Overcrowding Contingency Fund is created. The
5 State Treasurer shall transfer fifteen million dollars from the General
6 Fund to the Prison Overcrowding Contingency Fund on or before July 15,
7 2021, on such date as directed by the budget administrator of the budget
8 division of the Department of Administrative Services. It is the intent
9 of the Legislature that these funds remain in the Prison Overcrowding
10 Contingency Fund until sufficient details are provided to the Legislature
11 regarding plans to reduce prison overcrowding, except that (1) the fund
12 may be used for purposes of a study of inmate classification within the
13 Department of Correctional Services, and (2) transfers may be made to the
14 Vocational and Life Skills Programming Fund at the direction of the
15 Legislature, and (3) any money transferred from the Cash Reserve Fund to
16 the Prison Overcrowding Contingency Fund shall be transferred to the
17 Nebraska Capital Construction Fund contingent on (a) the Department of
18 Correctional Services, in conjunction with the Department of
19 Administrative Services, demolishing the Nebraska State Penitentiary, (b)
20 completion of a study of programming fidelity, including, but not limited
21 to, what is working, what is not working and the reasons for such
22 failure, and what needs to be done to improve programming regarding
23 correctional facilities in the state, (c) completion of a study of staff
24 needs in correctional facilities and mental health services in
25 correctional facilities in the state, and (d) passage of Legislative Bill
26 348, One Hundred Eighth Legislature, First Session, 2023, enacting the
1 Community Work Release and Treatment Centers Act. Any money in the Prison
2 Overcrowding Contingency Fund available for investment shall be invested
3 by the state investment officer pursuant to the Nebraska Capital
4 Expansion Act and the Nebraska State Funds Investment Act.
5 2. On page 36, line 20, strike "eighty-two" and insert "twelve";
6 after line 25 insert the following new subsection:
7 "(7) The State Treasurer shall transfer seventy million dollars from
8 the Cash Reserve Fund to the Prison Overcrowding Contingency Fund on or
9 after July 1, 2023, but before June 30, 2024, on such dates and in such
10 amounts as directed by the budget administrator of the budget division of
11 the Department of Administrative Services."; and renumber the remaining
12 subsections accordingly.
13 3. Renumber the remaining sections accordingly.

SENATOR DORN PRESIDING

The McKinney amendment, to the committee amendment, was withdrawn.

Pending.

AMENDMENT - Print in Journal

Senator Wayne filed the following amendment to LB705:

AM1513

(Amendments to Standing Committee amendments, AM1468)

1 1. Insert the following new sections:

2 Sec. 65. Section 79-566, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 79-566 The board of education of a Class IV school district shall at
5 a regular meeting elect from outside its own members a superintendent, an
6 associate superintendent of instruction, an associate superintendent of
7 business affairs, a school district treasurer, and the number of
8 employees the board of education may deem necessary for the proper
9 conduct of the affairs of the school district at such compensation
10 salaries as the board of education may determine, except that the
11 compensation of the superintendent shall comply with the Superintendent
12 Pay Transparency Act. The board may contract with them for terms not to
13 exceed three years. The election of all officers of the board of
14 education and all elections for filling vacancies on the board of
15 education shall be by ballot. No person shall be declared elected unless
16 he or she receives the vote of a majority of all the members of the board
17 of education.

18 Sec. 66. Section 79-567, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 79-567 The members of the board of education of a Class V school
21 district, at their regular meeting in January each year, shall elect a
22 president and vice president from their own members, who shall serve for
23 terms of one year or until their successors are elected and qualified.
24 The members of the board of education may also select from outside their
25 own members one superintendent of public schools, one secretary, one
26 treasurer, and such other officers as the board may deem necessary for
1 the administration of the affairs of the school district, at such
2 compensation salary as the board may deem just, except that the
3 compensation of the superintendent shall comply with the Superintendent
4 Pay Transparency Act. The members of the board of education, and in their
5 discretion, they may enter into contracts with such officers for terms of
6 not to exceed three years. The board shall have the power to elect its
7 president and vice president and to select its officers and employees in
8 accordance with rules adopted by the board.

9 Sec. 67. Section 79-594, Revised Statutes Cumulative Supplement,
10 2022, is amended to read:

11 79-594 The school board in a Class III or IV school district may
12 also elect at any regular meeting one superintendent of public
13 instruction with such compensation salary as the board deems best, except
14 that such compensation shall comply with the Superintendent Pay
15 Transparency Act. The board and may enter into contract with the
16 superintendent him or her at its discretion, for a term not to exceed
17 three years.

18 Sec. 83. Section 79-1219, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 79-1219 Each board of an educational service unit deciding to

21 provide supplementary services shall appoint and fix the ~~compensation and~~
 22 duties of an administrator, who shall be a person experienced in public
 23 school administration and who shall hold at least a standard
 24 administrative certificate. The board shall fix the compensation of the
 25 administrator, except that such compensation shall comply with the
 26 Superintendent Pay Transparency Act. With the advice of the
 27 administrator, the board shall also employ and fix the compensation and
 28 duties of such professional and clerical assistants as shall be
 29 necessary. No board member of an educational service unit shall be
 30 employed by the educational service unit board on which he or she is a
 31 board member.

1 Sec. 88. Section 79-2401, Reissue Revised Statutes of Nebraska, is
 2 amended to read:

3 79-2401 Sections 79-2401 to 79-2405 and sections 89 and 90 of this
 4 act shall be known and may be cited as the Superintendent Pay
 5 Transparency Act.

6 Sec. 89. For purposes of the Superintendent Pay Transparency Act:

7 (1) Benefit means any amount, not included in salary, to be paid
 8 during the contract year or to be paid in the future by a school district
 9 or educational service unit in exchange for the personal services
 10 performed during such contract year resulting in a benefit for the
 11 employee or the family of the employee including, but not limited to, (a)
 12 employer contributions pursuant to the School Employees Retirement Act or
 13 the Class V School Employees Retirement Act, (b) early retirement
 14 inducements as defined in section 79-978 for employees of Class V school
 15 districts and as defined in section 79-902 for employees of all other
 16 school districts and educational service units, (c) cash awards paid by
 17 the school district or educational service unit, (d) severance pay, (e)
 18 employer contributions made for the purpose of separation payments to be
 19 made at retirement, (f) employer contributions to annuities, (g) employer
 20 contributions to group life, health, or disability insurance premiums,
 21 (h) payments made to an employee in lieu of employer contributions to
 22 insurance premiums, and (i) the maximum cash payment for potential unused
 23 leave of any type that could be accrued during such contract year;

24 (2) Compensation means a reasonable estimate of the total amount of
 25 salary and benefits to be paid by a school district or educational
 26 service unit in exchange for personal services performed during a
 27 contract year;

28 (3) Compensation for a beginning teacher means compensation expected
 29 to be paid by a school district or educational service unit for the first
 30 year of teaching by a certificated teacher assuming such certificated
 31 teacher receives the maximum benefits generally available to a teacher
 1 who does not receive additional compensation for duties beyond the
 2 standard teaching contract; and

3 (4) Salary means gross wages to be paid in exchange for personal
 4 services performed during the contract year and includes (a) overtime
 5 pay, (b) member contributions pursuant to the School Employees Retirement
 6 Act or the Class V School Employees Retirement Act, and (c) amounts
 7 contributed to plans under section 125, 403(b), or 457 of the Internal
 8 Revenue Code or any other section of the code which defers or excludes
 9 such amounts from income.

10 Sec. 90. (1) On and after the operative date of this section, no
 11 school district or educational service unit may enter into any contract
 12 with a superintendent for services to be rendered to a school district or
 13 an administrator for services to be rendered to an educational service
 14 unit if such contract will cause, by the terms of such contract or in
 15 combination with existing contracts, such school district or educational
 16 service unit to pay compensation for any contract year to or on behalf of
 17 such superintendent or administrator in excess of five times the
 18 compensation for a beginning teacher in such school district or

19 educational service unit for the same contract year.

20 (2) For purposes of this section:

21 (a) If a superintendent of a school district also receives

22 compensation from an educational service unit in which such school

23 district is a member, such compensation shall be deemed compensation from

24 such school district; and

25 (b) If an administrator of an educational service unit receives

26 compensation from a school district which is a member of such educational

27 service unit, such compensation shall be deemed compensation from such

28 educational service unit.

29 (3) Any contract entered into in violation of this section shall be

30 invalid, and money belonging to a school district or educational service

31 unit shall not be expended on such a contract.

1 (4) Any compensation received by a superintendent or administrator

2 in violation of the limitations in this section shall be forfeited by

3 such superintendent or administrator and returned to the school district

4 or educational service unit, and a notice regarding such excess

5 compensation shall be filed with the Commissioner of Education within

6 thirty days after the superintendent, administrator, school board, or

7 board of the educational service unit becomes aware of such violation.

8 Sec. 91. Section 79-2402, Reissue Revised Statutes of Nebraska, is

9 amended to read:

10 79-2402 (1) Before the school board of any school district or the

11 board of any educational service unit approves a proposed contract, or

12 any proposed amendment to an existing contract, for future superintendent

13 services to be rendered to such school district by the current

14 superintendent or future administrator services to be rendered to such

15 educational service unit by the current administrator, the board shall

16 publish a copy of such proposed contract or amendment, ~~and~~ a reasonable

17 estimate and description of all current and future costs to the school

18 district or educational service unit if the proposed contract or

19 amendment were to be approved, and the maximum total compensation allowed

20 for the superintendent or administrator pursuant to section 90 of this

21 act at least three days before the meeting of the board at which such

22 proposed contract or amendment will be considered. Such publication shall

23 also specify the date, time, and place of the public meeting at which the

24 proposed contract or amendment will be considered. Electronic publication

25 on the website of the school district or educational service unit shall

26 satisfy the requirement of this subsection if such electronic publication

27 is prominently displayed and allows public access to the entire proposed

28 contract or amendment and all other information required by this section.

29 (2) After the school board of any school district or the board of

30 any educational service unit approves a contract for future

31 superintendent services to be rendered to such school district by a new

1 superintendent or future administrator services to be rendered to such

2 educational service unit by a new administrator, the board shall publish

3 a copy of such contract, and a reasonable estimate and description of all

4 current and future costs to the school district or educational service

5 unit that will be incurred as a result of such contract, within two days

6 after the meeting of the board at which such contract was approved.

7 Electronic publication on the website of the school district or

8 educational service unit shall satisfy the requirement of this subsection

9 if such electronic publication is prominently displayed and allows public

10 access to the entire contract.

11 2. Correct the operative date and repealer sections so that the

12 sections added by this amendment become operative three calendar months

13 after the adjournment of this legislative session.

14 3. Renumber the remaining sections and correct internal references

15 accordingly.

GENERAL FILE

LEGISLATIVE BILL 818. Committee [AM1172](#), found on page 1318 and considered in this day's Journal, was renewed.

Senator McDonnell offered the following amendment, to the committee amendment:

[AM1616](#)

(Amendments to Standing Committee amendments, AM1172)

1 1. On page 24, line 13, strike "and"; in line 18 strike the period
 2 and insert "; and"; and after line 18 insert the following new
 3 subdivision:
 4 "(m) Identification, evaluation, and development of large commercial
 5 and industrial sites and building infrastructure to attract major
 6 investment and employment opportunities for advanced manufacturing,
 7 processing, trade, technology, aerospace, automotive, clean energy, life
 8 science, and other transformational industries in Nebraska by means of
 9 the department providing grants to or partnering with political
 10 subdivisions, including inland port authorities under the Municipal
 11 Inland Port Authority Act, or nonprofit economic development corporations
 12 and entering into contracts for consulting, engineering, and development
 13 studies to identify, evaluate, and develop large commercial and
 14 industrial sites in Nebraska."

The McDonnell amendment, to the committee amendment, was adopted with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

Senator M. Cavanaugh offered the following amendment, to the committee amendment:

[FA86](#)

Strike Section 1.

The M. Cavanaugh amendment, to the committee amendment, was withdrawn.

Senator McKinney offered the following amendment, to the committee amendment:

[AM1633](#)

(Amendments to Standing Committee amendments, AM1172)

1 1. Insert the following new section:
 2 Sec. 35. Section 83-973, Revised Statutes Cumulative Supplement,
 3 2022, is amended to read:
 4 83-973 The Prison Overcrowding Contingency Fund is created. The
 5 State Treasurer shall transfer fifteen million dollars from the General
 6 Fund to the Prison Overcrowding Contingency Fund on or before July 15,
 7 2021, on such date as directed by the budget administrator of the budget
 8 division of the Department of Administrative Services. It is the intent
 9 of the Legislature that these funds remain in the Prison Overcrowding
 10 Contingency Fund until sufficient details are provided to the Legislature
 11 regarding plans to reduce prison overcrowding, except that (1) the fund
 12 may be used for purposes of a study of inmate classification within the
 13 Department of Correctional Services, and (2) transfers may be made to the
 14 Vocational and Life Skills Programming Fund at the direction of the
 15 Legislature, and (3) any money transferred from the Cash Reserve Fund to

16 the Prison Overcrowding Contingency Fund shall be transferred to the
 17 Nebraska Capital Construction Fund contingent on (a) completion of a
 18 classification study regarding correctional facilities in the state, (b)
 19 completion of a study of programming fidelity, including, but not limited
 20 to, what is working, what is not working and the reasons for such
 21 failure, and what needs to be done to improve programming regarding
 22 correctional facilities in the state, and (c) completion of a study of
 23 staff needs in correctional facilities and mental health services in
 24 correctional facilities in the state. Any money in the Prison
 25 Overcrowding Contingency Fund available for investment shall be invested
 26 by the state investment officer pursuant to the Nebraska Capital
 1 Expansion Act and the Nebraska State Funds Investment Act.
 2 2. On page 36, line 20, strike "eighty-two" and insert "twelve";
 3 after line 25 insert the following new subsection:
 4 "(7) The State Treasurer shall transfer seventy million dollars from
 5 the Cash Reserve Fund to the Prison Overcrowding Contingency Fund on or
 6 after July 1, 2023, but before June 30, 2024, on such dates and in such
 7 amounts as directed by the budget administrator of the budget division of
 8 the Department of Administrative Services."; and renumber the remaining
 9 subsections accordingly.
 10 3. Renumber the remaining sections and correct the repealer
 11 accordingly.

PRESIDENT KELLY PRESIDING

Senator McKinney moved for a call of the house. The motion prevailed with 17 ayes, 2 nays, and 30 not voting.

Senator McKinney requested a roll call vote, in reverse order, on his amendment, to the committee amendment.

Voting in the affirmative, 16:

Aguilar	Cavanaugh, M.	Dungan	McKinney
Armendariz	Conrad	Fredrickson	Raybould
Brandt	Day	Hunt	Walz
Cavanaugh, J.	DeBoer	Linehan	Wayne

Voting in the negative, 16:

Albrecht	Erdman	Jacobson	Moser
Ballard	Hardin	Kauth	Murman
Clements	Holdcroft	Lippincott	Sanders
DeKay	Ibach	Lowe	von Gillern

Present and not voting, 9:

Arch	Dorn	Hansen	Riepe	Wishart
Bostelman	Dover	Hughes	Vargas	

Excused and not voting, 8:

Blood	Bostar	Briese	McDonnell
Bosn	Brewer	Halloran	Slama

The McKinney amendment, to the committee amendment, lost with 16 ayes, 16 nays, 9 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Senator Wayne offered the following amendment, to the committee amendment:

[AM1614](#)

(Amendments to Standing Committee amendments, AM1172)

1 1. Insert the following new sections:
 2 Sec. 45. For purposes of this section and section 46 of this act:
 3 (1) Benefit means any amount, not included in salary, to be paid
 4 during the contract year or to be paid in the future by a school district
 5 or educational service unit in exchange for the personal services
 6 performed during such contract year resulting in a benefit for the
 7 employee or the family of the employee including, but not limited to, (a)
 8 employer contributions pursuant to the School Employees Retirement Act or
 9 the Class V School Employees Retirement Act, (b) early retirement
 10 inducements as defined in section 79-978 for employees of Class V school
 11 districts and as defined in section 79-902 for employees of all other
 12 school districts and educational service units, (c) cash awards paid by
 13 the school district or educational service unit, (d) severance pay, (e)
 14 employer contributions made for the purpose of separation payments to be
 15 made at retirement, (f) employer contributions to annuities, (g) employer
 16 contributions to group life, health, or disability insurance premiums,
 17 (h) payments made to an employee in lieu of employer contributions to
 18 insurance premiums, and (i) the maximum cash payment for potential unused
 19 leave of any type that could be accrued during such contract year;
 20 (2) Compensation means a reasonable estimate of the total amount of
 21 salary and benefits to be paid by a school district or educational
 22 service unit in exchange for personal services performed during a
 23 contract year;
 24 (3) Compensation for a beginning teacher means compensation expected
 25 to be paid by a school district or educational service unit for the first
 26 year of teaching by a certificated teacher assuming such certificated
 1 teacher receives the maximum benefits generally available to a teacher
 2 who does not receive additional compensation for duties beyond the
 3 standard teaching contract; and
 4 (4) Salary means gross wages to be paid in exchange for personal
 5 services performed during the contract year and includes (a) overtime
 6 pay, (b) member contributions pursuant to the School Employees Retirement
 7 Act or the Class V School Employees Retirement Act, and (c) amounts
 8 contributed to plans under section 125, 403(b), or 457 of the Internal
 9 Revenue Code or any other section of the code which defers or excludes
 10 such amounts from income.
 11 Sec. 46. (1) On and after July 1, 2023, a school district or
 12 educational service unit that receives money under the Tax Equity in
 13 Educational Opportunities Support Act or the Education Future Fund shall
 14 not enter into any contract with a superintendent for services to be
 15 rendered to a school district or an administrator for services to be
 16 rendered to an educational service unit if such contract will cause, by
 17 the terms of such contract or in combination with existing contracts,
 18 such school district or educational service unit to pay compensation for
 19 any contract year to or on behalf of such superintendent or administrator

20 in excess of five times the compensation for a beginning teacher in such
 21 school district or educational service unit for the same contract year.
 22 (2) For purposes of this section:
 23 (a) If a superintendent of a school district also receives
 24 compensation from an educational service unit in which such school
 25 district is a member, such compensation shall be deemed compensation from
 26 such school district; and
 27 (b) If an administrator of an educational service unit receives
 28 compensation from a school district which is a member of such educational
 29 service unit, such compensation shall be deemed compensation from such
 30 educational service unit.
 31 (3) Any contract entered into in violation of this section shall be
 1 invalid, and money belonging to a school district or educational service
 2 unit shall not be expended on such a contract.
 3 (4) Any compensation received by a superintendent or administrator
 4 in violation of the limitations in this section shall be forfeited by
 5 such superintendent or administrator and returned to the school district
 6 or educational service unit, and a notice regarding such excess
 7 compensation shall be filed with the Commissioner of Education within
 8 thirty days after the superintendent, administrator, school board, or
 9 board of the educational service unit becomes aware of such violation.
 10 2. Renumber the remaining sections accordingly.

The Wayne amendment, to the committee amendment, was withdrawn.

Senator M. Cavanaugh offered the following amendment, to the committee amendment:

[FA87](#)

Strike Section 2.

Pending.

EASE

The Legislature was at ease from 5:29 p.m. until 6:01 p.m.

GENERAL FILE

LEGISLATIVE BILL 818. Committee [AM1172](#), found on page 1318 and considered in this day's Journal, was renewed.

Senator M. Cavanaugh renewed [FA87](#), found and considered in this day's Journal, to the committee amendment.

Senator M. Cavanaugh moved for a call of the house. The motion prevailed with 8 ayes, 2 nays, and 39 not voting.

The M. Cavanaugh amendment, to the committee amendment, was withdrawn.

The Chair declared the call raised.

Senator Clements offered the following amendment, to the committee amendment:

[AM1635](#)

(Amendments to Standing Committee amendments, AM1172)

1 1. On page 24, line 15, strike "first" and insert "second".

The Clements amendment, to the committee amendment, was adopted with 40 ayes, 0 nays, 3 present and not voting, and 6 excused and not voting.

Pending.

RESOLUTIONS

LEGISLATIVE RESOLUTION 127. Introduced by DeBoer, 10; Cavanaugh, J., 9; Conrad, 46; DeKay, 40; Dungan, 26; Holdcroft, 36; Ibach, 44; Linehan, 39; McKinney, 11; Slama, 1.

PURPOSE: The purpose of this resolution is to propose an interim study to conduct a comprehensive examination of court fees as a funding source for the court system and the judicial branch. In Nebraska, fees are assessed as part of the court costs for most, if not all, civil and criminal cases, including those related to traffic citations. The interim study shall include, but need not be limited to, an examination of the following:

- (1) Whether fees should be assessed on all cases or only certain types of cases;
- (2) How court costs and fees in Nebraska compare to other states;
- (3) The appropriateness and effectiveness of court fees as a means of providing funds for the court system or other agencies;
- (4) The prioritization of fees collected and effectiveness of such fees to provide the court with sufficient resources and an analysis of the fees currently collected, the cost of each fee to court users, and how the fees are dispersed; and
- (5) How much political subdivisions pay in court fees and whether any adjustments should be made.

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 128. Introduced by DeBoer, 10; Conrad, 46; Fredrickson, 20; Holdcroft, 36; Ibach, 44; McKinney, 11.

PURPOSE: The purpose of this resolution is to propose an interim study to investigate the ability of the Nebraska Crime Victim's Reparations Act to properly serve victims. The Nebraska Crime Victim's Reparations Act is intended to provide compensation to innocent victims of crime for certain expenses related to the criminal offense. The Nebraska Crime Victim's Reparations Act is funded through the federal Victims of Crime Act, state General Fund appropriations, and Cash Funds. The study shall include, but need not be limited to:

(1) An examination of issues relating to claims filed under the Nebraska Crime Victim's Reparations Act, the timeline applicants face to receive reimbursement under the act, the timeline faced by those whose claims were denied to have their appeal heard, the reasoning as to why claims were denied, the type of crimes committed leading to applications, the geographic breakdown of where applicants are from and where the crime was committed, and a comparison of denied applicants and approved applicants on a basis of the crime committed;

(2) A review of statutory and regulatory requirements for the Crime Victim's Reparations Committee and what changes could be made to assist the committee in its ability to efficiently meet, approve, deny, or hear appeals of claims;

(3) A determination of whether the resources provided to the Nebraska Crime Victim's Reparations Act are sufficient to meet the needs of the act to properly and efficiently support victims, including, but not limited to, staff resources and financial aid from all sources;

(4) An evaluation of the outcomes from the Council of State Governments Justice Center study of the act, recommendations made by the study, what recommendations have been accepted and implemented already, what steps are being made to implement any other recommendations made, and statutory or regulatory barriers to making those recommended changes;

(5) An examination of statutory and regulatory barriers that might prevent the act from working effectively to serve innocent victims of crime in Nebraska; and

(6) An analysis of crime victim's reparation programs of other states, including, but not limited to, the similarities and differences between those programs and the Nebraska Crime Victim's Reparations Act.

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

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 129. Introduced by DeKay, 40.

PURPOSE: The purpose of this resolution is to propose an interim study to examine the shortage of sports officials in Nebraska including, but not limited to, the shortage of officials registered by the Nebraska Schools Activities Association for the sports of baseball, basketball, football, softball, soccer, swimming and diving, track and field, volleyball, and wrestling.

In order to carry out the purposes of this resolution, the committee shall consider the input of the Nebraska Schools Activities Association.

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

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

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

Referred to the Executive Board.

GENERAL FILE

LEGISLATIVE BILL 818. Committee [AM1172](#), found on page 1318 and considered in this day's Journal, was renewed.

Senator Conrad offered the following amendment, to the committee amendment:

[AM1564](#)

(Amendments to Standing Committee amendments, AM1172)

- 1 1. Strike section 34.
- 2 2. Renumber the remaining sections and correct internal references
- 3 and the repealer accordingly.

The Conrad amendment, to the committee amendment, was withdrawn.

Senator M. Cavanaugh offered the following amendment, to the committee amendment:

[FA88](#)

Strike Section 3.

The M. Cavanaugh amendment, to the committee amendment, was withdrawn.

Senator Conrad offered the following amendment, to the committee amendment:

[FA89](#)

In Section 34, strike in the new language lines 11-14, and renumber the remaining sections and correct internal references and the repealer accordingly.

Speaker Arch offered the following motion:

[MO1013](#)

Invoke cloture pursuant to Rule 7, Sec. 10.

Speaker Arch moved for a call of the house. The motion prevailed with 23 ayes, 3 nays, and 23 not voting.

The Arch motion to invoke cloture prevailed with 36 ayes, 2 nays, 5 present and not voting, and 6 excused and not voting.

The Conrad amendment, to the committee amendment, lost with 8 ayes, 30 nays, 5 present and not voting, and 6 excused and not voting.

The committee amendment, as amended, was adopted with 39 ayes, 0 nays, 4 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 813. Title read. Considered.

Committee [AM1169](#), found on page 1318, was offered.

SPEAKER ARCH PRESIDING

Senator Clements offered [AM1591](#), found on page 1348, to the committee amendment.

The Clements amendment, to the committee amendment, was adopted with 31 ayes, 0 nays, 9 present and not voting, and 9 excused and not voting.

Senator M. Cavanaugh offered the following amendment, to the committee amendment:

[AM1625](#)

(Amendments to Standing Committee amendments, AM1169)

- 1 1. Strike section 18.
- 2 2. Renumber the remaining sections and correct internal references
- 3 3 accordingly.

PRESIDENT KELLY PRESIDING

Senator M. Cavanaugh moved for a call of the house. The motion prevailed with 8 ayes, 4 nays, and 37 not voting.

The M. Cavanaugh amendment, to the committee amendment, lost with 6 ayes, 25 nays, 8 present and not voting, and 10 excused and not voting.

The Chair declared the call raised.

Senator M. Cavanaugh offered the following amendment, to the committee amendment:

[AM1626](#)

(Amendments to Standing Committee amendments, AM1169)

- 1 1. Strike section 19.
- 2 2. Renumber the remaining sections and correct internal references
- 3 accordingly.

Senator M. Cavanaugh moved for a call of the house. The motion prevailed with 6 ayes, 2 nays, and 41 not voting.

The M. Cavanaugh amendment, to the committee amendment, lost with 2 ayes, 27 nays, 7 present and not voting, and 13 excused and not voting.

The Chair declared the call raised.

Senator M. Cavanaugh offered the following amendment, to the committee amendment:

[AM1627](#)

(Amendments to Standing Committee amendments, AM1169)

- 1 1. Strike section 20.
- 2 2. Renumber the remaining sections and correct internal references
- 3 accordingly.

Pending.

AMENDMENT - Print in Journal

Senator Wayne filed the following amendment to LB813:

[AM1621](#)

(Amendments to Standing Committee amendments, AM1169)

- 1 1. Insert the following new section:
- 2 Sec. 9. AGENCY NO. 13 – STATE DEPARTMENT OF EDUCATION
- 3 (1) A school district or educational service unit that receives
- 4 money under the Tax Equity in Educational Opportunities Support Act or
- 5 the Education Future Fund shall not enter into any contract with a
- 6 superintendent for services to be rendered to a school district or an
- 7 administrator for services to be rendered to an educational service unit
- 8 if such contract will cause, by the terms of such contract or in
- 9 combination with existing contracts, such school district or educational
- 10 service unit to pay compensation for any contract year to or on behalf of
- 11 such superintendent or administrator in excess of five times the
- 12 compensation for a beginning teacher in such school district or
- 13 educational service unit for the same contract year.
- 14 (2) If a superintendent of a school district also receives
- 15 compensation from an educational service unit in which such school
- 16 district is a member, such compensation shall be deemed compensation from
- 17 such school district. If an administrator of an educational service unit
- 18 receives compensation from a school district that is a member of such
- 19 educational service unit, such compensation shall be deemed compensation
- 20 from such educational service unit.
- 21 (3) Any contract entered into in violation of this section shall be
- 22 invalid. Any money that the school district or educational service unit
- 23 would have received under the Tax Equity in Educational Opportunities
- 24 Support Act or the Education Future Fund shall be returned to the State

25 Department of Education. Any such money that has not been disbursed shall
26 be withheld from such school district or educational service unit.
1 (4) Any compensation received by a superintendent or administrator
2 in violation of this section shall be forfeited by such superintendent or
3 administrator and returned to the school district or educational service
4 unit, and a notice regarding such excess compensation shall be filed with
5 the Commissioner of Education within thirty days after the
6 superintendent, administrator, school board, or board of the educational
7 service unit becomes aware of such violation.
8 2. Renumber the remaining sections and correct internal references
9 accordingly.

UNANIMOUS CONSENT - Add Cointroducers

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

Senator Conrad name added to LB632.
Senator Ibach name added to LR124.
Senator Ibach name added to LR125.

VISITORS

Visitors to the Chamber were students and teachers from St. Mary's School, O'Neill; students from Skyview Learning Academy, Douglas; students from Swanson Elementary, Omaha; students from Battle Creek Elementary, Battle Creek.

The Doctor of the Day was Dr. Daniel Rosenquist of Columbus.

ADJOURNMENT

At 9:01 p.m., on a motion by Senator Lippincott, the Legislature adjourned until 9:00 a.m., Friday, May 5, 2023.

Brandon Metzler
Clerk of the Legislature

