

SEVENTY-NINTH DAY - MAY 14, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION****SEVENTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, May 14, 2009

PRAYER

The prayer was offered by Pastor Doyle Karst, St. John's Lutheran Church, Sterling.

ROLL CALL

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

The roll was called and all members were present except Senators Coash, Cornett, and Pankonin who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the seventy-eighth day was approved.

RESOLUTIONS

LEGISLATIVE RESOLUTION 148. Introduced by Wightman, 36.

PURPOSE: (1) The Legislature finds that:

(a) Americans spend more on health care than residents of any other country, and the costs of health care and health insurance are rising rapidly, with health care costing \$2.2 trillion in 2007, or \$7,412 per capita;

(b) It is estimated that seventy percent of health care costs are driven by behaviors;

(c) Private employers in the State of Nebraska have adopted wellness programs to help their employees address unhealthy behaviors and reduce their health insurance costs;

(d) The State of Nebraska must contain the costs of its Nebraska State Insurance Program;

(e) The State of Nebraska has started a wellness program for its employees;

(f) Other states have adopted wellness programs for their state employees that have been in operation for multiple years and could provide additional cost-effective options for consideration; and

(g) The Division of Public Health of the Department of Health and Human Services has as part of its mission the promotion of the public health and has a health promotion unit that encourages healthy behaviors.

(2) An interim study should be conducted to:

(a) Evaluate the State of Nebraska's wellness program and provide policy options, if any, for improvement of the program;

(b) Collect information concerning the effectiveness of wellness programs operated by other states and provide policy options for improvement of the State of Nebraska's wellness program, including incentives for participation;

(c) Collect information concerning the effectiveness of wellness programs operated by private employers to provide policy options for the improvement of the State of Nebraska's wellness program; and

(d) Outline the strategies and options that exist for the State of Nebraska to encourage wellness initiatives and activities to improve the public health of all the citizens of the state.

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

1. That the Health and Human Services 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 149. Introduced by Wightman, 36.

PURPOSE: (1) The Legislature finds that:

(a) In 2007-08, the State of Nebraska provided 39.99% of the total funding for K-12 education;

(b) Under the 2007-08 state aid formula, the state would have distributed over \$839 million in state aid to school districts, which would have been a \$295 million increase over the previous year;

(c) State aid for K-12 education has increased substantially over the past few years;

(d) Such increases are not sustainable when compared to the average growth in the state's revenue;

(e) The American Recovery and Reinvestment Act of 2009 provided increased federal funds of approximately \$150 million in one-time funding for K-12 education. This funding must be replaced to sustain aid for K-12 education;

(f) The Legislature needs accurate and complete information to evaluate the performance and cost of its K-12 educational system; and

(g) The Legislature should make information available to taxpayers so that they can understand and evaluate the cost-effectiveness of their local school district.

(2) An interim study should be conducted for the following purposes:

(a) To examine how school finance data is reported to the public and how it could be made more user-friendly, comparable, and understandable; and

(b) To examine what type of information would assist the Legislature and the public in evaluating the cost-effectiveness of state aid for K-12 education.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST 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.

LEGISLATIVE RESOLUTION 150. Introduced by Campbell, 25.

PURPOSE: To study issues related to the Department of Health and Human Services' plan to contract for delivery of medicaid services using an at-risk capitated managed care model. The study shall include, but not be limited to: A review of the department plan, timeline, goals, and objectives for implementation of an at-risk systems contract; determination of quality performance incentives and penalties, as well as other contract objectives, which should be included in any request for proposal for such services; and how such a system will change current service delivery with attention to improving cost-effectiveness and promoting safety, progress, and recovery with limited resources.

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

1. That the Health and Human Services 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.

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of May 13, 2009, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Kelley and Jerram, P.C.
Brashear, LLP
Plucker, Julia
Southport West Partners, LLC
Radcliffe, Walter H. of Radcliffe & Associates
Brashear, LLP

REPORT

The following report was received by the Legislature:

Roads, Nebraska Department of
State Highway Commission Quarterly Report

AMENDMENT - Print in Journal

Senator Adams filed the following amendment to LB392:
AM1409

(Amendments to Final Reading copy)

- 1 1. Insert the following new section:
- 2 Sec. 21. Since an emergency exists, this act takes effect
- 3 when passed and approved according to law.
- 4 2. On page 2, line 5, strike the second "and"; and in
- 5 line 6 after "sections" insert "; and to declare an emergency".

GENERAL FILE

LEGISLATIVE BILL 675. Title read. Considered.

Committee AM994, found on page 1067, was considered.

Senator Nantkes offered the following amendment to the committee amendment:

AM1060

(Amendments to AM994)

- 1 1. On page 5, line 13; and page 8, line 15, after
- 2 "clinics" insert ", licensed pursuant to the Uniform Credentialing
- 3 Act,".

Pending.

RESOLUTIONS

LEGISLATIVE RESOLUTION 151. Introduced by Avery, 28.

PURPOSE: The purpose of this interim study is to consider and recommend funding strategies for the improvement of the Centennial Mall area of the Nebraska State Capitol Environs District. In 2008, a bill was introduced which created a task force to study the issue of Centennial Mall. The purpose of the bill was to review and consider possible design and repair options, as well as funding strategies.

Centennial Mall, which is part of the Nebraska State Capitol Environs District, serves as the scenic doorway to Nebraska's iconic State Capitol. The fountains in Centennial Mall, in particular, are a source of pride for many Nebraskans and are featured in a variety of the state's promotional materials.

Although challenging state and local budgets have contributed to the decline of Centennial Mall in the past several years, the city of Lincoln has renewed its commitment to the area. The city recently announced its plan to improve Centennial Mall by leveraging local tax-increment financing (TIF) revenue with private investment dollars. The Mayor of Lincoln will also appoint a task force to work with the appropriate entities in developing design options and associated estimates of construction costs for Centennial Mall.

The city of Lincoln and its task force, the Nebraska State Capitol Environs Commission, and other interested parties will be invited to participate in this study to consider additional funding strategies.

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

1. That the Government, Military and Veterans Affairs 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 152. Introduced by Fischer, 43.

PURPOSE: To conduct a comprehensive examination of Nebraska's highway funding structure and to recommend possible alternatives to the traditional methods that have historically been employed in the state.

Highway funding has reached a crisis level in Nebraska. While revenue continues to decrease through less fuel consumption and less motor vehicle sales tax revenue, highway construction costs continue to increase through inflationary factors, global demand for resources, and greater needs due to

increased traffic volume. The Department of Roads has gone from a \$390 million construction program in 2006 to a \$317 million construction program for the current fiscal year.

With an estimated \$286 million annual cost to preserve the state's current highway system, Nebraska is rapidly approaching the point where revenue will be insufficient to sustain the number one priority of system preservation. The \$286 million total does not include any expansion of the current system through capital construction.

This study shall examine several factors surrounding the state of highways in Nebraska, including, but not limited to:

- (1) An analysis of the current funding for highways and streets in Nebraska and the emphasis on user fees;
- (2) An analysis of the overall effectiveness of the fuel tax in today's economic environment;
- (3) An analysis of how the Department of Roads has responded to lower revenue and higher costs over the past several years, including a reassessment of the priority funding system;
- (4) An analysis of how local governments have fared under the state's highway revenue structure; and
- (5) A review of other states' alternative methods of funding highways, including, but not limited to, bonding, implementing a vehicle miles traveled (VMT) system, tolling, using public-private partnerships, and redistributing current state revenue.

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

1. That the Transportation and Telecommunications 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 153. Introduced by Janssen, 15.

PURPOSE: The purpose of this interim study is to examine whether Nebraska should repeal statutory provisions that allow persons not lawfully present in the United States to pay resident tuition at Nebraska postsecondary educational institutions.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST 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.

LEGISLATIVE RESOLUTION 154. Introduced by Janssen, 15.

PURPOSE: The purpose of this interim study is to examine the need for age-appropriate and size-appropriate booster seats on school district vehicles.

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

1. That the Transportation and Telecommunications 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.

NOTICE OF COMMITTEE HEARING
Transportation and Telecommunications

Room 1113

Wednesday, May 27, 2009 1:00 p.m.

Paul Gerber - Motor Vehicle Industry Licensing Board
Roy Neneman - Motor Vehicle Industry Licensing Board

(Signed) Deb Fischer, Chairperson

EASE

The Legislature was at ease from 9:58 a.m. until 10:20 a.m.

GENERAL FILE

LEGISLATIVE BILL 675. The Nantkes amendment, AM1060, found in this day's Journal, to the committee amendment, was renewed.

Pending.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 358. Placed on Final Reading.**LEGISLATIVE BILL 503.** Placed on Final Reading.**LEGISLATIVE BILL 671.** Placed on Final Reading Second.

(Signed) Jeremy Nordquist, Chairperson

MESSAGE FROM THE GOVERNOR

May 14, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individual is being
reappointed to the Nebraska Accountability and Disclosure Commission:

Kevin Brostrom, 2316 Apache Road, Grand Island, NE 68801

The aforementioned appointee is respectfully submitted for your
consideration. Copies of the certificate and background materials are
included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

REFERENCE COMMITTEE REPORT

The Executive Board submits the following report:

Wiebusch, Janice - Nebraska Liquor Control Commission - General Affairs

Brostrom, Kevin - Nebraska Accountability and Disclosure Commission -
Government, Military and Veterans Affairs

(Signed) John Wightman, Chairperson
Executive Board

NOTICE OF COMMITTEE HEARINGS

Agriculture

Room 2102

Thursday, May 28, 2009 8:00 a.m.

Al Berndt - Climate Assessment Response Committee (cancel)

William Marshall III - Nebraska State Fair Board (cancel)

Thursday, May 21, 2009 8:00 a.m.

Al Berndt - Climate Assessment Response Committee (reschedule)

William Marshall III - Nebraska State Fair Board (reschedule)

(Signed) Tom Carlson, Chairperson

GENERAL FILE

LEGISLATIVE BILL 675. The Nantkes amendment, AM1060, found in this day's Journal, to the committee amendment, was renewed.

Senator Nantkes moved for a call of the house. The motion prevailed with 33 ayes, 0 nays, and 16 not voting.

Senator Nantkes requested a roll call vote on her amendment.

Voting in the affirmative, 10:

Avery	Dubas	Haar	Karpisek	Nantkes
Cook	Giese	Howard	McGill	White

Voting in the negative, 27:

Adams	Fischer	Hadley	Lautenbaugh	Schilz
Carlson	Flood	Hansen	McCoy	Stuthman
Christensen	Friend	Harms	Nelson	Utter
Coash	Fulton	Heidemann	Pahls	
Cornett	Gay	Janssen	Pirsch	
Dierks	Gloor	Langemeier	Price	

Present and not voting, 9:

Campbell	Lathrop	Nordquist	Sullivan	Wightman
Council	Mello	Rogert	Wallman	

Excused and not voting, 3:

Ashford	Louden	Pankonin
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The Nantkes amendment lost with 10 ayes, 27 nays, 9 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Haar offered the following amendment to the committee amendment:

AM1421

(Amendments to Standing Committee amendments, AM994)

- 1 1. On page 1, strike line 21, show as stricken, and
- 2 insert "a developing fetus within her body";".

SENATOR FISCHER PRESIDING

Senator Haar withdrew his amendment.

Senator Haar offered the following amendment to the committee amendment:

AM1417

(Amendments to Standing Committee amendments, AM994)

- 1 1. Insert the following new sections:
- 2 Section 1. Section 28-325, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 28-325 The Legislature hereby finds and declares:
- 5 (1) That the following provisions were motivated by
- 6 the legislative intrusion of the United States Supreme Court by
- 7 virtue of its decision removing the protection afforded the unborn.
- 8 Sections 28-325 to 28-345 and section 8 of this act are in no way
- 9 to be construed as legislatively encouraging abortions at any stage
- 10 of unborn human development, but are rather an expression of the
- 11 will of the people of the State of Nebraska and the members of the
- 12 Legislature to provide protection for the life of the unborn child
- 13 whenever possible;
- 14 (2) That the members of the Legislature expressly deplore
- 15 the destruction of the unborn human lives which has and will occur
- 16 in Nebraska as a consequence of the United States Supreme Court's
- 17 decision on abortion of January 22, 1973;
- 18 (3) That it is in the interest of the people of the State
- 19 of Nebraska that every precaution be taken to insure the protection
- 20 of every viable unborn child being aborted, and every precaution
- 21 be taken to provide life-supportive procedures to insure the unborn
- 22 child its continued life after its abortion;
- 1 (4) That currently this state is prevented from providing
- 2 adequate legal remedies to protect the life, health, and welfare of
- 3 pregnant women and unborn human life; and
- 4 (5) That it is in the interest of the people of the
- 5 State of Nebraska to maintain accurate statistical data to aid in
- 6 providing proper maternal health regulations and education.

7 Sec. 7. Section 28-340, Reissue Revised Statutes of
 8 Nebraska, is amended to read:
 9 28-340 Any person whose employment or position has been
 10 in any way altered, impaired, or terminated in violation of
 11 sections 28-325 to 28-345 and section 8 of this act may sue
 12 in the district court for all consequential damages, lost wages,
 13 reasonable attorney's fees incurred, and the cost of litigation.
 14 Sec. 8. If consent to an abortion is withdrawn by a woman
 15 during the abortion, the person or persons performing the abortion
 16 shall be immune from civil liability for damages occurring during
 17 the abortion that are proximately related to the abortion, unless
 18 such damages were caused by the willful or wanton act or omission
 19 of the person or persons performing the abortion.
 20 2. Renumber the remaining sections and correct the
 21 repealer accordingly.

Senator Haar withdrew his amendment.

Senator Council offered the following amendment to the committee amendment:

FA43

Amend AM994

On page 3 strike everything after the word "abortion" in line 25 to the period on line 27.

Senator Council moved for a call of the house. The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

Senator Council requested a roll call vote on her amendment.

Voting in the affirmative, 32:

Adams	Fischer	Harms	Mello	Rogert
Ashford	Flood	Karpisek	Nantkes	Schilz
Campbell	Fulton	Langemeier	Nordquist	Wallman
Carlson	Gay	Lathrop	Pahls	White
Coash	Giese	Lautenbaugh	Pankonin	
Cornett	Gloor	McCoy	Pirsch	
Council	Haar	McGill	Price	

Voting in the negative, 0.

Present and not voting, 12:

Avery	Dubas	Heidemann	Nelson
Christensen	Friend	Howard	Stuthman
Cook	Hansen	Janssen	Utter

Excused and not voting, 5:

Dierks Hadley Louden Sullivan Wightman

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

The Chair declared the call raised.

Committee AM994, found on page 1067 and considered in this day's Journal, as amended, was renewed.

The committee amendment, as amended, was adopted with 37 ayes, 5 nays, 2 present and not voting, and 5 excused and not voting.

Senator Fulton requested a record vote on the advancement of the bill.

Voting in the affirmative, 37:

Adams	Flood	Heidemann	Nelson	Stuthman
Ashford	Friend	Janssen	Nordquist	Sullivan
Carlson	Fulton	Karpisek	Pahls	Utter
Christensen	Gay	Langemeier	Pankonin	Wallman
Coash	Giese	Lathrop	Pirsch	White
Cornett	Gloor	Lautenbaugh	Price	
Dubas	Hansen	McCoy	Rogert	
Fischer	Harms	Mello	Schilz	

Voting in the negative, 5:

Campbell	Council	Haar	McGill	Nantkes
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Present and not voting, 3:

Avery	Cook	Howard
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Excused and not voting, 4:

Dierks	Hadley	Louden	Wightman
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Advanced to Enrollment and Review Initial with 37 ayes, 5 nays, 3 present and not voting, and 4 excused and not voting.

AMENDMENTS - Print in Journal

Senator Friend filed the following amendment to LB16:
AM1431

(Amendments to E & R amendments, ER8110)

- 1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:
3 Section 1. The establishment of the web site provided for
4 in section 84-602 and described in section 3 of this act shall be
5 known and may be cited as the Taxpayer Transparency Act.
6 Sec. 2. Section 84-602, Reissue Revised Statutes of
7 Nebraska, is amended to read:
8 84-602 It shall be the duty of the State Treasurer:
9 (1) To receive and keep all money of the state not
10 expressly required to be received and kept by some other person;
11 (2) To disburse the public money upon warrants drawn upon
12 the state treasury according to law; and not otherwise;
13 (3) To keep a just, true, and comprehensive account of
14 all money received and disbursed;
15 (4) To keep a just account with each fund, and each head
16 of appropriation made by law, and the warrants drawn against them;
17 (5) To render a full statement to the Department of
18 Administrative Services; of all money received by him or her from
19 whatever source, and if on account of revenue, for what year;
20 of all penalties and interest on delinquent taxes reported or
21 accounted for to him or her, and of all disbursements of public
22 funds; with a list, in numerical order, of all warrants redeemed,
1 the name of the payee, amount, interest, and total amount allowed
2 thereon, and with the amount of the balance of the several funds
3 unexpended; which statement shall be made on the first day of
4 December, March, June, and September, and more often if required;
5 (6) To report to the Legislature as soon as practicable,
6 but within ten days after the commencement of each regular session,
7 a detailed statement of the condition of the treasury; and its
8 operations for the preceding fiscal year;
9 (7) To give information in writing to the Legislature,
10 whenever required, upon any subject connected with the treasury or
11 touching any duty of his or her office; ~~and~~
12 (8) To account for, and pay over, all money received by
13 him or her as such treasurer, to his or her successor in office,
14 and deliver all books, vouchers, and effects of office to him or
15 her; and such successor shall receipt therefor. In accounting for
16 and paying over such money the treasurer shall not be held liable
17 on account of any loss occasioned by any investment, when such
18 investment shall have been made pursuant to the direction of the
19 state investment officer; ~~and~~;
20 (9) To develop and maintain a single, searchable web
21 site with information on state tax receipts and expenditures which
22 is accessible by the public at no cost to access as provided in

23 section 3 of this act. The web site shall be hosted on a server
24 owned and operated by the State of Nebraska or approved by the
25 Chief Information Officer. The naming convention for the web site
26 shall identify the web site as a state government web site.

27 Sec. 3. (1)(a) Not later than January 1, 2010, the web
1 site established, developed, and maintained by the State Treasurer
2 pursuant to subdivision (9) of section 84-602 shall provide such
3 information as will document the sources of all tax receipts
4 and the expenditure of state funds by all agencies, boards,
5 commissions, and departments of the state.

6 (b) The State Treasurer shall, in appropriate detail,
7 cause to be published on the web site:

8 (i) The identity, principal location, and amount of funds
9 received or expended by the State of Nebraska and all of its
10 agencies, boards, commissions, and departments;

11 (ii) The funding or expending agency, board, commission,
12 or department;

13 (iii) The budget program source;

14 (iv) The amount, date, purpose, and recipient of all
15 disbursed funds; and

16 (v) Such other relevant information as will further
17 the intent of enhancing the transparency of state government
18 financial operations to its citizens and taxpayers. The web site
19 shall include data for fiscal year 2008-09 and each fiscal year
20 thereafter.

21 (2) Beginning July 1, 2010, the data shall be available
22 on the web site no later than thirty days after the end of
23 the preceding fiscal year. All agencies, boards, commissions, and
24 departments of the state shall provide to the State Treasurer, at
25 such times and in such form as designated by the State Treasurer,
26 such information as is necessary to accomplish the purposes of the
27 Taxpayer Transparency Act. Nothing in this subsection requires the
1 disclosure of information which is considered confidential under
2 state or federal law or is not a public record under section
3 84-712.05.

4 (3)(a) For purposes of this section, expenditure of state
5 funds means all expenditures of appropriated or nonappropriated
6 funds by an agency, board, commission, or department of the state
7 from the state treasury in forms including, but not limited to:

8 (i) Grants;

9 (ii) Contracts;

10 (iii) Subcontracts;

11 (iv) State aid to political subdivisions; and

12 (v) Tax refunds or credits that may be disclosed

13 pursuant to the Nebraska Advantage Act, the Nebraska Advantage
14 Microenterprise Tax Credit Act, the Nebraska Advantage Research and
15 Development Act, or the Nebraska Advantage Rural Development Act.

16 (b) Expenditure of state funds does not include the
17 transfer of funds between two agencies, boards, commissions, or

18 departments of the state or payments of state or federal assistance
 19 to an individual.
 20 Sec. 4. Original section 84-602, Reissue Revised Statutes
 21 of Nebraska, is repealed.

Senator Friend filed the following amendment to LB16A:
 AM1383

- 1 1. On page 2, line 2, strike "Legislative Council" and
- 2 insert "State Treasurer"; and in line 3 strike "122" and insert
- 3 "503".

Senator Giese filed the following amendment to LB218:
 AM1423

(Amendments to E & R amendments, ER8132)

- 1 1. Insert the following new section:
- 2 Sec. 9. Section 81-8,297, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 81-8,297 The State Claims Board shall have the power
- 5 and authority to receive, investigate, and otherwise carry out its
- 6 duties with regard to (1) all claims under the State Miscellaneous
- 7 Claims Act, (2) all claims under sections 25-1802 to 25-1807, (3)
- 8 all claims under the State Contract Claims Act, (4) all requests
- 9 on behalf of any department, board, or commission of the state
- 10 for waiver or cancellation of money or charges when necessary for
- 11 fiscal or accounting procedures, ~~and~~ (5) all claims filed under
- 12 section 66-1531, and (6) all claims filed under section 7 of this
- 13 act. All such claims or requests and supporting documents shall be
- 14 filed with the Risk Manager and shall be designated by number, name
- 15 of claimant as requester, and short title. Nothing in this section
- 16 shall be construed to be a waiver of the sovereign immunity of the
- 17 state beyond what is otherwise provided by law.
- 18 The board shall adopt and promulgate such rules and
- 19 regulations as are necessary to carry out the powers granted in
- 20 this section. The Attorney General shall be the legal advisor
- 21 to the board for purposes of this section and may authorize the
- 22 assistant attorney general in charge of the Claims Division to
- 1 perform any of his or her duties under this section.
- 2 2. On page 8, line 4, after the period insert "If the
- 3 Legislature fails to appropriate funds as aid to counties of
- 4 at least .0075 percent of the total real and personal property
- 5 valuation of all counties, the counties may file claims with the
- 6 State Claims Board under the State Miscellaneous Claims Act for the
- 7 difference between the amount of funds appropriated and the .0075
- 8 percent requirement.".
- 9 3. Renumber the remaining sections and correct the
- 10 repealer accordingly.

Senator Gay filed the following amendment to LB679:
AM1427

(Amendments to Final Reading copy)

1 1. Insert the following new sections:

2 Sec. 2. Section 43-1304, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 43-1304 (1) ~~The state board shall establish local foster~~
5 ~~care review boards for the review of cases of children in foster~~
6 ~~care placement. The state board shall select members to serve on~~
7 ~~local boards from a list of applications submitted to the state~~
8 ~~board. Each local board shall consist of not less than four and not~~
9 ~~more than ten members.~~

10 (2) ~~The members of the each local board shall reasonably~~
11 ~~represent the various social, economic, racial, and ethnic groups~~
12 ~~of the county or counties from which its members may be are~~
13 ~~appointed. A person employed by the state board, the Department of~~
14 ~~Health and Human Services, a child-caring agency, a child-placing~~
15 ~~agency, or a court shall not be appointed to a local board. No~~
16 ~~person with a conflict of interest as described in this section~~
17 ~~shall be a member of a local board. No person or person whose~~
18 ~~spouse, parent, sibling, or child by blood or marriage is employed~~
19 ~~by or who receives or distributes funds from the Department of~~
20 ~~Health and Human Services, a child-caring agency, a child-placing~~
21 ~~agency, a court, a county, or a designated contractor of any such~~
22 ~~agency is eligible to be a member of a local board, except that~~
1 ~~a practitioner of pediatric medicine licensed under the Uniform~~
2 ~~Credentialing Act and a guardian ad litem who receives less than~~
3 ~~one-half of his or her income for such services are eligible to be~~
4 ~~members of a local board.~~

5 (3) ~~The terms of members serving on a local board on~~
6 ~~the effective date of this act who have a conflict of interest~~
7 ~~shall expire on the sixtieth day after the effective date of this~~
8 ~~act. The state board shall make any appointments needed to ensure~~
9 ~~that each local board consists of not less than four and not more~~
10 ~~than ten members and meets the requirements of this section. Such~~
11 ~~appointments shall be made and qualified within sixty days after~~
12 ~~the effective date of this act. For such appointments, the terms of~~
13 ~~such members shall begin on the sixty-first day after the effective~~
14 ~~date of this act, and the state board shall designate terms of one,~~
15 ~~two, or three years for such appointments to maintain as equal a~~
16 ~~rotation of terms as possible.~~

17 (4) ~~On and after the sixty-first day after the effective~~
18 ~~date of this act, the state board shall select members to serve~~
19 ~~on local boards from a list of applicants submitted to the state~~
20 ~~board who do not have a conflict of interest as described in this~~
21 ~~section. Each local board shall consist of not less than four and~~
22 ~~not more than ten members. A list of the members of each local~~
23 ~~board shall be sent to the department.~~

24 Sec. 3. Section 43-1305, Reissue Revised Statutes of

25 Nebraska, is amended to read:

26 43-1305 ~~All~~ Except for appointments made under subsection
 27 (3) of section 43-1304, all local board members shall be appointed
 1 for terms of three years. If a vacancy occurs on a local board,
 2 the state board shall appoint another person to serve the unexpired
 3 portion of the term. Appointments to fill vacancies on the local
 4 board shall be made in the same manner and subject to the same
 5 conditions as the initial appointments to such board. The term
 6 of each member shall expire on the second Monday in July of the
 7 appropriate year. Members shall continue to serve until a successor
 8 is appointed.

9 2. On page 1, line 1, strike "the State Foster Care
 10 Review Board" and insert "state and local foster care review
 11 boards"; in line 2 strike "section 43-1302" and insert "sections
 12 43-1302, 43-1304, and 43-1305"; in line 4 after the second
 13 semicolon insert "to change provisions relating to appointments
 14 of local foster care review boards;"; and in line 5, strike
 15 "section" and insert "sections".

16 3. On page 4, line 11, strike "section 43-1302" and
 17 insert "sections 43-1302, 43-1304, and 43-1305"; and in line 12
 18 strike "is" and insert "are".

19 4. Renumber the remaining section accordingly.

Senator Rogert filed the following amendment to LB155:
 AM1432

1 1. Insert the following new section:

2 Sec. 21. Section 87-302, Reissue Revised Statutes of
 3 Nebraska, is amended to read:

4 87-302 (a) A person engages in a deceptive trade
 5 practice when, in the course of his or her business, vocation,
 6 or occupation, he or she:

7 (1) Passes off goods or services as those of another;

8 (2) Causes likelihood of confusion or of misunderstanding
 9 as to the source, sponsorship, approval, or certification of goods
 10 or services;

11 (3) Causes likelihood of confusion or of misunderstanding
 12 as to affiliation, connection, or association with, or
 13 certification by, another;

14 (4) Uses deceptive representations or designations of
 15 geographic origin in connection with goods or services;

16 (5) Represents that goods or services have sponsorship,
 17 approval, characteristics, ingredients, uses, benefits, or
 18 quantities that they do not have or that a person has a
 19 sponsorship, approval, status, affiliation, or connection that he
 20 or she does not have;

21 (6) Represents that goods are original or new if they
 22 are deteriorated, altered, reconditioned, reclaimed, used, or
 23 secondhand, except that sellers may repair damage to and make
 1 adjustments on or replace parts of otherwise new goods in an effort

- 2 to place such goods in compliance with factory specifications;
- 3 (7) Represents that goods or services are of a particular
4 standard, quality, or grade, or that goods are of a particular
5 style or model, if they are of another;
- 6 (8) Disparages the goods, services, or business of
7 another by false or misleading representation of fact;
- 8 (9) Advertises goods or services with intent not to sell
9 them as advertised or advertises the price in any manner calculated
10 or tending to mislead or in any way deceive a person;
- 11 (10) Advertises goods or services with intent not
12 to supply reasonably expectable public demand, unless the
13 advertisement discloses a limitation of quantity;
- 14 (11) Makes false or misleading statements of fact
15 concerning the reasons for, existence of, or amounts of price
16 reductions;
- 17 (12) Uses or promotes the use of a chain distributor
18 scheme in connection with the solicitation of business or personal
19 investments from members of the public;
- 20 (13) With respect to a sale or lease to a natural person
21 of goods or services purchased or leased primarily for personal,
22 family, household, or agricultural purposes, uses or employs any
23 referral or chain referral sales technique, plan, arrangement, or
24 agreement;
- 25 (14) Knowingly makes a false or misleading statement in a
26 privacy policy, published on the Internet or otherwise distributed
27 or published, regarding the use of personal information submitted
1 by members of the public;
- 2 (15) Uses any scheme or device to defraud by means of:
3 (i) Obtaining money or property by knowingly false or
4 fraudulent pretenses, representations, or promises; or
5 (ii) Selling, distributing, supplying, furnishing, or
6 procuring any property for the purpose of furthering such scheme;
- 7 (16) Offers an unsolicited check, through the mail or
8 by other means, to promote goods or services if the cashing or
9 depositing of the check obligates the endorser or payee identified
10 on the check to pay for goods or services. This subdivision does
11 not apply to an extension of credit or an offer to lend money;
- 12 (17) Mails or causes to be sent an unsolicited billing
13 statement, invoice, or other document that appears to obligate the
14 consumer to make a payment for services or merchandise he or she
15 did not order; or
- 16 (18) Violates any provision of the Nebraska Foreclosure
17 Protection Act.
- 18 (b) In order to prevail in an action under the Uniform
19 Deceptive Trade Practices Act, a complainant need not prove
20 competition between the parties.
- 21 (c) This section does not affect unfair trade practices
22 otherwise actionable at common law or under other statutes of this
23 state.

- 24 2. Strike the Rogert amendment, FA42.
 25 3. Strike the Avery amendment, AM1399.
 26 4. Renumber the remaining sections and correct the
 27 repealer and title accordingly.

Senator Avery filed the following amendment to LB36:
 AM1412

- 1 1. Insert the following new section:
 2 Section 1. Section 28-105.01, Reissue Revised Statutes of
 3 Nebraska, is amended to read:
 4 28-105.01 (1) Notwithstanding any other provision of law,
 5 the death penalty shall not be imposed upon any person who was
 6 under the age of eighteen years at the time of the commission of
 7 the crime.
 8 (2) Notwithstanding any other provision of law, the
 9 death penalty shall not be imposed upon any person with mental
 10 retardation. ~~As used in this subsection, (3) As used in subsection~~
 11 ~~(2) of this section, mental retardation means significantly~~
 12 subaverage general intellectual functioning existing concurrently
 13 with deficits in adaptive behavior. An intelligence quotient of
 14 seventy or below on a reliably administered intelligence quotient
 15 test shall be presumptive evidence of mental retardation.
 16 (3) Notwithstanding any other provision of law, the death
 17 penalty shall not be imposed upon any person if the only evidence
 18 admitted at trial against such person is eyewitness or informant
 19 testimony.
 20 (4) If (a) a jury renders a verdict finding the existence
 21 of one or more aggravating circumstances as provided in section
 22 29-2520 or (b)(i) the information contains a notice of aggravation
 23 as provided in section 29-1603 and (ii) the defendant waives his or
 1 her right to a jury determination of the alleged aggravating
 2 circumstances, the court shall hold a hearing prior to any
 3 sentencing determination proceeding as provided in section 29-2521
 4 upon a verified motion of the defense requesting a ruling that the
 5 penalty of death be precluded under subsection (2) of this section.
 6 If the court finds, by a preponderance of the evidence, that the
 7 defendant is a person with mental retardation, the death sentence
 8 shall not be imposed. A ruling by the court that the evidence
 9 of diminished intelligence introduced by the defendant does not
 10 preclude the death penalty under subsection (2) of this section
 11 shall not restrict the defendant's opportunity to introduce such
 12 evidence at the sentencing determination proceeding as provided in
 13 section 29-2521 or to argue that such evidence should be given
 14 mitigating significance.
 15 2. On page 15, line 2, after "sections" insert
 16 "28-105.01,".
 17 3. Renumber the remaining sections and correct internal
 18 references accordingly.

VISITORS

Visitors to the Chamber were Mary Jo Gunnels and Amy Jorgenson; Nikki Pappas from Lincoln and Charles Murphey from Texas; 32 fourth-grade students and teachers from Exeter Milligan School, Milligan; 20 seventh- and eighth-grade students, teachers, and sponsors from Orchard; 11 fourth-through twelfth-grade students and teachers from Home School Apologetics Group, Lincoln and Panama; 16 fourth-grade students, teachers, and sponsors from McCool Junction; 40 fourth-grade students and teachers from Knickrehm Elementary, Grand Island; 37 seventh- and eighth-grade students from Trinity Lutheran, Fremont; and 20 fourth-grade students, teacher, and sponsors from Raymond Central School, Ceresco.

The Doctor of the Day was Dr. Randy Kohl from Firth.

ADJOURNMENT

At 2:11 p.m., on a motion by Senator Heidemann, the Legislature adjourned until 10:00 a.m., Monday, May 18, 2009.

Patrick J. O'Donnell
Clerk of the Legislature