

**FOURTEENTH DAY - JANUARY 27, 2010**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FIRST LEGISLATURE  
SECOND SESSION**

**FOURTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, January 27, 2010

**PRAYER**

The prayer was offered by Senator Hansen.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Ashford, Christensen, Loudon, and Schilz who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirteenth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 139.** Placed on Final Reading.

**LEGISLATIVE BILL 197.** Placed on Final Reading.  
ST9067

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Fulton amendment, AM1578:
  - a. Sections 2 and 4 have been struck and sections 5, 6, and 9 have been renumbered as sections 8, 9, and 12 respectively;
  - b. On page 10, the matter beginning with the semicolon in line 25 through line 27 has been struck; and
  - c. On page 11, lines 1 through 3 have been struck; and in line 4 "after the period" has been struck and "before 'Any'" inserted.
2. In the Gay-Fulton amendment, AM1588:
  - a. On page 13, line 17, "and excluding the administrative fund and the expense fund" has been inserted after "fund"; and
  - b. On page 14, line 9, "effective" has been struck and "operative" inserted.
3. In the E & R amendments, ER8142:

a. On page 1, line 2, the matter beginning with "2" through the second occurrence of "line" has been struck; and in line 4 the matter beginning with "Legislative" through "First" has been struck; and

b. Amendment 2 has been struck.

4. In the Standing Committee amendments, AM464, section 3 has been struck and the following new section inserted:

Sec. 10. Original sections 77-2716, 85-1801, 85-1802, 85-1804, 85-1807, 85-1808, and 85-1813, Reissue Revised Statutes of Nebraska, and Laws 2009, First Special Session, LB 1, section 228, are repealed.

5. On page 1, lines 2 through 5 have been struck and "to amend sections 77-2716, 85-1801, 85-1802, 85-1804, 85-1807, 85-1808, and 85-1813, Reissue Revised Statutes of Nebraska, and Laws 2009, First Special Session, LB 1, section 228; to redefine terms; to create and eliminate funds; to change and eliminate provisions relating to the use of funds; to provide for and change transfers of funds; to harmonize provisions; to provide an operative date; to repeal the original sections; to outright repeal section 85-1803, Reissue Revised Statutes of Nebraska, as amended by section 95, Legislative Bill 3, One Hundred First Legislature, First Special Session, 2009; and to declare an emergency." inserted.

**LEGISLATIVE BILL 210.** Placed on Final Reading.

**LEGISLATIVE BILL 279.** Placed on Final Reading.

**LEGISLATIVE BILL 475.** Placed on Final Reading.

**LEGISLATIVE BILL 550.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

### COMMITTEE REPORTS

#### Transportation and Telecommunications

**LEGISLATIVE BILL 749.** Placed on General File with amendment. AM1587

- 1 1. On page 2, line 21, strike "the" and insert "a"; and
- 2 in line 22 strike "in Box Butte County".

**LEGISLATIVE BILL 816.** Placed on General File with amendment. AM1619

- 1 1. Strike original section 34 and insert the following
- 2 new section:
- 3 Sec. 34. Line-make means a collection of models, series,
- 4 or groups of motor vehicles manufactured by or for a particular
- 5 manufacturer, distributor, or importer that are offered for sale,
- 6 lease, or distribution pursuant to a common brand name or mark,
- 7 except that:
- 8 (1) Multiple brand names or marks may constitute a
- 9 single line-make, but only when included in a common dealer
- 10 agreement and the manufacturer, distributor, or importer offers
- 11 such vehicles bearing the multiple names or marks together only,
- 12 and not separately, to its authorized dealers; and

13 (2) Motor vehicles bearing a common brand name or  
 14 mark may constitute separate line-makes when pertaining to motor  
 15 vehicles subject to separate dealer agreements or when such  
 16 vehicles are intended for different types of use.

17 2. On page 60, lines 6 through 10, strike the new matter.

18 3. On page 86, line 24, after the period insert "This  
 19 section shall not apply to a termination or noncontinuation of a  
 20 franchise that is implemented as a result of the sale of the assets  
 21 or stock of the franchisee.".

22 4. On page 88, after line 25 insert the following new  
 23 subdivision:

1 "(d) This subsection does not apply to the termination of  
 2 a line-make by a franchisor of recreational vehicles.".

3 5. On page 92, line 14, after "facilities" insert ",  
 4 except that this subdivision does not prohibit a manufacturer from  
 5 requiring exclusive sales facilities that are in compliance with  
 6 reasonable requirements for the facilities".

7 6. On page 96, line 2, strike "actual"; in lines 8 and  
 8 9 strike "had actual knowledge" and insert "knew"; and in line 19  
 9 strike the first occurrence of "in this state".

10 7. On page 100, line 2, after the period insert "If a  
 11 claim is rejected for a clerical error, the dealer may resubmit a  
 12 corrected claim in a timely manner.".

(Signed) Deb Fischer, Chairperson

General Affairs

**LEGISLATIVE BILL 788.** Placed on General File.

(Signed) Russ Karpisek, Chairperson

## MESSAGE FROM THE GOVERNOR

January 22, 2010

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

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Board of Emergency Medical Services:

Bernard Kanger Jr., 14705 Manderson Plz, #104, Omaha, NE 68116

The aforementioned appointee is respectfully submitted for your

consideration. Copies of the certificate and background information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

### RESOLUTION

Pursuant to Rule 4, Sec. 5(b), LR294 was adopted.

### PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LR294.

### MOTION - Approve Appointment

Senator Cornett moved the adoption of the Revenue Committee report for the confirmation of the following appointment(s) found on page 332:

Tax Equalization and Review Commission  
Robert W. Hotz

Voting in the affirmative, 36:

|         |         |             |           |          |
|---------|---------|-------------|-----------|----------|
| Adams   | Dubas   | Hansen      | Mello     | Sullivan |
| Carlson | Fischer | Harms       | Nelson    | Utter    |
| Coash   | Flood   | Howard      | Nordquist | Wallman  |
| Conrad  | Gay     | Krist       | Pahls     | White    |
| Cook    | Giese   | Langemeier  | Pankonin  |          |
| Cornett | Gloor   | Lautenbaugh | Pirsch    |          |
| Council | Haar    | McCoy       | Rogert    |          |
| Dierks  | Hadley  | McGill      | Stuthman  |          |

Voting in the negative, 0.

Present and not voting, 9:

|          |           |          |         |          |
|----------|-----------|----------|---------|----------|
| Avery    | Fulton    | Janssen  | Lathrop | Wightman |
| Campbell | Heidemann | Karpisek | Price   |          |

Excused and not voting, 4:

|         |             |        |        |
|---------|-------------|--------|--------|
| Ashford | Christensen | Louden | Schilz |
|---------|-------------|--------|--------|

The appointment was confirmed with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

**GENERAL FILE**

**LEGISLATIVE BILL 226.** Senator Rogert renewed his amendment, AM1633, found on page 362, to the committee amendment.

The Rogert amendment was adopted with 41 ayes, 0 nays, and 8 present and not voting.

Committee AM1590, found on page 309 and considered on page 362, as amended, was renewed.

The committee amendment, as amended, was adopted with 40 ayes, 0 nays, and 9 present and not voting.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, and 8 present and not voting.

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 190A.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to appropriations; to provide for a transfer; and to appropriate funds to aid in carrying out the provisions of Legislative Bill 190, One Hundred First Legislature, Second Session, 2010.

**AMENDMENTS - Print in Journal**

Senator Avery filed the following amendment to LB190:  
AM1621

(Amendments to E & R amendments, ER8149)

- 1 1. On page 1, line 16 strike ", especially sex offenses,"
- 2 and show as stricken.
- 3 2. On page 5, line 13, after "confinement" insert
- 4 "or probation"; and in line 16 after "confinement" insert "or
- 5 revocation or discharge from his or her probation".

Senator Avery filed the following amendment to LB190:  
AM1627

(Amendments to E & R amendments, ER8149)

- 1 1. Insert the following new section:
- 2 Sec. 6. Section 59-1608.04, Revised Statutes Cumulative
- 3 Supplement, 2008, as amended by section 34, Legislative Bill 3, One
- 4 Hundred First Legislature, First Special Session, 2009, is amended
- 5 to read:
- 6 59-1608.04 The State Settlement Cash Fund is created.
- 7 The fund shall be maintained by the Department of Justice and
- 8 administered by the Attorney General. Except as otherwise provided

- 9 by law, the fund shall consist of all recoveries received pursuant  
 10 to the Consumer Protection Act, including any money, funds,  
 11 securities, or other things of value in the nature of civil  
 12 damages or other payment, except criminal penalties, whether such  
 13 recovery is by way of verdict, judgment, compromise, or settlement  
 14 in or out of court, or other final disposition of any case or  
 15 controversy, or any other payments received on behalf of the state  
 16 by the Department of Justice and administered by the Attorney  
 17 General for the benefit of the state or the general welfare of its  
 18 citizens, but excluding all funds held in a trust capacity where  
 19 specific benefits accrue to specific individuals, organizations, or  
 20 governments. All money in the fund shall be subject to legislative  
 21 review and shall be appropriated and expended for any allowable  
 1 legal purposes as determined by the Legislature. The fund shall  
 2 only be appropriated to a separate and distinct budget program  
 3 and such appropriations shall only be expended from a separate  
 4 and distinct budget subprogram and shall not be commingled with  
 5 any other revenue or expenditure. Transfers may be made from the  
 6 fund to the General Fund and the State DNA Sample and Data Base  
 7 Fund at the direction of the Legislature. To provide necessary  
 8 financial accountability and management oversight, revenue from  
 9 individual settlement agreements or other separate sources credited  
 10 to the State Settlement Cash Fund may be tracked and accounted  
 11 for within the state accounting system through the use of separate  
 12 and distinct funds, subfunds, or any other available accounting  
 13 mechanism specifically approved by the Accounting Administrator for  
 14 use by the Department of Justice. Any money in the fund available  
 15 for investment shall be invested by the state investment officer  
 16 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
 17 State Funds Investment Act.
- 18 2. On page 6, line 4, after the last comma insert "and  
 19 section 59-1608.04, Revised Statutes Cumulative Supplement, 2008,  
 20 as amended by section 34, Legislative Bill 3, One Hundred First  
 21 Legislature, First Special Session, 2009,".
- 22 3. Renumber the remaining section accordingly.

**NOTICE OF COMMITTEE HEARINGS**  
 Government, Military and Veterans Affairs

Room 1507

Wednesday, February 3, 2010 1:30 p.m.

Reynold McMeen - State Emergency Response Commission

LB987  
 LB1035  
 LB715

(Signed) Bill Avery, Chairperson

Urban Affairs

Room 1510

Tuesday, February 9, 2010 1:30 p.m.

LB997  
LB1098  
LB1099

Tuesday, February 16, 2010 1:30 p.m.

LB943  
LB969  
LB1064  
LR297CA

(Signed) Amanda McGill, Chairperson

Natural Resources

Room 1525

Wednesday, February 3, 2010 1:30 p.m.

LB764  
LB862  
LB932

(Signed) Chris Langemeier, Chairperson

### **COMMITTEE REPORT**

Transportation and Telecommunications

**LEGISLATIVE BILL 200.** Placed on General File.

(Signed) Deb Fischer, Chairperson

### **GENERAL FILE**

**LEGISLATIVE BILL 635.** Title read. Considered.

Committee AM1140, found on page 1548, First Session, 2009, was considered.

Senator Mello offered the following amendment to the committee amendment:

FA58

Amend AM1140

Strike "or political party committee" on page 8, line 5

Pending.

**COMMITTEE REPORTS**

Transportation and Telecommunications

**LEGISLATIVE BILL 705.** Placed on General File.**LEGISLATIVE BILL 725.** Placed on General File with amendment.  
AM1630

- 1 1. Insert the following new section:  
 2 Section 1. Section 60-363, Revised Statutes Cumulative  
 3 Supplement, 2008, is amended to read:  
 4 60-363 No person shall operate or park a motor vehicle or  
 5 tow or park a trailer on the highways unless such motor vehicle or  
 6 trailer at all times carries in or upon it, subject to inspection  
 7 by any peace officer, the registration certificate issued for  
 8 it, except fertilizer trailers as defined in section 60-326. The  
 9 registration certificate for a fertilizer trailer shall be kept at  
 10 the principal place of business of the owner of the fertilizer  
 11 trailer. In the case of a motorcycle, the registration certificate  
 12 shall be carried either in plain sight, affixed to the motorcycle,  
 13 or in the tool bag or some convenient receptacle attached to the  
 14 motorcycle.  
 15 2. On page 18, line 18, after the comma insert "and"  
 16 section 60-363, Revised Statutes Cumulative Supplement, 2008,".  
 17 3. Renumber the remaining sections accordingly.

(Signed) Deb Fischer, Chairperson

**NOTICE OF COMMITTEE HEARINGS**

Judiciary

Room 1113

Wednesday, February 3, 2010 1:30 p.m.

LB756

LB757

LB758

LB1026

LB1047

LB1104

LB727

(Signed) Brad Ashford, Chairperson

## Health and Human Services

Room 1510

Wednesday, February 3, 2010 1:30 p.m.

LB1106

(Signed) Tim Gay, Chairperson

Government, Military and Veterans Affairs

Room 1507

Thursday, February 4, 2010 1:30 p.m.

LB978

LB980

LB948

Friday, February 5, 2010 1:30 p.m.

LR278CA

LR284CA

(Signed) Bill Avery, Chairperson

**AMENDMENTS - Print in Journal**Senator McCoy filed the following amendment to LB635:

AM1659

(Amendments to Standing Committee amendments, AM1140)

- 1 1. Strike the Mello amendment, AM1603.
- 2 2. Insert the following new section:
- 3 Sec. 6. Since an emergency exists, this act takes effect
- 4 when passed and approved according to law.

Senator McCoy filed the following amendment to LB635:

AM1653

(Amendments to Standing Committee amendments, AM1140)

- 1 1. Insert the following new amendment:
- 2 3. On page 4, line 21, after "treasurer" insert ".No
- 3 treasurer of an independent committee may also serve as treasurer
- 4 of any other independent committee during a specific election
- 5 cycle.".

Senator McCoy filed the following amendment to LB635:

AM1654

(Amendments to Standing Committee amendments, AM1140)

- 1 1. Insert the following new section:
- 2 Sec. 4. The total contributions of an independent
- 3 committee to another independent committee shall not exceed five
- 4 thousand dollars in any specific election cycle.
- 5 2. Renumber the remaining sections accordingly.

Senator McCoy filed the following amendment to LB635:

AM1655

(Amendments to Standing Committee amendments, AM1140)

- 1 1. Insert the following new amendment:
- 2 3. On page 5, line 13, after "statement" insert ", not
- 3 including political party statements".

Senator McCoy filed the following amendment to LB635:

AM1656

(Amendments to Standing Committee amendments, AM1140)

- 1 1. Insert the following new amendment:
- 2 3. On page 8, line 19, strike "two" and insert "seven".

Senator McCoy filed the following amendment to LB635:

AM1658

(Amendments to Standing Committee amendments, AM1140)

- 1 1. Insert the following new section:
- 2 Sec. 4. A member of the Legislature, his or her staff
- 3 and candidate committee, and any independent committee founded
- 4 by the member shall be prohibited from financially contributing
- 5 to an independent committee during such member's tenure in the
- 6 Legislature.
- 7 2. Renumber the remaining sections accordingly.

### **UNANIMOUS CONSENT - Add Cointroducers**

Senators Fischer and Krist asked unanimous consent to add their names as cointroducers to LB650. No objections. So ordered.

Senator Conrad asked unanimous consent to add her name as cointroducer to LB709. No objections. So ordered.

Senators McGill and Mello asked unanimous consent to add their names as cointroducers to LB778. No objections. So ordered.

Senator Council asked unanimous consent to add her name as cointroducer to LB800. No objections. So ordered.

Senator Conrad asked unanimous consent to add her name as cointroducer to LB850, LB961, and LB1074. No objections. So ordered.

Senator Mello asked unanimous consent to add his name as cointroducer to LB986. No objections. So ordered.

Senators Fischer, Gay, Giese, Janssen, McCoy, and Wallman asked unanimous consent to add their names as cointroducers to LB987. No objections. So ordered.

Senator Fulton asked unanimous consent to add his name as cointroducer to LB1103. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 23 eleventh grade students and teacher from Kearney Catholic School; and Carol Maxson from Ogallala, Sue Chipman from McCook, and Denny Carr from Seward.

The Doctor of the Day was Dr. Gerald Matzke from Gothenburg.

### **ADJOURNMENT**

At 11:57 a.m., on a motion by Senator Hadley, the Legislature adjourned until 10:00 a.m., Thursday, January 28, 2010.

Patrick J. O'Donnell  
Clerk of the Legislature

