

THIRTY-SIXTH DAY - FEBRUARY 28, 2011**LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION****THIRTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska
Monday, February 28, 2011

PRAYER

The prayer was offered by Pastor Gail Neal, Southern Heights Presbyterian Church, Lincoln.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Gloor presiding.

The roll was called and all members were present except Senator K. Haar who was excused.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-fifth day was approved.

COMMITTEE REPORTS

Urban Affairs

LEGISLATIVE BILL 57. Placed on General File with amendment.
AM500

- 1 1. Strike section 2 and insert the following new section:
- 2 Sec. 2. Section 18-2717, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 18-2717 (1) No city shall appropriate from funds derived
- 5 directly from local sources of revenue for all approved economic
- 6 development programs, in each year during which such programs are
- 7 in existence, an amount in excess of four-tenths of one percent of
- 8 the taxable valuation of the city in the year in which the funds
- 9 are collected.
- 10 (2) Notwithstanding the provisions of subsections (1) and
- 11 (3) of this section, no city of the metropolitan or primary class
- 12 shall appropriate from funds derived directly from local sources
- 13 of revenue more than ~~three~~-five million dollars for all approved
- 14 economic development programs in any one year, no city of the
- 15 first class shall appropriate from funds derived directly from

16 local sources of revenue more than ~~two-four~~ million dollars for all
 17 approved economic development programs in any one year, and no city
 18 of the second class or village shall appropriate from funds derived
 19 directly from local sources of revenue more than ~~one-three~~ million
 20 dollars for all approved economic development programs in any one
 21 year.

22 (3) Notwithstanding the provisions of subsections (1) and
 23 (2) of this section, no city shall appropriate from funds derived
 1 directly from local sources of revenue an amount for an economic
 2 development program in excess of the total amount approved by
 3 the voters at the election or elections in which the economic
 4 development program was submitted or amended.

5 (4) The restrictions on the appropriation of funds from
 6 local sources of revenue as set out in subsections (1) through
 7 (3) of this section shall apply only to the appropriation of
 8 funds derived directly from local sources of revenue. Sales tax
 9 collections in excess of the amount which may be appropriated as
 10 a result of the restrictions set out in such subsections shall be
 11 deposited in the city's economic development fund and invested as
 12 provided for in section 18-2718. Any funds in the city's economic
 13 development fund not otherwise restricted from appropriation by
 14 reason of the city's ordinance governing the economic development
 15 program or this section may be appropriated and spent for the
 16 purposes of the economic development program in any amount and
 17 at any time at the discretion of the governing body of the city
 18 subject only to section 18-2716.

19 (5) The restrictions on the appropriation of funds from
 20 local sources of revenue shall not apply to the reappropriation
 21 of funds which were appropriated but not expended during previous
 22 fiscal years.

LEGISLATIVE BILL 309. Placed on General File with amendment.
 AM222

1 1. On page 2, line 12, after the period insert "No
 2 reapportionment of a special assessment shall be done on any tract
 3 of land upon which a tax sale certificate has been issued.".

4 2. On page 3, after line 14 insert:

5 "(6) The governing body shall file notice of any
 6 reapportionment of a special assessment with the county treasurer
 7 of the county where the lot or parcel is located.".

LEGISLATIVE BILL 329. Placed on General File with amendment.
 AM324

1 1. Strike section 10.

2 2. Renumber the remaining sections and correct the
 3 repealer accordingly.

(Signed) Amanda McGill, Chairperson

NOTICE OF COMMITTEE HEARING
Business and Labor

Room 2102

Monday, March 7, 2011 1:30 p.m.

LB502
LB674
LB184
LB341
LB245

(Signed) Steve Lathrop, Chairperson

SELECT FILE

LEGISLATIVE BILL 181A. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 333. ER33, found on page 594, was adopted.

Senator Adams renewed his amendment, AM497, found on page 652.

The Adams amendment was adopted with 37 ayes, 0 nays, 11 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 81. ER8, found on page 430, was adopted.

Senator McCoy withdrew his amendment, AM146, found on page 425.

Senator Cornett offered the following amendment:
AM553

(Amendments to AM198)

- 1 1. On page 1, line 7, strike "(1)" and insert "(1)(a)";
- 2 in line 8 reinstate the stricken ", license, and regulate"; in line
- 3 12 strike "and regulate the same"; and reinstate beginning with the
- 4 stricken "Such" in line 13 through the stricken period in line 14.
- 5 2. On page 2, after line 4 insert the following new
- 6 subdivision:
- 7 "(b) For purposes of this subsection, limits of the city
- 8 does not include the extraterritorial zoning jurisdiction of such
- 9 city."; in lines 13, 14, and 22, strike "tax" and insert "fee"; and
- 10 in line 16 strike "taxes" and insert "fees".
- 11 3. On page 3, lines 6, 26, and 27, strike "tax" and
- 12 insert "fee"; in line 7 strike "a person residing" and insert "any

13 individual whose primary residence is or person who owns a place of
 14 business"; after line 8 insert the following new subdivision:
 15 "(d) For purposes of this subsection, limits of the city
 16 includes the extraterritorial zoning jurisdiction of such city.";
 17 strike beginning with the underscored colon in line 9 through
 18 "Person" in line 12 and insert ", person"; and in line 27 strike
 19 "taxes" and insert "fees".
 20 4. On page 4, lines 5 and 16, strike "tax" and insert
 21 "fee"; and in line 17 strike "a person residing" and insert "any
 22 individual whose primary residence is or person who owns a place of
 1 business".

The Cornett amendment was adopted with 42 ayes, 0 nays, 6 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 228. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 278. ER34, found on page 615, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 368. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 399. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 556. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 281. Senator Howard offered the following amendment:

AM409

1 1. On page 5, line 17, after "(a)" insert "the driver of
 2 the limousine or bus checks the identification of each passenger
 3 who will consume alcohol in the limousine or bus to make sure such
 4 passenger is of legal age to consume alcohol, (b)"; and in line 18
 5 strike "and (b)" and insert ", and (c)".

Senator Howard moved for a call of the house. The motion prevailed with 32 ayes, 0 nays, and 17 not voting.

Senator Howard requested a roll call vote on her amendment.

Voting in the affirmative, 19:

Ashford	Carlson	Dubas	Howard	Nordquist
Avery	Christensen	Gloor	Lathrop	Pirsch
Brasch	Cook	Hansen	McGill	Wallman
Campbell	Council	Harms	Mello	

Voting in the negative, 25:

Adams	Fischer	Janssen	Lautenbaugh	Schumacher
Bloomfield	Flood	Karpisek	McCoy	Smith
Coash	Hadley	Krist	Nelson	Sullivan
Conrad	Harr, B.	Langemeier	Price	Utter
Cornett	Heidemann	Larson	Schilz	Wightman

Present and not voting, 4:

Fulton	Louden	Pahls	Pankonin
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Excused and not voting, 1:

Haar, K.

The Howard amendment lost with 19 ayes, 25 nays, 4 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 314. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 164. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 257. ER35, found on page 622, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 210. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 471. Senator Mello offered the following amendment:

AM565

- 1 1. Insert the following new sections:
- 2 Sec. 2. Section 18-2709, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 18-2709 (1) Qualifying business shall mean means any

5 corporation, partnership, limited liability company, or sole
 6 proprietorship which derives its principal source of income from
 7 any of the following: The manufacture of articles of commerce;
 8 the conduct of research and development; the processing, storage,
 9 transport, or sale of goods or commodities which are sold or
 10 traded in interstate commerce; the sale of services in interstate
 11 commerce; headquarters facilities relating to eligible activities
 12 as listed in this section; telecommunications activities, including
 13 services providing advanced telecommunications capability; or
 14 tourism-related activities.

15 (2) Qualifying business also means:

16 (a) In cities of the first and second class and villages,
 17 a business ~~shall also be a qualifying business if it that~~
 18 derives its principal source of income from the construction
 19 or rehabilitation of housing;

20 (b) A ~~In cities with a population of more than two~~
 21 ~~thousand five hundred inhabitants and less than ten thousand~~
 22 ~~inhabitants, a business shall also be a qualifying business if~~
 23 ~~it that~~ derives its principal source of income from retail
 1 trade, except that no more than forty percent of the total
 2 revenue generated pursuant to the Local Option Municipal Economic
 3 Development Act for an economic development program in any
 4 twelve-month period and no more than twenty percent of the total
 5 revenue generated pursuant to the act for an economic development
 6 program in any five-year period, commencing from the date of
 7 municipal approval of an economic development program, shall be
 8 used by the city for or devoted to the use of retail trade
 9 businesses. For purposes of this ~~section, subdivision,~~ retail trade
 10 ~~shall mean means~~ a business which is principally engaged in the
 11 sale of goods or commodities to ultimate consumers for their own
 12 use or consumption and not for resale; ~~and-~~

13 (c) In cities with a population of two thousand five
 14 hundred inhabitants or less, a business shall be a qualifying
 15 business even though it derives its principal source of income from
 16 activities other than those set out in this section.

17 (3) If a business which would otherwise be a qualifying
 18 business employs people and carries on activities in more than
 19 one city in Nebraska or will do so at any time during the first
 20 year following its application for participation in an economic
 21 development program, it shall be a qualifying business only if, in
 22 each such city, it maintains employment for the first two years
 23 following the date on which such business begins operations in the
 24 city as a participant in its economic development program at a
 25 level not less than its average employment in such city over the
 26 twelve-month period preceding participation.

27 (4) A qualifying business need not be located within the
 1 territorial boundaries of the city from which it is or will be
 2 receiving financial assistance.

3 Sec. 4. Section 18-2717, Reissue Revised Statutes of

4 Nebraska, is amended to read:

5 18-2717 (1) No city shall appropriate from funds derived
6 directly from local sources of revenue for all approved economic
7 development programs, in each year during which such programs are
8 in existence, an amount in excess of four-tenths of one percent of
9 the taxable valuation of the city in the year in which the funds
10 are collected.

11 (2) Notwithstanding the provisions of subsections (1) and
12 (3) of this section, no city of the metropolitan or primary class
13 shall appropriate from funds derived directly from local sources
14 of revenue more than ~~three~~ five million dollars for all approved
15 economic development programs in any one year, no city of the
16 first class shall appropriate from funds derived directly from
17 local sources of revenue more than ~~two~~ four million dollars for all
18 approved economic development programs in any one year, and no city
19 of the second class or village shall appropriate from funds derived
20 directly from local sources of revenue more than ~~one~~ three million
21 dollars for all approved economic development programs in any one
22 year.

23 (3) Notwithstanding the provisions of subsections (1) and
24 (2) of this section, no city shall appropriate from funds derived
25 directly from local sources of revenue an amount for an economic
26 development program in excess of the total amount approved by
27 the voters at the election or elections in which the economic
1 development program was submitted or amended.

2 (4) The restrictions on the appropriation of funds from
3 local sources of revenue as set out in subsections (1) through
4 (3) of this section shall apply only to the appropriation of
5 funds derived directly from local sources of revenue. Sales tax
6 collections in excess of the amount which may be appropriated as
7 a result of the restrictions set out in such subsections shall be
8 deposited in the city's economic development fund and invested as
9 provided for in section 18-2718. Any funds in the city's economic
10 development fund not otherwise restricted from appropriation by
11 reason of the city's ordinance governing the economic development
12 program or this section may be appropriated and spent for the
13 purposes of the economic development program in any amount and
14 at any time at the discretion of the governing body of the city
15 subject only to section 18-2716.

16 (5) The restrictions on the appropriation of funds from
17 local sources of revenue shall not apply to the reappropriation
18 of funds which were appropriated but not expended during previous
19 fiscal years.

20 2. Renumber the remaining sections and correct the
21 repealer accordingly.

The Mello amendment was adopted with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 159. ER36, found on page 628, was adopted.

Senator Schumacher renewed his amendment, AM470, found on page 640.

The Schumacher amendment was adopted with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 191. ER37, found on page 636, was adopted.

Advanced to Enrollment and Review for Engrossment.

MOTION - Return LB474 to Select File

Senator Nordquist moved to return LB474 to Select File for his specific amendment, AM417, found on page 623.

The Nordquist motion to return prevailed with 40 ayes, 0 nays, 8 present and not voting, and 1 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 474. The Nordquist specific amendment, AM417, found on page 623, was adopted with 44 ayes, 0 nays, 4 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Reengrossment.

SPEAKER FLOOD PRESIDING

ANNOUNCEMENT

Senator Cornett designates LB642 as her priority bill.

NOTICE OF COMMITTEE HEARING

Transportation and Telecommunications

Room 1113

Monday, March 7, 2011 1:30 p.m.

David Wacker - Board of Public Roads Classifications and Standards

(Signed) Deb Fischer, Chairperson

COMMITTEE REPORTS
Revenue

LEGISLATIVE BILL 389. Placed on General File with amendment.
AM516

- 1 1. Strike original section 14 and insert the following
2 new section:
3 Sec. 9. By November 15 of each odd-numbered year, the
4 Department of Economic Development shall submit a report to the
5 Legislature and the Governor that includes:
6 (1) The number and geographic location of qualified
7 investors;
8 (2) The number, geographic location, and amount of
9 investment made into each qualified business;
10 (3) A breakdown of the industry sectors that qualified
11 businesses are involved;
12 (4) The number of actual tax credits issued by project on
13 an annual basis; and
14 (5) The number of jobs created at each qualified
15 business.
16 2. On page 2, line 1, strike "9" and insert "10".
17 3. On page 7, strike beginning with "A" in line 16
18 through line 23 and insert "A qualified investor or qualified fund
19 is eligible for a refundable credit equal to (a) forty percent of
20 its qualified investment in a qualified small business for calendar
21 years 2011 and 2012 and (b) thirty-five percent of its qualified
22 investment in a qualified small business for other calendar years.
23 The director shall not allocate more than three million dollars in
1 credits to all qualified investors or qualified funds in a calendar
2 year. If the director does not allocate the entire three million
3 dollars of credits in a calendar year, the credits that are not
4 allocated shall not carry forward to subsequent years. The director
5 shall not allocate any amount for credits for calendar years after
6 2017.".
7 4. On page 11, strike line 23 and insert ". The director
8 shall notify the Tax Commissioner of such determination, and the
9 Tax Commissioner shall recapture the tax credits.".
10 5. On page 12, line 7, after "Development" insert "and
11 the Department of Revenue"; and in line 8 strike "carry out" and
12 insert "administer and enforce".
13 6. On page 22, line 17, strike "two" and insert "one".
14 7. On page 23, line 1, strike "(d) Applications", show
15 as stricken, and insert "(d)(i) For applications filed in calendar
16 year 2011, applications shall be filed by July 1 and shall be
17 complete by August 1 of the calendar year. Any application that is
18 filed after July 1 or that is not complete on August 1 shall be
19 considered to be filed during the following calendar year.
20 (ii) For applications filed in calendar year 2012 and
21 each year thereafter, applications".

- 22 8. On page 25, line 6, strike "11" and insert "10" and
 23 after the last comma insert "13,"; and in lines 13 and 14 strike "
 24 77-27,187.02, and 77-5905" and insert "and 77-27,187.02".
 25 9. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 642. Placed on General File with amendment.
 AM493

- 1 1. On page 2, line 1, before "The" insert "(1)"; in line
 2 4 after "department" insert "or improper or fraudulent payments
 3 made through programs administered by the department"; in line 7
 4 strike "or" and after "interest" insert ", or other recovery";
 5 in line 9 strike "and" and after "interest" insert ", and other
 6 recovery"; after line 16 insert the following new subsection:
 7 "(2) The department may contract for the recruitment of
 8 entities to the state that will generate sales taxable pursuant to
 9 section 77-2703 if the contract is determined by the Governor to
 10 be in the best interest of the state. The contract shall not be
 11 subject to the requirements of section 73-504."; in line 17 before
 12 "Ten" insert "(3)"; in line 18 before "this" insert "subsection
 13 (1) of"; in line 20 strike "and" and before the period insert ",
 14 and improper or fraudulent payments"; and in line 21 before "The"
 15 insert "(4)".

(Signed) Abbie Cornett, Chairperson

Executive Board

LEGISLATIVE RESOLUTION 47. Reported to the Legislature for
 further consideration.

(Signed) John Wightman, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 86. Introduced by Carlson, 38.

WHEREAS, Justine Bauer, an esteemed resident of Elm Creek, Nebraska,
 and a student at Elm Creek School, has achieved national recognition for
 exemplary volunteer service by receiving a 2011 Prudential Spirit of
 Community Award; and

WHEREAS, this prestigious award, presented by Prudential Financial in
 partnership with the National Association of Secondary School Principals,
 honors young volunteers across America who have demonstrated an
 extraordinary commitment to serving their communities; and

WHEREAS, Ms. Bauer earned this award by giving generously of her
 time and energy to plan and implement a series of regular visits to a local
 nursing home to increase the social interaction of the nursing home
 residents. Ms. Bauer also encouraged others at her school and in her
 community to help alleviate the loneliness of nursing home residents; and

WHEREAS, the success of the State of Nebraska, the strength of our communities, and the overall vitality of American society depend in great measure upon the dedication of young people like Ms. Bauer who use their considerable talents and resources to serve others.

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

1. That the Legislature congratulates and honors Justine Bauer as a recipient of a 2011 Prudential Spirit of Community Award, recognizes her outstanding record of volunteer service, peer leadership, and community spirit, and extends best wishes for her continued success and happiness.

2. That a copy of this resolution be sent to Justine Bauer.

Laid over.

LEGISLATIVE RESOLUTION 87. Introduced by Utter, 33.

WHEREAS, the Wood River Rural High School wrestling team won the 2011 Class C State Wrestling Championship; and

WHEREAS, the Wood River Rural High School wrestling team scored 115 points to win the state title; and

WHEREAS, the Wood River Rural High School wrestling team displayed great determination, skill, perseverance, and sportsmanship throughout the team's championship season; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

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

1. That the Legislature congratulates the Wood River Rural High School wrestling team on winning the 2011 Class C State Wrestling Championship.

2. That a copy of this resolution be sent to the Wood River Rural High School wrestling team and their coach, Darin Waddington.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 165. Committee AM316, found on page 528 and considered on pages 643 and 650, was renewed.

Senator Avery withdrew his amendment, AM527, found on page 653.

Senator Avery offered the following amendment to the committee amendment:

AM556

(Amendments to Standing Committee amendments, AM316)

1 1. Strike section 3.

2 2. On page 2, strike beginning with "be" in line 19

3 through "77-2703.04" in line 21 and insert "not be imposed on the
 4 receipts from the sale of telecommunication equipment, advertising,
 5 billing and collection services provided to third parties, Internet
 6 access services, or digital products delivered electronically".

Senator Avery withdrew his amendment.

Senator Cornett offered the following amendment to the committee amendment:

AM503

(Amendments to Standing Committee amendments, AM316)

1 1. Strike sections 1 and 3 and all amendments thereto and
 2 insert the following new section:

3 Section 1. Section 86-704, Reissue Revised Statutes of
 4 Nebraska, is amended to read:

5 86-704 (1) Any telecommunications company, incorporated
 6 or qualified to do business in this state, is granted the right
 7 to construct, operate, and maintain telecommunications lines and
 8 related facilities along, upon, across, and under the public
 9 highways of this state, and upon and under lands in this state,
 10 whether state or privately owned, except that (a) such lines and
 11 related facilities shall be so constructed and maintained as not to
 12 interfere with the ordinary use of such lands or of such highways
 13 by the public and (b) all aerial wires and cables shall be placed
 14 at a height of not less than eighteen feet above all highway
 15 crossings.

16 (2) Sections 86-701 to 86-707 shall not transfer the
 17 rights now vested in municipalities in relation to the regulation
 18 of the poles, wires, cables, and other appliances or authorize
 19 a telecommunications company to erect any poles or construct any
 20 conduit, cable, or other facilities along, upon, across, or under
 21 a public highway within a municipality without first obtaining
 22 the consent of the governing body of the municipality. The
 1 municipality shall not exercise any authority over any rights the
 2 telecommunications company may have to deliver telecommunications
 3 services as authorized by the Public Service Commission or the
 4 Federal Communications Commission.

5 (3) Consent from a governing body for the use of a public
 6 highway within a municipality shall be based upon a lawful exercise
 7 of its statutory and constitutional authority. Such consent shall
 8 not be unreasonably withheld, and a preference or disadvantage
 9 shall not be created through the granting or withholding of
 10 such consent. A municipality shall not adopt an ordinance that
 11 prohibits or has the effect of prohibiting the ability of a
 12 telecommunications company to provide telecommunications service.

13 (4)(a) A municipality shall not levy a tax, fee,
 14 or charge for any right or privilege of engaging in a
 15 telecommunications business or for the use by a telecommunications
 16 company of a public highway other than:

17 ~~(i)~~ (i)(A) Until January 1, 2013, an occupation tax
18 authorized under section 14-109, 15-202, 15-203, 16-205, or 17-525;
19 and

20 (B) Beginning January 1, 2013, an occupation tax
21 authorized under section 14-109, 15-202, 15-203, 16-205, or 17-525
22 that meets the following requirements:

23 (I) The occupation tax shall be imposed only on the
24 receipts from the sale of telecommunications service as defined in
25 subdivision (7)(aa) of section 77-2703.04; and

26 (II) The occupation tax shall not exceed six and
27 twenty-five hundredths percent except as provided in subsection
1 (5) of this section; and

2 (ii) A public highway construction permit fee or charge
3 to the extent that the fee or charge applies to all persons seeking
4 use of the public highway in a substantially similar manner.
5 All public highway construction permit fees or charges shall be
6 directly related to the costs incurred by the municipality in
7 providing services relating to the granting or administration of
8 permits. Any highway construction permit fee or charge shall also
9 be reasonably related in time to the occurrence of such costs.

10 (b) Any tax, fee, or charge imposed by a municipality
11 shall be competitively neutral.

12 (5) Beginning January 1, 2013, a municipality may
13 increase an occupation tax described in subdivision (4)(a)(i)(B)
14 of this section to a rate that exceeds the limit contained in
15 subdivision (4)(a)(i)(B)(II) of this section if the question of
16 whether to increase such rate has been submitted at a primary or
17 general election at which members of the governing body of the
18 municipality are nominated or elected or at a special election
19 held within the municipality and in which all registered voters
20 shall be entitled to vote on such question. A municipality may not
21 increase its existing rate pursuant to this subsection by more than
22 twenty-five hundredths percent at any one election. The officials
23 of the municipality shall order the submission of the question by
24 submitting a certified copy of the resolution proposing the rate
25 increase to the election commissioner or county clerk at least
26 fifty days before the election. The election shall be conducted in
27 accordance with the Election Act. If a majority of the votes cast
1 upon such question are in favor of such rate increase, then the
2 governing body of such municipality shall be empowered to impose
3 the rate increase. If a majority of those voting on the question
4 are opposed to such rate increase, then the governing body of the
5 municipality shall not impose such rate increase.

6 (5)-(6) The changes made by Laws 1999, LB 496, shall not
7 be construed to affect the terms or conditions of any franchise,
8 license, or permit issued by a municipality prior to August 28,
9 1999, or to release any party from any obligations thereunder. Such
10 franchises, licenses, or permits shall remain fully enforceable
11 in accordance with their terms. A municipality may lawfully enter

12 into agreements with franchise holders, licensees, or permittees to
 13 modify or terminate an existing franchise, license, or agreement.

14 ~~(6)-(7)~~ Taxes or fees shall not be collected by a
 15 municipality through the provision of in-kind services by a
 16 telecommunications company, and a municipality shall not require
 17 the provision of in-kind services as a condition of consent to the
 18 use of a public highway.

19 ~~(7)-(8)~~ The terms of any agreement between a municipality
 20 and a telecommunications company regarding use of public highways
 21 shall be matters of public record and shall be made available to
 22 any member of the public upon request, except that information
 23 submitted to a municipality by a telecommunications company which
 24 such telecommunications company determines to be proprietary shall
 25 be deemed to be a trade secret pursuant to subdivision (3) of
 26 section 84-712.05 and shall be accorded full protection from
 27 disclosure to third parties in a manner consistent with state law.

SENATOR SULLIVAN PRESIDING

The Cornett amendment was adopted with 42 ayes, 0 nays, 6 present and not voting, and 1 excused and not voting.

The committee amendment, as amended, was adopted with 42 ayes, 0 nays, 6 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 44 ayes, 0 nays, 4 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 543. Title read. Considered.

Senator Nordquist offered the following amendment:
 AM540

1 1. On page 4, after line 17, insert the following new
 2 subsection:

3 "(3)(a)(i) On or before October 1, 2011, the department
 4 shall create a TANF-funded program or policy that, in compliance
 5 with federal law, establishes categorical eligibility for federal
 6 food assistance benefits pursuant to the Supplemental Nutrition
 7 Assistance Program to maximize the number of Nebraska residents
 8 being served under such program in a manner that does not increase
 9 the current gross income eligibility limit.

10 (ii) Such TANF-funded program or policy shall eliminate
 11 the asset test for eligibility for federal food assistance benefits
 12 pursuant to the Supplemental Nutrition Assistance Program to the
 13 extent authorized pursuant to federal law and under 7 C.F.R.
 14 273.2(j)(2).

15 (iii) This subsection becomes effective only if the
 16 department receives funds pursuant to federal participation that
 17 may be used to implement this subsection.

18 (b) For purposes of this subsection:
19 (i) Federal law means the federal Food and Nutrition Act
20 of 2008, 7 U.S.C. 2011 et seq., and regulations adopted under the
21 act; and
22 (ii) TANF means the federal Temporary Assistance for
23 Needy Families program established in 42 U.S.C. 601 et seq."; and
1 in line 18 strike "(3)(a)" and insert "(4)(a)".

Pending.

ANNOUNCEMENT

Senator Pankonin designates LB421 as his priority bill.

COMMITTEE REPORTS

Executive Board

LEGISLATIVE BILL 604. Indefinitely postponed.

(Signed) John Wightman, Chairperson

Revenue

LEGISLATIVE BILL 370. Placed on General File.

(Signed) Abbie Cornett, Chairperson

UNANIMOUS CONSENT - Add Cointroducer

Senator Howard asked unanimous consent to add her name as cointroducer to LB463. No objections. So ordered.

VISITORS

Visitors to the Chamber were Senator Lautenbaugh's son, Kyle Lautenbaugh, from Omaha; members of the Norfolk Youth Leadership Council from Norfolk; members of the Nebraska Firearm Owners Association from across the state; and Tamara Montegut from Omaha.

The Doctor of the Day was Dr. Anthony Montegut Sr. from Omaha.

ADJOURNMENT

At 12:01 p.m., on a motion by Senator Wallman, the Legislature adjourned until 9:00 a.m., Tuesday, March 1, 2011.

Patrick J. O'Donnell
Clerk of the Legislature

