

FIFTY-SEVENTH DAY - APRIL 5, 2011**LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION****FIFTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, April 5, 2011

PRAYER

The prayer was offered by Reverend Barbara Mitchell, Tabernacle of Faith, Omaha.

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 Wightman who was excused; and Senators Cornett, Karpisek, Lautenbaugh, and Sullivan who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-sixth day was approved.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 20. Placed on Final Reading.
ST12

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

1. In the Lautenbaugh amendment, AM1027, on page 1, line 4, "the act" has been struck and "such sections" inserted.

2. The Lautenbaugh amendment, FA3, has been struck.

3. In the Standing Committee amendments, AM64, on page 7, line 11, "section 28-101" has been struck and "sections 28-101 and 28-456.01" inserted.

4. On page 1, line 3, "section 28-101" has been struck and "sections 28-101 and 28-456.01" inserted; and in line 5 "a penalty" has been struck and "and change penalties" inserted.

LEGISLATIVE BILL 41. Placed on Final Reading.

ST13

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

1. On page 1, line 4, "and" has been struck; and in line 5 "37-615, and 37-618," has been inserted after the first comma.
2. On page 34, line 18, "and 37-512" has been struck and "37-512, 37-615, and 37-618" inserted.

LEGISLATIVE BILL 45. Placed on Final Reading.

ST14

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

1. On page 1, line 2, "2-3256," has been inserted after "sections"; and in line 3 "81-3448," has been inserted after "81-3446,".
2. On page 2, lines 3 and 10, "3 and 4" has been struck and "4 and 5" inserted.
3. On page 24, line 23, "2-3256," has been inserted after "sections"; and in line 24 "81-3448," has been inserted after "81-3446,".

LEGISLATIVE BILL 389. Placed on Final Reading.

LEGISLATIVE BILL 389A. Placed on Final Reading.

LEGISLATIVE BILL 421. Placed on Final Reading.

LEGISLATIVE BILL 465. Placed on Final Reading.

LEGISLATIVE BILL 468. Placed on Final Reading.

LEGISLATIVE BILL 509. Placed on Final Reading.

LEGISLATIVE BILL 541. Placed on Final Reading.

LEGISLATIVE BILL 546. Placed on Final Reading.

(Signed) Tyson Larson, Chairperson

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 156. Placed on Select File.

LEGISLATIVE BILL 95. Placed on Select File with amendment.

ER69

- 1 1. On page 1, strike beginning with "infants" in line
- 2 1 through line 3 and insert "health and human services; to amend
- 3 section 71-1902, Reissue Revised Statutes of Nebraska; to require
- 4 accreditation for lead agencies contracting with the Department of
- 5 Health and Human Services as prescribed; to require the department
- 6 to provide certain services as prescribed; to provide for a
- 7 moratorium on certain departmental contracts; to change provisions
- 8 relating to child-caring agencies; and to repeal the original
- 9 section.".

LEGISLATIVE BILL 112. Placed on Select File with amendment.
ER72

- 1 1. On page 1, strike beginning with "and" in line 1
- 2 through the semicolon in line 4 and insert ", 75-303, and 75-311,
- 3 Reissue Revised Statutes of Nebraska; to define and redefine terms;
- 4 to provide exemptions from regulation for certain transportation
- 5 service providers; to harmonize provisions;".

LEGISLATIVE BILL 305. Placed on Select File with amendment.
ER75

- 1 1. In the Larson amendment, AM1039, on page 2, line 7,
- 2 strike "department" and insert "Department of Agriculture".
- 3 2. On page 1, strike beginning with "sections" in line 1
- 4 through line 7 and insert "section 54-857, Reissue Revised Statutes
- 5 of Nebraska; to change permitted uses of the Commercial Feed
- 6 Administration Cash Fund; to require the Director of Agriculture
- 7 to report regarding implementation of a state program of meat and
- 8 poultry inspection; and to repeal the original section."

LEGISLATIVE BILL 70. Placed on Select File with amendment.
ER70 is available in the Bill Room.

LEGISLATIVE BILL 286. Placed on Select File.

LEGISLATIVE BILL 477. Placed on Select File with amendment.
ER71 is available in the Bill Room.

LEGISLATIVE BILL 499. Placed on Select File with amendment.
ER74

- 1 1. On page 1, line 2, strike "32-628, 32-631,"; and in
- 2 line 5 after the comma insert "petitions for nomination,".

LEGISLATIVE BILL 229. Placed on Select File with amendment.
ER76

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 61-218, Revised Statutes Cumulative
- 4 Supplement, 2010, is amended to read:
- 5 61-218 (1) The Water Resources Cash Fund is created. The
- 6 fund shall be administered by the Department of Natural Resources.
- 7 ~~Transfers may be made from the fund to the General Fund at the~~
- 8 ~~direction of the Legislature.~~ Any money in the ~~Water Resources Cash~~
- 9 ~~Fund~~ fund available for investment shall be invested by the state
- 10 investment officer pursuant to the Nebraska Capital Expansion Act
- 11 and the Nebraska State Funds Investment Act.
- 12 (2) The State Treasurer shall credit to the fund such
- 13 money as is (a) transferred to the fund by the Legislature, (b)
- 14 paid to the state as fees, deposits, payments, and repayments

15 relating to the fund, both principal and interest, (c) donated as
 16 gifts, bequests, or other contributions to such fund from public
 17 or private entities, ~~and~~ (d) made available by any department or
 18 agency of the United States if so directed by such department or
 19 agency, and (e) transferred pursuant to section 81-15,175.

20 (3) The fund shall be expended by the department (a) to
 21 aid management actions taken to reduce consumptive uses of water
 22 ~~and or~~ to enhance streamflows or ground water recharge in river
 23 basins, subbasins, or reaches which are deemed by the department
 1 overappropriated pursuant to section 46-713 or fully appropriated
 2 pursuant to section 46-714 or are bound by an interstate compact
 3 or decree or a formal state contract or agreement, (b) to conduct
 4 studies and approve grants to facilitate compliance with the
 5 Nebraska Ground Water Management and Protection Act, and (c) and
 6 ~~(b)~~ to the extent funds are not expended pursuant to ~~subdivision~~
 7 ~~(a) subdivisions (a) and (b)~~ of this subsection, the department
 8 may conduct a statewide assessment of short-term and long-term
 9 water management activities and funding needs to meet statutory
 10 requirements in sections 46-713 to 46-718 and 46-739 and any
 11 requirements of an interstate compact or decree or formal state
 12 contract or agreement. The fund shall not be used to pay for
 13 administrative expenses or any salaries for the department or any
 14 political subdivision.

15 (4) It is the intent of the Legislature that ~~two million~~
 16 ~~seven hundred thousand~~ three million three hundred thousand dollars
 17 be transferred each fiscal year from the General Fund to the Water
 18 Resources Cash Fund for ~~FY2009-10-FY2011-12~~ through FY2018-19.

19 (5)(a) Expenditures from the Water Resources Cash
 20 Fund may be made to natural resources districts eligible under
 21 subsection (3) of this section for activities to either achieve a
 22 sustainable balance of consumptive water uses or assure compliance
 23 with an interstate compact or decree or a formal state contract
 24 or agreement and shall require a match of local funding in an
 25 amount equal to or greater than forty percent of the total cost
 26 of carrying out the eligible activity. The department shall, no
 27 later than August 1 of each year, beginning in 2007, determine the
 1 amount of funding that will be made available to natural resources
 2 districts from the Water Resources Cash Fund and notify natural
 3 resources districts of this determination. The department shall
 4 adopt and promulgate rules and regulations governing application
 5 for and use of the Water Resources Cash Fund by natural resources
 6 districts. Such rules and regulations shall, at a minimum, include
 7 the following components:

8 (i) Require an explanation of how the planned activity
 9 will assure compliance with an interstate compact or decree or a
 10 formal state contract or agreement as required by section 46-715
 11 and the controls, rules, and regulations designed to carry out the
 12 activity; and

13 (ii) A schedule of implementation of the activity or its
14 components.

15 (b) Any natural resources district that fails to
16 implement and enforce its controls, rules, and regulations as
17 required by section 46-715 shall not be eligible for funding
18 from the Water Resources Cash Fund until it is determined by the
19 department that compliance with the provisions required by section
20 46-715 has been established.

21 (6) The Department of Natural Resources shall submit an
22 annual report to the Legislature no later than October 1 of each
23 year, beginning in the year 2007, that shall detail the use of the
24 Water Resources Cash Fund in the previous year. The report shall
25 provide:

26 (a) Details regarding the use and cost of activities
27 carried out by the department; and

1 (b) Details regarding the use and cost of activities
2 carried out by each natural resources district that received funds
3 from the Water Resources Cash Fund.

4 (7) The Department of Natural Resources shall apply for
5 a three-year grant from the Nebraska Environmental Trust Fund that
6 benefits any river basin determined to be fully appropriated or
7 designated as overappropriated pursuant to the Nebraska Ground
8 Water Management and Protection Act prior to the application
9 deadline beginning with fiscal year 2011-12 through fiscal year
10 2013-14. Funds received from such grants shall be remitted to the
11 State Treasurer for credit to the Water Resources Cash Fund for the
12 purpose of supporting water projects as described in the Nebraska
13 Environmental Trust grant application. It is the intent of the
14 Legislature that the department apply for an additional three-year
15 grant if the following criteria have been met:

16 [XXXX].

17 Sec. 2. Section 81-15,174, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 81-15,174 The Nebraska Environmental Trust Fund is
20 created. The fund shall be maintained in the state accounting
21 system as a cash fund. Except as otherwise provided in this
22 section, the fund shall be used to carry out the purposes of
23 the Nebraska Environmental Trust Act, including the payment of
24 administrative costs. Money in the fund shall include proceeds
25 credited pursuant to section 9-812 and proceeds designated by
26 the board pursuant to section 81-15,173. Any money in the fund
27 available for investment shall be invested by the state investment
1 officer pursuant to the Nebraska Capital Expansion Act and the
2 Nebraska State Funds Investment Act.

3 ~~The State Treasurer shall transfer nine hundred~~
4 ~~twenty five thousand dollars from the Nebraska Environmental Trust~~
5 ~~Fund to the Department of Natural Resources Water Issues Cash Fund,~~
6 ~~as administratively created pursuant to section 81-1111.04, on or~~
7 ~~after July 1, 2003, but no later than July 10, 2003.~~

8 The State Treasurer shall transfer one million dollars
 9 from the Nebraska Environmental Trust Fund to the Water Resources
 10 Trust Fund on July 1, 2004.

11 ~~The State Treasurer shall transfer two million seven
 12 hundred sixty thousand seven hundred sixty dollars from the
 13 Nebraska Environmental Trust Fund to the University of Nebraska
 14 Central Administration Designated Cash Fund on March 1, 2007,
 15 unless LR 259CA is approved by the voters in the November 2006
 16 general election, then the transfer shall occur on November 15,
 17 2006.~~

18 Sec. 3. Section 81-15,175, Reissue Revised Statutes of
 19 Nebraska, is amended to read:

20 81-15,175 (1) The board may make an annual allocation
 21 each fiscal year from the Nebraska Environmental Trust Fund to
 22 the Nebraska Environmental Endowment Fund as provided in section
 23 81-15,174.01. The board shall make annual allocations from the
 24 Nebraska Environmental Trust Fund and may make annual allocations
 25 each fiscal year from the Nebraska Environmental Endowment Fund
 26 for projects which conform to the environmental categories of the
 27 board established pursuant to section 81-15,176 and to the extent

1 the board determines those projects to have merit. The board
 2 shall establish a calendar annually for receiving and evaluating
 3 proposals and awarding grants. To evaluate the economic, financial,
 4 and technical feasibility of proposals, the board may establish
 5 subcommittees, request or contract for assistance, or establish
 6 advisory groups. Private citizens serving on advisory groups shall
 7 be reimbursed for their actual and necessary expenses pursuant to
 8 sections 81-1174 to 81-1177.

9 (2) The board shall establish rating systems for ranking
 10 proposals which meet the board's environmental categories and other
 11 criteria. The rating systems shall include, but not be limited to,
 12 the following considerations:

13 (a) Conformance with categories established pursuant to
 14 section 81-15,176;

15 (b) Amount of funds committed from other funding sources;

16 (c) Encouragement of public-private partnerships;

17 (d) Geographic mix of projects over time;

18 (e) Cost-effectiveness and economic impact;

19 (f) Direct environmental impact; ~~and~~

20 (g) Environmental benefit to the general public and the
 21 long-term nature of such public benefit; ~~and-~~

22 (h) Applications recommended by the Director of Natural
 23 Resources and submitted by the Department of Natural Resources
 24 totaling three million three hundred thousand dollars annually
 25 that benefit any river basin determined to be fully appropriated
 26 or designated as overappropriated pursuant to the Nebraska Ground
 27 Water Management and Protection Act shall be awarded fifty points
 1 in the ranking process if the Legislature appropriates three

2 million three hundred thousand dollars of matching funds annually
3 until July 1, 2014.

4 (3) The board may establish a subcommittee to rate grant
5 applications. If the board uses a subcommittee, the subcommittee
6 shall (a) use the rating systems established by the board under
7 subsection (2) of this section, (b) assign a numeric value to
8 each rating criterion, combine these values into a total score
9 for each application, and rank the applications by the total
10 scores, (c) recommend an amount of funding for each application,
11 which amount may be more or less than the requested amount, and
12 (d) submit the ranked list and recommended funding to the board
13 for its approval or disapproval. A motion to deviate from the
14 subcommittee's recommendations must specify the reason for doing so
15 and be adopted with an affirmative vote of not fewer than eight
16 members of the board.

17 (4) The board may commit funds to multiyear projects,
18 subject to available funds and appropriations. No commitment shall
19 exceed three years without formal action by the board to renew the
20 grant or contract. Multiyear commitments may be exempt from the
21 rating process except for the initial application and requests to
22 renew the commitment.

23 (5) The board shall adopt and promulgate rules and
24 regulations and publish guidelines governing allocations from the
25 fund. The board shall conduct annual reviews of existing projects
26 for compliance with project goals and grant requirements.

27 (6) Every five years the board may evaluate the long-term
1 effects of the projects it funds. The evaluation may assess
2 a sample of such projects. The board may hire an independent
3 consultant to conduct the evaluation and may report the evaluation
4 findings to the Legislature and the Governor.

5 Sec. 4. The State Treasurer shall transfer \$600,000 from
6 the General Fund to the Water Resources Cash Fund on or before June
7 30, 2012, on such date as directed by the budget administrator of
8 the budget division of the Department of Administrative Services,
9 pursuant to section 61-218.

10 Sec. 5. The State Treasurer shall transfer \$600,000 from
11 the General Fund to the Water Resources Cash Fund on or before June
12 30, 2013, on such date as directed by the budget administrator of
13 the budget division of the Department of Administrative Services,
14 pursuant to section 61-218.

15 Sec. 6. Original sections 81-15,174 and 81-15,175,
16 Reissue Revised Statutes of Nebraska, and section 61-218, Revised
17 Statutes Cumulative Supplement, 2010, are repealed.

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

20 2. On page 1, strike beginning with "section" in line
21 1 through line 8 and insert "sections 81-15,174 and 81-15,175,
22 Reissue Revised Statutes of Nebraska, and section 61-218, Revised
23 Statutes Cumulative Supplement, 2010; to change and eliminate

24 provisions relating to the Water Resources Cash Fund and the
 25 Nebraska Environmental Trust Fund; to provide an additional
 26 consideration for grants from the Nebraska Environmental Trust
 27 Fund as prescribed; to provide for fund transfers; to repeal the
 1 original sections; and to declare an emergency."

LEGISLATIVE BILL 229A. Placed on Select File with amendment.
 ER77

1 1. Strike the original sections and all amendments
 2 thereto and insert the following new sections:
 3 Section 1. There is hereby appropriated (1) \$3,900,000
 4 from the Water Resources Cash Fund for FY2011-12 and (2) \$3,900,000
 5 from the Water Resources Cash Fund for FY2012-13 to the Department
 6 of Natural Resources, for Program 334, to aid in carrying out the
 7 provisions of Legislative Bill 229, One Hundred Second Legislature,
 8 First Session, 2011.
 9 There is included in the appropriation to this program
 10 for FY2011-12 \$3,900,000 Cash Funds for state aid, which shall only
 11 be used for such purpose. There is included in the appropriation
 12 to this program for FY2012-13 \$3,900,000 Cash Funds for state aid,
 13 which shall only be used for such purpose.
 14 No expenditures for permanent and temporary salaries and
 15 per diems for state employees shall be made from funds appropriated
 16 in this section.
 17 Sec. 2. Since an emergency exists, this act takes effect
 18 when passed and approved according to law.
 19 2. On page 1, strike beginning with "to" in line 3
 20 through the semicolon in line 4.

LEGISLATIVE BILL 479. Placed on Select File.

LEGISLATIVE BILL 200. Placed on Select File with amendment.
 ER78

1 1. On page 1, strike beginning with "agriculture" in
 2 line 1 through line 5 and insert "community development; to amend
 3 sections 13-208 and 81-3603, Reissue Revised Statutes of Nebraska;
 4 to adopt the Nebraska Healthy Food Financing Initiative Act; to
 5 create a fund; to provide funding; to change the tax credit
 6 limit under the Community Development Assistance Act; to harmonize
 7 provisions; and to repeal the original sections."
 8 2. On page 2, line 7, after "populations" insert an
 9 underscored comma; in line 12 after "to" insert "the"; and in line
 10 19 strike "farmers" and insert "farmers".
 11 3. On page 5, line 7, after "Infants" insert an
 12 underscored comma; and in line 25 strike "by".

LEGISLATIVE BILL 200A. Placed on Select File.

LEGISLATIVE BILL 176. Placed on Select File with amendment.
ER73

- 1 1. On page 1, line 4, after "violators" insert "in
- 2 certain cases as prescribed".
- 3 2. On page 2, line 22, strike "49-1495," and show as
- 4 stricken.

(Signed) Tyson Larson, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 146. Introduced by Flood, 19.

WHEREAS, Dustin Wood has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, Dustin has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. For his Eagle Scout community service project, Dustin organized and supervised the construction of a picnic shelter at First Christian Church in Norfolk, Nebraska; and

WHEREAS, only five percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Dustin, through his hard work and perseverance, has joined other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientists, and athletes.

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

1. That the Legislature congratulates Dustin Wood on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Dustin Wood.

Laid over.

ATTORNEY GENERAL'S OPINIONOpinion 11001

DATE: March 31, 2011

TO: Senator Heath Mello
Nebraska Legislature

FROM: Jon Bruning, Attorney General
L. Jay Bartel, Assistant Attorney General

RE: LB 54 – Whether Legislation Establishing the Base Year for Tax-Increment Financing of Redevelopment Projects as the Year Prior to Commencement of Rehabilitation, Acquisition, or Redevelopment is Consistent with Neb. Const. Art. VIII, § 12.

Dear Senator Mello:

Neb. Rev. Stat. § 18-2147(1) (2007) provides that "[a]ny redevelopment plan . . . may contain a provision that any ad valorem tax levied upon real property in a redevelopment project for the benefit of any public body shall be divided, for a period not to exceed fifteen years after the effective date of such a provision by the governing body. . . ." LB 54 proposes to amend § 18-2147(1) to provide that the taxes on real property in a redevelopment project would be divided "for a period not to exceed fifteen years after the governing body enters into a redevelopment contract. . . ." LB 54, § 1. AM218 would amend LB 54 to provide, in part, that real property taxes "for a redevelopment project established for the purpose of rehabilitating, acquiring, or redeveloping substandard or blighted property" would be divided "for a period not to exceed fifteen years after the commencement of such rehabilitation, acquisition, or redevelopment. . . ." AM218, § 2. Your question is whether the changes proposed to § 18-2147(1) by AM218 are consistent with Neb. Const. art. VIII, § 12, the constitutional provision authorizing cities and villages to incur indebtedness for the purpose of rehabilitating, acquiring, or redeveloping substandard and blighted property, and pledge for the payment of bonds issued for that purpose, for a period not to exceed fifteen years, taxes levied on property in the project area that are "in excess of the assessed valuation of such property for the year prior to rehabilitation, acquisition, or redevelopment."

A. Community Development and Tax Increment Financing ["TIF"]

The Community Development Law, Neb. Rev. Stat. §§ 18-2101 to 18-2144 (2007 and Cum. Supp. 2010) generally "authorizes a city to define and acquire substandard or blighted areas and redevelop them in accordance with an approved redevelopment plan which in turn shall conform to the general plan for the municipality as a whole." Monarch Chemical Works,

Inc. v. City of Omaha, 203 Neb. 33, 36, 277 N.W.2d 423, 425 (1979). Cities or villages may create a division or department to function as a community development agency, or may establish a Community Redevelopment Authority ["CRA"] to prepare and carry out redevelopment plans for areas which have been declared substandard and blighted. Neb. Rev. Stat. §§ 18-2101.01, 18-2102 (2007) and 18-2102.01 (Cum. Supp. 2010). Redevelopment projects may be funded by the use of "Tax Increment Financing" ["TIF"], which allows the increased property taxes generated by the redevelopment to be used to finance the redevelopment. Neb. Rev. Stat. §§ 18-2147 to 18-2153 (2007); 350 N.A.C. § 18.001.01. After a redevelopment project is approved, the city or CRA may issue TIF bonds to finance the project. A redevelopment plan may provide that real property taxes in a redevelopment project shall be divided "for a period not to exceed fifteen years after the effective date of such provision. . . ." Neb. Rev. Stat. § 18-2147(1) (2007). Taxing entities can levy taxes on real property in the project on the redevelopment project valuation, also known as the base value, which means "the assessed valuation on the taxable property in a redevelopment project last certified to the political subdivisions in the year prior to the effective date of the provision authorizing the dividing of ad valorem tax pursuant to" Neb. Rev. Stat. §§ 18-2103(21) and 18-2147 (2007). 310 N.A.C. § 18.002.15. The portion of tax assessed on real property in the redevelopment project in excess of the base value for the current year, the redevelopment project excess valuation, is accounted for separately and used to pay off the financing or debt incurred for the project for a period not to exceed fifteen years. Neb. Rev. Stat. §§ 18-1247(1)(b) (2007). Notice of the provision for dividing taxes must be sent by the city or CRA to the county assessor on or before August 1 in the calendar year that the division of real property taxes is to become effective. Neb. Rev. Stat. § 18-2147(3) (2007); 350 N.A.C. § 18.003.03.

B. Constitutional Authorization of TIF

In 1978, a constitutional amendment was presented to the voters to approve authorizing cities and villages to issue bonds and other evidence of indebtedness to acquire and redevelop substandard and blighted property in a redevelopment project, and to pledge and apply to pay off such indebtedness all taxes levied on the value of real property in excess of the prior year's valuation on property in the project area for a period not to exceed fifteen years. 1978 Neb. Laws, LB 469, § 1. The amendment was adopted and became Neb. Const. art. VIII, § 12. In 1984, this provision was amended to allow cities and villages to incur indebtedness to rehabilitate substandard and blighted property, in addition to permitting acquisition and redevelopment. 1984 Neb. Laws, LR 227. An amendment altering the financing provisions relating to redevelopment of substandard and blighted property by further defining the project area was approved in 1988. 1987 Neb. Laws, LR 11. Neb. Const. art. VIII, § 12, currently provides as follows:

For the purpose of rehabilitating, acquiring, or redeveloping substandard

and blighted property in a redevelopment project as determined by law, any city or village of the state may, notwithstanding any other provision in the Constitution, and without regard to charter limitations and restrictions, incur indebtedness, whether by bond, loans, notes, advance of money, or otherwise. Notwithstanding any other provision in the Constitution or local charter, such cities or villages may also pledge for and apply to the payment of the principal, interest, and any premium on such indebtedness all taxes levied by all taxing bodies, which taxes shall be at such rate for a period not to exceed fifteen years, on the assessed valuation of the property in the project area portion of a designated blighted and substandard area that is in excess of the assessed valuation of such property for the year prior to such rehabilitation, acquisition, or redevelopment.

When such indebtedness and the interest thereon have been paid in full, such property thereafter shall be taxed as is other property in the respective taxing jurisdictions and such taxes applied as all other taxes of the respective taxing bodies.

C. Analysis

Your question is whether it is permissible under art. VIII, § 12, for the Legislature to amend § 18-2147(1) to provide that the taxes on real property in a redevelopment project are to be divided "for a period not to exceed fifteen years after the governing body enters into a redevelopment contract. . . ." (LB 54, § 1), or to amend § 18-2147(1) to provide that real property taxes for a redevelopment project are to be divided "for a period not to exceed fifteen years after the commencement of such rehabilitation, acquisition, or redevelopment. . . ." (AM218, § 2). Resolution of this issue turns on the meaning of the language in art. VIII, § 2, authorizing the pledge of taxes levied on the valuation of property in the project area that are in excess of the assessed valuation of such property "for the year prior to such rehabilitation, acquisition, or redevelopment."

The Nebraska Supreme Court has recognized the following general rules governing the interpretation of constitutional provisions:

The intent and understanding of [the] framers [of a constitutional provision] and the people who adopted it as expressed in the instrument is the main inquiry in construing it. . . . The words of a constitutional provision will be interpreted and understood in their most natural and obvious meaning unless the subject indicates or the text suggests they are used in a technical sense. The court may not supply any supposed omission, or add words to or take words from the provision as framed. It must be construed as a whole, and no part will be rejected as meaningless or surplusage, if it can be avoided. If the meaning is clear, the court will give to it the meaning that obviously would be accepted and understood by the layman. . . . It is permissible to consider the facts of history in determining the meaning of the language of the Constitution. . . . It is also

appropriate and helpful to consider, in connection with the historical background, the evil and mischief attempted to be remedied, the objects sought to be accomplished, and the scope of the remedy its terms imply.

State ex rel. Spire v. Beermann, 235 Neb. 384, 389-90, 455 N.W.2d 749, 752 (1990) (quoting State ex rel. State Railway Comm'n v. Ramsey, 151 Neb. 333, 340-41, 37 N.W.2d 502, 508 (1949) (citations omitted)).

The reference to "the year prior to such rehabilitation, acquisition, or redevelopment" in art. VIII, § 12, does not incorporate any particular temporal requirement establishing when "such rehabilitation, acquisition, or redevelopment" occurs for purposes of determining the base or redevelopment project valuation. While "acquisition" contemplates a relatively fixed time, "rehabilitation" or "redevelopment" are acts which may commence and end at much different points in time. A rehabilitation or redevelopment project may not be completed within a single year, but may span more than one year from commencement to completion. Establishing either the date of execution of the project agreement or commencement of the project as the point in time at which the year prior to rehabilitation, acquisition, or redevelopment occurs for purposes of determining the redevelopment project or "base" value, as opposed to completion of the project, is not, in our opinion, inconsistent with art. VIII, § 12. Such an interpretation is reasonable and consistent with the ordinary meaning of the language employed in this constitutional provision. Accordingly, we conclude that the amendments to § 18-2147(1) proposed under LB 54 or AM 218 are not inconsistent with art. VIII, § 12.

We point out, however, that use of either the date of execution of the redevelopment project agreement or commencement of the redevelopment project as the effective date for determining the base or redevelopment project valuation for purposes of commencing the division of property taxes will, in the case of projects which take a year or more to complete, reduce the effective period for recapture of incremental tax revenues to less than fifteen years. In order to maximize the tax increment revenues available during the allowable fifteen year recapture period, establishing the effective date for division of taxes at some point after execution of the project agreement or commencement of the project may be appropriate to account for the time taken to complete rehabilitation or redevelopment. To that end, utilizing an effective date for division of taxes tied to completion of the project could help maximize the allowable time period for recapture. For projects with an increase in assessed valuation resulting from redevelopment over a period of years, however, establishing the effective date for division of taxes as the date of completion would result in a base value that would be higher than the value of the property prior to development for a multi-year project, as the base value must be the assessed value for the previous year. We believe, however, that this interpretation is also permissible under art. VIII, § 12, and may be more consistent with the intent to permit use of the maximum amount of the fifteen year recapture period.

Very truly yours,
JON BRUNING
 Attorney General

(Signed) L. Jay Bartel
 Assistant Attorney General

cc: Patrick J. O'Donnell
 Clerk of the Legislature
 07-470-30

GENERAL FILE

LEGISLATIVE RESOLUTION 40CA. Senator McGill renewed her amendment, AM1069, found on page 1034, to the Pirsch amendment.

Pending.

COMMITTEE REPORTS

Redistricting

LEGISLATIVE RESOLUTION 102. Reported to the Legislature for further consideration.

(Signed) Chris Langemeier, Chairperson

Revenue

LEGISLATIVE BILL 570. Placed on General File with amendment. AM641

- 1 1. Strike original sections 3 to 6 and insert the
- 2 following new sections:
- 3 Sec. 3. This act becomes operative on July 1, 2011.
- 4 Sec. 4. Original section 77-2704.15, Reissue Revised
- 5 Statutes of Nebraska, and section 12-101, Revised Statutes
- 6 Cumulative Supplement, 2010, are repealed.
- 7 Sec. 5. Since an emergency exists, this act takes effect
- 8 when passed and approved according to law.

(Signed) Abbie Cornett, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 147. Introduced by Pankonin, 2.

WHEREAS, the Plattsmouth Blue Devils won the 2011 Class B State High School Powerlifting Championship; and

WHEREAS, the Blue Devils finished the season earning their eighth consecutive Class B state title; and

WHEREAS, the team's fourteen boys and three girls set two new state squat records and earned six first-place titles and three second-place titles; and

WHEREAS, the Blue Devils have brought great pride to their school, their school district, their communities, and their friends and families as they demonstrated discipline, efficiency, and tenacity throughout the season.

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

1. That the Legislature congratulates the Plattsmouth Blue Devils and their coaches, Keith Meisenheimer, Rita Carlsson, Kacie Sharp, and Steven Parks, on winning the 2011 Class B State High School Powerlifting Championship.

2. That a copy of this resolution be sent to the Plattsmouth Blue Devils and their coaches.

Laid over.

LEGISLATIVE RESOLUTION 148. Introduced by Heidemann, 1.

WHEREAS, Timothy Blecha, the son of Marvin and Candy Blecha of Humboldt, Nebraska, and a member of Troop 387, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest honor in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, Tim has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, Tim earned 28 merit badges, is an Ordeal member of the Order of the Arrow, earned the World Conservation Award, and has held patrol leader and instructor leadership positions within the troop; and

WHEREAS, Tim's community service project consisted of burying drainage tubes for Bruun Memorial Library in Humboldt; and

WHEREAS, only a small percentage of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Tim, through his hard work and perseverance, has joined other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientists, and athletes.

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

1. That the Legislature congratulates Timothy Blecha on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Timothy Blecha.

Laid over.

AMENDMENT - Print in Journal

Senator Louden filed the following amendment to LB84:
AM1093

(Amendments to AM1025)

- 1 1. Strike sections 6 and 7 and insert the following new
2 sections:
3 Sec. 6. Section 66-489, Reissue Revised Statutes of
4 Nebraska, is amended to read:
5 66-489 (1) At the time of filing the return required by
6 section 66-488, such producer, supplier, distributor, wholesaler,
7 or importer shall, in addition to the tax imposed pursuant
8 to sections 66-489.02, 66-4,140, 66-4,145, and 66-4,146 and in
9 addition to the other taxes provided for by law, pay a tax of
10 ~~seven and one-half~~ twelve and one-half cents per gallon upon all
11 motor fuels as shown by such return, except that there shall be
12 no tax on the motor fuels reported if (a) the required taxes on
13 the motor fuels have been paid, (b) the motor fuels have been sold
14 to a licensed exporter exclusively for resale or use in another
15 state, (c) the motor fuels have been sold from a Nebraska barge
16 line terminal, pipeline terminal, refinery, or ethanol or biodiesel
17 facility, including motor fuels stored offsite in bulk, by a
18 licensed producer or supplier to a licensed distributor, (d) the
19 motor fuels have been sold by a licensed distributor or licensed
20 importer to a licensed distributor or to a licensed wholesaler
21 and the seller acquired ownership of the motor fuels directly from
22 a licensed producer or supplier at or from a refinery, barge,
1 barge line, pipeline terminal, or ethanol or biodiesel facility,
2 including motor fuels stored offsite in bulk, in this state or
3 was the first importer of such fuel into this state, or (e)
4 as otherwise provided in this section. Such producer, supplier,
5 distributor, wholesaler, or importer shall remit such tax to the
6 department.
7 (2) As part of filing the return required by section
8 66-488, each producer of ethanol shall, in addition to other
9 taxes imposed by the motor fuel laws, pay an excise tax of one
10 and one-quarter cents per gallon through December 31, 2004, and
11 commencing January 1, 2010, and two and one-half cents per gallon
12 commencing January 1, 2005, through December 31, 2009, on natural
13 gasoline purchased for use as a denaturant by the producer at
14 an ethanol facility. All taxes, interest, and penalties collected
15 under this subsection shall be remitted to the State Treasurer
16 for credit to the Agricultural Alcohol Fuel Tax Fund, except that
17 commencing January 1, 2005, through December 31, 2009, one and
18 one-quarter cents per gallon of such excise tax shall be credited

19 to the Ethanol Production Incentive Cash Fund. For fiscal years
20 2007-08 through 2011-12, if the total receipts from the excise
21 tax authorized in this subsection and designated for deposit in
22 the Agricultural Alcohol Fuel Tax Fund exceed five hundred fifty
23 thousand dollars, the State Treasurer shall deposit amounts in
24 excess of five hundred fifty thousand dollars in the Ethanol
25 Production Incentive Cash Fund.

26 (3)(a) Motor fuels, methanol, and all blending agents
27 or fuel expanders shall be exempt from the taxes imposed by this
1 section and sections 66-489.02, 66-4,105, 66-4,140, 66-4,145, and
2 66-4,146, when the fuels are used for buses equipped to carry
3 more than seven persons for hire and engaged entirely in the
4 transportation of passengers for hire within municipalities or
5 within a radius of six miles thereof.

6 (b) The owner or agent of any bus equipped to carry
7 more than seven persons for hire and engaged entirely in the
8 transportation of passengers for hire within municipalities, or
9 within a radius of six miles thereof, in lieu of the excise tax
10 provided for in this section, shall pay an equalization fee of a
11 sum equal to twice the amount of the registration fee applicable to
12 such vehicle under the laws of this state. Such equalization fee
13 shall be paid in the same manner as the registration fee and be
14 disbursed and allocated as registration fees.

15 (c) Nothing in this section shall be construed as
16 permitting motor fuels to be sold tax exempt. The department
17 shall refund tax paid on motor fuels used in buses deemed exempt by
18 this section.

19 (4) Natural gasoline purchased for use as a denaturant
20 by a producer at an ethanol facility as defined in section 66-1333
21 shall be exempt from the motor fuels tax imposed by subsection (1)
22 of this section as well as the tax imposed pursuant to sections
23 66-489.02, 66-4,140, 66-4,145, and 66-4,146.

24 (5) Unless otherwise provided by an agreement entered
25 into between the State of Nebraska and the governing body of any
26 federally recognized Indian tribe within the State of Nebraska,
27 motor fuels purchased on a Nebraska Indian reservation where the
1 purchaser is a Native American who resides on the reservation shall
2 be exempt from the motor fuels tax imposed by this section as
3 well as the tax imposed pursuant to sections 66-489.02, 66-4,140,
4 66-4,145, and 66-4,146.

5 (6) Motor fuels purchased for use by the United States
6 Government or its agencies shall be exempt from the motor fuels
7 tax imposed by this section as well as the tax imposed pursuant to
8 sections 66-489.02, 66-4,140, 66-4,145, and 66-4,146.

9 (7) In the case of diesel fuel, there shall be no tax on
10 the motor fuels reported if (a) the diesel fuel has been indelibly
11 dyed and chemically marked in accordance with regulations issued by
12 the Secretary of the Treasury of the United States under 26 U.S.C.
13 4082 or (b) the diesel fuel contains a concentration of sulphur

14 in excess of five-hundredths percent by weight or fails to meet
 15 a cetane index minimum of forty and has been indelibly dyed in
 16 accordance with regulations promulgated by the Administrator of the
 17 Environmental Protection Agency pursuant to 42 U.S.C. 7545.

18 (8) The changes made to this section by ~~Laws 2008, LB~~
 19 ~~846, this legislative bill~~ apply for tax periods beginning on and
 20 after ~~July 1, 2009, January 1, 2012.~~

21 (9) The tax revenue from the increase in the tax rate
 22 provided by this legislative bill shall be remitted to the State
 23 Treasurer for credit to the State Highway Capital Improvement Fund.

24 Sec. 7. Section 66-4,105, Reissue Revised Statutes of
 25 Nebraska, is amended to read:

26 66-4,105 There is hereby levied and imposed an excise
 27 tax of ~~seven and one half~~ twelve and one-half cents per gallon,
 1 increased by the amounts imposed or determined under sections
 2 66-489.02, 66-4,140, 66-4,145, and 66-4,146, upon the use of all
 3 motor fuels used in this state and due the State of Nebraska under
 4 section 66-489. Users of motor fuels subject to taxation under
 5 this section shall be allowed the same exemptions, deductions,
 6 and rights of reimbursement as are authorized and permitted by
 7 Chapter 66, article 4, other than any commissions provided under
 8 such article. For purposes of this section and section 66-4,106,
 9 use shall mean the purchase or consumption of motor fuels in this
 10 state. The changes made to this section by ~~Laws 2008, LB 846, this~~
 11 ~~legislative bill~~ apply for tax periods beginning on and after ~~July~~
 12 ~~1, 2009, January 1, 2012.~~ The tax revenue from the increase in the
 13 tax rate provided by this legislative bill shall be remitted to the
 14 State Treasurer for credit to the State Highway Capital Improvement
 15 Fund.

16 Sec. 8. Section 66-6,107, Reissue Revised Statutes of
 17 Nebraska, is amended to read:

18 66-6,107 In addition to the tax imposed pursuant to
 19 sections 66-6,108, 66-6,109, and 66-6,109.02, an excise tax of
 20 ~~seven and one half~~ twelve and one-half cents per gallon or gallon
 21 equivalent is levied and imposed on all compressed fuel sold
 22 for use in registered motor vehicles. The changes made to this
 23 section by ~~Laws 2008, LB 846, this legislative bill~~ apply for
 24 tax periods beginning on and after ~~July 1, 2009, January 1, 2012.~~
 25 The tax revenue from the increase in the tax rate provided by
 26 this legislative bill shall be remitted to the State Treasurer for
 27 credit to the State Highway Capital Improvement Fund.

1 Sec. 9. This act becomes operative on January 1, 2012.

2 Sec. 10. Original sections 66-489, 66-4,105, and
 3 66-6,107, Reissue Revised Statutes of Nebraska, are repealed.

UNANIMOUS CONSENT - Add Cointroducer

Senator K. Haar asked unanimous consent to add his name as cointroducer to LB200. No objections. So ordered.

VISITORS

Visitors to the Chamber were a group of parents and professionals advocating for people with intellectual disabilities from across the state; 40 fourth-grade students, teachers, and sponsors from York; Karen Lovejoy, Jake Seeman, Russell E. Kirkpatrick, and Kristine Negley from Omaha; 35 fourth-grade students and teachers from Gretna; 50 fourth-, fifth-, and sixth-grade students, teacher, and sponsors from Cedar Bluffs; and 84 fourth-grade students, teachers, and sponsors from Field Club School, Omaha.

RECESS

At 12:01 p.m., on a motion by Senator Hadley, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Senator Gloor presiding.

ROLL CALL

The roll was called and all members were present except Senator Wightman who was excused; and Senators Ashford, Larson, Loudon, Schilz, and Wallman who were excused until they arrive.

AMENDMENTS - Print in Journal

Senator Adams filed the following amendment to LB637:
AM1057

(Amendments to Standing Committee amendments, AM838)

- 1 1. Strike section 12 and insert the following new
- 2 sections:
- 3 Sec. 12. (1) Except as otherwise provided in this
- 4 section, after review of an initial application for authorization
- 5 to operate, including any further information submitted by the
- 6 applicant as required by the commission and any investigation of
- 7 the applicant as the commission may deem necessary or appropriate,
- 8 the commission shall grant or deny the application for initial
- 9 authorization to operate. A grant of an initial authorization to
- 10 operate may be on such terms and conditions as the commission
- 11 may specify. Such authorization shall be for a five-year period
- 12 unless the commission determines that a shorter period of time is
- 13 appropriate based on the standards established pursuant to section
- 14 6 of this act.
- 15 (2) After review of an application to renew an
- 16 authorization to operate, including any further information
- 17 submitted by the applicant as required by the commission and

18 any investigation of the applicant as the commission may deem
19 necessary or appropriate, the commission shall grant or deny the
20 application for renewal of an authorization to operate. Renewal of
21 an authorization to operate may be on such terms and conditions
22 as the commission may specify. Such authorization shall be for
1 a five-year period, unless the commission determines that a
2 shorter renewal period is appropriate based on the standards
3 established pursuant to section 6 of this act. If the applicant
4 has, for at least twenty academic years under the same ownership,
5 continuously offered one or more four-year undergraduate programs
6 with a physical presence in Nebraska in compliance with state and
7 federal law, the commission shall grant authorization to operate
8 on a continuing basis, unless the commission determines that an
9 additional review period is appropriate based on the standards
10 established pursuant to section 6 of this act.

11 (3) Except as otherwise provided in this section,
12 modifications, as defined by the commission in rules and
13 regulations, to an existing authorization to operate shall require
14 an application to the commission. After review of the application,
15 including any further information submitted by the applicant as
16 required by the commission and any investigation of the applicant
17 as the commission may deem necessary or appropriate, the commission
18 shall grant or deny the application. Approval of the application
19 may be on such terms and conditions as the commission may specify.
20 Such authorization shall be for a five-year period unless the
21 commission determines that a shorter period of time is appropriate
22 based on the standards established pursuant to section 6 of this
23 act.

24 (4) If an application for an initial authorization to
25 operate or a modification to an existing authorization to operate
26 includes a request to establish a new campus in this state, as
27 defined by the commission in rules and regulations, the commission
1 shall hold a public hearing. The hearing shall be scheduled
2 following a completed review of the application for authorization
3 to operate or the modification of an authorization to operate,
4 including any further information submitted by the applicant as
5 required by the commission and any investigation of the applicant
6 as the commission may deem necessary or appropriate, and shall be
7 conducted according to the Administrative Procedure Act. After the
8 public hearing, the commission shall grant or deny the application.
9 A grant of authorization to operate or the modification of an
10 authorization to operate may be on such terms and conditions as the
11 commission may specify. Such authorization or modification shall
12 be for a five-year period unless the commission determines that
13 a shorter period of time is appropriate based on the standards
14 established pursuant to section 6 of this act.

15 Sec. 30. Section 85-2105, Revised Statutes Cumulative
16 Supplement, 2010, is amended to read:

17 85-2105 (1) An applicant for the Access College Early

18 Scholarship Program shall complete an application form developed
 19 and provided by the commission and shall forward the form to his
 20 or her guidance counselor. Such application shall include, but
 21 not be limited to, the applicant's high school, social security
 22 number, date of birth, grade point average, grade level, qualified
 23 postsecondary educational institution, and information necessary
 24 to determine the student's eligibility. The guidance counselor
 25 shall verify the student's eligibility under the Access College
 26 Early Scholarship Program Act and shall forward the ~~information~~
 27 application to the commission for review within fifteen days
 1 following receipt of the form from the student. Notification of
 2 tuition and mandatory fees to be accrued by the student shall
 3 be provided to the commission by the student, high school, or
 4 qualified postsecondary educational institution as determined by
 5 the commission.

6 (2) The commission shall review the application and
 7 verify the student's eligibility under the act. The commission
 8 shall notify the student and the student's guidance counselor of
 9 the verification of eligibility and the estimated award amount in
 10 writing within thirty days following receipt of the form from the
 11 student's guidance counselor. The scholarship award shall equal
 12 the lesser of tuition and mandatory fees accrued by the student
 13 after any discounts applicable to such student from the qualified
 14 postsecondary educational institution or the tuition and mandatory
 15 fees that would have been accrued by the student for the same
 16 number of credit hours if the student were taking the course as a
 17 full-time, resident, undergraduate student from the University of
 18 Nebraska-Lincoln. The commission shall forward such amount directly
 19 to the qualified postsecondary educational institution as payment
 20 of such student's tuition and mandatory fees.

21 (3) The commission shall make such payments in the order
 22 the applications are received, except that the commission may limit
 23 the number of scholarships awarded in each term.

24 (4) The commission may limit the number of scholarships a
 25 student may receive.

26 (5) For any student receiving a scholarship pursuant to
 27 the act for tuition and mandatory fees, the qualified postsecondary
 1 educational institution receiving the payment shall report either
 2 the student's grade for the course or the student's failure to
 3 complete the course to the commission within thirty days after
 4 the end of the course or within one hundred eighty days after
 5 receipt of a payment pursuant to the act if the course for which
 6 the scholarship was awarded does not have a specified ending
 7 date. The commission shall keep the identity of students receiving
 8 scholarships confidential, except as necessary to comply with the
 9 requirements of the act.

10 2. On page 1, strike line 19; and in line 20 strike
 11 "(5)(a)" and insert "(4)(a)".

12 3. On page 2, line 26, strike "(6)" and insert "(5)".

13 4. On page 3, line 1, strike "(7)" and insert "(6)"; in
 14 line 5 strike "(8)" and insert "(7)"; in line 9 strike "(9)" and
 15 insert "(8)"; and in line 13 strike "(10)" and insert "(9)".

16 5. On page 6, line 1, strike "and the" and insert ";
 17 (8) The"; in line 2 strike "Title IV" and after
 18 "programs" insert "described in Title IV of the federal Higher
 19 Education Act of 1965, 20 U.S.C. 1001 et seq., as such act existed
 20 on January 1, 2011"; in line 4 strike "(8)" and insert "(9)"; and
 21 in line 20 strike "term" and insert "year".

22 6. On page 7, line 7, strike "the Postsecondary
 23 Institution Act" and insert "this section".

24 7. Renumber the remaining sections and correct the
 25 repealer accordingly.

Senator Larson filed the following amendment to LB360:
 AM741

(Amendments to Standing Committee amendments, AM369)

- 1 1. On page 6, strike beginning with "The" in line 20
- 2 through line 27 and show the old matter as stricken.

Senator Council filed the following amendment to LR40CA:
 AM1095

(Amendments to AM886)

- 1 1. On page 1, line 7, after the period insert "The
- 2 citizens of Nebraska also have a fundamental right to eat cows and
- 3 pigs.".

GENERAL FILE

LEGISLATIVE BILL 279. Title read. Considered.

Committee AM694, found on page 806, was adopted with 36 ayes, 1 nay, 8 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 1 nay, 5 present and not voting, and 3 excused and not voting.

SENATOR CARLSON PRESIDING

LEGISLATIVE BILL 600. Title read. Considered.

Committee AM844, found on page 907, was adopted with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

SENATOR GLOOR PRESIDING

LEGISLATIVE BILL 648. Title read. Considered.

Committee AM802, found on page 897, was considered.

Senator Christensen offered the following amendment to the committee amendment:

AM1091

(Amendments to Standing Committee amendments, AM802)

- 1 1. Strike amendment 1 and insert the following amendment:
- 2 1. On page 3, lines 8 through 13, strike the new matter
- 3 and insert "or hearing. After a foster child has been placed in the
- 4 foster parents' home for at least six months, foster parents shall
- 5 have standing as interested parties in the context of a hearing
- 6 regarding removal of a foster child from the foster parents' home
- 7 for placement in another foster home. Such standing entitles the
- 8 foster parents to call and cross-examine witnesses at the hearing
- 9 and appeal an adverse decision".

Pending.

COMMITTEE REPORTS

Education

LEGISLATIVE BILL 575. Placed on General File with amendment. AM955 is available in the Bill Room.

(Signed) Greg Adams, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE RESOLUTION 141. Reported to the Legislature for further consideration.

(Signed) Bill Avery, Chairperson

AMENDMENT - Print in Journal

Senator Fulton filed the following amendment to LB283: AM933

(Amendments to E & R amendments, ER62)

- 1 1. On page 7, lines 9 and 10, strike "but is not
- 2 limited to."; in line 11 strike "put an end to."; in line 12 after
- 3 the first comma insert "or" and strike ", or eliminate"; and in
- 4 line 14 strike "or eliminate".

GENERAL FILE

LEGISLATIVE BILL 648. Senator Christensen withdrew his amendment AM1091, found in this day's Journal.

Senator Christensen withdrew his amendment, AM888, found on page 1028.

Committee AM802, found on page 897 and considered in this day's Journal, was adopted with 38 ayes, 0 nays, 10 present and not voting, and 1 excused and not voting.

Senator McGill offered the following amendment:
AM868

- 1 1. Insert the following section:
- 2 Section 1. Section 43-285, Revised Statutes Cumulative
- 3 Supplement, 2010, is amended to read:
- 4 43-285 (1) When the court awards a juvenile to the care
- 5 of the Department of Health and Human Services, an association,
- 6 or an individual in accordance with the Nebraska Juvenile Code,
- 7 the juvenile shall, unless otherwise ordered, become a ward and
- 8 be subject to the guardianship of the department, association,
- 9 or individual to whose care he or she is committed. Any such
- 10 association and the department shall have authority, by and
- 11 with the assent of the court, to determine the care, placement,
- 12 medical services, psychiatric services, training, and expenditures
- 13 on behalf of each juvenile committed to it. Such guardianship shall
- 14 not include the guardianship of any estate of the juvenile.
- 15 (2) Following an adjudication hearing at which a juvenile
- 16 is adjudged to be under subdivision (3) of section 43-247, the
- 17 court may order the department to prepare and file with the
- 18 court a proposed plan for the care, placement, services, and
- 19 permanency which are to be provided to such juvenile and his
- 20 or her family. The health and safety of the juvenile shall be
- 21 the paramount concern in the proposed plan. The department shall
- 22 include in the plan for a juvenile who is sixteen years of
- 23 age or older and subject to the guardianship of the department
 - 1 a written proposal describing programs and services designed to
 - 2 assist the juvenile in acquiring independent living skills. ~~If any~~
 - 3 ~~other party, including, but not limited to, the guardian ad litem,~~
 - 4 ~~parents, county attorney, or custodian, proves by a preponderance~~
 - 5 ~~of the evidence that the department's plan is not in the juvenile's~~
 - 6 ~~best interests, the court shall disapprove the department's plan.~~
 - 7 The court may approve the plan, modify the plan, order that an
 - 8 alternative plan be developed, or implement another plan that is
 - 9 in the juvenile's best interests. In its order the court shall
 - 10 include a finding regarding the appropriateness of the programs and
 - 11 services described in the proposal designed to assist the juvenile
 - 12 in acquiring independent living skills. Rules of evidence shall not

13 apply at the dispositional hearing when the court considers the
14 plan that has been presented.

15 (3) Within thirty days after an order awarding a juvenile
16 to the care of the department, an association, or an individual
17 and until the juvenile reaches the age of majority, the department,
18 association, or individual shall file with the court a report
19 stating the location of the juvenile's placement and the needs of
20 the juvenile in order to effectuate the purposes of subdivision
21 (1) of section 43-246. The department, association, or individual
22 shall file a report with the court once every six months or at
23 shorter intervals if ordered by the court or deemed appropriate
24 by the department, association, or individual. The department,
25 association, or individual shall file a report and notice of
26 placement change with the court and shall send copies of the
27 notice to all interested parties at least seven days before the
1 placement of the juvenile is changed from what the court originally
2 considered to be a suitable family home or institution to some
3 other custodial situation in order to effectuate the purposes of
4 subdivision (1) of section 43-246. The court, on its own motion
5 or upon the filing of an objection to the change by an interested
6 party, may order a hearing to review such a change in placement
7 and may order that the change be stayed until the completion of
8 the hearing. Nothing in this section shall prevent the court on
9 an ex parte basis from approving an immediate change in placement
10 upon good cause shown. The department may make an immediate change
11 in placement without court approval only if the juvenile is in a
12 harmful or dangerous situation or when the foster parents request
13 that the juvenile be removed from their home. Approval of the court
14 shall be sought within twenty-four hours after making the change in
15 placement or as soon thereafter as possible. The department shall
16 provide the juvenile's guardian ad litem with a copy of any report
17 filed with the court by the department pursuant to this subsection.

18 (4) The court shall also hold a permanency hearing if
19 required under section 43-1312.

20 (5) When the court awards a juvenile to the care of the
21 department, an association, or an individual, then the department,
22 association, or individual shall have standing as a party to file
23 any pleading or motion, to be heard by the court with regard to
24 such filings, and to be granted any review or relief requested in
25 such filings consistent with the Nebraska Juvenile Code.

26 (6) Whenever a juvenile is in a foster care placement as
27 defined in section 43-1301, the State Foster Care Review Board may
1 participate in proceedings concerning the juvenile as provided in
2 section 43-1313 and notice shall be given as provided in section
3 43-1314.

4 (7) Any written findings or recommendations of the State
5 Foster Care Review Board or any designated local foster care
6 review board with regard to a juvenile in a foster care placement
7 submitted to a court having jurisdiction over such juvenile shall

8 be admissible in any proceeding concerning such juvenile if such
9 findings or recommendations have been provided to all other parties
10 of record.

11 (8) Any member of the State Foster Care Review Board,
12 any of its agents or employees, or any member of any local foster
13 care review board participating in an investigation or making any
14 report pursuant to the Foster Care Review Act or participating in a
15 judicial proceeding pursuant to this section shall be immune from
16 any civil liability that would otherwise be incurred except for
17 false statements negligently made.

18 2. Renumber the remaining sections and correct the
19 repealer section accordingly.

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

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 13 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 682. Title read. Considered.

SENATOR COASH PRESIDING

Committee AM626, found on page 860, was considered.

Senator Mello renewed his amendment, AM1012, found on page 1028, to the committee amendment.

Pending.

UNANIMOUS CONSENT - Add Cointroducer

Senator Sullivan asked unanimous consent to add her name as cointroducer to LB600. No objections. So ordered.

VISITORS

Visitors to the Chamber were Keith Rexroth, Alex Balandran, and Heather Hoffman from Sidney and Jasmine Hanggi from Zurich, Switzerland and Monsicha Yoopensuk from Bangkok, Thailand; and 30 fourth-grade students and teachers from Gretna.

ADJOURNMENT

At 3:59 p.m., on a motion by Senator Fulton, the Legislature adjourned until 9:00 a.m., Wednesday, April 6, 2011.

Patrick J. O'Donnell
Clerk of the Legislature