

SIXTY-FOURTH DAY - APRIL 22, 2013**LEGISLATIVE JOURNAL****ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION****SIXTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska
Monday, April 22, 2013

PRAYER

The prayer was offered by Father Paul Rutten, Lincoln.

ROLL CALL

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

The roll was called and all members were present except Senator Murante who was excused; and Senators Chambers, B. Harr, Lautenbaugh, McGill, and Price who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the sixty-third day was approved.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 553. Placed on Select File with amendment.
ER62

- 1 1. In the Standing Committee amendments, AM802:
- 2 a. On page 37, strike beginning with "Except" in line
- 3 11 through "final" in line 12 and insert "Final"; and in line 13
- 4 strike "By" and insert "Except as provided in subdivision (3)(b) of
- 5 this section, by";
- 6 b. On page 43, line 3, after "thereafter" insert an
- 7 underscored comma; in line 15 strike "section 79-9,103₂" and show
- 8 the old matter as stricken; in line 16 reinstate the stricken "this
- 9 section."; and in line 21 strike the comma; and
- 10 c. On page 44, strike line 1 and insert "to this
- 11 section."; in line 20 strike "section 79-9,103₂" and show the old
- 12 matter as stricken; and in line 21 reinstate the stricken "this
- 13 section.".
- 14 2. On page 1, strike beginning with "the" in line
- 15 1 through line 13 and insert "retirement; to amend sections

16 79-966.01, 79-9,100, 79-9,103, and 79-9,105, Reissue Revised
 17 Statutes of Nebraska, and sections 24-703, 79-901, 79-902, 79-916,
 18 79-947.06, 79-954, 79-958, 79-966, 79-9,113, 79-1003, 79-1028.01,
 19 and 81-2017, Revised Statutes Cumulative Supplement, 2012; to
 20 change provisions relating to actuarial valuations of retirement
 21 systems and funds; to redefine terms; to change eligibility
 22 provisions for participation in school retirement systems and for
 23 disability benefits for beneficiaries; to change annual benefit
 1 cost-of-living adjustment provisions, state deposits, employer and
 2 employee contributions, and monthly formula retirement annuity
 3 provisions; to change provisions relating to state aid calculations
 4 for schools; to eliminate obsolete provisions; to harmonize
 5 provisions; to provide an operative date; to provide severability;
 6 to repeal the original sections; and to declare an emergency.".

LEGISLATIVE BILL 240. Placed on Select File.

LEGISLATIVE BILL 23. Placed on Select File with amendment.
 ER61 is available in the Bill Room.

LEGISLATIVE BILL 487. Placed on Select File.

LEGISLATIVE BILL 563. Placed on Select File.

LEGISLATIVE BILL 3. Placed on Select File with amendment.
 ER63

- 1 1. On page 1, strike beginning with "real" in line 1
- 2 through line 2 and insert "liens; to amend sections 52-1901 and
- 3 52-1902, Reissue Revised Statutes of Nebraska, and section 28-101,
- 4 Revised Statutes Cumulative Supplement, 2012; to create the offense
- 5 of fraudulently filing a financing statement, lien, or document;
- 6 to provide a penalty; to provide and change provisions relating to
- 7 nonconsensual common-law liens; to harmonize provisions; to repeal
- 8 the original sections; and to declare an emergency.".

LEGISLATIVE BILL 99. Placed on Select File with amendment.
 ER64

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 20-501, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 20-501 Racial profiling is a practice that presents a
- 6 great danger to the fundamental principles of a democratic society.
- 7 It is abhorrent and cannot be tolerated. ~~Motorists who have An~~
- 8 individual who has been detained or whose vehicle has been stopped
- 9 by the police for no reason other than the color of their his or
- 10 her skin or their his or her apparent nationality or ethnicity are
- 11 the victims is the victim of a discriminatory practices. practice.
- 12 Sec. 2. Section 20-502, Reissue Revised Statutes of

13 Nebraska, is amended to read:

14 20-502 (1) No member of the Nebraska State Patrol or
 15 a county sheriff's office, officer of a city or village police
 16 department, or member of any other law enforcement agency in this
 17 state shall engage in racial profiling. The disparate treatment of
 18 an individual who has been detained or whose motor vehicle has
 19 been stopped by a law enforcement officer is inconsistent with this
 20 policy.

21 (2) Racial profiling shall not be used to justify the
 22 detention of an individual or to conduct a motor vehicle stop.

23 Sec. 3. Section 20-504, Reissue Revised Statutes of
 1 Nebraska, is amended to read:

2 20-504 (1) On or before January 1, ~~2002, 2014,~~ the
 3 Nebraska State Patrol, the county sheriffs, all city and village
 4 police departments, and any other law enforcement agency in this
 5 state shall adopt and provide a copy to the Nebraska Commission
 6 on Law Enforcement and Criminal Justice of a written policy that
 7 prohibits the detention of any person or a motor vehicle stop
 8 when such action is motivated by racial profiling. Such racial
 9 profiling prohibition policy shall include definitions consistent
 10 with section 20-503 and one or more internal methods of prevention
 11 and enforcement, including, but not limited to: and the action
 12 would constitute a violation of the civil rights of the person.

13 (a) Internal affairs investigation;

14 (b) Preventative measures including extra training at the
 15 Nebraska Law Enforcement Training Center focused on avoidance of
 16 apparent or actual racial profiling;

17 (c) Early intervention with any particular personnel
 18 determined by the administration of the agency to have committed,
 19 participated in, condoned, or attempted to cover up any instance of
 20 racial profiling; and

21 (d) Disciplinary measures or other formal or informal
 22 methods of prevention and enforcement.

23 None of the preventative or enforcement measures shall
 24 be implemented contrary to the collective-bargaining agreement
 25 provisions or personnel rules under which the member or officer in
 26 question is employed.

27 (2) The Nebraska Commission on Law Enforcement and
 1 Criminal Justice may develop and distribute a suggested model
 2 written policy on racial profiling prevention for use by law
 3 enforcement agencies, but it shall not mandate its adoption except
 4 as to any particular law enforcement agency which fails to timely
 5 create and provide to the commission its own policy in conformance
 6 with the minimum standards set forth in this section.

7 ~~(2)-(3)~~ With respect to a motor vehicle stop, on and
 8 after January 1, 2002, ~~and until January 1, 2014,~~ the Nebraska
 9 State Patrol, the county sheriffs, all city and village police

10 departments, and any other law enforcement agency in this state
 11 shall record and retain the following information using the form
 12 developed and promulgated pursuant to section 20-505:

13 (a) The number of motor vehicle stops;

14 (b) The characteristics of race or ethnicity of the
 15 person stopped. The identification of such characteristics shall
 16 be based on the observation and perception of the law enforcement
 17 officer responsible for reporting the motor vehicle stop and the
 18 information shall not be required to be provided by the person
 19 stopped;

20 (c) If the stop is for a law violation, the nature of the
 21 alleged law violation that resulted in the motor vehicle stop;

22 (d) Whether a warning or citation was issued, an arrest
 23 made, or a search conducted as a result of the motor vehicle stop.
 24 Search does not include a search incident to arrest or an inventory
 25 search; and

26 (e) Any additional information that the Nebraska
 27 State Patrol, the county sheriffs, all city and village police
 1 departments, or any other law enforcement agency in this state, as
 2 the case may be, deems appropriate.

3 ~~(3)~~(4) The Nebraska Commission on Law Enforcement and
 4 Criminal Justice may develop a uniform system for receiving
 5 allegations of racial profiling. The Nebraska State Patrol, the
 6 county sheriffs, all city and village police departments, and
 7 any other law enforcement agency in this state shall provide to
 8 the commission (a) a copy of each allegation of racial profiling
 9 received and (b) written notification of the review and disposition
 10 of such allegation. No information revealing the identity of
 11 the law enforcement officer involved in the stop shall be used,
 12 transmitted, or disclosed in violation of any collective-bargaining
 13 agreement provision or personnel rule under which such law
 14 enforcement officer is employed. No information revealing the
 15 identity of the complainant shall be used, transmitted, or
 16 disclosed in the form alleging racial profiling.

17 ~~(4)~~(5) Any law enforcement officer who in good faith
 18 records information on a motor vehicle stop pursuant to this
 19 section shall not be held civilly liable for the act of recording
 20 such information unless the law enforcement officer's conduct was
 21 unreasonable or reckless or in some way contrary to law.

22 ~~(5)~~(6) On or before October 1, 2002, and annually
 23 thereafter, ~~until January 1, 2014,~~ the Nebraska State Patrol, the
 24 county sheriffs, all city and village police departments, and all
 25 other law enforcement agencies in this state shall provide to the
 26 ~~commission,~~ Nebraska Commission on Law Enforcement and Criminal
 27 Justice, in such form as the commission prescribes, a summary
 1 report of the information recorded pursuant to subsection ~~(2)~~(3)
 2 of this section.

3 ~~(6)~~(7) On and after January 1, 2002, ~~and until April~~
 4 ~~1, 2014, the commission may, the Nebraska Commission on Law~~
 5 ~~Enforcement and Criminal Justice shall, within the limits of~~
 6 its existing appropriations, including any grant funds which the
 7 commission is awarded for such purpose, provide for a review and
 8 analysis of the prevalence and disposition of motor vehicle stops
 9 based on racial profiling and allegations of racial profiling
 10 involved in other detentions reported pursuant to this section.
 11 After the review and analysis, the commission may, when it deems
 12 warranted, inquire into and study individual law enforcement agency
 13 circumstances in which the raw data collected and analyzed raises
 14 at least some issue or appearance of possible racial profiling. Any
 15 law enforcement officer, prosecutor, defense attorney, or probation
 16 officer, unless restricted by privilege, who becomes aware of
 17 incidents of racial profiling by a law enforcement agency shall
 18 report the same to the commission within thirty days of becoming
 19 aware of such practice. The commission may make recommendations
 20 to any such law enforcement agency for the purpose of improving
 21 prevention measures against racial profiling or the appearance of
 22 racial profiling. The results of such review, analysis, inquiry,
 23 and study and any recommendations by the commission to any law
 24 enforcement agency shall be reported annually to the Governor and
 25 the Legislature beginning on or before April 1, 2004, ~~until April~~
 26 ~~1, 2014.~~ The report submitted to the Legislature shall be submitted
 27 electronically.

1 Sec. 4. Section 20-505, Reissue Revised Statutes of
 2 Nebraska, is amended to read:

3 20-505 On or before January 1, 2002, the Nebraska
 4 Commission on Law Enforcement and Criminal Justice, the
 5 Superintendent of Law Enforcement and Public Safety, the Attorney
 6 General, and the State Court Administrator may adopt and
 7 promulgate (1) ~~A~~a form, in printed or electronic format, to be
 8 used by a law enforcement officer when making a motor vehicle stop
 9 to record personal identifying information about the operator of
 10 such motor vehicle, the location of the stop, the reason for the
 11 stop, and any other information that is required to be recorded
 12 pursuant to subsection ~~(2)~~(3) of section 20-504 and (2) a form, in
 13 printed or electronic format, to be used to report an allegation of
 14 racial profiling by a law enforcement officer.

15 Sec. 5. Section 20-506, Reissue Revised Statutes of
 16 Nebraska, is amended to read:

17 20-506 (1) The Racial Profiling Advisory Committee is
 18 created.

19 (2)(a) The committee shall consist of:

20 (i) The executive director of the Nebraska Commission
 21 on Law Enforcement and Criminal Justice, who also shall be the
 22 chairperson of the committee;

- 23 (ii) The Superintendent of Law Enforcement and Public
 24 Safety or his or her designee;
- 25 (iii) The director of the Commission on Latino-Americans
 26 or his or her designee; and
- 27 (iv) The executive director of the Commission on Indian
 1 Affairs or his or her designee.
- 2 (b) The committee shall also consist of the following
 3 persons, each appointed by the Governor from a list of ~~three~~five
 4 names submitted to the Governor for each position:
- 5 (i) A representative of the Fraternal Order of Police;
- 6 (ii) A representative of the Nebraska County Sheriffs
 7 Association;
- 8 (iii) A representative of the Police Officers Association
 9 of Nebraska;
- 10 (iv) A representative of the American Civil Liberties
 11 Union of Nebraska;
- 12 (v) A representative of the AFL-CIO;
- 13 (vi) A representative of the Police Chiefs Association of
 14 Nebraska;
- 15 (vii) A representative of the Nebraska branches of the
 16 National Association for the Advancement of Colored People; and
- 17 (viii) A representative of the Nebraska State Bar
 18 Association appointed by the Governor from a list of attorneys
 19 submitted by the executive council of the Nebraska State Bar
 20 Association.
- 21 (3) The committee shall meet and organize within thirty
 22 days after the appointment of the members. The committee shall meet
 23 semiannually at a time and place to be fixed by the committee.
 24 Special meetings may be called by the chairperson or at the request
 25 of two or more members of the committee.
- 26 (4) The committee shall advise the commission and its
 27 executive director of the commission in the conduct of ~~his or~~
 1 ~~her~~ their duties regarding (a) the completeness and acceptability
 2 of written racial profiling policies submitted by individual law
 3 enforcement agencies as required by subsection (1) of section
 4 20-504, (b) the collection of data by law enforcement agencies,
 5 any needed additional data, and any needed additional analysis,
 6 investigation, or inquiry as to the data provided pursuant to
 7 subsection (3) of section 20-504, (c) the review, analysis,
 8 inquiry, study, and recommendations required pursuant to subsection
 9 ~~(6)-(7)~~ of section 20-504, ~~provide~~ including an analysis of the
 10 review, analysis, inquiry, study, and recommendations, and (d)
 11 ~~and make~~ policy recommendations of the committee with respect to
 12 the prevention of racial profiling and the need, if any, for
 13 enforcement by the Department of Justice of the prohibitions found
 14 in section 20-502.
- 15 Sec. 6. Original sections 20-501, 20-502, 20-504, 20-505,

16 and 20-506, Reissue Revised Statutes of Nebraska, are repealed.
17 2. On page 1, strike beginning with "civil" in line 1
18 through line 5 and insert "racial profiling; to amend sections
19 20-501, 20-502, 20-504, 20-505, and 20-506, Reissue Revised
20 Statutes of Nebraska; to change provisions relating to prohibited
21 conduct and racial profiling prohibition policies; to require a
22 racial profiling prevention policy; to eliminate a termination date
23 regarding maintenance of certain records; to change powers and
24 duties of the Nebraska Commission on Law Enforcement and Criminal
25 Justice; to change appointment provisions and duties for the Racial
26 Profiling Advisory Committee; to harmonize provisions; and to
27 repeal the original sections."

(Signed) John Murante, Chairperson

GENERAL FILE

LEGISLATIVE BILL 407. Title read. Considered.

Committee AM1018, found on page 1007, was offered.

Senator Sullivan offered the Sullivan et al. amendment, AM1044, found on page 1010, to the committee amendment.

Pending.

VISITORS

Visitors to the Chamber were 42 fourth-grade students and teachers from Lincoln Elementary, Beatrice; 52 fourth-grade students, teachers, and sponsors from Standing Bear Elementary, Omaha; 48 fourth-grade students, teachers, and sponsors from Birchcrest Elementary, Bellevue; and 11 third- and fourth-grade students and teacher from Nebraska Christian Elementary, Central City.

RECESS

At 11:58 a.m., on a motion by Speaker Adams, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., President Heidemann presiding.

ROLL CALL

The roll was called and all members were present except Senators Murante and Smith who were excused; and Senators Ashford, Chambers, Conrad, Lautenbaugh, and McGill who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 407. Senator Sullivan renewed the Sullivan et al. amendment, AM1044, found on page 1010 and considered in this day's Journal, to the committee amendment.

SENATOR COASH PRESIDING

Pending.

RESOLUTION

LEGISLATIVE RESOLUTION 154. Introduced by Krist, 10.

WHEREAS, the Legislature will feature on its web site a video created by Justin Myers and William Scheopner, finalists in the 2011 National History Day competition, about United States Senator George Norris' contributions to Nebraska in its civic education efforts; and

WHEREAS, Justin Myers and William Scheopner, both from Omaha, Nebraska, won the Group Documentary - Junior Division award for their video "The Revolutionary Reaper" at the 2012 National History Day competition held in College Park, Maryland; and

WHEREAS, Justin Myers and William Scheopner won the Center for Great Plains Studies Award - Junior Division at the 2012 National History Day competition held at Nebraska Wesleyan University in Lincoln, Nebraska; and

WHEREAS, the Legislature recognizes the outstanding achievements of Nebraska residents.

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

1. That the Legislature congratulates Justin Myers and William Scheopner on winning the 2012 Group Documentary - Junior Division award and the 2012 Center for Great Plains Studies Award - Junior Division and being named finalists for the 2011 Group Documentary - Junior Division award at the National History Day competition.

2. That the Legislature thanks Justin Myers and William Scheopner for allowing the Legislature's use of a video featuring United States Senator George Norris' contributions to Nebraska in order that it be shared with students throughout the state.

3. That a copy of this resolution be sent to Justin Myers and William Scheopner.

Laid over.

NOTICE OF COMMITTEE HEARING
Transportation and Telecommunications

Room 1113

Tuesday, May 7, 2013 1:00 p.m.

Blake Dillon - Motor Vehicle Industry Licensing Board
William Reeg - Motor Vehicle Industry Licensing Board

(Signed) Annette Dubas, Chairperson

COMMITTEE REPORTS
Education

LEGISLATIVE BILL 9. Indefinitely postponed.
LEGISLATIVE BILL 274. Indefinitely postponed.
LEGISLATIVE BILL 466. Indefinitely postponed.
LEGISLATIVE BILL 467. Indefinitely postponed.
LEGISLATIVE BILL 469. Indefinitely postponed.
LEGISLATIVE BILL 496. Indefinitely postponed.
LEGISLATIVE BILL 511. Indefinitely postponed.
LEGISLATIVE BILL 566. Indefinitely postponed.

(Signed) Kate Sullivan, Chairperson

AMENDMENTS - Print in Journal

Senator Lathrop filed the following amendment to LB3:
AM1067

(Amendments to Standing Committee amendments, AM351)

- 1 1. Insert the following new sections:
- 2 Sec. 7. Sections 7 to 14 of this act shall be known and
- 3 may be cited as the Commercial Real Estate Broker Lien Act.
- 4 Sec. 8. For purposes of the Commercial Real Estate Broker
- 5 Lien Act:
- 6 (1) Commercial real estate means any real estate other
- 7 than real estate containing no more than four residential units or
- 8 real estate on which no buildings or structures are located and
- 9 that is zoned for single-family residential use. Commercial real
- 10 estate does not include single-family residential units such as
- 11 condominiums, town houses, or homes in a subdivision when sold,
- 12 leased, or otherwise conveyed on a unit-by-unit basis, even though
- 13 these units may be a part of a larger building or parcel of real
- 14 estate containing more than four residential units;
- 15 (2) Commission means any and all compensation that may
- 16 be due a commercial real estate broker for performance of licensed
- 17 services; and
- 18 (3) Commission agreement means a written agreement

19 with a designated commercial real estate broker as required by
20 subdivisions (2) through (6) of section 76-2422.

21 Sec. 9. (1)(a) A commercial real estate broker shall
22 have a lien upon commercial real estate or any interest in that
1 commercial real estate that is the subject of a purchase, lease,
2 or other conveyance to a buyer or tenant of an interest in the
3 commercial real estate in the amount of commissions that the
4 commercial real estate broker is due.

5 (b) The lien shall be available only to the commercial
6 real estate broker named in a commission agreement signed by an
7 owner, buyer, or tenant or their respective authorized agents as
8 applicable and is not available to an employee, agent, subagent, or
9 independent contractor of a commercial real estate broker.

10 (2) A lien under this section shall attach to commercial
11 real estate or any interest in the commercial real estate when:

12 (a) The commercial real estate broker is entitled to
13 a commission provided in a commission agreement signed by the
14 owner, buyer, tenant, or their respective authorized agents, as
15 applicable; and

16 (b) The commercial real estate broker records a notice
17 of lien in the office of the register of deeds of the county in
18 which the commercial real estate is located, prior to the actual
19 conveyance or transfer of the commercial real estate against which
20 the commercial real estate broker is claiming a lien, except as
21 provided in this section. The lien shall attach as of the date of
22 the recording of the notice of lien and shall not relate back to
23 the date of the commission agreement.

24 (3) In the case of a lease, including a sublease or an
25 assignment of a lease, the notice of lien shall be recorded not
26 later than ninety days after the tenant takes possession of the
27 leased premises. The lien shall attach as of the recording of
1 the notice of lien and shall not relate back to the date of the
2 commission agreement.

3 (4)(a) If a commercial real estate broker is due an
4 additional commission as a result of future actions, including, but
5 not limited to, the exercise of an option to expand the leased
6 premises or to renew or extend a lease pursuant to a commission
7 agreement signed by the then owner or tenant, the commercial real
8 estate broker may record its notice of lien at any time after
9 execution of the lease or other commission agreement which contains
10 such option, but not later than ninety days after the event or
11 occurrence on which the future commission is claimed occurs.

12 (b) In the event that the commercial real estate is
13 sold or otherwise conveyed prior to the date on which a future
14 commission is due, and if the commercial real estate broker
15 has filed a valid notice of lien prior to the sale or other
16 conveyance of the commercial real estate, then the purchaser or
17 transferee shall be deemed to have notice of and shall take title
18 to the commercial real estate subject to the notice of lien. If

19 a commercial real estate broker claiming a future commission fails
20 to record its notice of lien for future commission prior to the
21 recording of a deed conveying legal title to the commercial real
22 estate to the purchaser or transferee, then such commercial real
23 estate broker shall not claim a lien on the commercial real estate.
24 This subsection shall not limit or otherwise affect claims or
25 defenses a commercial real estate broker or owner or any other
26 party may have on any other basis, in law or in equity.

27 (5) If a commercial real estate broker has a commission
1 agreement as described in subdivision (4)(a) of this section with
2 a prospective buyer or tenant, then the lien shall attach upon the
3 prospective buyer purchasing or otherwise accepting a conveyance
4 or transfer of the commercial real estate and the recording of a
5 notice of lien by the commercial real estate broker in the office
6 of the register of deeds of the county in which the commercial
7 real estate, or any interest in the commercial real estate, is
8 located, within ninety days after the purchase or other conveyance
9 or transfer to the buyer or tenant. The lien shall attach as of the
10 date of the recording of the notice of lien and shall not relate
11 back to the date of the commission agreement.

12 Sec. 10. The commercial real estate broker shall, within
13 ten days after recording its notice of lien, either mail a copy of
14 the notice of lien to the owner of record of the commercial real
15 estate by registered or certified mail at the address of the owner
16 stated in the commission agreement on which the claim for lien is
17 based or, if no such address is given, then to the address of the
18 commercial real estate on which the claim of lien is based. Mailing
19 of the copy of the notice of lien is effective when deposited in
20 a United States mailbox with postage prepaid. The commercial real
21 estate broker's lien shall be unenforceable if mailing or service
22 of the copy of notice of lien does not occur at the time and in the
23 manner required by this section.

24 Sec. 11. The notice of lien shall state the name of
25 the commercial real estate broker, the name as reflected in
26 the commercial real estate broker's records of any person the
27 commercial real estate broker believes to be an owner of the
1 commercial real estate on which the lien is claimed, the name
2 as reflected in the commercial real estate broker's records of
3 any person whom the commercial real estate broker believes to be
4 obligated to pay the commission under the commission agreement, a
5 description legally sufficient for identification of the commercial
6 real estate upon which the lien is claimed, and the amount for
7 which the lien is claimed. The notice of lien shall recite that
8 the information contained in the notice is true and accurate to the
9 knowledge of the signatories. The notice of lien shall be signed
10 by the commercial real estate broker or by a person authorized to
11 sign on behalf of the commercial real estate broker and shall be
12 notarized.

13 Sec. 12. (1) Except as provided in subsections (2) and

14 (3) of this section, a lien that has become enforceable as provided
15 in section 9 of this act shall continue to be enforceable for two
16 years after the recording of the lien.

17 (2) Except as provided in subsection (3) of this section,
18 if an owner, holder of a security interest, mortgage, or trust
19 deed, or other person having an interest in the commercial real
20 estate gives the commercial real estate broker written demand to
21 institute a judicial proceeding within thirty days, the lien lapses
22 unless, within thirty days after receipt of the written demand, the
23 commercial real estate broker institutes judicial proceedings.

24 (3) If a judicial proceeding to enforce a lien is
25 instituted while a lien is effective under subsection (1) or (2)
26 of this section, the lien continues during the pendency of the
27 proceeding.

1 Sec. 13. (1) Recorded liens, mortgages, trust deeds, and
2 other encumbrances on commercial real estate, including a recorded
3 lien securing revolving credit and future advances for a loan,
4 recorded before the date the commercial real estate broker's lien
5 is recorded, shall have priority over the commercial real estate
6 broker's lien.

7 (2) A construction lien claim that is recorded after the
8 commercial real estate broker's notice of lien but that relates
9 back to a date prior to the recording date of the commercial real
10 estate broker's notice of lien has priority over the commercial
11 real estate broker's lien.

12 (3) A purchase-money lien executed by the buyer of
13 commercial real estate in connection with a loan for which any
14 part of the proceeds are used to pay the purchase price of the
15 commercial real estate has priority over a commercial real estate
16 broker's lien claimed for the commission owed by the buyer against
17 the commercial real estate purchased by the buyer.

18 Sec. 14. (1) Whenever a notice of a commercial real
19 estate broker's lien has been recorded, the record owner of the
20 commercial real estate, or the tenant in case of a lien upon
21 the leasehold estate, may have the lien released by depositing
22 funds equal to the full amount stated in the notice of lien plus
23 fifteen percent to be applied towards any lien under section 9
24 of this act. These funds shall be held in escrow by such person
25 and by such process which may be agreed to by the parties, either
26 in the commission agreement or otherwise, for the payment to the
27 commercial real estate broker or otherwise for resolution for their
1 dispute or, in the absence of any such mutually agreed person
2 or process, the funds may be deposited with the district court
3 by the filing of an interpleader. Upon such deposit of funds
4 by interpleader, the commercial real estate shall be considered
5 released from such lien or claim of lien. Upon written notice to
6 the commercial real estate broker that the funds have been escrowed
7 or an interpleader filed, the commercial real estate broker shall,
8 within ten business days, record in the office of the register of

9 deeds where the notice of commercial real estate broker's lien was
 10 filed pursuant to section 9 of this act a document stating that
 11 the lien is released and the commercial real estate released by
 12 an escrow established pursuant to this section or by interpleader.
 13 If the commercial real estate broker fails to file such document,
 14 the person holding the funds may sign and file such document and
 15 deduct from the escrow the reasonable cost of preparing and filing
 16 the document. Upon the filing of such document, the commercial real
 17 estate broker shall be deemed to have an equitable lien on the
 18 escrow funds pending a resolution of the commercial real estate
 19 broker's claim for payment and the funds shall not be paid to
 20 any person, except for such payment to the holder of the funds as
 21 set forth in this section, until a resolution of the commercial
 22 real estate broker's claim for payment has been agreed to by all
 23 necessary parties or ordered by a court having jurisdiction.

24 (2) Except as otherwise provided in this section,
 25 whenever a commercial real estate broker's lien has been recorded
 26 and an escrow account is established either from the proceeds from
 27 the transaction, conveyance, or any other source of funds computed
 1 as one-hundred-fifteen percent of the amount of the claim for
 2 lien, then the lien against the commercial real estate shall be
 3 extinguished and immediately become a lien on the funds contained
 4 in the escrow account. The requirement to establish an escrow
 5 account, as provided in this section, shall not be cause for any
 6 party to refuse to complete or close the transaction.

7 2. Renumber the remaining sections accordingly.

Senator Christensen filed the following amendment to LB522:
 AM1071

(Amendments to Standing Committee amendments, AM709)

1 1. Strike section 1 and insert the following new
 2 sections:
 3 Section 1. If the Department of Natural Resources issues
 4 closing notices prohibiting surface water appropriators from
 5 storing or diverting natural or instream flows for irrigation to
 6 comply with an interstate compact or decree, then the department
 7 shall provide reasonable compensation based on the acre-feet of
 8 water not stored or diverted for affected water users through the
 9 affected irrigation districts. The irrigation districts shall use
 10 such compensation to reasonably compensate surface water users who
 11 have had to forgo the use of water. Funding for such compensation
 12 shall be provided through the General Fund and shall not exceed a
 13 total of ten million dollars for any fiscal year.

14 For purposes of this section, reasonable compensation
 15 means the dollar amount of compensation for dry-year leases used
 16 by the natural resources district in which the irrigation district
 17 is located for the conversion of acres from irrigated acres to
 18 dry-land acres for a period of one year, not to exceed three
 19 hundred dollars per acre, or, if the irrigation district is located

20 in more than one natural resources district, the average dollar
 21 amount of all such natural resources districts' compensation for
 22 dry-year leases used by such natural resources districts for the
 1 conversion of acres from irrigated acres to dry-land acres for a
 2 period of one year, not to exceed three hundred dollars per acre.

3 Sec. 2. Section 61-218, Revised Statutes Cumulative
 4 Supplement, 2012, 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 Any money in the fund available for investment shall be invested
 8 by the state investment officer pursuant to the Nebraska Capital
 9 Expansion Act and the Nebraska State Funds Investment Act.

10 (2) The State Treasurer shall credit to the fund such
 11 money as is (a) transferred to the fund by the Legislature, (b)
 12 paid to the state as fees, deposits, payments, and repayments
 13 relating to the fund, both principal and interest, (c) donated as
 14 gifts, bequests, or other contributions to such fund from public or
 15 private entities, (d) made available by any department or agency of
 16 the United States if so directed by such department or agency, and
 17 (e) allocated pursuant to section 81-15,175.

18 (3) The fund shall be expended by the department (a)
 19 to aid management actions taken to reduce consumptive uses of
 20 water or to enhance streamflows or ground water recharge in river
 21 basins, subbasins, or reaches which are deemed by the department
 22 overappropriated pursuant to section 46-713 or fully appropriated
 23 pursuant to section 46-714 or are bound by an interstate compact or
 24 decree or a formal state contract or agreement, (b) for purposes
 25 of projects or proposals described in the grant application as
 26 set forth in subdivision (2)(h) of section 81-15,175, ~~and~~(c)
 27 for purposes of providing reasonable compensation to irrigation
 1 districts pursuant to section 1 of this act, and (d) to the extent
 2 funds are not expended pursuant to subdivisions (a), ~~and~~(b), and
 3 (c) of this subsection, the department may conduct a statewide
 4 assessment of short-term and long-term water management activities
 5 and funding needs to meet statutory requirements in sections 46-713
 6 to 46-718 and 46-739 and any requirements of an interstate compact
 7 or decree or formal state contract or agreement. The fund shall not
 8 be used to pay for administrative expenses or any salaries for the
 9 department or any political subdivision.

10 (4) It is the intent of the Legislature that three
 11 million three hundred thousand dollars be transferred each fiscal
 12 year from the General Fund to the Water Resources Cash Fund for
 13 FY2011-12 through FY2018-19, except that ~~for~~ (a) in FY2012-13 it
 14 is the intent of the Legislature that four million seven hundred
 15 thousand dollars be transferred from the General Fund to the
 16 Water Resources Cash Fund, (b) in FY2013-14 it is the intent of
 17 the Legislature that five million dollars be transferred from the
 18 General Fund to the Water Resources Cash Fund, and (c) in FY2014-15
 19 it is the intent of the Legislature that five million dollars be

20 transferred from the General Fund to the Water Resources Cash Fund.

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

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

16 (ii) A schedule of implementation of the activity or its
17 components, including the local match as set forth in subdivision
18 (5)(a) of this section.

19 (b) Any natural resources district that fails to
20 implement and enforce its controls, rules, and regulations as
21 required by section 46-715 shall not be eligible for funding
22 from the Water Resources Cash Fund until it is determined by the
23 department that compliance with the provisions required by section
24 46-715 has been established.

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

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

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

8 (7)(a) Prior to the application deadline for fiscal year
9 2011-12, the Department of Natural Resources shall apply for a
10 grant of nine million nine hundred thousand dollars from the
11 Nebraska Environmental Trust Fund, to be paid out in three annual
12 installments of three million three hundred thousand dollars. The
13 purposes listed in the grant application shall be consistent with
14 the uses of the Water Resources Cash Fund provided in this section

15 and shall be used to aid management actions taken to reduce
16 consumptive uses of water, to enhance streamflows, to recharge
17 ground water, or to support wildlife habitat in any river basin
18 determined to be fully appropriated pursuant to section 46-714 or
19 designated as overappropriated pursuant to section 46-713.

20 (b) If the application is granted, funds received from
21 such grant shall be remitted to the State Treasurer for credit to
22 the Water Resources Cash Fund for the purpose of supporting the
23 projects set forth in the grant application. The department shall
24 include in its grant application documentation that the Legislature
25 has authorized a transfer of three million three hundred thousand
26 dollars from the General Fund into the Water Resources Cash Fund
27 for each of fiscal years 2011-12 and 2012-13 and has stated its
1 intent to transfer three million three hundred thousand dollars to
2 the Water Resources Cash Fund for fiscal year 2013-14.

3 (c) It is the intent of the Legislature that the
4 department apply for an additional three-year grant that would
5 begin in fiscal year 2014-15 if the criteria established in
6 subsection (4) of section 81-15,175 are achieved.

7 (8) The department shall establish a subaccount within
8 the Water Resources Cash Fund for the accounting of all money
9 received as a grant from the Nebraska Environmental Trust Fund as
10 the result of an application made pursuant to subsection (7) of
11 this section. At the end of each calendar month, the department
12 shall calculate the amount of interest earnings accruing to the
13 subaccount and shall notify the State Treasurer who shall then
14 transfer a like amount from the Water Resources Cash Fund to the
15 Nebraska Environmental Trust Fund.

16 Sec. 3. The State Treasurer shall transfer \$1,700,000
17 from the General Fund to the Water Resources Cash Fund on the
18 effective date of this act.

19 Sec. 4. The State Treasurer shall transfer \$1,700,000
20 from the General Fund to the Water Resources Cash Fund no later
21 than July 15, 2014.

22 Sec. 5. Original section 61-218, Revised Statutes
23 Cumulative Supplement, 2012, is repealed.

GENERAL FILE

LEGISLATIVE BILL 407. The Sullivan et al. amendment, AM1044, found on page 1010 and considered in this day's Journal, to the committee amendment, was renewed.

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

Senator Sullivan requested a roll call vote, in reverse order, on the Sullivan et al. amendment.

Voting in the affirmative, 23:

Adams	Christensen	Johnson	Scheer	Wallman
Ashford	Davis	Kintner	Schilz	Watermeier
Bloomfield	Dubas	Larson	Schumacher	Wightman
Brasch	Hansen	McCoy	Seiler	
Carlson	Harms	Mello	Sullivan	

Voting in the negative, 14:

Coash	Crawford	Hadley	Kolowski	Lautenbaugh
Conrad	Gloor	Harr, B.	Krist	Nelson
Cook	Haar, K.	Karpisek	Lathrop	

Present and not voting, 9:

Avery	Campbell	Howard	Nordquist	Price
Bolz	Chambers	Janssen	Pirsch	

Excused and not voting, 3:

McGill	Murante	Smith
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The Sullivan et al. amendment lost with 23 ayes, 14 nays, 9 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Avery offered the following motion:

MO52

Reconsider the vote taken on AM1044.

SENATOR CARLSON PRESIDING

Senator Avery moved for a call of the house. The motion prevailed with 30 ayes, 0 nays, and 19 not voting.

Senator Avery requested a roll call vote on his motion to reconsider.

Voting in the affirmative, 22:

Adams	Carlson	Harms	Scheer	Watermeier
Ashford	Christensen	Janssen	Schilz	Wightman
Avery	Davis	Johnson	Schumacher	
Bloomfield	Dubas	Larson	Seiler	
Brasch	Hansen	Mello	Sullivan	

Voting in the negative, 13:

Coash	Gloor	Harr, B.	Lathrop	Nordquist
Conrad	Haar, K.	Karpisek	Lautenbaugh	
Cook	Hadley	Kolowski	Nelson	

Present and not voting, 11:

Bolz	Crawford	Krist	Price
Campbell	Howard	McCoy	Wallman
Chambers	Kintner	Pirsch	

Excused and not voting, 3:

McGill	Murante	Smith
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The Avery motion to reconsider failed with 22 ayes, 13 nays, 11 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Sullivan offered the Sullivan et al. amendment, AM1047, found on page 1011, to the committee amendment.

Senator Sullivan requested a ruling of the Chair on whether the Sullivan et al. amendment would require a three-fifths majority vote, pursuant to Rule 6, Section 3(h).

The Chair ruled that the Sullivan et al. amendment is substantially the same as LB640, which was indefinitely postponed by the Education Committee, and would, therefore, require 30 votes.

Senator Lautenbaugh challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?"

Senator Lautenbaugh moved for a call of the house. The motion prevailed with 30 ayes, 0 nays, and 19 not voting.

The Lautenbaugh motion to overrule the Chair failed with 11 ayes, 24 nays, 9 present and not voting, and 5 excused and not voting.

The Chair was sustained.

The Chair declared the call raised.

Pending.

RESOLUTION**LEGISLATIVE RESOLUTION 155.** Introduced by Chambers, 11.

WHEREAS, the economy is continually changing, creating the need to continually review and update the state's tax laws; and

WHEREAS, state, county, and other local tax policies are interdependent, and a study should be undertaken of possible consequences when adjustments are made to state tax laws; and

WHEREAS, the purpose of such a study is to review and evaluate the state's tax laws regarding, but not limited to, sales and use taxes, income taxes, property taxes, and other miscellaneous taxes and credits and incentives; and

WHEREAS, community discourse and involvement are essential to the success of a study, and the public shall be provided with opportunities to be engaged in a variety of ways.

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

1. The Tax Modernization Committee is created as a special legislative committee and shall comprise:

- (a) The members of the Revenue Committee;
- (b) The chairperson of the Appropriations Committee;
- (c) The chairperson of the Health and Human Services Committee;
- (d) The chairperson of the Education Committee;
- (e) The chairperson of the Agriculture Committee; and
- (f) The chairperson of the Legislature's Planning Committee.

2. The chairperson of the Revenue Committee shall serve as the chairperson of the Tax Modernization Committee, which shall meet as often as is deemed necessary in order to accomplish the objectives enumerated in this resolution. At least one meeting shall be held concurrently with a meeting of the Legislative Council convened by the chairperson of the Executive Board.

3. The Tax Modernization Committee shall consider, but not be limited to, the following elements:

(a) Fairness. In order to formulate an equitable system of taxation, the committee shall review and analyze the tax burden created by sales and use taxes, income taxes, property taxes, and other miscellaneous taxes imposed on families, businesses, and sectors of industry within the state;

(b) Competitiveness. Any modification of the tax system should be designed to ensure that such modification in no way impedes or restricts the state's ability to attract well paying jobs and investment while keeping and protecting existing jobs and businesses. The committee also shall review and analyze how the state compares to other states with reference to taxes imposed on businesses and identify ways to enhance business competitiveness;

(c) Simplicity and compliance. The tax system should be easy to understand and comply with. The committee shall formulate

recommendations designed to ensure ease of compliance for individuals and businesses and efficient administration by the state;

(d) Stability. A stable tax system generates revenue that is relatively dependable and not prone to unpredictable fluctuations. The committee shall ensure that any recommended changes will maintain or improve stability;

(e) Adequacy. The tax modernization process should create a tax system that generates adequate revenue to fund essential state services and obligations. The tax structure should ensure that revenue will meet spending needs; and

(f) Complementary tax systems. Updating of the tax system should address the interrelationships among tax systems within the state revenue system as a whole.

4. The Tax Modernization Committee shall examine previous studies, including but not limited to, the Tax Policy Reform Commission from 2005 to 2007 and the comprehensive tax study conducted by Syracuse University from 1986 to 1988 and ascertain findings and recommendations contained in the studies that can be of assistance to the committee in carrying out its charge under this resolution.

5. The Tax Modernization Committee may require any state agency or political subdivision to provide information relevant to the committee's work, and the state agency or political subdivision shall provide the information requested within thirty days after the request. The committee may hold public hearings and, pursuant to section 50-406 and the rules of the Legislature, may exercise its authority to administer oaths, issue subpoenas, compel attendance of witnesses and the production of documents, and cause depositions of witnesses to be taken in the manner prescribed by law for taking depositions in civil actions in the district court.

6. The Tax Modernization Committee shall issue a report to the Executive Board and to the Governor not later than December 15, 2013, containing any recommendations to update state, county and local tax policies, and proposed language for any needed legislation. The report to the Legislature shall be submitted electronically. The committee shall identify areas requiring further study and analysis.

Laid over.

AMENDMENT - Print in Journal

Senator Chambers filed the following amendment to LB613:
AM1077

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert:
- 3 Section 1. Section 77-27,142, Revised Statutes Cumulative
- 4 Supplement, 2012, is amended to read:
- 5 77-27,142 ~~(1)~~ Any incorporated municipality by ordinance
- 6 of its governing body is hereby authorized to impose a sales and
- 7 use tax of one-half percent, one percent, or one and one-half
- 8 percent, ~~one and three-quarters percent, or two percent~~ upon the
- 9 same transactions that are sourced under the provisions of sections

10 77-2703.01 to 77-2703.04 within such incorporated municipality on
11 which the State of Nebraska is authorized to impose a tax pursuant
12 to the Nebraska Revenue Act of 1967, as amended from time to time.
13 No sales and use tax shall be imposed pursuant to this section
14 until an election has been held and a majority of the qualified
15 electors have approved such tax pursuant to sections 77-27,142.01
16 and 77-27,142.02.

17 ~~(2)(a) Any incorporated municipality that proposes to~~
18 ~~impose a municipal sales and use tax at a rate greater than one~~
19 ~~and one half percent or increase a municipal sales and use tax~~
20 ~~to a rate greater than one and one half percent shall submit the~~
21 ~~question of such tax or increase at a primary or general election~~
22 ~~held within the incorporated municipality. The question shall be~~
23 ~~submitted upon an affirmative vote by at least seventy percent~~
1 of all of the members of the governing body of the incorporated
2 municipality.

3 (b) Any rate greater than one and one half percent shall
4 be used as follows:

5 (i) In a city of the metropolitan class, the proceeds
6 from the first one quarter percent of the rate greater than one and
7 one half percent shall be used to reduce other taxes, the proceeds
8 from the next one eighth percent of the rate greater than one and
9 one half percent shall be used for public infrastructure projects,
10 and the proceeds from the next one eighth percent of the rate
11 greater than one and one half percent shall be used for purposes of
12 the interlocal agreement or joint public agency agreement described
13 in subsection (3) of this section;

14 (ii) In a city of the primary class, up to fifteen
15 percent of the proceeds from the rate in excess of one and one half
16 percent may be used for non public infrastructure projects of
17 an interlocal agreement or joint public agency agreement with
18 another political subdivision within the municipality or the
19 county in which the municipality is located, and the remaining
20 proceeds shall be used for public infrastructure projects or
21 voter approved infrastructure related to an economic development
22 program as defined in section 18-2705; and

23 (iii) In any incorporated municipality other than a city
24 of the metropolitan or primary class, the proceeds from the rate
25 in excess of one and one half percent shall be used for public
26 infrastructure projects or voter approved infrastructure related to
27 an economic development program as defined in section 18-2705.

1 For purposes of this section, public infrastructure
2 project means and includes, but is not limited to, any of the
3 following projects, or any combination thereof: Public highways and
4 bridges and municipal roads, streets, bridges, and sidewalks; solid
5 waste management facilities; wastewater, storm water, and water
6 treatment works and systems, water distribution facilities, and
7 water resources projects, including, but not limited to, pumping
8 stations, transmission lines, and mains and their appurtenances;

9 hazardous waste disposal systems; resource recovery systems;
 10 airports; port facilities; buildings and capital equipment used
 11 in the operation of municipal government; convention and tourism
 12 facilities; redevelopment projects as defined in section 18 2103;
 13 mass transit and other transportation systems, including parking
 14 facilities; and equipment necessary for the provision of municipal
 15 services.

16 (c) Any rate greater than one and one half percent shall
 17 terminate no more than ten years after its effective date or, if
 18 bonds are issued and the local option sales and use tax revenue is
 19 pledged for payment of such bonds, upon payment of such bonds and
 20 any refunding bonds, whichever date is later, except as provided in
 21 subdivision (2)(d) of this section.

22 (d) If a portion of the rate greater than one and
 23 one half percent is stated in the ballot question as being imposed
 24 for the purpose of the interlocal agreement or joint public agency
 25 agreement described in subdivision (2)(b)(ii) or subsection (3) of
 26 this section, and such portion is at least one eighth percent,
 27 there shall be no termination date for the rate representing such
 1 portion rounded to the next higher one quarter or one half percent.

2 (e) Sections 13 518 to 13 522 apply to the revenue from
 3 any such tax or increase.

4 (3)(a) No municipal sales and use tax shall be imposed
 5 at a rate greater than one and one half percent or increased to a
 6 rate greater than one and one half percent unless the municipality
 7 is a party to an interlocal agreement pursuant to the Interlocal
 8 Cooperation Act or a joint public agency agreement pursuant to the
 9 Joint Public Agency Act with a political subdivision within the
 10 municipality or the county in which the municipality is located
 11 creating a separate legal or administrative entity relating to a
 12 public infrastructure project.

13 (b) Except as provided in subdivision (2)(b)(ii)
 14 of this section, such interlocal agreement or joint public
 15 agency agreement shall contain provisions, including benchmarks,
 16 relating to the long term development of unified governance
 17 of public infrastructure projects with respect to the parties.
 18 The Legislature may provide additional requirements for such
 19 agreements, including benchmarks, but such additional requirements
 20 shall not apply to any debt outstanding at the time the
 21 Legislature enacts such additional requirements. The separate legal
 22 or administrative entity created shall not be one that was in
 23 existence for one calendar year preceding the submission of the
 24 question of such tax or increase at a primary or general election
 25 held within the incorporated municipality.

26 (c) Any other public agency as defined in section 13 803
 27 may be a party to such interlocal cooperation agreement or joint
 1 public agency agreement.

2 (d) A municipality is not required to use all of the
 3 additional revenue generated by a sales and use tax imposed at a

4 rate greater than one and one half percent or increased to a rate
 5 greater than one and one half percent under this subsection for the
 6 purposes of the interlocal cooperation agreement or joint public
 7 agency agreement set forth in this subsection.

8 (4) ~~The provisions of subsections (2) and (3) of this~~
 9 ~~section do not apply to the first one and one half percent of a~~
 10 ~~sales and use tax imposed by a municipality.~~

11 (5) ~~Notwithstanding any provision of any municipal~~
 12 ~~charter, any incorporated municipality or interlocal agency or~~
 13 ~~joint public agency pursuant to an agreement as provided in~~
 14 ~~subsection (3) of this section may issue bonds in one or more~~
 15 ~~series for any municipal purpose and pay the principal of~~
 16 ~~and interest on any such bonds by pledging receipts from the~~
 17 ~~increase in the municipal sales and use taxes authorized by such~~
 18 ~~municipality. Any municipality which has or may issue bonds under~~
 19 ~~this section may dedicate a portion of its property tax levy~~
 20 ~~authority as provided in section 77-3442 to meet debt service~~
 21 ~~obligations under the bonds. For purposes of this subsection, bond~~
 22 ~~means any evidence of indebtedness, including, but not limited to,~~
 23 ~~bonds, notes including notes issued pending long term financing~~
 24 ~~arrangements, warrants, debentures, obligations under a loan~~
 25 ~~agreement or a lease purchase agreement, or any similar instrument~~
 26 ~~or obligation.~~

27 Sec. 2. Section 77-27,142.01, Revised Statutes Cumulative
 Supplement, 2012, is amended to read:

2 77-27,142.01 (4) ~~The governing body of any incorporated~~
 3 ~~municipality may submit the question of changing any terms~~
 4 ~~and conditions of a sales and use tax previously authorized~~
 5 ~~under section 77-27,142. Except as otherwise provided by section~~
 6 ~~77-27,142, the The question of modification shall be submitted to~~
 7 ~~the voters at any primary or general election or at a special~~
 8 ~~election if the governing body submits a certified copy of the~~
 9 ~~resolution proposing modification to the election commissioner or~~
 10 ~~county clerk within the time prior to the primary, general, or~~
 11 ~~special election prescribed in section 77-27,142.02.~~

12 (2) ~~If the change imposes a sales and use tax at a~~
 13 ~~rate greater than one and one half percent or increases the sales~~
 14 ~~and use tax to a rate greater than one and one half percent, the~~
 15 ~~question shall include, but not be limited to:~~

16 (a) ~~The percentage increase of one quarter percent or~~
 17 ~~one half percent in the sales and use tax rate;~~

18 (b) ~~A list of reductions or elimination of other taxes or~~
 19 ~~fees, if any;~~

20 (c) ~~A description of the projects to be funded, in whole~~
 21 ~~or in part, from the revenue collected, along with any savings or~~
 22 ~~efficiencies resulting from the projects;~~

23 (d) ~~The year or years within which the revenue will be~~
 24 ~~collected and, if bonds will be issued with some or all of the~~
 25 ~~revenue pledged for payment of such bonds, a statement that the~~

26 revenue will be collected until the payment in full of such bonds
 27 and any refunding bonds; and

1 (e)(i) ~~The percentage of revenue collected to be used for~~
 2 ~~the purposes of the interlocal agreement or joint public agency~~
 3 ~~agreement as provided in subdivision (2)(b)(ii) or subsection (3)~~
 4 ~~of section 77-27,142; (ii) a statement of the overall purpose~~
 5 ~~of the agreement which is the long term development of unified~~
 6 ~~governance of public infrastructure projects, if applicable; and~~
 7 ~~(iii) the name of any other political subdivision which is a party~~
 8 ~~to the agreement.~~

9 This subsection does not apply to the first one and
 10 one half percent of a sales and use tax imposed by a municipality.

11 Sec. 3. Section 77-27,142.02, Revised Statutes Cumulative
 12 Supplement, 2012, is amended to read:

13 77-27,142.02 ~~Except as otherwise provided by subsection~~
 14 ~~(2) of section 77-27,142, the~~ The power granted by section
 15 77-27,142 shall not be exercised unless and until the question
 16 has been submitted at a primary, general, or special election held
 17 within the incorporated municipality and in which all qualified
 18 electors shall be entitled to vote on such question. The officials
 19 of the incorporated municipality shall order the submission of
 20 the question by submitting a certified copy of the resolution
 21 proposing the tax to the election commissioner or county clerk
 22 by March 1 for a primary election, by September 1 for a general
 23 election, or at least fifty days before a special election. ~~Except~~
 24 ~~as otherwise provided by subsection (2) of section 77-27,142.01,~~
 25 ~~the~~ The question may include any terms and conditions set forth
 26 in the resolution proposing the tax, such as a termination date
 27 or the specific project or program for which the revenue received
 1 from such tax will be allocated, and shall include the following
 2 language: Shall the governing body of the incorporated municipality
 3 impose a sales and use tax upon the same transactions within such
 4 municipality on which the State of Nebraska is authorized to impose
 5 a tax? If a majority of the votes cast upon such question shall be
 6 in favor of such tax, then the governing body of such incorporated
 7 municipality shall be empowered as provided by section 77-27,142
 8 and shall forthwith proceed to impose a tax pursuant to the Local
 9 Option Revenue Act. If a majority of those voting on the question
 10 shall be opposed to such tax, then the governing body of the
 11 incorporated municipality shall not impose such a tax.

12 Sec. 4. Original sections 77-27,142, 77-27,142.01, and
 13 77-27,142.02, Revised Statutes Cumulative Supplement, 2012, are
 14 repealed.

SENATOR COASH PRESIDING

GENERAL FILE

LEGISLATIVE BILL 407. The Sullivan et al. amendment, AM1047, found on page 1011 and considered in this day's Journal, to the committee amendment, was renewed.

Pending.

AMENDMENT - Print in Journal

Senators Gloor and Hadley filed the following amendment to LB407:
AM1060

(Amendments to Standing Committee amendments, AM1018)

1 1. On page 1, strike line 1 and insert
2 1. Strike section 8 and insert the following new
3 sections:
4 Sec. 8. Section 79-1007.18, Revised Statutes Cumulative
5 Supplement, 2012, is amended to read:
6 79-1007.18 (1) The department shall calculate an
7 averaging adjustment for districts if the basic funding per formula
8 student is less than the averaging adjustment threshold and the
9 general fund levy for the school fiscal year immediately preceding
10 the school fiscal year for which aid is being calculated was at
11 least one dollar per one hundred dollars of taxable valuation.
12 For school districts that are members of a learning community,
13 the general fund levy for purposes of this section includes both
14 the common general fund levy and the school district general
15 fund levy authorized pursuant to subdivisions (2)(b) and (2)(c)
16 of section 77-3442. The averaging adjustment shall equal the
17 district's formula students multiplied by the percentage specified
18 in this section for such district of the difference between the
19 averaging adjustment threshold minus such district's basic funding
20 per formula student.

21 ~~(2)(a) For school fiscal year 2010-11, the averaging~~
22 ~~adjustment threshold shall equal the lesser of (i) the averaging~~
1 ~~adjustment threshold for the school fiscal year immediately~~
2 ~~preceding the school fiscal year for which aid is being calculated~~
3 ~~increased by the sum of the basic allowable growth rate plus~~
4 ~~five tenths of one percent or (ii) the statewide average basic~~
5 ~~funding per formula student for the school fiscal year for which~~
6 ~~aid is being calculated.~~

7 ~~(b) For school fiscal year 2011-12, the averaging~~
8 ~~adjustment threshold shall equal ninety five percent of the lesser~~
9 ~~of (i) the averaging adjustment threshold for school fiscal year~~
10 ~~2010-11 increased by the basic allowable growth rate or (ii) the~~
11 ~~statewide average basic funding per formula student for school~~
12 ~~fiscal year 2011-12.~~

13 ~~(e)(2)(a) For school fiscal year 2012-13, and each~~
14 ~~school fiscal year thereafter, the averaging adjustment threshold~~

15 shall equal the lesser of (i) the averaging adjustment threshold
 16 for the school fiscal year immediately preceding the school fiscal
 17 year for which aid is being calculated increased by the basic
 18 allowable growth rate or (ii) the statewide average basic funding
 19 per formula student for the school fiscal year for which aid is
 20 being calculated.

21 (b) For school fiscal year 2013-14 and each school fiscal
 22 year thereafter, the averaging adjustment threshold shall equal the
 23 aggregate basic funding for all districts with nine hundred or more
 24 formula students divided by the aggregate formula students for all
 25 districts with nine hundred or more formula students for the school
 26 fiscal year for which aid is being calculated.

27 (3) The percentage to be used in the calculation of an
 1 averaging adjustment shall be based on the general fund levy for
 2 the school fiscal year immediately preceding the school fiscal year
 3 for which aid is being calculated.

4 (4) The percentages to be used in the calculation of
 5 averaging adjustments shall be as follows:

6 (a) If such levy was at least one dollar per one hundred
 7 dollars of taxable valuation but less than one dollar and one cent
 8 per one hundred dollars of taxable valuation, the percentage shall
 9 be fifty percent;

10 (b) If such levy was at least one dollar and one cent per
 11 one hundred dollars of taxable valuation but less than one dollar
 12 and two cents per one hundred dollars of taxable valuation, the
 13 percentage shall be sixty percent;

14 (c) If such levy was at least one dollar and two
 15 cents per one hundred dollars of taxable valuation but less than
 16 one dollar and three cents per one hundred dollars of taxable
 17 valuation, the percentage shall be seventy percent;

18 (d) If such levy was at least one dollar and three cents
 19 per one hundred dollars of taxable valuation but less than one
 20 dollar and four cents per one hundred dollars of taxable valuation,
 21 the percentage shall be eighty percent; and

22 (e) If such levy was at least one dollar and four cents
 23 per one hundred dollars of taxable valuation, the percentage shall
 24 be ninety percent.

25 2. On page 4, line 8, after the semicolon insert "in line
 26 17 reinstate the stricken matter;"; and in line 17 after the comma
 27 insert "averaging adjustment".

1 3. Renumber the remaining sections accordingly.

GENERAL FILE

LEGISLATIVE BILL 483. Title read. Considered.

Committee AM940, found on page 978, was offered.

SENATOR MCGILL PRESIDING

Senator Bolz offered the following amendment to the committee amendment:

FA61

Amend AM940

On page 2, line 5 strike "Correctional Industries Revolving Fund" and insert "General Fund"

SENATOR COASH PRESIDING

Senator Bolz moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

The Bolz amendment was adopted with 25 ayes, 1 nay, 18 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

The committee amendment, as amended, was adopted with 35 ayes, 1 nay, 8 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 1 nay, 5 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 545. Title read. Considered.

Committee AM422, found on page 614, was offered.

Senator Dubas moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

The committee amendment was adopted with 25 ayes, 1 nay, 17 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Pending.

VISITORS

Visitors to the Chamber were 29 fourth-grade students and teacher from Stanton; and 40 fourth-grade students and teachers from Grant Elementary, Norfolk.

ADJOURNMENT

At 7:52 p.m., on a motion by Senator Harms, the Legislature adjourned until 9:00 a.m., Tuesday, April 23, 2013.

Patrick J. O'Donnell
Clerk of the Legislature