

FIFTY-SEVENTH DAY - AUGUST 6, 2020**LEGISLATIVE JOURNAL****ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION****FIFTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, August 6, 2020

PRAYER

The prayer was offered by Senator Bostelman.

ROLL CALL

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

The roll was called and all members were present except Senators Bolz, Cavanaugh, DeBoer, B. Hansen, M. Hansen, Morfeld, and Stinner who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-sixth day was approved.

COMMITTEE REPORT(S)

Natural Resources

LEGISLATIVE BILL 46. Indefinitely postponed.
LEGISLATIVE BILL 285. Indefinitely postponed.
LEGISLATIVE BILL 509. Indefinitely postponed.
LEGISLATIVE BILL 580. Indefinitely postponed.
LEGISLATIVE BILL 802. Indefinitely postponed.
LEGISLATIVE BILL 845. Indefinitely postponed.
LEGISLATIVE BILL 860. Indefinitely postponed.
LEGISLATIVE BILL 863. Indefinitely postponed.
LEGISLATIVE BILL 1072. Indefinitely postponed.
LEGISLATIVE BILL 1132. Indefinitely postponed.
LEGISLATIVE BILL 1173. Indefinitely postponed.
LEGISLATIVE BILL 1205. Indefinitely postponed.

(Signed) Dan Hughes, Chairperson

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of August 5, 2020, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

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

Ekeler, Jeremy
Nebraska Catholic Conference
Kellman, Robert
Uber Technologies, Inc.

REPORTS

Agency reports electronically filed with the Legislature can be found on the [Nebraska Legislature's website](#).

RESOLUTION(S)

Pursuant to Rule 4, Sec. 5(b), LR 462, 463, and 464 were adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LR 462, 463, and 464.

GENERAL FILE

LEGISLATIVE BILL 1074. Title read. Considered.

Senator Linehan asked unanimous consent to withdraw her amendment, [AM2860](#), found on page 908, and replace it with her substitute amendment, [AM3320](#). No objections. So ordered.
[AM3320](#)

- 1 1. Insert the following new sections:
- 2 Sec. 2. Section 77-2601, Revised Statutes Supplement, 2019, is
- 3 amended to read:
- 4 77-2601 For purposes of sections 77-2601 to 77-2615:
- 5 (1) Person means and includes every individual, firm, association,
- 6 joint-stock company, partnership, limited liability company, syndicate,
- 7 corporation, trustee, or other legal entity, including any Indian tribe
- 8 or instrumentality thereof;
- 9 (2) Wholesale dealer means a person who sells cigarettes to licensed
- 10 retail dealers other than branch stores operated by or connected with
- 11 such wholesale dealer for purposes of resale and is licensed under
- 12 section 28-1423;
- 13 (3) Retail dealer includes every person other than a wholesale
- 14 dealer engaged in the business of selling cigarettes in this state
- 15 irrespective of quantity, amount, or number of sales thereof;
- 16 (4) Tax Commissioner means the Tax Commissioner of the State of

17 Nebraska;

18 (5) Cigarette means any product that contains nicotine, is intended
19 to be burned or heated under ordinary conditions of use, and consists of
20 or contains (a) any roll of tobacco wrapped in paper or in any substance
21 not containing tobacco; (b) tobacco, in any form, that is functional in
22 the product, which, because of its appearance, the type of tobacco used
23 in the filler, or its packaging and labeling, is likely to be offered to,
24 or purchased by, consumers as a cigarette; or (c) any roll of tobacco
25 wrapped in any substance containing tobacco which, because of its
26 appearance, the type of tobacco used in the filler, or its packaging and
27 labeling, is likely to be offered to, or purchased by, consumers as a
1 cigarette described in subdivision (5)(a) of this section. Cigarette does
2 not mean any product that is taxed as a cigar under Title 26 of the
3 United States Code, as such title existed on January 1, 2020;

4 (6) Consumer means any person, firm, association, partnership,
5 limited liability company, joint-stock company, syndicate, or corporation
6 not having a license to sell cigarettes;

7 (7) Sales entity affiliate means an entity that (a) sells cigarettes
8 that it acquires directly from a manufacturer or importer and (b) is
9 affiliated with that manufacturer or importer. Entities are affiliated
10 with each other if one directly, or indirectly through one or more
11 intermediaries, controls or is controlled by or is under common control
12 with the other. Unless provided otherwise, manufacturer or importer
13 includes any sales entity affiliate of that manufacturer or importer;

14 (8) Stamping agent has the same meaning as in section 69-2705; and
15 (9) Indian country means (a) all land in this state within the
16 limits of any Indian reservation under the jurisdiction of the United
17 States, notwithstanding the issuance of any patent, including rights-of-
18 way running through the reservation, (b) all dependent Indian communities
19 within the borders of this state, and (c) all Indian allotments in this
20 state, the Indian titles to which have not been extinguished, including
21 rights-of-way running through such allotments.

22 Sec. 3. Section 77-2602.05, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 77-2602.05 (1) A person that paid taxes applicable under section
25 77-2602 on cigarettes sold in an exempt transaction shall be eligible for
26 a refund of the taxes paid on those cigarettes.

27 (2) Exempt transactions, for purposes of this section and section
28 69-2703, are defined as:

29 (a) Cigarette sales on a federal installation in a transaction that
30 is exempt from state taxation under federal law; and

31 (b) Cigarette sales on an Indian tribe's Indian country to its
1 tribal members where state taxation is precluded by federal law.

2 (3) Except as provided in subsection (5) of this section, the person
3 seeking a refund of taxes shall submit an application to the Tax
4 Commissioner providing documentation sufficient to demonstrate (a) that
5 the cigarettes were sold in a package bearing the correct stamp required
6 under section 77-2603 or 77-2603.01 and that the stamp was one that
7 required payment of tax, (b) that the person paid the applicable taxes in
8 question, (c) that the cigarettes were sold in an exempt transaction, and
9 (d) that the person has not previously obtained the refund on the
10 cigarettes. The documentation shall include, in addition to information
11 necessary to meet the requirements of subdivisions (3)(a) through (d) of
12 this section and any other information that the Tax Commissioner may
13 reasonably require, documents showing the identity of the seller and
14 purchaser and the places of shipment and delivery of the cigarettes. The
15 Tax Commissioner shall verify the accuracy and completeness of the
16 required documentation and information before granting the requested
17 refund.

18 (4) If a meritorious refund claim under subsection (3) of this

19 section is not paid within sixty days after submission of the required
 20 documentation, the refund shall include interest on the amount of such
 21 refund at the rate specified in section 45-104.02 as such rate existed at
 22 the date of submission of the required documentation.
 23 (5) The Tax Commissioner and an Indian tribe may agree upon a tax
 24 refund formula to operate in lieu of application for refunds under
 25 subsection (3) of this section. The aggregate refund provided to an
 26 Indian tribe under a formula for a year shall not exceed the aggregate
 27 tax paid by entities owned and operated by that tribe or a member of that
 28 tribe on cigarettes sold in exempt transactions on that tribe's Indian
 29 country during that year. Refunds of taxes under subsection (3) of this
 30 section shall not be available for cigarettes sold in exempt transactions
 31 on an Indian tribe's Indian country by an Indian tribe that agrees upon a
 1 refund formula under this subsection. Nothing in this subsection shall
 2 limit the state's authority to enter into an agreement pursuant to
 3 section 77-2602.06 pertaining to the collection and dissemination of any
 4 cigarette taxes which may otherwise be inconsistent with this subsection.
 5 (6) Any product that is taxed as a cigar under Title 26 of the
 6 United States Code, as such title existed on January 1, 2020, shall not
 7 be treated as a cigarette for purposes of subdivision (4) of section
 8 69-2702 and the Master Settlement Agreement as defined in section
 9 69-2702.
 10 2. Renumber the remaining sections and correct the repealer
 11 accordingly.

Senator Linehan withdrew her amendment.

Senator Briese withdrew his amendment, [AM3093](#), found on page 1004.

Senator Linehan offered her amendment, [AM3235](#), found on page 1263.

Senator Linehan withdrew her amendment.

Senator Crawford offered the following amendment:

[AM3354](#)

1 1. Insert the following new section:
 2 Sec. 2. Section 77-2716, Revised Statutes Supplement, 2019, is
 3 amended to read:
 4 77-2716 (1) The following adjustments to federal adjusted gross
 5 income or, for corporations and fiduciaries, federal taxable income shall
 6 be made for interest or dividends received:
 7 (a)(i) There shall be subtracted interest or dividends received by
 8 the owner of obligations of the United States and its territories and
 9 possessions or of any authority, commission, or instrumentality of the
 10 United States to the extent includable in gross income for federal income
 11 tax purposes but exempt from state income taxes under the laws of the
 12 United States; and
 13 (ii) There shall be subtracted interest received by the owner of
 14 obligations of the State of Nebraska or its political subdivisions or
 15 authorities which are Build America Bonds to the extent includable in
 16 gross income for federal income tax purposes;
 17 (b) There shall be subtracted that portion of the total dividends
 18 and other income received from a regulated investment company which is
 19 attributable to obligations described in subdivision (a) of this
 20 subsection as reported to the recipient by the regulated investment
 21 company;
 22 (c) There shall be added interest or dividends received by the owner
 23 of obligations of the District of Columbia, other states of the United

24 States, or their political subdivisions, authorities, commissions, or
25 instrumentalities to the extent excluded in the computation of gross
26 income for federal income tax purposes except that such interest or
27 dividends shall not be added if received by a corporation which is a
1 regulated investment company;

2 (d) There shall be added that portion of the total dividends and
3 other income received from a regulated investment company which is
4 attributable to obligations described in subdivision (c) of this
5 subsection and excluded for federal income tax purposes as reported to
6 the recipient by the regulated investment company; and

7 (e)(i) Any amount subtracted under this subsection shall be reduced
8 by any interest on indebtedness incurred to carry the obligations or
9 securities described in this subsection or the investment in the
10 regulated investment company and by any expenses incurred in the
11 production of interest or dividend income described in this subsection to
12 the extent that such expenses, including amortizable bond premiums, are
13 deductible in determining federal taxable income.

14 (ii) Any amount added under this subsection shall be reduced by any
15 expenses incurred in the production of such income to the extent
16 disallowed in the computation of federal taxable income.

17 (2) There shall be allowed a net operating loss derived from or
18 connected with Nebraska sources computed under rules and regulations
19 adopted and promulgated by the Tax Commissioner consistent, to the extent
20 possible under the Nebraska Revenue Act of 1967, with the laws of the
21 United States. For a resident individual, estate, or trust, the net
22 operating loss computed on the federal income tax return shall be
23 adjusted by the modifications contained in this section. For a
24 nonresident individual, estate, or trust or for a partial-year resident
25 individual, the net operating loss computed on the federal return shall
26 be adjusted by the modifications contained in this section and any
27 carryovers or carrybacks shall be limited to the portion of the loss
28 derived from or connected with Nebraska sources.

29 (3) There shall be subtracted from federal adjusted gross income for
30 all taxable years beginning on or after January 1, 1987, the amount of
31 any state income tax refund to the extent such refund was deducted under
1 the Internal Revenue Code, was not allowed in the computation of the tax
2 due under the Nebraska Revenue Act of 1967, and is included in federal
3 adjusted gross income.

4 (4) Federal adjusted gross income, or, for a fiduciary, federal
5 taxable income shall be modified to exclude the portion of the income or
6 loss received from a small business corporation with an election in
7 effect under subchapter S of the Internal Revenue Code or from a limited
8 liability company organized pursuant to the Nebraska Uniform Limited
9 Liability Company Act that is not derived from or connected with Nebraska
10 sources as determined in section 77-2734.01.

11 (5) There shall be subtracted from federal adjusted gross income or,
12 for corporations and fiduciaries, federal taxable income dividends
13 received or deemed to be received from corporations which are not subject
14 to the Internal Revenue Code.

15 (6) There shall be subtracted from federal taxable income a portion
16 of the income earned by a corporation subject to the Internal Revenue
17 Code of 1986 that is actually taxed by a foreign country or one of its
18 political subdivisions at a rate in excess of the maximum federal tax
19 rate for corporations. The taxpayer may make the computation for each
20 foreign country or for groups of foreign countries. The portion of the
21 taxes that may be deducted shall be computed in the following manner:

22 (a) The amount of federal taxable income from operations within a
23 foreign taxing jurisdiction shall be reduced by the amount of taxes
24 actually paid to the foreign jurisdiction that are not deductible solely
25 because the foreign tax credit was elected on the federal income tax

26 return;

27 (b) The amount of after-tax income shall be divided by one minus the
28 maximum tax rate for corporations in the Internal Revenue Code; and
29 (c) The result of the calculation in subdivision (b) of this
30 subsection shall be subtracted from the amount of federal taxable income
31 used in subdivision (a) of this subsection. The result of such
1 calculation, if greater than zero, shall be subtracted from federal
2 taxable income.

3 (7) Federal adjusted gross income shall be modified to exclude any
4 amount repaid by the taxpayer for which a reduction in federal tax is
5 allowed under section 1341(a)(5) of the Internal Revenue Code.

6 (8)(a) Federal adjusted gross income or, for corporations and
7 fiduciaries, federal taxable income shall be reduced, to the extent
8 included, by income from interest, earnings, and state contributions
9 received from the Nebraska educational savings plan trust created in
10 sections 85-1801 to 85-1817 and any account established under the
11 achieving a better life experience program as provided in sections
12 77-1401 to 77-1409.

13 (b) Federal adjusted gross income or, for corporations and
14 fiduciaries, federal taxable income shall be reduced by any contributions
15 as a participant in the Nebraska educational savings plan trust or
16 contributions to an account established under the achieving a better life
17 experience program made for the benefit of a beneficiary as provided in
18 sections 77-1401 to 77-1409, to the extent not deducted for federal
19 income tax purposes, but not to exceed five thousand dollars per married
20 filing separate return or ten thousand dollars for any other return. With
21 respect to a qualified rollover within the meaning of section 529 of the
22 Internal Revenue Code from another state's plan, any interest, earnings,
23 and state contributions received from the other state's educational
24 savings plan which is qualified under section 529 of the code shall
25 qualify for the reduction provided in this subdivision. For contributions
26 by a custodian of a custodial account including rollovers from another
27 custodial account, the reduction shall only apply to funds added to the
28 custodial account after January 1, 2014.

29 (c) Federal adjusted gross income or, for corporations and
30 fiduciaries, federal taxable income shall be increased by:

31 (i) The amount resulting from the cancellation of a participation
1 agreement refunded to the taxpayer as a participant in the Nebraska
2 educational savings plan trust to the extent previously deducted under
3 subdivision (8)(b) of this section; and

4 (ii) The amount of any withdrawals by the owner of an account
5 established under the achieving a better life experience program as
6 provided in sections 77-1401 to 77-1409 for nonqualified expenses to the
7 extent previously deducted under subdivision (8)(b) of this section.

8 (9)(a) For income tax returns filed after September 10, 2001, for
9 taxable years beginning or deemed to begin before January 1, 2006, under
10 the Internal Revenue Code of 1986, as amended, federal adjusted gross
11 income or, for corporations and fiduciaries, federal taxable income shall
12 be increased by eighty-five percent of any amount of any federal bonus
13 depreciation received under the federal Job Creation and Worker
14 Assistance Act of 2002 or the federal Jobs and Growth Tax Act of 2003,
15 under section 168(k) or section 1400L of the Internal Revenue Code of
16 1986, as amended, for assets placed in service after September 10, 2001,
17 and before December 31, 2005.

18 (b) For a partnership, limited liability company, cooperative,
19 including any cooperative exempt from income taxes under section 521 of
20 the Internal Revenue Code of 1986, as amended, limited cooperative
21 association, subchapter S corporation, or joint venture, the increase
22 shall be distributed to the partners, members, shareholders, patrons, or
23 beneficiaries in the same manner as income is distributed for use against

24 their income tax liabilities.

25 (c) For a corporation with a unitary business having activity both
26 inside and outside the state, the increase shall be apportioned to
27 Nebraska in the same manner as income is apportioned to the state by
28 section 77-2734.05.

29 (d) The amount of bonus depreciation added to federal adjusted gross
30 income or, for corporations and fiduciaries, federal taxable income by
31 this subsection shall be subtracted in a later taxable year. Twenty
1 percent of the total amount of bonus depreciation added back by this
2 subsection for tax years beginning or deemed to begin before January 1,
3 2003, under the Internal Revenue Code of 1986, as amended, may be
4 subtracted in the first taxable year beginning or deemed to begin on or
5 after January 1, 2005, under the Internal Revenue Code of 1986, as
6 amended, and twenty percent in each of the next four following taxable
7 years. Twenty percent of the total amount of bonus depreciation added
8 back by this subsection for tax years beginning or deemed to begin on or
9 after January 1, 2003, may be subtracted in the first taxable year
10 beginning or deemed to begin on or after January 1, 2006, under the
11 Internal Revenue Code of 1986, as amended, and twenty percent in each of
12 the next four following taxable years.

13 (10) For taxable years beginning or deemed to begin on or after
14 January 1, 2003, and before January 1, 2006, under the Internal Revenue
15 Code of 1986, as amended, federal adjusted gross income or, for
16 corporations and fiduciaries, federal taxable income shall be increased
17 by the amount of any capital investment that is expensed under section
18 179 of the Internal Revenue Code of 1986, as amended, that is in excess
19 of twenty-five thousand dollars that is allowed under the federal Jobs
20 and Growth Tax Act of 2003. Twenty percent of the total amount of
21 expensing added back by this subsection for tax years beginning or deemed
22 to begin on or after January 1, 2003, may be subtracted in the first
23 taxable year beginning or deemed to begin on or after January 1, 2006,
24 under the Internal Revenue Code of 1986, as amended, and twenty percent
25 in each of the next four following tax years.

26 (11)(a) For taxable years beginning or deemed to begin before
27 January 1, 2018, under the Internal Revenue Code of 1986, as amended,
28 federal adjusted gross income shall be reduced by contributions, up to
29 two thousand dollars per married filing jointly return or one thousand
30 dollars for any other return, and any investment earnings made as a
31 participant in the Nebraska long-term care savings plan under the Long-
1 Term Care Savings Plan Act, to the extent not deducted for federal income
2 tax purposes.

3 (b) For taxable years beginning or deemed to begin before January 1,
4 2018, under the Internal Revenue Code of 1986, as amended, federal
5 adjusted gross income shall be increased by the withdrawals made as a
6 participant in the Nebraska long-term care savings plan under the act by
7 a person who is not a qualified individual or for any reason other than
8 transfer of funds to a spouse, long-term care expenses, long-term care
9 insurance premiums, or death of the participant, including withdrawals
10 made by reason of cancellation of the participation agreement, to the
11 extent previously deducted as a contribution or as investment earnings.

12 (12) There shall be added to federal adjusted gross income for
13 individuals, estates, and trusts any amount taken as a credit for
14 franchise tax paid by a financial institution under sections 77-3801 to
15 77-3807 as allowed by subsection (5) of section 77-2715.07.

16 (13)(a) For taxable years beginning or deemed to begin on or after
17 January 1, 2015, under the Internal Revenue Code of 1986, as amended,
18 federal adjusted gross income shall be reduced by the amount received as
19 benefits under the federal Social Security Act which are included in the
20 federal adjusted gross income if:

21 (i) For taxpayers filing a married filing joint return, federal

22 adjusted gross income is fifty-eight thousand dollars or less; or
23 (ii) For taxpayers filing any other return, federal adjusted gross
24 income is forty-three thousand dollars or less.
25 (b) For taxable years beginning or deemed to begin on or after
26 January 1, 2020, under the Internal Revenue Code of 1986, as amended, the
27 Tax Commissioner shall adjust the dollar amounts provided in subdivisions
28 (13)(a)(i) and (ii) of this section by the same percentage used to adjust
29 individual income tax brackets under subsection (3) of section
30 77-2715.03.
31 (14) For taxable years beginning or deemed to begin on or after
1 January 1, 2015, under the Internal Revenue Code of 1986, as amended, an
2 individual may make a one-time election within two calendar years after
3 the date of his or her retirement from the military to exclude income
4 received as a military retirement benefit by the individual to the extent
5 included in federal adjusted gross income and as provided in this
6 subsection. The individual may elect to exclude forty percent of his or
7 her military retirement benefit income for seven consecutive taxable
8 years beginning with the year in which the election is made or may elect
9 to exclude fifteen percent of his or her military retirement benefit
10 income for all taxable years beginning with the year in which he or she
11 turns sixty-seven years of age. For purposes of this subsection, military
12 retirement benefit means retirement benefits that are periodic payments
13 attributable to service in the uniformed services of the United States
14 for personal services performed by an individual prior to his or her
15 retirement.
16 (15) For taxable years beginning or deemed to begin prior to January
17 1, 2021, under the Internal Revenue Code of 1986, as amended, federal
18 adjusted gross income or, for corporations and fiduciaries, federal
19 taxable income shall be adjusted to the amount of federal adjusted gross
20 income or federal taxable income that would have been reported on the
21 taxpayer's federal income tax return had the changes in section 2304 of
22 the federal Coronavirus Aid, Relief, and Economic Security Act, Public
23 Law 116-136, not gone into effect.
24 2. Renumber the remaining sections and correct the repealer
25 accordingly.

Senator Pansing Brooks offered the following motion:

[MO220](#)

Bracket until August 13, 2020.

Senator Pansing Brooks withdrew her motion to bracket.

SPEAKER SCHEER PRESIDING

SENATOR HUGHES PRESIDING

Senator Slama offered the following motion:

[MO221](#)

Bracket until August 13, 2020.

Senator Slama withdrew her motion to bracket.

Senator Erdman offered the following motion:

[MO222](#)

Bracket until August 13, 2020.

PRESIDENT FOLEY PRESIDING

Senator Erdman withdrew his motion to bracket.

Pending.

RESOLUTION(S)

LEGISLATIVE RESOLUTION 472. Introduced by Hansen, B., 16.

WHEREAS, Henry Earl Doncheski was born May 30, 1920, to Theodore and Edith (Wells) Doncheski, in Stanton, Nebraska; and

WHEREAS, Henry served in the 9th Air Force from 1941 to 1945. He worked as a quartermaster, ensuring that supplies made it to the front lines. His war experience took him across Europe, from the beaches of Normandy to a concentration camp in Germany. Henry was one of thousands of American and Allied soldiers who stormed Omaha Beach on D-Day. He fought in the Battle of the Bulge and at the Rhine River. He helped in the liberation of France and took part in the Red Ball Express; and

WHEREAS, Henry met the love of his life, Dorothy Entrekin, while dancing to Lawrence Welk in Bertha, Nebraska. Henry and Dorothy were married June 13, 1942, and spent the rest of their lives dancing; and

WHEREAS, when Henry was discharged from the military, he and Dorothy moved to Tekamah, Nebraska, where he worked as a mechanic for 40 years at the Ford-Lincoln dealership; and

WHEREAS, Henry served for several years as the fire chief for the Tekamah Volunteer Fire Department. He enjoyed people and would help anyone. He was a member of the Veterans of Foreign Wars for 75 years and participated in the 21-gun salute every Memorial Day at the Tekamah cemetery; and

WHEREAS, Henry's love for his family was endless. He spent several winters with his daughter in Texas and made many friends that will never forget him. He leaves a legacy that his many friends and family will never forget; and

WHEREAS, in August 2013, U.S. Representative Jeff Fortenberry interviewed Henry as part of the Veterans History Project, a collection by the Library of Congress that aims to preserve the memories and voices of American veterans; and

WHEREAS, Henry returned to France for the 70th anniversary of D-Day on Omaha Beach; and

WHEREAS, Ronald Grass, Mayor of the City of Tekamah, on behalf of the citizens of Tekamah, and the Tekamah City Council, proclaimed May 30, 2020, to be Henry Doncheski Appreciation Day; and

WHEREAS, Henry's life was defined by his patriotism, his dedication and integrity, and his involvement in his community. He loved to joke, never met a stranger, and loved to sit outside in the sunshine; and

WHEREAS, Henry was preceded in death by his wife, Dorothy; daughter, Cheryl Noel; son-in-law, Virgil Noel; parents; brothers, Bud, Emil, and Leonard; and sisters, Florence and Dessie; and

WHEREAS, Henry is survived by his son, Randy (Peg) Doncheski of Omaha; daughter, Gae (Tony) Montoya of Carrollton, Texas; six grandchildren; thirteen great-grandchildren; and six great-great-grandchildren; and

WHEREAS, Henry passed away at the age of 99 years, on May 12, 2020, in Plano, Texas.

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

1. That the Legislature honors and recognizes Henry Earl Doncheski for his life of service to the world, his country, and his community.
2. That the Legislature extends its deepest sympathy to the family and friends of Henry Doncheski.
3. That a copy of this resolution be sent to the family of Henry Doncheski.

Laid over.

MOTION(S) - Print in Journal

Senator Wayne filed the following motion to [LB1218](#):

[MO223](#)

Suspend Rule 6, Sections 3 and 5 and Rule 7, Sections 3 and 7 and vote on the advancement of the bill without further amendment or debate to E&R for engrossing.

AMENDMENT(S) - Print in Journal

Senator Wayne filed the following amendment to [LB866](#):

[AM3356](#)

(Amendments to Standing Committee amendments, AM2913)

1 1. Insert the following new sections:

2 Sec. 11. Sections 11 to 19 of this act shall be known and may be

3 cited as the Middle Income Workforce Housing Investment Act.

4 Sec. 12. (1) Current economic conditions and limited availability

5 of modern housing units impact the ability of Nebraska's older urban

6 neighborhoods and majority minority communities to maintain residential

7 stability. Low rates of homeownership and a lack of high-quality, non-

8 income restricted rental housing negatively affects the ability of

9 residents of such neighborhoods and communities to achieve housing

10 stability and invest in their neighborhoods and communities. A lack of

11 workforce housing affects the ability of neighborhoods and communities to

12 maintain and develop viable, stable, and thriving economies. A shortage

13 of quality housing in such areas also impacts the ability of local

14 private, nonprofit, and public employers to grow and prosper.

15 (2) Impediments exist to the construction, rehabilitation, and

16 financing of urban workforce housing. Comparable home sale and appraisal

17 prices do not justify the cost of new construction homes. There is a lack

18 of space that would be large enough for development to achieve cost

19 efficiencies. Due to generations of disinvestment, these neighborhoods

20 and communities frequently receive a stigma that negatively impacts the

21 residential real estate market.

22 (3) In order to develop attractive housing options that lead to the

23 recruitment and retention of a world-class workforce in Nebraska's older
 24 urban communities, it is the intent of the Legislature to use new and
 25 existing resources to support creation of workforce housing investment
 26 funds. Such funds will be used to encourage development of workforce
 1 housing in Nebraska's urban and underserved neighborhoods and
 2 communities.
 3 Sec. 13. For purposes of the Middle Income Workforce Housing
 4 Investment Act:
 5 (1) Department means the Department of Economic Development;
 6 (2) Director means the Director of Economic Development;
 7 (3) Eligible activities of a workforce housing investment fund
 8 means:
 9 (a) New construction of owner-occupied housing in a neighborhood and
 10 community with a demonstrated need for housing that is affordable and
 11 attractive to first time homebuyers, middle-income families, and the
 12 emerging workforce;
 13 (b) Substantial repair or rehabilitation of dilapidated housing
 14 stock; or
 15 (c) Upper-story housing development for occupation by a homeowner;
 16 (4) HOME funds means funds awarded as formula grants under the HOME
 17 Investment Partnerships Program administered by the United States
 18 Department of Housing and Urban Development;
 19 (5) Matching funds means dollars contributed by individuals,
 20 businesses, foundations, local and regional political subdivisions, or
 21 other nonprofit organizations to a workforce housing investment fund
 22 administered by a nonprofit development organization;
 23 (6) Nonprofit development organization means a regional or statewide
 24 nonprofit development organization approved by the director;
 25 (7) Qualified activities include purchase guarantees, loan
 26 guarantees, loan participations, and other credit enhancements related to
 27 eligible activities of the workforce housing investment fund;
 28 (8) Qualified investment means a cash investment in a workforce
 29 housing investment fund administered by a nonprofit development
 30 organization;
 31 (9) Urban community means any area that is:
 1 (a) In a county with a population greater than one hundred thousand
 2 inhabitants as determined by the most recent federal decennial census;
 3 and
 4 (b) Within a qualified census tract as described in 26 U.S.C. 42(d)
 5 (5)(B), as such section existed on January 1, 2020.
 6 (10) Workforce housing means:
 7 (a) Owner-occupied housing units that have an after-construction
 8 appraised value of at least one hundred twenty-five thousand dollars but
 9 not more than two hundred seventy-five thousand dollars. For purposes of
 10 this subdivision (a) and subdivision (b) of this subsection, housing unit
 11 after-construction appraised value shall be updated annually by the
 12 department based upon the most recent increase or decrease in the
 13 Producer Price Index for all commodities, published by the United States
 14 Department of Labor, Bureau of Labor Statistics;
 15 (b) Owner-occupied housing units for which the cost to substantially
 16 rehabilitate such units exceeds fifty percent of a unit's before-
 17 construction assessed value, and the after-construction appraised value
 18 is at least one hundred twenty-five thousand dollars but not more than
 19 two hundred seventy-five thousand dollars;
 20 (c) Upper-story housing for occupation by a homeowner; and
 21 (d) Housing that does not receive federal or state low-income
 22 housing tax credits, community development block grants, HOME funds, or
 23 funds from the Affordable Housing Trust Fund; and
 24 (11) Workforce housing investment fund means a fund that has been
 25 created by a nonprofit development organization and certified by the

26 director to encourage development of workforce housing in urban
27 communities.

28 Sec. 14. (1) The director shall establish a workforce housing
29 investment grant program to foster and support the development of
30 workforce housing in urban communities.

31 (2) A nonprofit development organization may apply to the director
1 for approval of a workforce housing grant for a workforce housing
2 investment fund. The application shall be in a form and manner prescribed
3 by the director. Through fiscal year 2022-2023, grants shall be awarded
4 by the director on a competitive basis until grant funds are no longer
5 available. Grant maximums shall not exceed one million dollars to any one
6 nonprofit development organization over a two-year period, with no more
7 than two million five hundred thousand dollars cumulative for any single
8 grantee through fiscal year 2022-2023. Grants shall require a minimum
9 one-to-one in matching funds to be considered a qualified grant
10 application. Unallocated funds shall be rolled to the next program year.
11 Unallocated funds on June 30, 2025, shall be returned to the Middle
12 Income Workforce Housing Investment Fund.

13 (3) Grants shall be awarded based upon:

14 (a) A demonstrated need for additional owner-occupied housing. Need
15 can be demonstrated with a recent housing study or a letter from the
16 planning department of the city in which the fund is intending to operate
17 stating that the proposal is in line with the city's most recent
18 consolidated plan submitted under 24 C.F.R. part 91, subpart D, as such
19 subpart existed on January 1, 2020;

20 (b) A neighborhood or community that has a higher-than-state average
21 unemployment rate;

22 (c) A neighborhood or community that exhibits a demonstrated
23 commitment to growing its housing stock;

24 (d) Projects that can reasonably be ready for occupancy in a period
25 of twenty-four months; and

26 (e) A demonstrated ability to grow and manage a workforce housing
27 investment fund.

28 (4) A workforce housing investment fund shall:

29 (a) Be required to receive annual certification from the department;

30 (b) Invest or intend to invest in eligible activities for a

31 workforce housing investment fund;

1 (c) Use any fees, interest, loan repayments, or other funds received

2 by the nonprofit development organization as a result of the

3 administration of the grant to support qualified activities; and

4 (d) Have an active board of directors with expertise in development,

5 construction, and finance that meets at least quarterly to approve all

6 qualified investments made by the nonprofit development organization. A

7 nonprofit development organization shall have a formal plan and proven

8 expertise to invest unused workforce housing investment fund balances and

9 shall conduct an annual audit of all financial records by an independent

10 certified public accountant.

11 Sec. 15. (1) The Middle Income Workforce Housing Investment Fund is

12 created. Funding for the grant program described in section 14 of this

13 act shall come from the Middle Income Workforce Housing Investment Fund.

14 The Middle Income Workforce Housing Investment Fund may include revenue

15 from appropriations from the Legislature, grants, private contributions,

16 and other sources. In addition, the Middle Income Workforce Housing

17 Investment Fund shall receive a one-time transfer of ten million dollars

18 on the effective date of this act from the General Fund. Any money in the

19 Middle Income Workforce Housing Investment Fund available for investment

20 shall be invested by the state investment officer pursuant to the

21 Nebraska Capital Expansion Act and the Nebraska State Funds Investment

22 Act.

23 (2) The department shall administer the Middle Income Workforce

24 Housing Investment Fund and may seek additional private or nonstate funds
25 to use in the grant program, including, but not limited to, contributions
26 from the Nebraska Investment Finance Authority and other interested
27 parties.

28 (3) Interest earned by the department on grant funds shall be
29 applied to the grant program.

30 (4) If a nonprofit development organization fails to engage in a
31 qualified activity within twenty-four months after receiving initial
1 grant funding, the nonprofit development organization shall return the
2 grant proceeds to the department for credit to the Affordable Housing
3 Trust Fund.

4 (5) Beginning July 1, 2025, any funds held by the department in the
5 Middle Income Workforce Housing Investment Fund shall be transferred to
6 the Affordable Housing Trust Fund.

7 Sec. 16. (1) Each nonprofit development organization shall submit
8 an annual report to the director to be included as a part of the
9 department's annual status report required under section 81-1201.11. The
10 report shall certify that the workforce housing investment fund meets the
11 requirements of the Middle Income Workforce Housing Investment Act and
12 shall include a breakdown of program activities.

13 (2) The annual report shall include, but not be limited to:

14 (a) The name and geographical location of the nonprofit development
15 organization;

16 (b) The number, amount, and type of workforce housing investment
17 funds invested in qualified activities;

18 (c) The number, geographical location, type, and amount of
19 investments made;

20 (d) A summary of matching funds and where such matching funds were
21 generated; and

22 (e) The results of the annual audit required under subdivision (4)

23 (d) of section 14 of this act.

24 (3) If a nonprofit development organization ceases administration of
25 a workforce housing investment fund, it shall file a final report with
26 the director in a form and manner required by the director. Before July
27 1, 2025, any unallocated workforce housing investment fund grant funds
28 shall be returned for credit to the Middle Income Workforce Housing
29 Investment Fund.

30 (4) If a workforce housing investment fund fails to file a complete
31 annual report by February 15, the director may, in his or her discretion,
1 impose a civil penalty of not more than five thousand dollars for such
2 violation. All money collected by the department pursuant to this
3 subsection shall be remitted to the State Treasurer for distribution in
4 accordance with Article VII, section 5, of the Constitution of Nebraska.

5 Sec. 17. (1) The department shall use its best efforts to assure
6 that any grant funds awarded to a nonprofit development organization are
7 targeted to the geographic communities or regions with the most pressing
8 housing, economic, and employment needs.

9 (2) The department shall use its best efforts to assure that the
10 allocation of grant funds provides equitable access to the benefits
11 provided by the Middle Income Workforce Housing Investment Act to all
12 eligible neighborhoods and communities.

13 (3) The director may contract with a statewide public or private
14 nonprofit organization which shall serve as agent for the department to
15 help carry out the purposes and requirements of the Middle Income
16 Workforce Housing Investment Act. The department or its agent may only
17 use for expenses that portion of the funds available for the workforce
18 housing investment grant program through the Middle Income Workforce
19 Housing Investment Fund necessary to cover the actual costs of
20 administering the program.

21 Sec. 18. (1) As part of the department's annual status report

22 required under section 81-1201.11, the department shall submit a report
23 to the Legislature and the Governor that includes, but is not necessarily
24 limited to:
25 (a) The number and geographical location of workforce housing
26 investment funds;
27 (b) The number, amount, and type of workforce housing investment
28 funds invested in qualified activities; and
29 (c) The number, geographical location, type, and amount of
30 investments made by each nonprofit development organization.
31 (2) The report to the Legislature shall be submitted electronically.
1 (3) Information received, developed, created, or otherwise
2 maintained by the department in administering and enforcing the Middle
3 Income Workforce Housing Investment Act, other than information required
4 to be included in the report to be submitted by the department to the
5 Governor and Legislature pursuant to this section, may be deemed
6 confidential by the department and not considered a public record subject
7 to disclosure pursuant to sections 84-712 to 84-712.09.
8 Sec. 19. The department may adopt and promulgate rules and
9 regulations to administer and enforce the Middle Income Workforce Housing
10 Investment Act.
11 2. On page 3, line 4, strike "cost" and insert "have an after-
12 construction appraised value of"; and strike line 5 and insert "twenty-
13 five thousand dollars but not more than two hundred seventy-five
14 thousand".
15 3. Renumber the remaining sections accordingly.

ADJOURNMENT

At 12:00 p.m., on a motion by Senator McDonnell, the Legislature adjourned until 9:00 a.m., Tuesday, August 11, 2020.

Patrick J. O'Donnell
Clerk of the Legislature