

SEVENTY-SECOND DAY - MAY 5, 2021

LEGISLATIVE JOURNAL

**ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION**

SEVENTY-SECOND DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, May 5, 2021

PRAYER

The prayer was offered by Senator Hilkemann.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was offered by Senator Williams.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Hilgers presiding.

The roll was called and all members were present except Senator Sanders who was excused; and Senators Bostar, Bostelman, Briese, Day, M. Hansen, Hughes, Hunt, Morfeld, Pansing Brooks, Stinner, Wayne, and Wishart who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the seventy-first day was approved.

ANNOUNCEMENT

Senator DeBoer announced the birthday of Senator Bostar.

GENERAL FILE

LEGISLATIVE BILL 39A. Title read. Considered.

Advanced to Enrollment and Review Initial with 27 ayes, 3 nays, 6 present and not voting, and 13 excused and not voting.

LEGISLATIVE BILL 306A. Title read. Considered.

Advanced to Enrollment and Review Initial with 28 ayes, 2 nays, 7 present and not voting, and 12 excused and not voting.

RESOLUTION(S)

Pursuant to Rule 4, Sec. 5(b), LRs 108, 109, 111, 112, and 113 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 108, 109, 111, 112, and 113.

GENERAL FILE

LEGISLATIVE BILL 485A. Title read. Considered.

Advanced to Enrollment and Review Initial with 25 ayes, 5 nays, 7 present and not voting, and 12 excused and not voting.

LEGISLATIVE BILL 566A. Title read. Considered.

Advanced to Enrollment and Review Initial with 25 ayes, 8 nays, 5 present and not voting, and 11 excused and not voting.

LEGISLATIVE RESOLUTION 11CA. Read. Considered.

SENATOR HUGHES PRESIDING

Pending.

RESOLUTION(S)

LEGISLATIVE RESOLUTION 117. Introduced by Bostelman, 23.

PURPOSE: The purpose of this interim study is to examine the extent of surface water irrigation in the state, examine the condition of surface water irrigation projects and infrastructure, understand the status and projected costs of infrastructure rehabilitation projects, and evaluate the anticipated effects relating to completion or delay of those projects. The study may also examine the economic, social, recreational, environmental, and other benefits of water supply infrastructure rehabilitation.

The issues addressed by this interim study may include, but not be limited to:

(1) Identifying the location of current projects in irrigation districts, reclamation districts, public power districts, canal companies, and other

surface water projects and the effect of such projects on local and statewide water resources;

(2) Identifying the intentional and incidental acres served by surface water projects and the number of surface water irrigators served by such projects;

(3) Computing the number of miles of canals, laterals, pipelines, and drains operated and maintained by the districts for purposes of operating and maintaining surface water irrigation;

(4) Identifying the number, location, size, and purpose of dams, reservoirs, lakes, and other impoundments owned or operated by the districts;

(5) Evaluating information about the age, condition, operation, and maintenance of all surface water facilities owned or operated by the districts;

(6) Ascertaining amounts paid by the State of Nebraska and the federal government as a result of an operating agreement between those entities relating to the operation and maintenance of surface water projects identified by this study;

(7) Ascertaining the source of funds paid by the State of Nebraska to the federal government as a result of an operating agreement between those entities relating to the operation and maintenance of surface water projects identified by this study;

(8) Determining the benefits to agriculture, recreation, fish and wildlife management, municipalities, industry, the public water supply, and ground water recharge;

(9) Identifying the location of aging surface water infrastructure in Nebraska and compiling an estimate of future funding needed to address such infrastructure; and

(10) Reviewing potential sources for securing such funding, including, but not limited to, project owner financial inputs, local funding options, state funding options, federal funding options from project facility owners, and federal funding options from past development organizations.

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

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee may upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 118. Introduced by Hunt, 8.

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

1. That we hereby reaffirm our solemn oaths of office by expressing a firm resolution to defend the United States Capitol, the sacred symbol of our

democracy, against every act of sedition and insurrection, whether from citizens of the United States or their elected officials.

2. That we are greatly alarmed that a factious and treasonous spirit manifested on January 6, 2021, in a violent attack on the United States Capitol in Washington, D.C., and that such insurrection was spurred by influences emanating from some members of the United States Congress and former President of the United States, Donald J. Trump, with a desire to sow discord among the citizenry and to destroy the outcome of the free and fair election that resulted in the election of President Joseph R. Biden.

3. That we further protest against the actions of the mob of citizens who committed countless criminal acts resulting in incalculable property damage; caused physical injuries to many, including brave first responders; and brought about tragic loss of life, including an officer of the United States Capitol Police. We also protest the words of elected officials in the state legislatures and the United States Congress which sought to incite such mob.

4. That we express distress at the knowledge that this insurrection was fueled by lies and misinformation and an official abuse of power by some local, state, and federal leaders, including Nebraska's Attorney General, Nebraska's Secretary of State, and Nebraska's Governor, who used the powers and privileges of their offices, granted by the people themselves, as well as state resources, to file frivolous partisan lawsuits designed to usurp the democratic process.

5. That the Legislature requests cooperation from the Governor of Nebraska, the Nebraska Attorney General, the President of the United States, the President pro tempore of the United States Senate, the Secretary of the United States Senate, the Speaker of the United States House of Representatives, the Clerk of the United States House of Representatives, and the presiding officers of each of the legislative houses in the several states in defending the United States Capitol Building and our democratic election process.

6. That the Clerk of the Legislature shall transmit copies of this resolution to the Governor of Nebraska, the Nebraska Attorney General, the President of the United States, the President pro tempore of the Senate, the Secretary of the United States Senate, the Speaker of the United States House of Representatives, the Clerk of the United States House of Representatives, and to the presiding officers of each of the legislative houses in the several states.

Laid over.

SPEAKER'S ANNOUNCEMENT

Pursuant to Rule 4, Section 8, LR118 was referred to the Reference Committee.

COMMITTEE REPORT(S)

Enrollment and Review

LEGISLATIVE BILL 39A. Placed on Select File.**LEGISLATIVE BILL 306A.** Placed on Select File.**LEGISLATIVE BILL 485A.** Placed on Select File.**LEGISLATIVE BILL 566A.** Placed on Select File.

(Signed) Terrell McKinney, Chairperson

UNANIMOUS CONSENT - Add Cointroducer(s)

Unanimous consent to add Senator(s) as cointroducer(s). No objections. So ordered.

Senator Cavanaugh, J. name added to LB241.

RECESS

At 11:56 a.m., on a motion by Senator Aguilar, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Hilgers presiding.

ROLL CALL

The roll was called and all members were present except Senator Sanders who was excused; and Senator Morfeld who was excused until he arrives.

GENERAL FILE

LEGISLATIVE RESOLUTION 11CA. Senator Blood offered the following amendment:

[AM1259](#)

1 1. Strike sections 1 and 2 and insert the following new sections:

2 Section 1. At the general election in November 2022, the following

3 proposed amendment to the Constitution of Nebraska shall be submitted to

4 the electors of the State of Nebraska for approval or rejection:

5 To add a new section 26 to Article XV:

6 XV-26 Beginning January 1, 2023, the State of Nebraska shall fully

7 fund all unfunded and underfunded mandates that are imposed on political

8 subdivisions by the state.

9 Sec. 2. The proposed amendment shall be submitted to the electors

10 in the manner prescribed by the Constitution of Nebraska, Article XVI,

11 section 1, with the following ballot language:

12 A constitutional amendment to require the State of Nebraska to fully

13 fund all unfunded and underfunded mandates that are imposed on political

14 subdivisions by the state.

15 For

16 Against.

SENATOR WILLIAMS PRESIDING

Senator Blood moved for a call of the house. The motion prevailed with 21 ayes, 9 nays, and 19 not voting.

Senator Blood requested a roll call vote, in reverse order, on her amendment.

Voting in the affirmative, 4:

Blood Cavanaugh, J. Cavanaugh, M. Day

Voting in the negative, 30:

Aguilar	Briese	Geist	Hilkemann	McDonnell
Albrecht	Clements	Gragert	Hughes	Moser
Arch	Dorn	Groene	Kolterman	Murman
Bostelman	Erdman	Halloran	Lindstrom	Slama
Brandt	Flood	Hansen, B.	Linehan	Stinner
Brewer	Friesen	Hilgers	Lowe	Williams

Present and not voting, 13:

Bostar	Hunt	McKinney	Vargas	Wishart
DeBoer	Lathrop	Pahls	Walz	
Hansen, M.	McCollister	Pansing Brooks	Wayne	

Excused and not voting, 2:

Morfeld Sanders

The Blood amendment lost with 4 ayes, 30 nays, 13 present and not voting, and 2 excused and not voting.

Senator Erdman requested a roll call vote on the advancement of the resolution.

Voting in the affirmative, 23:

Albrecht	Erdman	Halloran	Lindstrom	Pahls
Bostelman	Friesen	Hansen, B.	Linehan	Slama
Brewer	Geist	Hilgers	Lowe	Wayne
Briese	Gragert	Hilkemann	McDonnell	
Clements	Groene	Hughes	Murman	

Voting in the negative, 19:

Aguilar	DeBoer	Kolterman	Moser	Walz
Blood	Flood	Lathrop	Pansing Brooks	Williams
Bostar	Hansen, M.	McCollister	Stinner	Wishart
Day	Hunt	McKinney	Vargas	

Present and not voting, 5:

Arch Brandt Cavanaugh, J. Cavanaugh, M. Dorn

Excused and not voting, 2:

Morfeld Sanders

Failed to advance to Enrollment and Review Initial with 23 ayes, 19 nays, 5 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

RESOLUTION(S)

LEGISLATIVE RESOLUTION 119. Introduced by Clements, 2; Albrecht, 17; Arch, 14; Bostelman, 23; Brewer, 43; Briese, 41; Dorn, 30; Erdman, 47; Geist, 25; Gragert, 40; Halloran, 33; Hansen, B., 16; Hilgers, 21; Hilkemann, 4; Hughes, 44; Lowe, 37; McDonnell, 5; Moser, 22; Murman, 38; Slama, 1.

WHEREAS, Perry Mitchell Gauthier was born to Marlin and Janice Gauthier on December 12, 1960, in Denver, Colorado; and

WHEREAS, in 1962 the Gauthier family moved to Grand Island, Nebraska; and

WHEREAS, Perry Gauthier graduated from Grand Island High School in 1979; and

WHEREAS, Perry studied architecture at the University of Nebraska - Lincoln and graduated second in his class and with honors in 1984; and

WHEREAS, Perry started his own business, Designers Ink, where he made use of his talents in architectural rendering and modeling; and

WHEREAS, Perry married his wife, Susan, in 1988, and became the proud father of his beloved son, Gabriel, in 1994 and his beloved son, Christian, in 1996; and

WHEREAS, Perry entered into the gospel ministry in the year 2000 as a part-time minister to college students and also as a church planter; and

WHEREAS, in 2007 Perry began a successful ministry of teaching God's Word to men and women at the Nebraska State Capitol through Capitol Ministries; and

WHEREAS, Perry married his wife, Faith, in 2016, who served faithfully by his side in ministry; and

WHEREAS, Perry trained and mentored other pastors to serve as Bible teachers and disciple-makers at several state capitols around the country during the last five years of his life; and

WHEREAS, Perry started Capitol Studies International in 2020; and

WHEREAS, Perry ministered to several followers of Christ through his podcast called, "The Capitol Minute"; and

WHEREAS, Perry faithfully proclaimed the gospel of Jesus Christ until his death and passed into heavenly glory on December 23, 2020.

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

1. That the Legislature respects Perry M. Gauthier as a loving husband and father.

2. That the Legislature recognizes Perry M. Gauthier as a skilled Bible teacher and faithful minister of the gospel of Jesus Christ.

3. That the Legislature honors the dedicated Christian ministry of Rev. Perry M. Gauthier, V.D.M. at the Nebraska State Capitol from 2007 to 2020.

4. That a copy of this resolution be sent to Perry's beloved wife, Faith Gauthier.

Laid over.

COMMITTEE REPORT(S)

Enrollment and Review

LEGISLATIVE BILL 407. Placed on Select File with amendment.

[ER82](#)

1 1. On page 4, line 25, strike "Whose duties" and insert "Duties".

LEGISLATIVE BILL 90. Placed on Select File.

LEGISLATIVE BILL 166. Placed on Select File.

LEGISLATIVE BILL 166A. Placed on Select File.

LEGISLATIVE BILL 317. Placed on Select File.

LEGISLATIVE BILL 317A. Placed on Select File.

LEGISLATIVE BILL 256. Placed on Select File.

LEGISLATIVE BILL 479. Placed on Select File with amendment.

[ER83](#)

1 1. On page 1, line 3, after "membership" insert "and duties"; and in

2 line 4 after the semicolon insert "to require a report;".

LEGISLATIVE BILL 628. Placed on Select File with amendment.

[ER84](#)

1 1. On page 1, line 3, strike "and" and insert "to define terms;" and

2 in line 4 after "section" insert "; and to declare an emergency".

LEGISLATIVE BILL 566. Placed on Select File with amendment.

[ER85](#)

1 1. Strike the original sections and all amendments thereto and

2 insert the following new sections:

3 Section 1. Sections 1 to 8 of this act shall be known and may be
4 cited as the Shovel-Ready Capital Recovery and Investment Act.
5 Sec. 2. The purpose of the Shovel-Ready Capital Recovery and
6 Investment Act is to partner with the private sector by providing grants
7 to qualified nonprofit organizations to assist such organizations with
8 capital projects that have been delayed due to COVID-19 and that will
9 provide a positive economic impact in the State of Nebraska.
10 Sec. 3. For purposes of the Shovel-Ready Capital Recovery and
11 Investment Act:
12 (1) Capital project means a construction project to build, expand,
13 or develop a new or existing facility or facilities or restoration work
14 on a facility designated as a National Historic Landmark;
15 (2) Cost, in the context of a capital project, means the cost of
16 land, engineering, architectural planning, contract services,
17 construction, materials, and equipment needed to complete the capital
18 project;
19 (3) COVID-19 means the novel coronavirus identified as SARS-CoV-2,
20 the disease caused by the novel coronavirus SARS-CoV-2 or a virus
21 mutating therefrom, and the health conditions or threats associated with
22 the disease caused by the novel coronavirus SARS-CoV-2 or a virus
23 mutating therefrom;
24 (4) Department means the Department of Economic Development;
25 (5) Qualified nonprofit organization means a tax-exempt organization
26 under section 501(c)(3) of the Internal Revenue Code that:
27 (a) Is related to arts, culture, or the humanities, including any
28 organization formed for the purpose of developing and promoting the work
29 of artists and the humanities in various visual and performing forms,
30 such as film, sculpture, dance, painting, horticulture, multimedia,
31 poetry, photography, performing arts, zoology, or botany; or
32 (b) Owns a sports complex;
33 (6) Sports complex means property that:
34 (a) Includes indoor areas, outdoor areas, or both;
35 (b) Is primarily used for competitive sports; and
36 (c) Contains at least twelve separate sports venues; and
37 (7) Sports venue includes, but is not limited to:
38 (a) A baseball field;
39 (b) A softball field;
40 (c) A soccer field;
41 (d) An outdoor stadium primarily used for competitive sports;
42 (e) An outdoor arena primarily used for competitive sports; and
43 (f) An enclosed, temperature-controlled building primarily used for
44 competitive sports.
45 Sec. 4. (1) Beginning July 1, 2021, through July 15, 2021, a
46 qualified nonprofit organization may apply to the department for a grant
47 under the Shovel-Ready Capital Recovery and Investment Act. The
48 application shall include, but not be limited to, the following
49 information:
50 (a) A description of the qualified nonprofit organization's capital
51 project;
52 (b) The estimated cost of the capital project;
53 (c) The date when the capital project was delayed due to COVID-19
54 and the date when the capital project is expected to begin, which shall
55 be no later than June 30, 2022; and
56 (d) Documentation on the amount of funds for the capital project
57 which have been received or will be received by the qualified nonprofit
58 organization from private sources. Such amount shall be at least equal to
59 the amount of any grant received under the act. The documentation
60 provided under this subdivision does not need to identify the names of
61 any donors.
62 (2) The department shall consider applications in the order in which

5 they are received. If an applicant is a qualified nonprofit organization
6 and otherwise qualifies for funding under the Shovel-Ready Capital
7 Recovery and Investment Act, the department shall, subject to subsection
8 (3) of this section, approve the application and notify the applicant of
9 the approval.
10 (3) The department may approve applications within the limits of
11 available appropriations. The amount of any grant approved under this
12 section shall be equal to the amount of funds to be supplied by the
13 qualified nonprofit organization from private sources, as documented
14 under subdivision (1)(d) of this section, subject to the following
15 limitations:
16 (a) For any capital project with an estimated cost of less than five
17 million dollars, the grant shall not exceed one million dollars;
18 (b) For any capital project with an estimated cost of at least five
19 million dollars but less than twenty-five million dollars, the grant
20 shall not exceed five million dollars;
21 (c) For any capital project with an estimated cost of at least
22 twenty-five million dollars but less than fifty million dollars, the
23 grant shall not exceed ten million dollars; and
24 (d) For any capital project with an estimated cost of fifty million
25 dollars or more, the grant shall not exceed fifteen million dollars.
26 Sec. 5. (1) Each qualified nonprofit organization that receives a
27 grant under the Shovel-Ready Capital Recovery and Investment Act shall:
28 (a) Secure all of the private funds described in subdivision (1)(d)
29 of section 4 of this act through a written pledge or payment by December
30 31, 2021, and shall begin construction on the organization's capital
31 project by June 30, 2022; and
1 (b) Abide by the federal laws commonly known as the Davis-Bacon and
2 Related Acts.
3 (2) Any qualified nonprofit organization that fails to meet the
4 requirements of subsection (1) of this section shall repay any grant
5 funds received under the act.
6 Sec. 6. The Shovel-Ready Capital Recovery and Investment Fund is
7 created. The fund shall consist of transfers authorized by the
8 Legislature and any gifts, grants, or bequests from any source, including
9 federal, state, public, and private sources. The fund shall be
10 administered by the department and shall be used to make grants under the
11 Shovel-Ready Capital Recovery and Investment Act. Any money in the fund
12 available for investment shall be invested by the state investment
13 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
14 State Funds Investment Act.
15 Sec. 7. It is the intent of the Legislature to allocate twenty-five
16 million dollars from the General Fund and seventy-five million dollars of
17 federal funds allocated to states pursuant to the American Rescue Plan
18 Act of 2021 from the Coronavirus State Fiscal Recovery Fund and received
19 by the State of Nebraska on or after the effective date of this act, if
20 such use is permitted, for use by the department for purposes of carrying
21 out the Shovel-Ready Capital Recovery and Investment Act.
22 Sec. 8. The department may adopt and promulgate rules and
23 regulations to carry out the Shovel-Ready Capital Recovery and Investment
24 Act.
25 Sec. 9. Since an emergency exists, this act takes effect when
26 passed and approved according to law.
27 2. On page 1, line 2, after the first semicolon insert "to authorize
28 grants as prescribed;".

(Signed) Terrell McKinney, Chairperson

GENERAL FILE

LEGISLATIVE BILL 131. Senator Friesen renewed his amendment, [AM1112](#), found on page 1118 and considered on page 1246, to the committee amendment.

Senator Wayne moved for a call of the house. The motion prevailed with 21 ayes, 1 nays, and 27 not voting.

Senator Wayne requested a roll call vote, in reverse order, on the Friesen amendment.

Voting in the affirmative, 8:

Brandt	Clements	Groene	Hughes
Brewer	Friesen	Halloran	Moser

Voting in the negative, 29:

Aguilar	DeBoer	Hilkemann	Morfeld	Vargas
Albrecht	Dorn	Hunt	Murman	Walz
Blood	Flood	Kolterman	Pahls	Wayne
Cavanaugh, J.	Gragert	Linehan	Pansing Brooks	Williams
Cavanaugh, M.	Hansen, B.	McDonnell	Slama	Wishart
Day	Hansen, M.	McKinney	Stinner	

Present and not voting, 9:

Arch	Bostelman	Erdman	Hilgers	McCollister
Bostar	Briese	Geist	Lowe	

Excused and not voting, 3:

Lathrop	Lindstrom	Sanders
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The Friesen amendment lost with 8 ayes, 29 nays, 9 present and not voting, and 3 excused and not voting.

Senator Flood withdrew his amendment, [AM1139](#), found on page 1156, to the committee amendment.

Senator Wayne offered the following amendment:

[AM1258](#)

(Amendments to Standing Committee amendments, AM751)

- 1 1. Strike section 6.
- 2 2. Renumber the remaining sections and correct internal references
- 3 3 accordingly.

The Wayne amendment was adopted with 40 ayes, 0 nays, 6 present and not voting, and 3 excused and not voting.

Committee [AM751](#), found on page 812 and considered on page 1246, was renewed.

The committee amendment, as amended, was adopted with 32 ayes, 6 nays, 5 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 28 ayes, 10 nays, 5 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 131A. Title read. Considered.

Senator Wayne withdrew his amendment, [AM1188](#), found on page 1222.

Senator Wayne offered the following amendment:

[AM1257](#)

1 1. Insert the following new section:

2 Sec. 2. The State Treasurer shall transfer \$5,000,000 from the

3 General Fund to the Municipal Natural Gas System Emergency Assistance

4 Fund on or after July 1, 2021, on such dates and in such amounts as

5 directed by the budget administrator of the budget division of the

6 Department of Administrative Services.

7 2. On page 2, line 1, strike "\$10,000,000" and insert "\$5,000,000".

8 3. Renumber the remaining section accordingly.

The Wayne amendment was adopted with 34 ayes, 1 nay, 8 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 28 ayes, 5 nays, 10 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 132. Title read. Considered.

SPEAKER HILGERS PRESIDING

Committee [AM555](#), found on page 595, was offered.

Senator DeBoer asked unanimous consent to withdraw her amendment, [AM1175](#), found on page 1182, to the committee amendment, and replace it with her substitute amendment, [AM1199](#), found on page 1222, to the committee amendment. No objections. So ordered.

SENATOR WILLIAMS PRESIDING

Senator DeBoer moved for a call of the house. The motion prevailed with 23 ayes, 2 nays, and 24 not voting.

Senator DeBoer requested a roll call vote on her amendment.

Voting in the affirmative, 28:

Bostar	Dorn	Hilkemann	McKinney	Walz
Bostelman	Flood	Hughes	Morfeld	Wayne
Brandt	Friesen	Hunt	Murman	Williams
Cavanaugh, J.	Gragert	Kolterman	Pansing Brooks	Wishart
Cavanaugh, M.	Hansen, M.	Lathrop	Stinner	
DeBoer	Hilgers	McCollister	Vargas	

Voting in the negative, 10:

Albrecht	Clements	Geist	Halloran	Lowe
Arch	Erdman	Groene	Linehan	Slama

Present and not voting, 3:

Aguilar	Brewer	McDonnell
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Excused and not voting, 8:

Blood	Day	Lindstrom	Pahls
Briese	Hansen, B.	Moser	Sanders

The DeBoer amendment was adopted with 28 ayes, 10 nays, 3 present and not voting, and 8 excused and not voting.

Pending.

The Chair declared the call raised.

SPEAKER HILGERS PRESIDING

AMENDMENT(S) - Print in Journal

Senator Brewer filed the following amendment to [LB285](#):

[AM1134](#)

1 1. On page 6, after line 27 insert the following new subsection:
 2 "~~(7) Nothing in this section shall prevent a political party or~~
 3 ~~candidate from using the list of registered voters for campaign~~
 4 ~~activities.~~".

Senator Brewer filed the following amendment to [LB285](#):

[AM1264](#)

(Amendments to AM1133)

1 1. Insert the following new sections:
 2 Sec. 3. Section 16-404, Revised Statutes Cumulative Supplement,
 3 2020, is amended to read:
 4 16-404 (1) All ordinances and resolutions or orders for the
 5 appropriation or payment of money in a city of the first class shall
 6 require for their passage or adoption the concurrence of a majority of
 7 all members elected to the city council. The mayor may vote on any such
 8 matter when his or her vote will provide the additional vote required to

9 create a number of votes equal to a majority of the number of members
10 elected to the city council, and the mayor shall, for the purpose of such
11 vote, be deemed to be a member of the city council.

12 ~~(2)(a)~~ (2) Ordinances of a general or permanent nature in a city of
13 the first class shall be read by title on three different days unless
14 three-fourths of the city council members vote to suspend this
15 requirement, except that in a city having a commission plan of government
16 such requirement may be suspended by a three-fifths majority vote.

17 (b) Regardless of the form of government, such requirement shall not
18 be suspended for any ordinance for the annexation of territory or the
19 redrawing of boundaries for city council election districts or wards
20 except as otherwise provided in subsection (4) of this section.

21 (c) In case such requirement is suspended, the ordinances shall be
22 read by title or number and then moved for final passage.

23 (d) Three-fourths of the city council members may require a reading
24 of any such ordinance in full before enactment under either procedure set
25 out in this section, except that in a city having a commission plan of
26 government, such reading may be required by a three-fifths majority vote.

1 (3) Ordinances in a city of the first class shall contain no subject
2 which is not clearly expressed in the title, and, except as provided in
3 section 19-915, no ordinance or section thereof shall be revised or
4 amended unless the new ordinance contains the entire ordinance or section
5 as revised or amended and the ordinance or section so amended is
6 repealed, except that:

7 (a) For an ordinance revising all the ordinances of a city of the
8 first class, the only title necessary shall be An ordinance of the city
9 of, revising all the ordinances of the city. Under such title
10 all the ordinances may be revised in sections and chapters or otherwise,
11 may be corrected, added to, and any part suppressed, and may be repealed
12 with or without a saving clause as to the whole or any part without other
13 title; and

14 (b) For an ordinance used solely to revise ordinances or code
15 sections or to enact new ordinances or code sections in order to adopt
16 statutory changes made by the Legislature which are specific and
17 mandatory and bring the ordinances or code sections into conformance with
18 state law, the title need only state that the ordinance revises those
19 ordinances or code sections affected by or enacts ordinances or code
20 sections generated by legislative changes. Under such title, all such
21 ordinances or code sections may be revised, repealed, or enacted in
22 sections and chapters or otherwise by a single ordinance without other
23 title.

24 (4) Following the release of the 2020 Census of Population data by
25 the United States Department of Commerce, Bureau of the Census, as
26 required by Public Law 94-171, the city council of any city of the first
27 class requesting the adjustment of the boundaries of election districts
28 shall provide to the election commissioner or county clerk (a) written
29 notice of the need and necessity of his or her office to perform such
30 adjustments and (b) a revised election district boundary map that has
31 been approved by the requesting city council and subjected to all public
1 review and challenge ordinances of the city by December 30, 2021. The
2 revised election district boundary map shall be adopted by ordinance.
3 Such ordinance shall be read by title on three different days unless
4 three-fourths of the city council members vote to suspend this
5 requirement.

6 Sec. 4. Section 17-614, Revised Statutes Cumulative Supplement,
7 2020, is amended to read:

8 17-614 (1)(a) ~~(1)~~ All ordinances and resolutions or orders for the
9 appropriation or payment of money shall require for their passage or
10 adoption the concurrence of a majority of all members elected to the city
11 council in a city of the second class or village board of trustees. The

12 mayor of a city of the second class may vote when his or her vote would
 13 provide the additional vote required to attain the number of votes equal
 14 to a majority of the number of members elected to the city council, and
 15 the mayor shall, for the purpose of such vote, be deemed to be a member
 16 of the city council.

17 (b) Ordinances of a general or permanent nature shall be read by
 18 title on three different days unless three-fourths of the city council or
 19 village board of trustees vote to suspend this requirement. ~~Such~~, ~~except~~
 20 ~~that such~~ requirement shall not be suspended for any ordinance for the
 21 annexation of territory or the redrawing of boundaries for city council
 22 or village board of trustees election districts or wards except as
 23 otherwise provided in subsection (3) of this section.

24 (c) In case such requirement is suspended, the ordinances shall be
 25 read by title and then moved for final passage.

26 (d) Three-fourths of the city council or village board of trustees
 27 may require a reading of any such ordinance in full before enactment
 28 under either procedure set out in this section.

29 (2) Ordinances shall contain no subject which is not clearly
 30 expressed in the title, and, except as provided in section 19-915, no
 31 ordinance or section of such ordinance shall be revised or amended unless
 1 the new ordinance contains the entire ordinance or section as revised or
 2 amended and the ordinance or section so amended is repealed, except that:

3 (a) For an ordinance revising all the ordinances of the city of the
 4 second class or village, the title need only state that the ordinance
 5 revises all the ordinances of the city or village. Under such title all
 6 the ordinances may be revised in sections and chapters or otherwise, may
 7 be corrected, added to, and any part suppressed, and may be repealed with
 8 or without a saving clause as to the whole or any part without other
 9 title; and

10 (b) For an ordinance used solely to revise ordinances or code
 11 sections or to enact new ordinances or code sections in order to adopt
 12 statutory changes made by the Legislature which are specific and
 13 mandatory and bring the ordinances or code sections into conformance with
 14 state law, the title need only state that the ordinance revises those
 15 ordinances or code sections affected by or enacts ordinances or code
 16 sections generated by legislative changes. Under such title, all such
 17 ordinances or code sections may be revised, repealed, or enacted in
 18 sections and chapters or otherwise by a single ordinance without other
 19 title.

20 (3) Following the release of the 2020 Census of Population data by
 21 the United States Department of Commerce, Bureau of the Census, as
 22 required by Public Law 94-171, the city council of any city of the second
 23 class or village board of trustees requesting the adjustment of the
 24 boundaries of election districts shall provide to the election
 25 commissioner or county clerk (a) written notice of the need and necessity
 26 of his or her office to perform such adjustments and (b) a revised
 27 election district boundary map that has been approved by the requesting
 28 city council or village board of trustees and subjected to all public
 29 review and challenge ordinances of the city or village by December 30,
 30 2021. The revised election district boundary map shall be adopted by
 31 ordinance. Such ordinance shall be read by title on three different days
 1 unless three-fourths of the members of the city council or village board
 2 of trustees vote to suspend this requirement.

3 Sec. 12. Section 32-716, Reissue Revised Statutes of Nebraska, is
 4 amended to read:

5 32-716 (1) Any person, group, or association desiring to form a new
 6 political party shall present to the Secretary of State petitions
 7 containing signatures totaling not less than one percent of the total
 8 votes cast for Governor at the most recent general election for such
 9 office. The signatures of registered voters on such petitions shall be so

10 distributed as to include registered voters totaling at least one percent
 11 of the votes cast for Governor in the most recent gubernatorial election
 12 in each of the three congressional districts in this state. Petition
 13 signers and petition circulators shall conform to the requirements of
 14 sections 32-629 and 32-630. The petitions shall be filed with the
 15 Secretary of State no later than January 15 ~~February 1~~ before any
 16 statewide primary election for the new political party to be entitled to
 17 have ballot position in the primary election of that year. If the new
 18 political party desires to be established and have ballot position for
 19 the general election and not in the primary election of that year, the
 20 petitions shall be filed with the Secretary of State on or before July 15
 21 ~~August 1~~ of that year. Prior to the circulation of petitions to form a
 22 new political party, a sample copy of the petitions shall be filed with
 23 the Secretary of State by the person, group, or association seeking to
 24 establish the new party. The sample petition shall be accompanied by the
 25 name and address of the person or the names and addresses of the members
 26 of the group or association sponsoring the petition to form a new
 27 political party. The sponsor or sponsors of the petition shall file, as
 28 one instrument, all petition papers comprising a new political party
 29 petition for signature verification with the Secretary of State. All
 30 signed petitions in circulation but not filed with the Secretary of State
 31 shall become invalid after July 15 in the year of the statewide general
 1 election.

2 (2) The petition shall conform to the requirements of section
 3 32-628. The Secretary of State shall prescribe the form of the petition
 4 for the formation of a new political party. The petition shall be
 5 addressed to and filed with the Secretary of State and shall state its
 6 purpose and the name of the party to be formed. Such name shall not be or
 7 include the name of any political party then in existence or any word
 8 forming any part of the name of any political party then in existence,
 9 and in order to avoid confusion regarding party affiliation of a
 10 candidate or registered voter, the name of the party to be formed shall
 11 not include the word "independent" or "nonpartisan". The petition shall
 12 contain a statement substantially as follows:

13 We, the undersigned registered voters of the State of Nebraska and
 14 the county of, being severally qualified to sign this
 15 petition, respectfully request that the above-named new political party
 16 be formed in the State of Nebraska, and each for himself or herself says:
 17 I have personally signed this petition on the date opposite my name; I am
 18 a registered voter of the State of Nebraska and county of
 19 and am qualified to sign this petition; and my date of birth and city,
 20 village, or post office address and my street and number or voting
 21 precinct are correctly written after my name.

22 Sec. 13. Section 32-717, Reissue Revised Statutes of Nebraska, is
 23 amended to read:

24 32-717 Within twenty business ~~ten~~ days after all the petitions to
 25 form a new political party which contain signatures are filed with the
 26 Secretary of State, he or she shall determine the validity and
 27 sufficiency of such petitions and signatures. Clerical and technical
 28 errors in a petition shall be disregarded if the forms prescribed by the
 29 Secretary of State are substantially followed. If the petitions are
 30 determined to be sufficient and valid, the Secretary of State shall issue
 31 a certification establishing the new political party. Copies of such
 1 certification shall be issued to the person, group, or association
 2 forming the new political party. Within twenty days after the
 3 certification of establishment of the new political party by the
 4 Secretary of State, the person, group, or association forming the new
 5 political party or its new officers shall file with the Secretary of
 6 State the constitution and bylaws of such party along with a certified
 7 list of the names and addresses of the officers of the new political

8 party.
9 2. On page 2, line 12; page 4, line 17; page 5, line 22; page 7,
10 line 22; page 10, line 19; and page 12, line 23, after "Census," insert
11 "as required by Public Law 94-171."
12 3. Renumber the remaining sections and correct the repealer
13 accordingly.

MESSAGE(S) FROM THE GOVERNOR

May 5, 2021

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 9e, 17e, 58, 63, 81, 143, 152e, 154, 181e, 320, 320A, 338e, 343, 372, 423, 423A, 451, 466, 497, 500, 501, 507e, 583, and 616 were received in my office on April 29, 2021.

These bills were signed and delivered to the Secretary of State on May 5, 2021.

Sincerely,
(Signed) Pete Ricketts
Governor

RESOLUTION(S)

LEGISLATIVE RESOLUTION 120. Introduced by Lowe, 37.

WHEREAS, Janice Wiebusch grew up in Broken Bow, Nebraska, before attending the University of Nebraska at Lincoln where she earned a bachelor's degree in music education and then a master's degree in music; and

WHEREAS, Janice went on to receive her real estate license in 1976 and her broker's license in 1979; and

WHEREAS, Janice opened CBS Real Estate and Midland Partners before becoming owner and broker for Century 21 Midlands in Kearney, Nebraska; and

WHEREAS, Janice remained active in her community throughout her career, including as a member of the Kearney City Council, the chairperson of the Kearney Area Chamber of Commerce, the president of the Kearney Area Community Foundation, a board member of the Yanney Heritage Park Foundation, and on the board of directors of CHI Health Good Samaritan Hospital; and

WHEREAS, Janice was first appointed to the Nebraska Liquor Control Commission in 2009; and

WHEREAS, Janice participated in her last hearing as a commissioner on Tuesday, May 4, 2021; and

WHEREAS, Janice will end her service to the Nebraska Liquor Control Commission on May 24, 2021, after 12 years.

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

1. That the Legislature thanks Janice Wiebusch for her years of service to her community and the state of Nebraska at the Nebraska Liquor Control Commission.

2. That a copy of this resolution be sent to Janice Wiebusch.

Laid over.

BILL ON FIRST READING

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

LEGISLATIVE BILL 474A. Introduced by Wishart, 27.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 474, One Hundred Seventh Legislature, First Session, 2021.

GENERAL FILE

LEGISLATIVE BILL 132. Senator Linehan offered her amendment, [AM1203](#), found on page 1222, to the committee amendment.

Pending.

AMENDMENT(S) - Print in Journal

Senator Brandt filed the following amendment to [LB132](#):
[AM1247](#)

(Amendments to Standing Committee amendments, AM555)

1 1. Insert the following new sections:

2 Section 1. Sections 1 to 5 of this act shall be known and may be

3 cited as the School Property Tax Stabilization Act.

4 Sec. 2. (1) On or before September 15, 2021, the State Department

5 of Education shall determine the total school property tax stabilization

6 payment to be paid to each eligible school district for the 2021-22

7 school fiscal year. On or before June 30, 2022, and on or before June 30

8 of each year thereafter through 2025, the State Department of Education

9 shall determine the total school property tax stabilization payment to be

10 paid to each eligible school district for the ensuing school fiscal year.

11 (2) A school district is eligible for a school property tax

12 stabilization payment if the school district property tax requirement

13 exceeds:

14 (a) For school fiscal year 2021-22, seventy percent of the formula

15 need calculated for such school district;

16 (b) For school fiscal year 2022-23, sixty-five percent of the

17 formula need calculated for such school district;
18 (c) For school fiscal year 2023-24, sixty percent of the formula
19 need calculated for such school district; and
20 (d) For school fiscal years 2024-25 and 2025-26, fifty-five percent
21 of the formula need calculated for such school district.
22 (3) The school district property tax requirement for each school
23 district shall equal the formula need calculated pursuant to section
24 79-1007.11 minus the sum of the amount to be distributed pursuant to the
25 Tax Equity and Educational Opportunities Support Act as certified
26 pursuant to section 79-1022 and other actual receipts as determined
1 pursuant to section 79-1018.01 for such school district for the school
2 fiscal year for which a total school property tax stabilization payment
3 is being calculated.
4 (4) The school property tax stabilization base for an eligible
5 school district shall equal the amount by which the school district
6 property tax requirement exceeds;
7 (a) For school fiscal year 2021-22, seventy percent of the formula
8 need calculated for such school district;
9 (b) For school fiscal year 2022-23, sixty-five percent of the
10 formula need calculated for such school district;
11 (c) For school fiscal year 2023-24, sixty percent of the formula
12 need calculated for such school district; and
13 (d) For school fiscal years 2024-25 and 2025-26, fifty-five percent
14 of the formula need calculated for such school district.
15 (5) The total school property tax stabilization payment to be paid
16 to an eligible school district shall equal the school property tax
17 stabilization base for such school district multiplied by fifty percent.
18 Sec. 3. The total school property tax stabilization payment
19 calculated pursuant to section 2 of this act for each eligible school
20 district shall be certified to the Director of Administrative Services,
21 the Auditor of Public Accounts, and each school district. The amounts
22 certified pursuant to this section shall be divided and distributed in
23 ten as nearly as possible equal monthly school property tax stabilization
24 payments on the last business day of each month beginning in September of
25 the school fiscal year for which such school property tax stabilization
26 payments were certified and ending in June of such school fiscal year,
27 except that a school district that would receive monthly school property
28 tax stabilization payments of less than one thousand dollars shall
29 receive the total school property tax stabilization payment on the last
30 business day of December during such school fiscal year. The amounts
31 certified pursuant to this section shall be shown as budgeted non-
1 property-tax receipts and deducted prior to calculating the property tax
2 request in the school district's general fund budget statement as
3 provided to the Auditor of Public Accounts pursuant to section 79-1024.
4 Sec. 4. It is the intent of the Legislature to appropriate the
5 amount necessary to carry out the School Property Tax Stabilization Act
6 for each school fiscal year. It is also the intent of the Legislature to
7 fully fund the Tax Equity and Educational Opportunities Support Act
8 before funding the School Property Tax Stabilization Act.
9 Sec. 5. The School Property Tax Stabilization Act shall terminate
10 on July 1, 2026.
11 Sec. 6. Section 79-1018.01, Revised Statutes Cumulative Supplement,
12 2020, is amended to read:
13 79-1018.01 Except as otherwise provided in this section, local
14 system formula resources include other actual receipts available for the
15 funding of general fund operating expenditures as determined by the
16 department for the second school fiscal year immediately preceding the
17 school fiscal year in which aid is to be paid. Other actual receipts
18 include:
19 (1) Public power district sales tax revenue;

- 20 (2) Fines and license fees;
- 21 (3) Tuition receipts from individuals, other districts, or any other
 22 source except receipts derived from adult education, receipts derived
 23 from summer school tuition, receipts derived from early childhood
 24 education tuition, tuition receipts from converted contracts beginning
 25 with the calculation of state aid to be distributed in school fiscal year
 26 2011-12, and receipts from educational entities as defined in section
 27 79-1201.01 for providing distance education courses through the
 28 Educational Service Unit Coordinating Council to such educational
 29 entities;
- 30 (4) Transportation receipts;
- 31 (5) Interest on investments;
- 1 (6) Other miscellaneous noncategorical local receipts, not including
 2 receipts from private foundations, individuals, associations, or
 3 charitable organizations;
- 4 (7) Special education receipts;
- 5 (8) Special education receipts and non-special education receipts
 6 from the state for wards of the court and wards of the state;
- 7 (9) All receipts from the temporary school fund. Receipts from the
 8 temporary school fund shall only include (a) receipts pursuant to section
 9 79-1035 and (b) the receipt of funds pursuant to section 79-1036 for
 10 property leased for a public purpose as set forth in subdivision (1)(a)
 11 of section 77-202;
- 12 (10) Motor vehicle tax receipts received;
- 13 (11) Pro rata motor vehicle license fee receipts;
- 14 (12) Other miscellaneous state receipts excluding revenue from the
 15 School Property Tax Stabilization Act and the textbook loan program
 16 authorized by section 79-734;
- 17 (13) Impact aid entitlements for the school fiscal year which have
 18 actually been received by the district to the extent allowed by federal
 19 law;
- 20 (14) All other noncategorical federal receipts;
- 21 (15) Receipts under the federal Medicare Catastrophic Coverage Act
 22 of 1988, as such act existed on January 1, 2014, as authorized pursuant
 23 to sections 43-2510 and 43-2511 for services to school-age children,
 24 excluding amounts designated as reimbursement for costs associated with
 25 the implementation and administration of the billing system pursuant to
 26 section 43-2511;
- 27 (16) Receipts for accelerated or differentiated curriculum programs
 28 pursuant to sections 79-1106 to 79-1108.03; and
- 29 (17) Revenue received from the nameplate capacity tax distributed
 30 pursuant to section 77-6204.
- 31 Sec. 9. Original section 79-1018.01, Revised Statutes Cumulative
 1 Supplement, 2020, is repealed.
- 2 2. Renumber the remaining sections accordingly.

Senator Groene filed the following amendment to LB132:

AM1246

(Amendments to Standing Committee amendments, AM555)

- 1 1. On page 1, line 18, strike "school administrator" and insert
 2 "local agricultural producer"; and in line 21 strike "school
 3 administrator" and insert "local business owner".
- 4 2. On page 2, line 1, strike "a school administrator" and insert "an
 5 individual working in private business".

Senator Wayne filed the following amendment to LB496:

AM1083

(Amendments to Standing Committee amendments, AM1054)

- 1 1. Strike section 7 and insert the following new sections:

2 Section 1. Section 29-2101, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 29-2101 A new trial, after a verdict of conviction, may be granted,
5 on the application of the defendant, for any of the following grounds
6 affecting materially his or her substantial rights:

7 (1) Irregularity in the proceedings of the court, of the prosecuting
8 attorney, or of the witnesses for the state or in any order of the court
9 or abuse of discretion by which the defendant was prevented from having a
10 fair trial;

11 (2) ~~Misconduct~~ ~~misconduct~~ of the jury, of the prosecuting attorney,
12 or of the witnesses for the state;

13 (3) ~~Accident~~ ~~accident~~ or surprise which ordinary prudence could not
14 have guarded against;

15 (4) ~~The~~ ~~the~~ verdict is not sustained by sufficient evidence or is
16 contrary to law;

17 (5) ~~Newly~~ ~~newly~~ discovered evidence material for the defendant which
18 he or she could not with reasonable diligence have discovered ~~or~~ ~~and~~
19 produced at the trial. For purposes of this subdivision, testimony or
20 evidence from a witness who previously had a testimonial or
21 constitutional privilege and who, because of such privilege, refused to
22 testify or produce evidence in a prior proceeding, shall be considered
23 newly discovered evidence;

24 (6) ~~Newly~~ ~~newly~~ discovered exculpatory DNA or similar forensic
25 testing evidence obtained under the DNA Testing Act; or

26 (7) ~~Error~~ ~~error~~ of law occurring at the trial.

1 The changes made to this section by this legislative bill shall
2 apply to all persons, otherwise eligible in accordance with the
3 provisions of this section, whether convicted prior to, on, or subsequent
4 to the operative date of this section.

5 Sec. 2. Section 29-2103, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 29-2103 (1) A motion for new trial shall be made by written
8 application and may be filed either during or after the term of the court
9 at which the verdict was rendered.

10 (2) A motion for a new trial shall state the grounds under section
11 29-2101 which are the basis for the motion and shall be supported by
12 evidence as provided in section 29-2102.

13 (3) A motion for new trial based on the grounds set forth in
14 subdivision (1), (2), (3), (4), or (7) of section 29-2101 shall be filed
15 within ten days after the verdict was rendered unless such filing is
16 unavoidably prevented, and the grounds for such motion may be stated by
17 directly incorporating the appropriate language of section 29-2101
18 without further particularity.

19 (4)(a) Except as provided in subdivision (4)(b) of this section, a

20 (4) ~~A~~ motion for new trial based on the grounds set forth in subdivision
21 (5) of section 29-2101 shall be filed within a reasonable time after the
22 discovery of the new evidence and cannot be filed more than five years
23 after the date of the verdict, unless the motion and supporting documents
24 show the new evidence could not with reasonable diligence have been
25 discovered ~~or~~ ~~and~~ produced at trial and such evidence is so substantial
26 that a different result may have occurred.

27 (b) The time limitation in this subsection does not apply if the
28 motion for a new trial involves a conviction for a Class I, IA, or IB
29 felony.

30 (5) A motion for new trial based on the grounds set forth in
31 subdivision (6) of section 29-2101 shall be filed within ninety days
1 after a final order is issued under section 29-4123 or within ninety days
2 after the hearing if no final order is entered, whichever occurs first.

3 (6) The changes made to this section by this legislative bill shall
4 apply to all persons, otherwise eligible in accordance with the

5 provisions of this section, whether convicted prior to, on, or subsequent
6 to the operative date of this section.

7 Sec. 9. Sections 3, 4, 5, 6, 7, 8, and 11 of this act become
8 operative on January 1, 2022. The other sections of this act become
9 operative on their effective date.

10 Sec. 10. Original sections 29-2101 and 29-2103, Reissue Revised
11 Statutes of Nebraska, are repealed.

12 2. On page 5, line 21, strike "act" and insert "section".

13 3. Renumber the remaining sections accordingly.

Senator Wayne filed the following amendment to LB496:
AM1204

(Amendments to Standing Committee amendments, AM1054)

1 1. Strike section 7 and insert the following sections:

2 Section 1. Section 29-1401, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 29-1401 (1) The district courts are hereby vested with power to call
5 grand juries.

6 (2) A grand jury may be called and summoned in the manner provided
7 by law on such day of a regular term of the district court in each year
8 in each county of the state as the district court may direct and at such
9 other times and upon such notice as the district court may deem
10 necessary.

11 (3) District courts shall call a grand jury in each case that a
12 petition meets the requirements of section 32-628, includes a recital as
13 to the reason for requesting the convening of the grand jury and a
14 specific reference to the statute or statutes which are alleged to have
15 been violated, and is signed not more than ninety days prior to the date
16 of filing under section 29-1401.02 by not less than ten percent of the
17 registered voters of the county who cast votes for the office of Governor
18 in such county at the most recent general election held for such office.

19 (4) District courts shall call a grand jury in each case upon
20 certification by the county coroner or coroner's physician that a person
21 has died while being apprehended by or while in the custody of a law
22 enforcement officer or detention personnel. In each case subject to this
23 subsection:

24 (a) Law enforcement personnel from the jurisdiction in which the
25 death occurred shall immediately secure the scene, preserve all evidence,
26 and investigate the matter as in any other homicide. The case shall be
1 treated as an open, ongoing matter until all evidence, reports, and other
2 relevant material which has been assembled are transferred to the special
3 prosecutor appointed a prosecuting attorney selected pursuant to
4 subdivision (b) of this subsection;

5 (b) ~~The county attorney or a member of his or her staff shall be the~~
6 ~~prosecuting attorney.~~ Except as provided in subdivision (d) of this
7 subsection, ~~the prosecuting attorney shall,~~ as soon as practicable, the
8 court shall appoint a special prosecutor who has had at least five years
9 experience in criminal litigation, including felony litigation. The
10 special prosecutor shall select a team of three peace officers trained to
11 investigate homicides. ~~At least two of such investigators shall be from~~
12 ~~jurisdictions outside the jurisdiction where agencies other than the~~
13 ~~agency under which the death occurred.~~ The team shall examine all
14 evidence concerning the cause of death and present the findings of its
15 investigation to the special prosecutor prosecuting attorney;

16 (c) A grand jury shall be impaneled within thirty days after the
17 certification by the county coroner or coroner's physician, unless the
18 court extends such time period upon the showing of a compelling reason;
19 and

20 (d) A special prosecutor need not be appointed in ~~in~~ those cases in
21 which the death has been certified by a licensed practicing physician to

22 be from natural causes ~~and~~ ; the county attorney or a member of his or
 23 her staff may present such finding to a grand jury ~~without selecting a~~
 24 ~~three member team of peace officers to investigate.~~
 25 Sec. 8. Sections 2, 3, 4, 5, 6, 7, and 10 of this act become
 26 operative on January 1, 2022. The other sections of this act become
 27 operative on their effective date.
 28 Sec. 9. Original section 29-1401, Reissue Revised Statutes of
 29 Nebraska, is repealed.
 30 2. On page 5, line 21, strike "act" and insert "section".
 31 3. Renumber the remaining sections accordingly.

Senator Brewer filed the following amendment to LB51:
AM1249

(Amendments to Standing Committee amendments, AM745)

1 1. Strike sections 4, 5, 6, 7, 8, 13, and 27 and all amendments
 2 thereto and insert the following new sections:
 3 Sec. 19. Section 81-1438, Reissue Revised Statutes of Nebraska, is
 4 amended to read:
 5 81-1438 (1) The governing body of any county or city of this state,
 6 other than (a) (1) a county containing a city of the metropolitan or
 7 primary class or (b) (2) a city of the metropolitan or primary class, may
 8 establish a law enforcement reserve force. Members of such force shall be
 9 appointed at the discretion of the governing body. The governing body may
 10 limit the size of such reserve force.
 11 (2)(a) A member of a law enforcement reserve force appointed under
 12 this section cannot make arrests, issue citations, detain members of the
 13 public, or seize evidence without being under the direct supervision of a
 14 physically present certified law enforcement officer.
 15 (b) A reserve officer may perform functions at the direction of the
 16 county sheriff or chief of police when under the direct supervision of
 17 the county sheriff or chief of police. Such functions shall not include
 18 making arrests, issuing citations, detaining members of the public, or
 19 seizing evidence.
 20 (c) A reserve officer is not limited with respect to the amount of
 21 hours worked annually.
 22 Sec. 20. Section 81-1439, Reissue Revised Statutes of Nebraska, is
 23 amended to read:
 24 81-1439 (1) The Nebraska Commission on Law Enforcement and Criminal
 25 Justice shall establish minimum physical, mental, educational, and moral
 26 qualifications for all members of any law enforcement reserve force. The
 1 commission shall also establish training and continuing education
 2 standards and be responsible for providing such training for all members.
 3 The commission shall delegate its responsibilities pursuant to this
 4 section to the Nebraska Police Standards Advisory Council.
 5 (2) Individuals appointed to a law enforcement reserve force shall
 6 receive training through or under the supervision of the Nebraska Law
 7 Enforcement Training Center and shall achieve the minimum training
 8 standards within one year after the date of appointment. Such training
 9 may be provided by the training center through regional workshops,
 10 training sessions, or similar means of instruction anywhere in the state.
 11 (3) Members of the law enforcement reserve force shall be subject to
 12 the same continuing education requirements as ~~all other~~ law enforcement
 13 officers pursuant to sections 81-1401 to 81-1414.10 ~~and sections 7, 9 to~~
 14 ~~11, and 13 to 18 of this act.~~
 15 (4) The governing body establishing a law enforcement reserve force
 16 shall adopt and publish a reserve force manual setting forth the minimum
 17 qualifications, training standards, standard operating procedures, and
 18 continuing education requirements for such force and such higher
 19 qualifications, standards, and operating procedures as may actually be
 20 used.

21 Sec. 21. Section 81-1440, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 81-1440 Subject to the restrictions set forth in subsection (2) of
24 section 81-1438, law Law enforcement reserve officers shall serve as
25 peace officers on the orders and at the discretion of the sheriff, the
26 mayor, or the chief of police.

27 Sec. 22. Section 81-1443, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 81-1443 (1) Subject to the restrictions set forth in subsection (2)
30 of section 81-1438, law Law enforcement reserve officers, upon being
31 activated by the sheriff, the mayor, or the chief of police, and while on
1 assigned duty, shall be vested with the same rights, privileges,
2 obligations, and duties of any other peace officer of this state.

3 (2) No person appointed to the reserve force may carry a weapon or
4 otherwise act as a peace officer until such person ~~he~~ has been approved
5 by the governing body. After approval, such person ~~he~~ may carry a weapon
6 only when authorized by the sheriff or chief of police and when
7 discharging official duties as a duly constituted peace officer.

8 (3) Law enforcement reserve officers shall be subordinate to regular
9 force officers, shall not serve as a peace officer unless under the
10 direction of regular officers, and when serving with regular force
11 officers shall wear no insignia of rank. Each department for which a
12 reserve force is established shall appoint a regular force officer as the
13 reserve force coordinating and supervising officer. Such regular officer
14 shall report directly to the sheriff or the chief of police.

15 2. On page 27, line 4, strike "or"; after line 4 insert the
16 following new subdivision:

17 "(viii) A member of a law enforcement reserve force appointed in
18 accordance with section 81-1438; or"; and in line 5 strike "(viii)" and
19 insert "(ix)".

20 3. On page 31, line 1, strike "and"; in line 2, before the stricken
21 "10" insert "(11)" and reinstate the stricken matter beginning with
22 "Establish" through line 4; and in line 5, strike "(11)", show as
23 stricken, and insert "(12)".

24 4. On page 44, line 30, after "arrest" insert "in a manner that
25 poses a risk of bodily injury to the officer or any other person".

26 5. On page 45, after line 6 insert the following new subdivision:
27 "(a) Bodily injury has the same meaning as in section 28-109;"; in
28 line 7 strike "(a)" and insert "(b)"; in line 10 strike "(b)" and insert
29 "(c)"; and in line 12 strike "(c)" and insert "(d)".

30 6. Renumber the remaining sections and correct the repealer and
31 internal references accordingly.

ANNOUNCEMENT

Senator Brewer announced the Government, Military and Veterans Affairs
Committee will hold an executive session Thursday, May 6, 2021, at 10:30
a.m., in Room 2022.

UNANIMOUS CONSENT - Add Cointroducer(s)

Unanimous consent to add Senator(s) as cointroducer(s). No objections. So
ordered.

Senator Kolterman name added to LB236.

Senator McKinney name added to LB241.

ADJOURNMENT

At 8:00 p.m., on a motion by Senator Flood, the Legislature adjourned until 9:00 a.m., Thursday, May 6, 2021.

Patrick J. O'Donnell
Clerk of the Legislature

