

FIFTY-FOURTH DAY - APRIL 2, 2009
LEGISLATIVE JOURNAL
ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION
FIFTY-FOURTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, April 2, 2009

PRAYER

The prayer was offered by Pastor Jordan Stubbendick, Bethlehem Lutheran Church, Davey.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Rogert presiding.

The roll was called and all members were present except Senator Howard who was excused; and Senators Dubas and Friend who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-third day was approved.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 532. Placed on Select File.

LEGISLATIVE BILL 511. Placed on Select File with amendment.
ER8047

- 1 1. On page 1, line 2, strike "71-5803.06" and insert
- 2 "71-5803.09"; in line 3 strike "and"; and in line 4 after "section"
- 3 insert "; and to declare an emergency".

LEGISLATIVE BILL 464. Placed on Select File.

LEGISLATIVE BILL 464A. Placed on Select File.

LEGISLATIVE BILL 463. Placed on Select File with amendment.
ER8048

- 1 1. On page 1, strike lines 2 through 6 and insert
- 2 "sections 38-1,140, 38-3301, 38-3302, 38-3314, and 38-3321, Reissue
- 3 Revised Statutes of Nebraska, and sections 71-8909 and 71-8910,

4 Revised Statutes Cumulative Supplement, 2008; to provide for
 5 licensure of animal therapists; to change provisions relating
 6 to the practice of veterinary medicine and surgery and the
 7 performance of collaborative animal health care tasks; to provide
 8 for a civil penalty and disciplinary grounds; to redefine terms
 9 under the Veterinary Drug Distribution Licensing Act; to harmonize
 10 provisions; and to repeal the original sections."

LEGISLATIVE BILL 551. Placed on Select File with amendment.
 ER8049

- 1 1. On page 1, line 4, after the second semicolon insert
- 2 "and"; and strike beginning with the semicolon in line 5 through
- 3 "emergency" in line 6.

LEGISLATIVE BILL 517. Placed on Select File with amendment.
 ER8050

- 1 1. On page 1, line 3, strike "an additional basis" and
- 2 insert "additional grounds".

(Signed) Jeremy Nordquist, Chairperson

MOTIONS - Approve Appointments

Senator Karpisek moved the adoption of the General Affairs Committee report for the confirmation of the following appointment(s) found on page 864:

Nebraska Arts Council
 Vicki Bromm
 Julie Jacobson
 Louise Kent
 Robert Nefsky
 Jeanne Ross

Voting in the affirmative, 35:

Adams	Fischer	Hansen	Mello	Schilz
Campbell	Flood	Heidemann	Nantkes	Stuthman
Carlson	Fulton	Janssen	Nelson	Sullivan
Christensen	Gay	Karpisek	Pankonin	Utter
Coash	Giese	Lathrop	Pirsch	Wallman
Cook	Gloor	Louden	Price	White
Cornett	Hadley	McCoy	Rogert	Wightman

Voting in the negative, 0.

Present and not voting, 11:

Ashford	Dierks	Langemeier	Nordquist
Avery	Haar	Lautenbaugh	Pahls
Council	Harms	McGill	

Excused and not voting, 3:

Dubas	Friend	Howard
-------	--------	--------

The appointments were confirmed with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Senator Karpisek moved the adoption of the General Affairs Committee report for the confirmation of the following appointment(s) found on page 864:

State Electrical Board
Stanley Elsasser
George Morrissey

Voting in the affirmative, 37:

Adams	Council	Hadley	Mello	Stuthman
Ashford	Dierks	Hansen	Nantkes	Utter
Campbell	Fischer	Janssen	Nelson	Wallman
Carlson	Friend	Karpisek	Nordquist	White
Christensen	Fulton	Lathrop	Pirsch	Wightman
Coash	Gay	Louden	Price	
Cook	Giese	McCoy	Rogert	
Cornett	Gloor	McGill	Schilz	

Voting in the negative, 0.

Present and not voting, 10:

Avery	Haar	Heidemann	Lautenbaugh	Pankonin
Flood	Harms	Langemeier	Pahls	Sullivan

Excused and not voting, 2:

Dubas	Howard
-------	--------

The appointments were confirmed with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 430. Committee AM835, found on page 840 and considered on page 880, was renewed.

Senator McCoy renewed his amendment, AM936, found on page 881, to the committee amendment.

Senator McCoy moved for a call of the house. The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

Senator McCoy requested a roll call vote on his amendment.

Voting in the affirmative, 29:

Adams	Dierks	Hadley	Louden	Pirsch
Ashford	Fischer	Hansen	McCoy	Price
Carlson	Flood	Heidemann	Mello	Schilz
Christensen	Friend	Janssen	Nelson	Utter
Coash	Fulton	Langemeier	Nordquist	White
Cornett	Gay	Lautenbaugh	Pahls	

Voting in the negative, 15:

Campbell	Dubas	Haar	Lathrop	Sullivan
Cook	Giese	Harms	McGill	Wallman
Council	Gloor	Karpisek	Rogert	Wightman

Present and not voting, 3:

Avery	Nantkes	Stuthman
-------	---------	----------

Excused and not voting, 2:

Howard	Pankonin
--------	----------

The McCoy amendment was adopted with 29 ayes, 15 nays, 3 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Price renewed his amendment, FA24, found on page 881, to the committee amendment.

The Price amendment was adopted with 33 ayes, 3 nays, 11 present and not voting, and 2 excused and not voting.

Senator Price offered the following amendment to the committee amendment:

AM940

(Amendments to Standing Committee amendments, AM835)

- 1 1. On page 19, line 24, after "(b)" insert "or (c)".
- 2 2. On page 20, line 4, after the semicolon insert "and
- 3 (c) If an applicant is a resident of this state, but
- 4 resides elsewhere because he or she is the spouse or a dependent of
- 5 a member of the United States Armed Forces, such applicant shall be
- 6 considered a resident of this state for purposes of this section;".

SENATOR FRIEND PRESIDING

Senator Price withdrew and refiled his amendment, AM940.

The committee amendment, as amended, was adopted with 39 ayes, 2 nays, 6 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 4 nays, 4 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 679. Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 11 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 198. Title read. Considered.

Committee AM679, found on page 732, was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 322. Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 549. Title read. Considered.

Committee AM822, found on page 837, was considered.

Pending.

RESOLUTION

LEGISLATIVE RESOLUTION 80. Introduced by Cornett, 45.

WHEREAS, the Student Veterans Organization of Bellevue University, a chapter of the Student Veterans of America, makes vital contributions to fellow veterans in support of their academic success and pursuit of education; and

WHEREAS, student veterans have an impact on the advocacy of veterans abroad and contribute greatly to the State of Nebraska; and

WHEREAS, the State of Nebraska depends on veterans as a vital community asset and as responsible citizens who contribute to promoting rights and benefits for veterans; and

WHEREAS, Bellevue University has long served the needs of veterans and continues to do so through the formation of its Student Veterans Organization; and

WHEREAS, the Student Veterans Organization of Bellevue University, formed to further the advocacy of student veterans throughout the state, is Nebraska's first chapter of the Student Veterans of America.

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

1. That the Legislature honors the Student Veterans Organization of Bellevue University for being Nebraska's first chapter of the Student Veterans of America and for its support of veterans throughout the State of Nebraska.

2. That a copy of this resolution be sent to the Student Veterans Organization of Bellevue University.

Laid over.

COMMITTEE REPORT

Revenue

LEGISLATIVE BILL 386. Indefinitely postponed.

(Signed) Abbie Cornett, Chairperson

UNANIMOUS CONSENT - Add Cointroducers

Senator Wallman asked unanimous consent to add his name as cointroducer to LB481. No objections. So ordered.

Senators Mello and Nordquist asked unanimous consent to add their names as cointroducers to LB675. No objections. So ordered.

ANNOUNCEMENT

Senator Ashford announced the Judiciary Committee will hold an executive session Thursday, April 2, 2009, at 12:00 p.m., in Room 1113.

VISITORS

Visitors to the Chamber were Ryan Busboom from Cortland; Blake Rademaker and Clayton Parsons from Holdrege; 8 eighth-grade students and teacher from Hyannis; 41 fourth-grade students from St. Wenceslaus School, Wahoo; 37 fourth-grade students from Stolley Park Elementary, Grand Island; 2 members of FFA, teacher, and sponsor from Alliance; 12 fourth-grade students and teacher from Cornerstone Christian School, Bellevue; 51 fourth-grade students and teachers from Manchester Elementary, Omaha; members of the National Association of Social Workers from across the state; and 23 fourth-grade students and teacher from E. N. Swett Elementary, South Sioux City.

RECESS

At 12:00 p.m., on a motion by Senator Schilz, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Howard and Nantkes who were excused; and Senators Dierks and Harms who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 549. Committee AM822, found on page 837 and considered in this day's Journal, was adopted with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 5 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 136. Title read. Considered.

Committee AM867, found on page 855, was considered.

Pending.

BILL ON FIRST READING

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

LEGISLATIVE BILL 136A. Introduced by Avery, 28.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 136, One Hundred First Legislature, First Session, 2009.

COMMITTEE REPORT

Government, Military and Veterans Affairs

LEGISLATIVE BILL 279. Placed on General File with amendment. AM909

1 1. Strike the original sections and insert the following
2 new sections:
3 Section 1. Section 14-407, Reissue Revised Statutes of
4 Nebraska, is amended to read:
5 14-407 ~~The city~~ A city of the metropolitan class shall
6 exercise the powers conferred by sections 14-401 to 14-418 through
7 such appropriate planning board or official as exists in such city.

8 When the city is considering the adoption or amendment of
9 a zoning ordinance or the approval of the platting or replatting of
10 any development of real estate, the city shall notify any military
11 installation which is located within the corporate boundary limits
12 or the extraterritorial zoning jurisdiction of the city if the
13 city has received a written request for such notification from
14 the military installation. The planning board shall deliver the
15 notification to the military installation at least ten days prior
16 to the meeting of the planning board at which the proposal is to be
17 considered.

18 Sec. 2. Section 15-1103, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 15-1103 The planning director shall be responsible for
21 preparing the comprehensive plan and amendments and extensions
22 thereto; and for submitting such plans and modifications to the
23 city planning commission for its consideration and action. The
1 commission shall review such plans and modifications; and those
2 which the city council may suggest; and, after holding at least
3 one public hearing on each proposed action, shall provide its
4 recommendations to the city council within a reasonable period
5 of time. The city council shall review the recommendations of
6 the planning commission and, after at least one public hearing
7 on each proposed action, shall adopt or reject such plans as
8 submitted, except that the city council may, by an affirmative vote
9 of at least five members of the city council, adopt a plan or
10 amendments to the proposed plan different from that recommended by
11 the planning commission.

12 When the city is considering the adoption or amendment of
 13 a zoning ordinance or the approval of the platting or replatting of
 14 any development of real estate, the planning director shall notify
 15 any military installation which is located within the corporate
 16 boundary limits or the extraterritorial zoning jurisdiction of
 17 the city if the city has received a written request for such
 18 notification from the military installation. The planning director
 19 shall deliver the notification to the military installation at
 20 least ten days prior to the meeting of the planning commission at
 21 which the proposal is to be considered.

22 Sec. 3. Section 19-923, Reissue Revised Statutes of
 23 Nebraska, is amended to read:

24 19-923 (1) In order to provide for orderly school
 25 planning and development, a municipality considering the adoption
 26 or amendment of a zoning ordinance, or approval of the platting
 27 or replatting of any development of real estate, shall notify
 1 the board of education of each school district in which the real
 2 estate, or some part thereof, to be affected by such a proposal
 3 lies, of the next regular meeting of the planning commission at
 4 which such proposal is to be considered and shall submit a copy of
 5 the proposal to the board of education at least ten days prior to
 6 such meeting.

7 (2) When a municipality is considering the adoption or
 8 amendment of a zoning ordinance or the approval of the platting
 9 or replatting of any development of real estate, the municipality
 10 shall notify any military installation which is located within
 11 the corporate boundary limits or the extraterritorial zoning
 12 jurisdiction of the municipality if the municipality has received
 13 a written request for such notification from the military
 14 installation. The municipality shall deliver the notification to
 15 the military installation at least ten days prior to the meeting of
 16 the planning commission at which the proposal is to be considered.

17 (3) The provisions of this section shall not apply
 18 to zoning, rezoning, or approval of plats by any city of the
 19 metropolitan or primary class, which has adopted a comprehensive
 20 subdivision ordinance pursuant to sections 14-115 and 14-116, or
 21 Chapter 15, articles 9 and 11. Plats of subdivisions approved by
 22 the agent of a municipality designated pursuant to section 19-916
 23 shall not be subject to the notice ~~requirement~~ requirements in this
 24 section.

25 Sec. 4. When a county planning commission appointed
 26 pursuant to section 23-114.01 is considering the adoption or
 27 amendment of a zoning ordinance or the approval of the platting or
 1 replatting of any development of real estate, the commission shall
 2 notify any military installation which is located within the county
 3 if the county has received a written request for such notification
 4 from the military installation. The county planning commission
 5 shall deliver the notification to the military installation at
 6 least ten days prior to the meeting of the county planning

- 7 commission at which the proposal is to be considered.
 8 Sec. 5. Original sections 14-407, 15-1103, and 19-923,
 9 Reissue Revised Statutes of Nebraska, are repealed.

(Signed) Bill Avery, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 81. Introduced by Dierks, 40; White, 8.

WHEREAS, Barbara Kay Burbach, a daughter, sister, friend, lawyer, columnist, and reporter, died unexpectedly on March 27, 2009, at the age of 46; and

WHEREAS, Barbara Kay Burbach grew up in Wynot, Nebraska, in Cedar County, a place that was always very near and dear to her heart; and

WHEREAS, Barbara Kay Burbach graduated from Wynot Public High School in 1980. She graduated with honors from Creighton University in 1984 and went on to earn a law degree from Yale University Law School in 1989; and

WHEREAS, Barbara Kay Burbach was a member of the Nebraska and New York State Bar Associations and worked in New York City as an attorney at the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP; and

WHEREAS, Barbara Kay Burbach survived a near-fatal taxi cab accident in 1990, which ended her career in New York City and left her with a traumatic brain injury and years of recurring health problems; and

WHEREAS, Barbara Kay Burbach returned to Nebraska and while recovering from the accident worked diligently to obtain a master's degree in journalism from the University of Nebraska - Lincoln; and

WHEREAS, Barbara Kay Burbach enjoyed reporting on current events in federal and state government, had a special fondness for the Nebraska Legislature, and wrote columns for the Nebraska Press Association and the Cedar County News; and

WHEREAS, Barbara Kay Burbach was an inspiration to family, neighbors, and friends who admired her positive attitude, love of life, amazing work ethic, and perseverance as she faced many challenges during her lifetime.

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

1. That the Legislature expresses and extends its sympathy and condolences to the family of Barbara Kay Burbach.

2. That a copy of this resolution be sent to the family of Barbara Kay Burbach.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 136. Committee AM867, found on page 855 and considered in this day's Journal, was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 601. Title read. Considered.

Committee AM855, found on page 857, was adopted with 33 ayes, 0 nays, 11 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 3 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 98. Title read. Considered.

Committee AM641, found on page 721, was considered.

Pending.

COMMITTEE REPORTS

Urban Affairs

LEGISLATIVE BILL 495. Placed on General File.

LEGISLATIVE BILL 524. Placed on General File.

LEGISLATIVE BILL 562. Placed on General File.

LEGISLATIVE BILL 104. Placed on General File with amendment. AM916 is available in the Bill Room.

LEGISLATIVE BILL 360. Placed on General File with amendment. AM913

- 1 1. On page 3, line 1, strike "except that such"
- 2 and insert "with regard to property located within the corporate
- 3 boundaries of that city. Such"; in line 4 strike "and" and insert
- 4 "or"; in line 10 after "county" insert "with regard to property
- 5 located within the corporate boundaries of the city"; in line 12
- 6 after "property" insert "located within the corporate boundaries of
- 7 the city"; and after line 14 insert the following new subsection:
- 8 "(4) Pursuant to the provisions of the Interlocal
- 9 Cooperation Act, a city of the metropolitan class that creates
- 10 a land reutilization authority may enter into an agreement with
- 11 any county to authorize the city's land reutilization authority to
- 12 exercise on behalf of such county the authority provided by the
- 13 act for its own land reutilization authority upon such terms and
- 14 conditions as the city and county may agree.".

15 2. On page 4, line 20, strike "creates" and insert
 16 "determines to create"; and in lines 21 and 22 strike "there is
 17 hereby created" and insert "the city by ordinance may create".

LEGISLATIVE BILL 441. Placed on General File with amendment.
 AM392

1 1. Strike the original sections and insert the following
 2 new sections:
 3 Section 1. Section 14-813, Reissue Revised Statutes of
 4 Nebraska, is amended to read:
 5 14-813 Whenever the right of appeal is conferred by
 6 this act, the procedure, unless otherwise provided shall be
 7 substantially as follows: The claimant or appellant shall, within
 8 twenty days ~~from~~after the date of the order complained of, execute
 9 a bond to such city with sufficient surety to be approved by the
 10 clerk, conditioned for the faithful prosecution of such appeal,
 11 and the payment of all costs adjudged against the appellant. Such
 12 bond shall be filed in the office of the city clerk. ~~It shall~~
 13 ~~be the duty of the city clerk, on payment or tender to him of~~
 14 ~~the costs of the transcript, at the rate of ten cents per hundred~~
 15 ~~words, to prepare~~ Upon the request of the appellant and the payment
 16 by the appellant to the city clerk or his or her designee of
 17 the estimated cost of preparation of the transcript, the city
 18 clerk shall cause a complete transcript of the proceedings of the
 19 city relating to ~~their~~its decision ~~thereon~~to be prepared. The
 20 cost of preparing the transcript shall be calculated in the same
 21 manner as the calculation of the fee for a court reporter for
 22 the preparation of a bill of exceptions as specified by rules
 23 of practice prescribed by the Supreme Court. At such time as the
 1 completed transcript is presented to the appellant, the appellant
 2 shall pay the amount of the cost of preparation in excess of
 3 the estimated amount already paid or shall receive a refund of
 4 any amount in excess of the actual cost. An appellant determined
 5 to be indigent shall not be required to pay a bond or any
 6 costs associated with such transcript preparation. For purposes of
 7 this section, indigent means the inability to financially pursue
 8 the appeal without prejudicing the appellant's ability to provide
 9 economic necessities for the appellant or the appellant's family.
 10 Indigency shall be determined by the court having jurisdiction over
 11 the appeal upon motion of the appellant. The court shall make a
 12 reasonable inquiry to determine the appellant's financial condition
 13 and shall consider such factors as the appellant's income, the
 14 availability to the appellant of other resources, including real
 15 and personal property, bank accounts, social security benefits,
 16 and unemployment or other benefits, the appellant's normal living
 17 expenses, the appellant's outstanding debts, the number and age of
 18 the appellant's dependents, and other relevant circumstances. It
 19 shall be the duty of the claimant or appellant to file a petition
 20 in the district court as in the commencement of an action within

21 thirty days ~~from~~ after the date of the order or award appealed
 22 from, and he or she shall also file such transcript before answer
 23 day. The proceedings of the district court shall thereafter be
 24 the same as on appeal from the county board. Any taxpayer may
 25 appeal from the allowance of any claim against the city by giving
 26 a bond and complying with ~~the foregoing provisions; PROVIDED, the~~
 27 ~~foregoing provisions~~ this section.

1 This section shall not be so construed as to prevent the
 2 city council from once reconsidering ~~their~~ its action on any claim
 3 or award upon ten days' notice to the parties interested.

4 Sec. 2. Section 15-1202, Reissue Revised Statutes of
 5 Nebraska, is amended to read:

6 15-1202 (1) The party appealing shall within thirty days
 7 ~~from~~ after the date of the order or decision complained of ~~(1)~~ File
 8 (a) file a notice of appeal with the city clerk specifying the
 9 parties taking the appeal and the order or decision appealed from
 10 and ~~shall~~ serve a copy of the notice upon the city attorney and
 11 (b) deposit the fees and bond or undertaking required pursuant to
 12 subsection (2) of this section or file an affidavit pursuant to
 13 subsection (3) of this section. The notice of appeal shall serve as
 14 a praecipe for a transcript.;

15 (2) Except as provided in subsection (3) of this section,
 16 the appellant shall:

17 ~~(2)~~ (a) Deposit with the city clerk a docket fee in the
 18 amount of the filing fee in district court for cases originally
 19 commenced in district court;

20 ~~(3)~~ (b) Deposit with the city clerk a cash bond or
 21 undertaking with at least one good and sufficient surety approved
 22 by the city clerk, in the amount of two hundred dollars, on
 23 condition that the appellant will satisfy any judgment and costs
 24 that may be adjudged against him or her; and

25 ~~(4)~~ (c) Deposit with the city clerk the fees for
 26 the preparation of a certified and complete transcript of the
 27 proceedings of the city relating to the order or decision appealed.

1 (3)(a) An appellant may file with the city clerk an
 2 affidavit alleging that the appellant is indigent. The filing of
 3 such an affidavit shall relieve the appellant of the duty to
 4 deposit any fee, bond, or undertaking required by subsection (2) of
 5 this section as a condition for the preparation of the transcript
 6 or the perfecting of the appeal by the appellant subject to the
 7 determination of the court as provided in section 15-1204. In
 8 conjunction with the filing of the petition for appeal as provided
 9 for in section 15-1204, the appellant shall file a copy of the
 10 affidavit alleging his or her indigency and the district court
 11 shall rule upon the issue of indigency prior to the consideration
 12 of any other matter relating to the appeal as provided in section
 13 15-1204.

14 (b) An appellant determined to be indigent under this
 15 subsection shall not be required to deposit any fee, bond,

16 or undertaking required by subsection (2) of this section.
 17 For purposes of this section, indigent means the inability to
 18 financially pursue the appeal without prejudicing the appellant's
 19 ability to provide economic necessities for the appellant or the
 20 appellant's family.

21 (c) An appellant determined not to be indigent shall,
 22 within thirty days after the determination, deposit with the city
 23 clerk the fees and bond or undertaking required by subsection (2)
 24 of this section. The appeal shall not proceed further until the
 25 city clerk notifies the court that the appropriate deposit has been
 26 made.

27 Sec. 3. Section 15-1203, Reissue Revised Statutes of
 1 Nebraska, is amended to read:

2 15-1203 ~~The~~ (1) Except as provided in subsection (2) of
 3 this section, the city clerk, on payment to him or her of the costs
 4 of the transcript, shall transmit within fifteen days to the clerk
 5 of the district court the docket fee and a certified and complete
 6 transcript of the proceedings of the city relating to the order or
 7 decision appealed. After receipt of such fee and transcript, the
 8 clerk of the district court shall docket the appeal.

9 (2) If the appellant files an affidavit alleging that he
 10 or she is indigent pursuant to section 15-1202, the city clerk
 11 shall transmit within fifteen days to the clerk of the district
 12 court a certified and complete transcript of the proceedings of the
 13 city relating to the order or decision appealed. After receipt of
 14 the transcript, the clerk of the district court shall docket the
 15 appeal.

16 Sec. 4. Section 15-1204, Reissue Revised Statutes of
 17 Nebraska, is amended to read:

18 15-1204 (1) The party appealing shall file a petition
 19 within thirty days ~~from~~ after the date the transcript is filed in
 20 the district court. ~~Satisfaction~~

21 (2) Except as provided in subsection (3) of this section,
 22 satisfaction of the requirements of subsections (1) and (2) of
 23 section 15-1202 and subsection (1) of this section shall perfect
 24 the appeal and give the district court jurisdiction of the matter
 25 appealed.

26 (3) Indigency shall be determined by the district court
 27 having jurisdiction of the appeal upon motion of the appellant
 1 before the court considers any other matter relating to the
 2 appeal. The court shall make a reasonable inquiry to determine the
 3 appellant's financial condition and shall consider such factors as
 4 the appellant's income, the availability to the appellant of other
 5 resources, including real and personal property, bank accounts,
 6 social security benefits, and unemployment or other benefits, the
 7 appellant's normal living expenses, the appellant's outstanding
 8 debts, the number and age of the appellant's dependents, and other
 9 relevant circumstances. If the appellant is deemed to be indigent,
 10 the satisfaction of the requirements of subsections (1) and (3) of

11 section 15-1202 and subsection (1) of this section shall perfect
 12 the appeal and give the district court jurisdiction of the matter
 13 appealed.

14 Sec. 5. Section 19-2424, Reissue Revised Statutes of
 15 Nebraska, is amended to read:

16 19-2424 ~~It shall be the duty of~~ (1) Upon the request of
 17 the owner appealing a special assessment and the payment by him
 18 or her of the estimated cost of preparation of the transcript to
 19 the city or village clerk or such clerk's designee, the city or
 20 village clerk, on tender or payment to him of the cost of preparing
 21 the transcript at the rate of ten cents per one hundred words,
 22 ~~to prepare~~ shall cause a complete transcript of the proceedings
 23 before such city or village to be prepared. The cost of preparing
 24 the transcript shall be calculated in the same manner as the
 25 calculation of the fee for a court reporter for the preparation of
 26 a bill of exceptions as specified by rules of practice prescribed
 27 by the Supreme Court. At such time as the completed transcript is
 1 provided to the appellant, the appellant shall pay the amount of
 2 the cost of preparation which is in excess of the estimated cost
 3 already paid or shall receive a refund of any amount in excess
 4 of the actual cost. An appellant determined to be indigent shall
 5 not be required to pay any costs associated with such transcript
 6 preparation.

7 (2) For purposes of this section, indigent means the
 8 inability to financially pursue the appeal without prejudicing
 9 the appellant's ability to provide economic necessities for the
 10 appellant or the appellant's family. Indigency shall be determined
 11 by the court having jurisdiction over the appeal upon motion
 12 of the appellant. The court shall make a reasonable inquiry to
 13 determine the appellant's financial condition and shall consider
 14 such factors as the appellant's income, the availability to the
 15 appellant of other resources, including real and personal property,
 16 bank accounts, social security benefits, and unemployment or other
 17 benefits, the appellant's normal living expenses, the appellant's
 18 outstanding debts, the number and age of the appellant's
 19 dependents, and other relevant circumstances.

20 Sec. 6. Original sections 14-813, 15-1202, 15-1203,
 21 15-1204, and 19-2424, Reissue Revised Statutes of Nebraska, are
 22 repealed.

LEGISLATIVE BILL 633. Placed on General File with amendment.
 AM907

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

3 Section 1. This act shall be known and may be cited as
 4 the Neighborhood Development Act.

5 Sec. 2. The Legislature finds that there is a need to:

6 (1) Stimulate local community development efforts
 7 statewide;

8 (2) Build an environment to engage in more effective
9 community development; and

10 (3) Assist community improvement groups which have
11 positive impacts upon the vitality, cohesiveness, and continued
12 viability of both urban and rural communities throughout the state.

13 Sec. 3. The purposes of the Neighborhood Development Act
14 are to:

15 (1) Strengthen neighborhoods and small communities by
16 enhancing their ability to develop community development plans;

17 (2) Coordinate the use of existing programs and funds
18 more efficiently and effectively in support of new programs and
19 initiatives; and

20 (3) Revitalize declining neighborhoods and small
21 communities, maintain the integrity of stable, viable neighborhoods
22 and small communities, and strengthen existing neighborhoods and
23 small communities.

1 Sec. 4. For purposes of the Neighborhood Development Act:

2 (1) College means the College of Public Affairs and
3 Community Service of the University of Nebraska at Omaha;

4 (2) Community improvement group means a neighborhood
5 association or small community;

6 (3) Fund means the Neighborhood Development Grant Fund;

7 (4) Neighborhood association means an organization that
8 is recognized or endorsed by an incorporated city or village or
9 county as representing all of the residents within a specific,
10 defined geographical area, with the organization representing those
11 residents on a wide range of issues through an open meeting process
12 with elected officers and regularly scheduled meetings; and

13 (5) Small community means an unincorporated village or
14 an incorporated city of the second class or village as defined in
15 sections 17-101 and 17-201.

16 Sec. 5. (1) The Neighborhood Development Grant Fund is
17 created. The fund shall be used by the college to carry out its
18 duties and responsibilities under the Neighborhood Development Act.
19 It is the intent of the Legislature that five hundred thousand
20 dollars be appropriated to the fund for FY2009-10.

21 (2) The State Treasurer shall credit to the fund any
22 money (a) appropriated to the fund by the Legislature, (b) donated
23 as gifts, bequests or grants or otherwise contributed to the fund
24 from public or private sources, and (c) received pursuant to this
25 section. Any money in the fund available for investment shall be
26 invested by the state investment officer pursuant to the Nebraska
27 Capital Expansion Act and the Nebraska State Funds Investment Act.

1 Sec. 6. (1) The college shall award development grants
2 to qualified community improvement groups through an application
3 process. The college shall develop and provide requesting community
4 improvement groups with an application form. The form shall be
5 simple and concise, using nontechnical language, and the questions
6 on the form shall be factual in nature.

- 7 (2) To be eligible for a grant, the applying community
 8 improvement group shall:
 9 (a) Demonstrate that the grant funds will be used for a
 10 neighborhood or community project;
 11 (b) Demonstrate with regard to the project:
 12 (i) That it will provide a public benefit;
 13 (ii) That it will provide a particular benefit to the
 14 applicant's neighborhood or small community;
 15 (iii) That it will be completed within one year after
 16 receipt of the grant;
 17 (iv) That neighborhood or small community residents were
 18 involved in the identification and planning for the project and
 19 will be involved in the project's execution; and
 20 (v) That the project does not duplicate an existing
 21 public program;
 22 (c) Document verifiable goals for the project for which
 23 grant funds are requested; and
 24 (d) Document that the applicant will bring to the project
 25 a match equivalent in money or in-kind services equal to the
 26 following:
 27 (i) For a grant of five thousand dollars or less, a match
 1 equivalent to at least twenty-five percent of the amount of the
 2 grant sought;
 3 (ii) For a grant of seven thousand five hundred dollars
 4 or less but more than five thousand dollars, a match equivalent to
 5 at least twenty-six percent and no more than forty-nine percent of
 6 the amount of the grant sought; and
 7 (iii) For a grant of ten thousand dollars or less but
 8 more than seven thousand five hundred dollars, a match equivalent
 9 to fifty percent or more of the amount of the grant sought.
 10 (3) A recipient of a grant shall not use the grant
 11 funds for administrative support of the recipient, for the planning
 12 of a project, or for the administrative costs relating to the
 13 planning of a project. Not more than five percent of the grant
 14 funds received shall be expended by the recipient of the grant
 15 for expenses incurred in administering the grant. A recipient of
 16 a grant may not receive more than one grant for the same project,
 17 and a project may not receive more than one grant in any one year.
 18 No grant to a single community improvement group shall exceed ten
 19 thousand dollars.
 20 Sec. 7. In assessing the applications received from
 21 community improvement groups, the college shall weigh the relative
 22 merits of the applications, giving consideration to the following
 23 factors:
 24 (1) The amount of the match;
 25 (2) The level of involvement by persons living in the
 26 community;
 27 (3) The community needs reflected in the application;
 1 (4) The likelihood of the successful completion of the

2 project;

3 (5) The innovative character of the proposed solution;

4 and

5 (6) The efficiency of the proposed allocation of state,

6 local, public, and private resources in solving the local community

7 need.

8 Sec. 8. Upon completion of a project for which a grant

9 has been received or within one year from the date of receipt of

10 a grant, whichever comes first, the recipient community improvement

11 group shall provide the college with an evaluation reporting the

12 results of the project.

13 Sec. 9. The college shall submit an annual report to

14 the Governor and the Legislature on or before November 1, 2010,

15 and on or before November 1 of each year thereafter listing the

16 recipients and amounts of grants made pursuant to the Neighborhood

17 Development Act in the previous year, the impact of the grants, and

18 an evaluation of each project's performance based on the documented

19 reports of the recipient community improvement groups.

LEGISLATIVE BILL 647. Placed on General File with amendment.

AM908

1 1. Strike the original sections and insert the following

2 new sections:

3 Section 1. (1) A city of the first or second class or

4 village shall provide written notice of a proposed annexation to

5 the owners of property within the area proposed for annexation in

6 the manner set out in this section.

7 (2) Initial notice of the proposed annexation shall be

8 sent to the owners of property within the area proposed for

9 annexation by regular United States mail, postage prepaid, to the

10 address of each owner of such property as it appears in the

11 records of the office of the register of deeds or as the address

12 is determined from another official source, postmarked at least

13 ten working days prior to the planning commission's public hearing

14 on the proposed change with a certified letter to the clerk of

15 any sanitary and improvement district if the annexation includes

16 property located within the boundaries of such district. Such

17 notice shall describe the area proposed for annexation, including

18 a map showing the boundaries of the area proposed for annexation,

19 and shall contain the date, time, and location of the planning

20 commission's hearing and how further information regarding the

21 annexation can be obtained, including the telephone number of

22 the pertinent city or village official and an electronic mail or

23 Internet address if available.

1 (3) A second notice of the proposed annexation shall be

2 sent to the same owners of property who were provided with notice

3 under subsection (2) of this section. Such notice shall be sent by

4 regular United States mail, postage prepaid, to the owner's address

5 as it appears in the records of the office of the register of

6 deeds or as the address is determined from another official source,
7 postmarked at least ten working days prior to the public hearing of
8 the city council or village board on the annexation. Such notice
9 shall describe the area proposed for annexation, including a map
10 showing the boundaries of the area proposed for annexation, and
11 shall contain the date, time, and location of the hearing and
12 how further information regarding the annexation can be obtained,
13 including the telephone number of the pertinent city or village
14 official and an electronic mail or Internet address if available.

15 (4) No additional or further notice beyond that required
16 by subsections (2) and (3) of this section shall be necessary if
17 the scheduled public hearing by the planning commission or city
18 council or village board on the proposed annexation is adjourned,
19 continued, or postponed until a later date.

20 (5) Except for a willful or deliberate failure to cause
21 notice to be given, no annexation decision made by a city of the
22 first or second class or village to accept or reject a proposed
23 annexation, either in whole or in part, shall be void, invalidated,
24 or affected in any way because of any irregularity, defect, error,
25 or failure on the part of the city or village or its employees
26 to cause notice to be given as required by this section if a
27 reasonable attempt to comply with this section was made. No action
1 to challenge the validity of the acceptance or rejection of a
2 proposed annexation on the basis of this section shall be filed
3 more than one year following the date after the formal acceptance
4 or rejection of the annexation by the city council or village
5 board.

6 (6) Except for a willful or deliberate failure to cause
7 notice to be given, the city of the first or second class or
8 village and its employees shall not be liable for any damage to
9 any person resulting from failure to cause notice to be given
10 as required by this section if a reasonable attempt was made to
11 provide such notice. No action for damages resulting from the
12 failure to cause notice to be provided as required by this section
13 shall be filed more than one year following the date after the
14 formal acceptance or rejection of the proposed annexation, either
15 in whole or in part, by the city council or village board.

16 (7) For purposes of this section, owner means the owner
17 of a piece of property as indicated on the records of the office
18 of the register of deeds as provided to or made available to the
19 city of the first or second class or village no earlier than the
20 last business day before the twenty-fifth day preceding the public
21 hearing by the planning commission on the annexation proposed for
22 the subject property.

LEGISLATIVE BILL 467. Indefinitely postponed.

(Signed) Mike Friend, Chairperson

Business and Labor

LEGISLATIVE BILL 537. Placed on General File with amendment. AM882

- 1 1. Strike the original sections and insert the following
 2 new sections:
 3 Section 1. Section 35-302, Reissue Revised Statutes of
 4 Nebraska, is amended to read:
 5 35-302 Firefighters employed in the fire departments of
 6 cities having paid fire departments shall not be required to remain
 7 on duty for periods of time which will aggregate in each month
 8 more than an average of sixty hours per week. Each single-duty
 9 shift shall consist of twenty-four consecutive hours and shall be
 10 followed by an off-duty period as necessary to assure compliance
 11 with the requirements of this section unless by voluntary agreement
 12 between the city and the authorized collective bargaining agent
 13 or, if there is no collective bargaining unit, the firefighter,
 14 any firefighter may be permitted to work an additional period
 15 of consecutive time and may return to work after less than a
 16 twenty-four-hour off-duty period. Any firefighter may be assigned
 17 to work less than a twenty-four-hour shift, but in such event
 18 the firefighter shall not work in excess of forty hours per week
 19 unless otherwise provided by voluntary agreement between the city
 20 and the authorized collective bargaining agent or, if there is
 21 no collective bargaining unit, the firefighter. No agreement under
 22 this section shall allow a firefighter who is scheduled to work
 23 less than a twenty-four-hour shift and who holds the rank of fire
 1 chief or works as an immediate subordinate to a fire chief to
 2 fill temporary vacancies created by the absence of a firefighter
 3 who is assigned to work a twenty-four-hour shift and who holds a
 4 rank lower than fire chief. No firefighter shall be required to
 5 perform any work or service as such firefighter during any period
 6 in which he or she is off duty except in cases of extraordinary
 7 conflagration or emergencies or job-related court appearances.
 8 Sec. 2. Original section 35-302, Reissue Revised Statutes
 9 of Nebraska, is repealed.

LEGISLATIVE BILL 622. Placed on General File with amendment. AM875

- 1 1. Strike section 1 and insert the following section:
 2 Section 1. Section 48-125, Revised Statutes Cumulative
 3 Supplement, 2008, is amended to read:
 4 48-125 (1) Except as hereinafter provided, all amounts
 5 of compensation payable under the Nebraska Workers' Compensation
 6 Act shall be payable periodically in accordance with the methods
 7 of payment of wages of the employee at the time of the injury
 8 or death. Fifty percent shall be added for waiting time for all
 9 delinquent payments; (a) After ~~after~~ thirty days' notice has been
 10 given of disability; (b) after thirty days from the entry of a

11 final order, award, or judgment of the compensation court which is
12 being reviewed or is on appeal for those portions of such order,
13 award, or judgment for which there is no reasonable controversy;
14 or (c) after thirty days from the entry of a final order, award,
15 or judgment of the compensation court, except that for any award
16 or judgment against the state in excess of one hundred thousand
17 dollars which must be reviewed by the Legislature as provided in
18 section 48-1,102, fifty percent shall be added for waiting time
19 for delinquent payments thirty days after the effective date of
20 the legislative bill appropriating any funds necessary to pay the
21 portion of the award or judgment in excess of one hundred thousand
22 dollars. Such payments shall be sent directly to the person
23 entitled to compensation or his or her designated representative
1 except as otherwise provided in section 48-149.

2 (2) Whenever the employer refuses payment of compensation
3 or medical payments subject to section 48-120, or when the employer
4 neglects to pay compensation for thirty days after injury or
5 neglects to pay medical payments subject to such section after
6 thirty days' notice has been given of the obligation for medical
7 payments, and proceedings are held before the Nebraska Workers'
8 Compensation Court, a reasonable attorney's fee shall be allowed
9 the employee by the compensation court in all cases when the
10 employee receives an award. Attorney's fees allowed shall not
11 be deducted from the amounts ordered to be paid for medical
12 services nor shall attorney's fees be charged to the medical
13 providers. If the employer files an application for review before
14 the compensation court from an award of a judge of the compensation
15 court and fails to obtain any reduction in the amount of such
16 award, the compensation court shall allow the employee a reasonable
17 attorney's fee to be taxed as costs against the employer for such
18 review, and the Court of Appeals or Supreme Court shall in like
19 manner allow the employee a reasonable sum as attorney's fees for
20 the proceedings in the Court of Appeals or Supreme Court. If the
21 employee files an application for a review before the compensation
22 court from an order of a judge of the compensation court denying an
23 award and obtains an award or if the employee files an application
24 for a review before the compensation court from an award of a judge
25 of the compensation court when the amount of compensation due is
26 disputed and obtains an increase in the amount of such award, the
27 compensation court may allow the employee a reasonable attorney's
1 fee to be taxed as costs against the employer for such review, and
2 the Court of Appeals or Supreme Court may in like manner allow the
3 employee a reasonable sum as attorney's fees for the proceedings in
4 the Court of Appeals or Supreme Court. A reasonable attorney's fee
5 allowed pursuant to this section shall not affect or diminish the
6 amount of the award.

7 (3) When an attorney's fee is allowed pursuant to this
8 section, there shall further be assessed against the employer an
9 amount of interest on the final award obtained, computed from the

10 date compensation was payable, as provided in section 48-119, until
 11 the date payment is made by the employer, at a rate equal to the
 12 rate of interest allowed per annum under section 45-104.01, as such
 13 rate may from time to time be adjusted by the Legislature. Interest
 14 shall apply only to those weekly compensation benefits awarded
 15 which have accrued as of the date payment is made by the employer.
 16 If the employer pays or tenders payment of compensation, the amount
 17 of compensation due is disputed, and the award obtained is greater
 18 than the amount paid or tendered by the employer, the assessment of
 19 interest shall be determined solely upon the difference between the
 20 amount awarded and the amount tendered or paid.

LEGISLATIVE BILL 630. Placed on General File with amendment.
 AM874 is available in the Bill Room.

LEGISLATIVE BILL 631. Placed on General File with amendment.
 AM415

- 1 1. Strike original section 3 and insert the following
- 2 sections:
- 3 Sec. 2. Section 48-622.01, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 48-622.01 (1) There is hereby created in the state
- 6 treasury a special fund to be known as the State Unemployment
- 7 Insurance Trust Fund. All state unemployment insurance tax
- 8 collected under sections 48-648 to 48-661, less refunds, shall be
- 9 paid into the fund. Such money shall be held in trust for the sole
- 10 and exclusive use of payment of unemployment insurance benefits.
- 11 Any money in the fund available for investment shall be invested
- 12 by the state investment officer pursuant to the Nebraska Capital
- 13 Expansion Act and the Nebraska State Funds Investment Act, except
- 14 that interest earned on money in the fund shall be credited to
- 15 the Nebraska Training and Support Trust Fund at the end of each
- 16 calendar quarter.
- 17 (2) The commissioner shall have authority to determine
- 18 when and in what amounts withdrawals from the State Unemployment
- 19 Insurance Trust Fund for payment of benefits are necessary. Amounts
- 20 withdrawn for payment of benefits shall be immediately forwarded
- 21 to the Secretary of the Treasury of the United States of America
- 22 to the credit of the state's account in the Unemployment Trust
- 23 Fund, provisions of law in this state relating to the deposit,
- 1 administration, release, or disbursement of money in the possession
- 2 or custody of this state to the contrary notwithstanding.
- 3 (3) If and when the state unemployment insurance tax
- 4 ceases to exist as determined by the Governor, ~~in consultation~~
- 5 ~~with the state advisory council,~~ all money then in the State
- 6 Unemployment Insurance Trust Fund less accrued interest shall be
- 7 immediately transferred to the credit of the state's account in
- 8 the Unemployment Trust Fund, provisions of law in this state
- 9 relating to the deposit, administration, release, or disbursement

10 of money in the possession or custody of this state to the
 11 contrary notwithstanding. The determination to eliminate the state
 12 unemployment insurance tax shall be based on the solvency of
 13 the state's account in the Unemployment Trust Fund and the need
 14 for training of Nebraska workers. Accrued interest in the State
 15 Unemployment Insurance Trust Fund shall be credited to the Nebraska
 16 Training and Support Trust Fund.

17 Sec. 4. Section 48-622.03, Reissue Revised Statutes of
 18 Nebraska, is amended to read:

19 48-622.03 (1) There is hereby created as of January
 20 1, 1996, the Nebraska Worker Training Board consisting of seven
 21 members appointed and serving for terms determined by the Governor
 22 as follows:

23 ~~(a) A member of the state advisory council created in~~
 24 ~~section 48-610 who is a representative of employers in Nebraska;~~

25 (b) A ~~member of the council who is a representative of~~
 26 employees in Nebraska;

27 (c) A ~~member of the council who is a representative of~~
 1 the public;

2 (d) The Commissioner of Labor or a designee;

3 (e) The Director of Economic Development or a designee;

4 (f) The Commissioner of Education or a designee; and

5 (g) The chairperson of the governing board of the
 6 Nebraska Community College Association or a designee.

7 (2) Beginning July 1, 1996, and annually thereafter,
 8 the Governor shall appoint a chairperson for the board. The
 9 chairperson shall be either the representative of the employers,
 10 the representative of the employees, or the representative of the
 11 public.

12 (3) Beginning July 1, 1996, and annually thereafter
 13 the board shall prepare an annual program plan for the upcoming
 14 fiscal year containing guidelines for the program financed by the
 15 Nebraska Training and Support Trust Fund. The guidelines shall
 16 include, but not be limited to, guidelines for certifying training
 17 providers, criteria for evaluating requests for the use of money
 18 under section 48-622.02, and guidelines for requiring employers
 19 to provide matching funds. The guidelines shall give priority
 20 to training that contributes to the expansion of the Nebraska
 21 workforce and increasing the pool of highly skilled workers in
 22 Nebraska.

23 (4) Beginning September 1, 1997, and annually thereafter,
 24 the board shall provide a report to the Governor covering the
 25 activities of the program financed by the Nebraska Training and
 26 Support Trust Fund for the previous fiscal year. The report shall
 27 contain an assessment of the effectiveness of the program and its
 1 administration.

2 2. On page 15, strike beginning with "Contributions" in
 3 line 9 through the second "to" in line 10, show as stricken, and
 4 insert "Wages for employment have been paid by the employer in";

- 5 strike beginning with "been" in line 20 through "contributions"
 6 in line 21, show as stricken, and insert "paid wages for
 7 employment"; and in line 23 strike beginning with "been" through
 8 "contributions", show as stricken, and insert "paid wages for
 9 employment".
 10 3. On page 38, line 6, after "sections" insert
 11 "48-622.01,".
 12 4. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 514. Indefinitely postponed.

(Signed) Steve Lathrop, Chairperson

AMENDMENT - Print in Journal

Senator Flood filed the following amendment to LB158:
 AM951

- 1 1. Strike the original sections and all amendments
 2 thereto and insert the following new sections:
 3 Section 1. Section 17-107, Reissue Revised Statutes of
 4 Nebraska, is amended to read:
 5 17-107 (1) A mayor of a city of the second class shall
 6 be elected in the manner provided in the Election Act. The mayor
 7 shall be a resident and registered voter of the city. If the
 8 president of the council assumes the office of mayor for the
 9 unexpired term, there shall be a vacancy on the council which
 10 vacancy shall be filled as provided in section 32-568. The mayor,
 11 with the consent of the council, may appoint such officers as
 12 shall be required by ordinance or otherwise required by law. Such
 13 officers may be removed from office by the mayor. The mayor,
 14 by and with the consent of the council, shall appoint such a
 15 number of regular police officers as may be necessary. All police
 16 officers appointed by the mayor and council ~~shall be removable~~
 17 may be removed, demoted, or suspended at any time by the mayor
 18 as provided in subsection (2) of this section. A police officer,
 19 including the chief of police, may appeal to the city council such
 20 removal, demotion, or other disciplinary action or suspension with
 21 or without pay. to the city council. After a hearing, the city
 22 council may uphold, reverse, or modify the ~~removal or disciplinary~~
 23 action.
 1 (2) The city council shall by ordinance adopt rules and
 2 regulations governing the removal, demotion, or suspension with
 3 or without pay or discipline of any police officer, including
 4 the chief of police. The ordinance shall include a procedure
 5 for such removal, demotion, or suspension with or without pay
 6 of any police officer, including the chief of police, upon the
 7 written accusation of the police chief, mayor, or any citizen or
 8 taxpayer. The city council shall establish by ordinance procedures
 9 for acting upon such written accusation, including: (a) Provisions

10 for giving notice and a copy of the written accusation to the
 11 police officer; (b) the police officer's right to have an attorney
 12 or representative retained by the police officer present with
 13 him or her at all hearings or proceedings regarding the written
 14 accusation; (c) the right of the police officer or his or her
 15 attorney or representative retained by the police officer to be
 16 heard and present evidence; and (d) the right of the police officer
 17 as well as the individual imposing the action or their respective
 18 attorneys or representatives to record all hearings or proceedings
 19 regarding the written accusation. The ordinance shall also include
 20 a procedure for making application for an appeal, specifications
 21 on the period of time within which such application shall be
 22 made, and provisions on the manner in which the appeals hearing
 23 shall be conducted. Both the police officer and the individual
 24 imposing the ~~disciplinary~~ action or their respective attorneys or
 25 representatives shall have the right at the hearing to be heard and
 26 to present evidence to the city council for its consideration. Not
 27 later than thirty days following the adjournment of the meeting at
 1 which the hearing was held, the city council shall vote to uphold,
 2 reverse, or modify the ~~removal or disciplinary~~ action. The failure
 3 of the city council to act within thirty days or the failure
 4 of a majority of the elected council members to vote to reverse
 5 or modify the ~~removal or disciplinary~~ action shall be construed
 6 as a vote to uphold the ~~removal or disciplinary~~ action. The
 7 decision of the city council shall be based upon its determination
 8 that, under the facts and evidence presented at the hearing,
 9 the ~~challenged removal or disciplinary~~ action was necessary for
 10 the proper management and the effective operation of the police
 11 department in the performance of its duties under the statutes of
 12 the State of Nebraska. Nothing in this section shall be construed
 13 to prevent the preemptory suspension or immediate removal from duty
 14 of an officer by the appropriate authority, pending the hearing
 15 authorized by this section, in cases of gross misconduct, neglect
 16 of duty, or disobedience of orders.

17 (3) This section does not apply to a police officer
 18 during his or her probationary period.

19 Sec. 2. Section 17-208, Reissue Revised Statutes of
 20 Nebraska, is amended to read:

21 17-208 ~~(1)~~ (1)(a) The village board of trustees may
 22 appoint a village clerk, treasurer, attorney, overseer of the
 23 streets, and marshal or chief of police. Pursuant to subsection
 24 (2) of this section, the ~~The~~ village marshal or chief of police,
 25 or any other police officer, may request a review by appeal
 26 to the village board of his or her removal, demotion, or any
 27 other disciplinary action or suspension with or without pay, taken
 1 against him or her. After a hearing, the village board may uphold,
 2 reverse, or modify the ~~removal or disciplinary~~ action.

3 (2)(b) The village board of trustees shall by ordinance
 4 adopt rules and regulations governing the removal, demotion, or

5 ~~suspension with or without pay or discipline~~ of any police officer,
6 including the village marshal ~~or chief of police~~. The ordinance
7 shall include a procedure for such removal, demotion, or suspension
8 with or without pay of any police officer, including the village
9 marshal or chief of police, upon the written accusation of the
10 village marshal or chief of police, chairperson, or any citizen
11 or taxpayer. The village board of trustees shall establish by
12 ordinance procedures for acting upon such written accusation,
13 including: (a) Provisions for giving notice and a copy of the
14 written accusation to the police officer; (b) the police officer's
15 right to have an attorney or representative retained by the police
16 officer present with him or her at all hearings or proceedings
17 regarding the written accusation; (c) the right of the police
18 officer or his or her attorney or representative retained by the
19 police officer to be heard and present evidence; and (d) the
20 right of the police officer as well as the individual imposing the
21 action or their respective attorneys or representatives to record
22 all hearings or proceedings regarding the written accusation. The
23 ordinance shall also include a procedure for making application
24 for an appeal, specifications on the period of time within which
25 such application shall be made, and provisions on the manner in
26 which the appeals hearing shall be conducted. Both the police
27 officer and the individual imposing the ~~disciplinary action or~~
1 their respective attorneys or representatives shall have the right
2 at the hearing to be heard and to present evidence to the village
3 board for its consideration. Not later than thirty days following
4 the adjournment of the meeting at which the hearing was held,
5 the village board shall vote to uphold, reverse, or modify the
6 ~~removal or disciplinary~~ action. The failure of the village board
7 to act within thirty days or the failure of a majority of the
8 elected board members to vote to reverse or modify the ~~removal~~
9 ~~or disciplinary~~ action shall be construed as a vote to uphold
10 the ~~removal or disciplinary~~ action. The decision of the village
11 board shall be based upon its determination that, under the facts
12 and evidence presented at the hearing, the ~~challenged removal~~
13 ~~or disciplinary~~ action was necessary for the proper management
14 and the effective operation of the police department in the
15 performance of its duties under the statutes of the State of
16 Nebraska. Nothing in this section shall be construed to prevent the
17 preemptory suspension or immediate removal from duty of an officer
18 by the appropriate authority, pending the hearing authorized by
19 this section, in cases of gross misconduct, neglect of duty, or
20 disobedience of orders.

21 (c) This subsection does not apply to a police officer
22 during his or her probationary period.

23 ~~(3)-(2)~~ The village board of trustees shall also appoint
24 a board of health consisting of three members: The chairperson of
25 the village board, who shall be chairperson, and two other members.
26 One member shall be a physician or health care provider, if one

27 can be found who is willing to serve. Such physician or health
 1 care provider, if appointed, shall be the board's medical advisor.
 2 If the village board of trustees has appointed a marshal or chief
 3 of police, the marshal or chief of police may be appointed to the
 4 board and serve as secretary and quarantine officer. A majority of
 5 the board of health shall constitute a quorum and shall enact rules
 6 and regulations, which shall have the force and effect of law,
 7 to safeguard the health of the people of such village and prevent
 8 nuisances and unsanitary conditions. The board of health shall
 9 enforce the same and provide fines and punishments for violations.
 10 The appointees shall hold office for one year unless removed by the
 11 chairperson of the village board with the advice and consent of the
 12 trustees.

13 Sec. 3. Section 23-1734, Reissue Revised Statutes of
 14 Nebraska, is amended to read:

15 23-1734 ~~(4)~~(1)(a) Any deputy sheriff may be removed,
 16 suspended with or without pay, or reduced in either rank or
 17 grade or both rank and grade by the sheriff, after appointment or
 18 promotion is complete, by an order in writing, stating specifically
 19 the reasons therefor. Such order shall be filed with the sheriff's
 20 office merit commission and a copy thereof shall be furnished
 21 to the person so removed, suspended, or reduced. Any person so
 22 removed, suspended with or without pay, or reduced in either
 23 rank or grade or both rank and grade may, within ten days after
 24 presentation to him or her of the order of removal, suspension
 25 with or without pay, or reduction, appeal to the commission from
 26 such order. The commission shall, within two weeks ~~from~~after the
 27 filing of such appeal, hold a hearing thereon, and thereupon fully
 1 hear and determine the matter, and either affirm, modify, or revoke
 2 such order. The appellant shall be entitled to appear personally,
 3 produce evidence, and have counsel or other representation and
 4 a public hearing. The finding and decision of the commission
 5 shall be certified to the sheriff and shall forthwith be enforced
 6 and followed, but under no condition shall the employee who has
 7 appealed to the commission be permanently removed, suspended with
 8 or without pay, or reduced in rank until such finding and decision
 9 of the commission is so certified to the sheriff.

10 (b) This subsection does not apply to a deputy sheriff
 11 during his or her probationary period.

12 (2) Any deputy sheriff may grieve a violation of an
 13 employment contract, a personnel rule, a state or local law, or
 14 a written departmental policy or procedure to the commission.
 15 The commission shall hear the grievance at the next regularly
 16 scheduled meeting, or the commission may, at its discretion, set
 17 a special meeting to hear the grievance. If the deputy sheriff
 18 is subject to a labor agreement, all applicable procedures in the
 19 agreement shall be followed prior to the matter being heard by the
 20 commission. In all other cases, the matter shall be grieved, in
 21 writing, to the commission within fifteen calendar days after the

22 date the deputy sheriff became aware of the occurrence giving rise
 23 to the grievance. After hearing or reviewing the grievance, the
 24 commission shall issue a written order either affirming or denying
 25 the grievance. Such order shall be delivered to the parties to
 26 the grievance or their counsel or other representative within seven
 27 calendar days after the date of the hearing or the submission of
 1 the written grievance.

2 Sec. 4. After an applicant is hired by any municipality
 3 or county as a peace officer, no employer may require the peace
 4 officer to produce or disclose the peace officer's personal
 5 financial records, except pursuant to a valid search warrant
 6 or subpoena.

7 Sec. 5. No employing or investigating agency or any
 8 governmental unit of any municipality or county shall publicly
 9 release a photograph of a peace officer who is the subject of an
 10 investigation without the written permission of the peace officer,
 11 except that the agency or unit may display a photograph of a peace
 12 officer to a prospective witness as part of an investigation and
 13 the agency or unit may provide a photograph of a peace officer to
 14 the investigating individual to display to a prospective witness as
 15 part of the investigation.

16 Sec. 6. No disciplinary action by any municipality or
 17 county may be included in a peace officer's personnel record
 18 unless such disciplinary action has been reduced to writing and
 19 the peace officer has been given a copy, and no correspondence may
 20 be included in a peace officer's personnel record unless the peace
 21 officer has been given a copy of the correspondence. The peace
 22 officer shall sign a written acknowledgement of receipt for any
 23 copy of a disciplinary action.

24 Sec. 7. No peace officer of any municipality or county
 25 may be discharged, subject to disciplinary action, or threatened
 26 with discharge or disciplinary action as retaliation for or solely
 27 by reason of the peace officer's exercise of his or her rights
 1 provided in section 17-107, 17-208, or 23-1734 or sections 4 to 8
 2 of this act.

3 Sec. 8. (1) Except as otherwise provided in a collective
 4 bargaining agreement, Chapter 19, article 18, or Chapter 23,
 5 article 17, any city of the first class and all county sheriffs
 6 shall adopt rules and regulations governing the removal, demotion,
 7 or suspension with or without pay of any peace officer, including
 8 the chief of police. Such rules and regulations shall include: (a)
 9 Provisions for giving notice and a copy of the written accusation
 10 to the peace officer; (b) the peace officer's right to have an
 11 attorney or representative retained by the peace officer present
 12 with him or her at all hearings or proceedings regarding the
 13 written accusation; (c) the right of the peace officer or his
 14 or her attorney or representative retained by the peace officer
 15 to be heard and present evidence; (d) the right of the peace
 16 officer as well as the individual imposing the action or their

17 respective attorneys or representatives to record all hearings or
18 proceedings regarding the written accusation; and (e) a procedure
19 for making application for an appeal. Nothing in this section shall
20 be construed to prevent the preemptory suspension or immediate
21 removal from duty of an officer by the appropriate authority,
22 pending the hearing authorized by this section, in cases of gross
23 misconduct, neglect of duty, or disobedience of orders.
24 (2) This section does not apply to a peace officer during
25 his or her probationary period.
26 Sec. 9. Original sections 17-107, 17-208, and 23-1734,
27 Reissue Revised Statutes of Nebraska, are repealed.

UNANIMOUS CONSENT - Add Cointroducer

Senator Campbell asked unanimous consent to add her name as cointroducer to LB342. No objections. So ordered.

VISITORS

Visitors to the Chamber were 42 fourth-grade students from Hayward School, Nebraska City; 40 fourth-grade students, teachers, and sponsor from Northwest Public School, Chapman; 33 fourth-grade students and teachers from Hershey; and 4 twelfth-grade students and teacher from Sutherland.

ADJOURNMENT

At 4:03 p.m., on a motion by Senator Giese, the Legislature adjourned until 9:00 a.m., Friday, April 3, 2009.

Patrick J. O'Donnell
Clerk of the Legislature

