

FORTY-SEVENTH DAY - MARCH 20, 2012**LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE
SECOND SESSION****FORTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, March 20, 2012

PRAYER

The prayer was offered by Pastor Jim Berry, Christ Church, Falls City.

ROLL CALL

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

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

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-sixth day was approved.

COMMITTEE REPORT

Enrollment and Review

LEGISLATIVE BILL 858. Placed on Select File with amendment. ER219 is available in the Bill Room.

(Signed) Tyson Larson, Chairperson

GENERAL FILE

LEGISLATIVE BILL 711. Title read. Considered.

Committee AM2214, found on page 834, was adopted with 38 ayes, 0 nays, 6 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 6 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 1063. Title read. Considered.

Committee AM2044, found on page 597, was considered.

Senator Cook renewed her amendment, AM2540, found on page 1009, to the committee amendment.

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

Senator Cook requested a roll call vote on her amendment.

Voting in the affirmative, 35:

Adams	Christensen	Fulton	Howard	Mello
Ashford	Coash	Gloor	Karpisek	Nordquist
Avery	Cook	Haar, K.	Krist	Pirsch
Bloomfield	Council	Hadley	Langemeier	Schumacher
Brasch	Dubas	Hansen	Lathrop	Sullivan
Campbell	Fischer	Harms	Lautenbaugh	Wallman
Carlson	Flood	Harr, B.	McCoy	Wightman

Voting in the negative, 0.

Present and not voting, 9:

Cornett	Janssen	Larson	Nelson	Smith
Heidemann	Lambert	Louden	Schilz	

Excused and not voting, 5:

Conrad	McGill	Pahls	Price	Seiler
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The Cook amendment was adopted with 35 ayes, 0 nays, 9 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

The committee amendment, as amended, was adopted with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 10 present and not voting, and 6 excused and not voting.

AMENDMENT - Print in Journal

Senator Cornett filed the following amendment to LB970:
 FA57
 Strike Section 1.

RESOLUTIONS**LEGISLATIVE RESOLUTION 503.** Introduced by Mello, 5.

PURPOSE: The purpose of this interim study is to examine issues surrounding project labor agreements. This study shall include an examination of the benefits and cost savings of using project labor agreements to political subdivisions and Nebraska taxpayers.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall 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 504. Introduced by K. Haar, 21.

PURPOSE: The purpose of this resolution is to study Nebraska's statutes and regulations on hydraulic fracturing, also known as "fracking." This process could be used in Nebraska, and a comprehensive examination of Nebraska's laws, rules, and regulations should be undertaken. This study should assure that adequate protections are in place and that Nebraska's laws are in accordance with best practices and should address other relevant concerns. The committee should seek and consider input from the Nebraska Oil and Gas Conservation Commission and other interested persons and organizations.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SECOND LEGISLATURE OF NEBRASKA, SECOND 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 shall 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.

PROPOSED RULES CHANGE

Senator Flood offered the following proposed rules change:

Rule 3, Sec. 2. Appointment of Committees. (a) At the commencement of each biennium, the Legislature shall elect a Committee on Committees to consist of thirteen members, one at large who shall be chairperson, and four from Districts Number ~~1, 2, 15, 21 through 30, 32, 34, and 46~~ 2, 3, 15, 16, 19, 21 through 29, 45, and 46; four from Districts Number ~~3 through 14, 18, 20, 31, 39, and 45~~ 4 through 14, 18, 20, 31, 39, and 49; and four from Districts Number ~~16, 17, 19, 33, 35 through 38, 40 through 44, and 47 through 49~~ 1, 17, 30, 32 through 38, 40 through 44, 47, and 48.

(b) Immediately following chairmanship and Committee on Committees membership elections, the Committee shall meet and, by a majority vote of all its members, submit to the Legislature a preliminary report of appointments to the remaining standing and select committees, each with the number of members as hereinafter set forth, unless otherwise provided for by rule or by statute. On the following day the Committee on Committees shall meet and, by a majority vote of all its members, submit to the Legislature a final report for its approval, appointments to the standing and select committees, each with a number of members as hereinafter set forth, unless otherwise provided for by rule or by statute. Once the final report is presented to the Legislature, no amendments shall be considered. If the Legislature, by majority of the elected members, fails to adopt the final report of the Committee on Committees, such report shall be returned to the Committee for further action.

(c) The membership of all standing and select committees shall be appointed at the beginning of each session beginning in odd-numbered years and shall continue until the regular session in the next subsequent odd-numbered year.

(d) During session, all vacancies on standing or select committees created by the death or resignation of a member shall be filled by a majority vote of all members of the Committee on Committees unless otherwise provided for by rule or statute. A vacancy within the Committee on Committees shall be filled by a meeting of the caucus established pursuant to Rule 3, Section 2(a).

During the interim, all vacancies on standing or select committees created by the death or resignation of a member shall be filled by a majority vote of all members of the Executive Board.

Referred to the Rules Committee.

GENERAL FILE

LEGISLATIVE BILL 1114. Title read. Considered.

Committee AM2118, found on page 732, was considered.

SENATOR LANGEMEIER PRESIDING

The committee amendment 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 31 ayes, 2 nays, 11 present and not voting, and 5 excused and not voting.

SENATOR CARLSON PRESIDING

LEGISLATIVE BILL 1053. Title read. Considered.

Advanced to Enrollment and Review Initial with 31 ayes, 1 nay, 11 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 1080. Title read. Considered.

Senator Cornett renewed her amendment, AM1826, found on page 977.

Pending.

RESOLUTION

LEGISLATIVE RESOLUTION 505. Introduced by Howard, 9.

PURPOSE: The purpose of this interim study is to examine methods of ensuring that medical professionals who, as part of their scope of practice, provide injections to human patients are following safe injection practices as prescribed by the federal Centers for Disease Control and Prevention of the United States Public Health Service of the United States Department of Health and Human Services. The committee shall conduct a study that includes, but is not limited to:

(1) An examination of the availability of educational opportunities, licensing requirements, and any other method of ensuring safe injection practices currently being utilized in Nebraska;

(2) An examination of how other states ensure medical professionals are using safe injection practices; and

(3) Recommendations for legislative or administrative actions.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall 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.

VISITORS

Visitors to the Chamber were 37 members of Buffalo County Youth Advisory Board and Buffalo County Community Partners; over 100 members and sponsors of the Attorney General's Youth Advisory Council from across the state; 60 members of Creighton School of Nursing, Omaha and Hastings; members of the Alpha Kappa Alpha Sorority, Inc. and Delta Sigma Theta Sorority, Inc. from across the state; 11 fourth-grade students and teachers from Lyons-Decatur Northeast, Lyons; 20 fourth-grade students and teacher from St. Michael's, Lincoln; and 11 fourth-grade students and teacher from West Point.

RECESS

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

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators McGill and Seiler who were excused; and Senators Conrad, Dubas, Flood, Harms, Heidemann, Janssen, Lautenbaugh, Louden, Pahls, Sullivan, and Wightman who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 1080. The Cornett amendment, AM1826, found on page 977 and considered in this day's Journal, was renewed.

The Cornett amendment was adopted with 26 ayes, 0 nays, 10 present and not voting, and 13 excused and not voting.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 7 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 1128. Title read. Considered.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 1128A. Title read. Considered.

Advanced to Enrollment and Review Initial with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

RESOLUTIONS**LEGISLATIVE RESOLUTION 506.** Introduced by Sullivan, 41.

PURPOSE: The purpose of this interim study is to examine issues surrounding the moratorium on long-term care beds found in section 71-5829.04.

This study shall include, but not be limited to:

(1) A review of the statutory process utilized by the Department of Health and Human Services to determine whether new long-term care beds are needed;

(2) A review of long-term care beds sold or transferred since LB 195 became law in 2009;

(3) A review of long-term care facility closures since LB 195 became law in 2009;

(4) A review of the economic impact of long-term care facility closures or potential closures on communities, families, and the Department of Health and Human Services; and

(5) A review of the issues raised during the public hearing on LB 1002, introduced in 2012.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall 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 507. Introduced by Sullivan, 41.

PURPOSE: The purpose of this interim study is to examine the possibility of establishing a statewide Farm to School initiative in Nebraska similar to the Oklahoma Farm to School Program enacted in 2006, to encourage partnerships between Nebraska farmers and school districts to increase fresh local food availability in schools, and to provide students with hands-on agricultural learning opportunities. This study shall include, but not be limited to:

(1) A review of the Oklahoma Farm to School Program Act to determine the feasibility of a similar program in Nebraska;

(2) A review of Farm to School projects and programs in other states;

(3) A survey of Nebraska's school district food service directors to determine interest in purchasing locally produced food for use in school breakfast and lunch menus;

(4) A review of potential public and private agencies to partner and collaborate in developing a statewide Farm to School program that builds upon the pilot projects sponsored by the University of Nebraska Rural Initiative and the Nebraska Sustainable Agriculture Society;

(5) A review of potential hands-on agricultural learning opportunities for students, which could include farm visits, school gardens, indoor learning labs, and tasting and cooking demonstrations combined with educational and nutritional curriculum; and

(6) A review of the potential fiscal cost and impact of such a program at the state and local level.

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

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

2. That the committee shall 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.

AMENDMENT - Print in Journal

Senator B. Harr filed the following amendment to LB902:
AM2563

(Amendments to Final Reading copy)

- 1 1. Strike section 3 and insert the following new
- 2 sections:
- 3 Sec. 3. Sections 2 and 5 of this act become operative on
- 4 April 1, 2012. The other sections of this act become operative on
- 5 their effective date.
- 6 Sec. 4. Original section 77-202, Revised Statutes
- 7 Supplement, 2011, is repealed.
- 8 Sec. 5. Original section 77-2704.15, Revised Statutes
- 9 Supplement, 2011, is repealed.
- 10 2. On page 1, lines 5 and 6, strike "to state intent" and
- 11 insert "to provide operative dates".
- 12 3. On page 6, lines 9 through 11; and page 8, lines 13
- 13 through 15, strike the new matter.
- 14 4. Renumber the remaining section accordingly.

GENERAL FILE

LEGISLATIVE BILL 750. Title read. Considered.

Committee AM2183, found on page 730, was considered.

Senator Cornett offered the following amendment to the committee amendment:

AM2573

(Amendments to Standing Committee amendments, AM2183)

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

3 Section 1. Section 77-1359, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 77-1359 The Legislature finds and declares that
6 agricultural land and horticultural land shall be a separate and
7 distinct class of real property for purposes of assessment. The
8 assessed value of agricultural land and horticultural land shall
9 not be uniform and proportionate with all other real property, but
10 the assessed value shall be uniform and proportionate within the
11 class of agricultural land and horticultural land.

12 For purposes of sections 77-1359 ~~to~~ and 77-1363:

13 (1) Agricultural land and horticultural land means a
14 parcel of land, excluding ~~any building or enclosed structure and~~
15 ~~the~~ land associated with ~~such a~~ building or enclosed structure
16 located on the parcel, which is primarily used for agricultural or
17 horticultural purposes, including wasteland lying in or adjacent to
18 and in common ownership or management with other agricultural land
19 and horticultural land;

20 (2) Agricultural or horticultural purposes means used for
21 the commercial production of any plant or animal product in a
22 raw or unprocessed state that is derived from the science and
1 art of agriculture, aquaculture, or horticulture. Agricultural or
2 horticultural purposes includes the following uses of land:

3 (a) Land retained or protected for future agricultural or
4 horticultural purposes under a conservation easement as provided
5 in the Conservation and Preservation Easements Act except when the
6 parcel or a portion thereof is being used for purposes other than
7 agricultural or horticultural purposes; and

8 (b) Land enrolled in a federal or state program in which
9 payments are received for removing such land from agricultural or
10 horticultural production;

11 (3) Farm home site ~~means not more than one acre of~~
12 ~~land contiguous to a farm site which includes an inhabitable~~
13 ~~residence and improvements used for residential purposes, and such~~
14 ~~improvements include utility connections, water and sewer systems,~~
15 ~~and improved access to a public road; and or rural residential site~~
16 means land contiguous to a farm site which includes an inhabitable
17 residence and improvements used for residential purposes and which
18 is located outside of urban areas or outside a platted and zoned
19 subdivision; and

20 (4) Farm site means the portion of land contiguous to
21 land actively devoted to agriculture which includes improvements
22 that are agricultural or horticultural in nature, including any
23 uninhabitable or unimproved farm home site or uninhabitable or

24 unimproved rural residential site.

25 Sec. 2. Section 77-1371, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 77-1371 Comparable sales are recent sales of properties
1 that are similar to the property being assessed in significant
2 physical, functional, and location characteristics and in their
3 contribution to value. When using comparable sales in determining
4 actual value of an individual property under the sales comparison
5 approach provided in section 77-112, the following guidelines shall
6 be considered in determining what constitutes a comparable sale:

7 (1) Whether the sale was financed by the seller and
8 included any special financing considerations or the value of
9 improvements;

10 (2) Whether zoning affected the sale price of the
11 property;

12 (3) For sales of agricultural land or horticultural land
13 as defined in section 77-1359, whether a premium was paid to
14 acquire ~~nearby property. Land within one mile of currently owned~~
15 ~~property shall be considered nearby property. A premium may be paid~~
16 when proximity or tax consequences cause the buyer to pay more than
17 actual value for agricultural land or horticultural land;

18 (4) Whether sales or transfers made in connection with
19 foreclosure, bankruptcy, or condemnations, in lieu of foreclosure,
20 or in consideration of other legal actions should be excluded from
21 comparable sales analysis as not reflecting current market value;

22 (5) Whether sales between family members within the third
23 degree of consanguinity include considerations that fail to reflect
24 current market value;

25 (6) Whether sales to or from federal or state agencies or
26 local political subdivisions reflect current market value;

27 (7) Whether sales of undivided interests in real property
1 or parcels less than forty acres or sales conveying only a portion
2 of the unit assessed reflect current market value;

3 (8) Whether sales or transfers of property in exchange
4 for other real estate, stocks, bonds, or other personal property
5 reflect current market value;

6 (9) Whether deeds recorded for transfers of convenience,
7 transfers of title to cemetery lots, mineral rights, and rights of
8 easement reflect current market value;

9 (10) Whether sales or transfers of property involving
10 railroads or other public utility corporations reflect current
11 market value;

12 (11) Whether sales of property substantially improved
13 subsequent to assessment and prior to sale should be adjusted to
14 reflect current market value or eliminated from such analysis; ~~and~~

15 (12) For agricultural land or horticultural land as
16 defined in section 77-1359 which is or has been receiving the
17 special valuation pursuant to sections 77-1343 to 77-1347.01,
18 whether the sale price reflects a value which the land has for

19 purposes or uses other than as agricultural land or horticultural
 20 land and therefor does not reflect current market value of other
 21 agricultural land or horticultural land; ~~and-~~

22 (13) Whether sales or transfers of property are in
 23 a similar market area and have similar characteristics to the
 24 property being assessed.

25 The Property Tax Administrator may issue guidelines for
 26 assessing officials for use in determining what constitutes a
 27 comparable sale. Guidelines shall take into account the factors
 1 listed in this section and other relevant factors as prescribed by
 2 the Property Tax Administrator.

3 Sec. 3. Original sections 77-1359 and 77-1371, Reissue
 4 Revised Statutes of Nebraska, are repealed.

The Cornett amendment was adopted with 29 ayes, 0 nays, 16 present and
 not voting, and 4 excused and not voting.

The committee amendment, as amended, was adopted with 32 ayes, 0 nays,
 13 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 15 present
 and not voting, and 4 excused and not voting.

AMENDMENTS - Print in Journal

Senator Langemeier filed the following amendment to LB1161:
 AM2530

(Amendments to Standing Committee amendments, AM2381)

1 1. Strike the original sections and all amendments
 2 thereto and insert the following new sections:
 3 Section 1. Section 57-1101, Reissue Revised Statutes of
 4 Nebraska, as amended by section 1, Legislative Bill 1, One Hundred
 5 Second Legislature, First Special Session, 2011, is amended to
 6 read:
 7 57-1101 Any person engaged in, and any company,
 8 corporation, or association formed or created for the purpose of,
 9 transporting or conveying crude oil, petroleum, gases, or other
 10 products thereof in interstate commerce through or across the
 11 State of Nebraska or intrastate within the State of Nebraska, and
 12 desiring or requiring a right-of-way or other interest in real
 13 estate and being unable to agree with the owner or lessee of
 14 any land, lot, right-of-way, or other property for the amount of
 15 compensation for the use and occupancy of so much of any lot, land,
 16 real estate, right-of-way, or other property as may be reasonably
 17 necessary for the laying, relaying, operation, and maintenance
 18 of any such pipeline or the location of any plant or equipment
 19 necessary to operate such pipeline, shall have the right to acquire
 20 the same for such purpose through the exercise of the power of
 21 eminent domain, except that for any major oil pipeline as defined

22 in section 5 of this act to be placed in operation in the State of
1 Nebraska after the effective date of this act, any such person,
2 company, corporation, or association shall comply with section 3,
3 Legislative Bill 4, One Hundred Second Legislature, First Special
4 Session, 2011, and receive the approval of the Governor for the
5 route of the pipeline under such section, or beginning January
6 1, 2013, shall apply for and receive an order approving the
7 application under the Major Oil Pipeline Siting Act, prior to
8 having the rights provided under this section. The procedure to
9 condemn property shall be exercised in the manner set forth in
10 sections 76-704 to 76-724.

11 Sec. 2. Section 3, Legislative Bill 1, One Hundred Second
12 Legislature, First Special Session, 2011, is amended to read:

13 Sec. 3. (1) The purposes of the Major Oil Pipeline Siting
14 Act are to:

15 (a) Ensure the welfare of Nebraskans, including
16 protection of property rights, aesthetic values, and economic
17 interests;

18 (b) Consider the lawful protection of Nebraska's natural
19 resources in determining the location of routes of major oil
20 pipelines within Nebraska;

21 (c) Ensure that a major oil pipeline is not constructed
22 within Nebraska without receiving the approval of the commission
23 under section 9 of this act;

24 (d) Ensure that the location of routes for major oil
25 pipelines is in compliance with Nebraska law; and

26 (e) Ensure that a coordinated and efficient method for
27 the authorization of such construction is provided.

1 (2) Nothing in the Major Oil Pipeline Siting Act shall be
2 construed to regulate any safety issue with respect to any aspect
3 of any interstate oil pipeline. The Major Oil Pipeline Siting Act
4 is intended to deal solely with the issue of siting or choosing the
5 location of the route aside and apart from safety considerations.
6 The Legislature acknowledges and respects the exclusive federal
7 authority over safety issues established by the federal law, the
8 Pipeline Safety Act of 1994, 49 U.S.C. 60101 et seq., and the
9 express preemption provision stated in that act. The Major Oil
10 Pipeline Siting Act is intended to exercise only the remaining
11 sovereign powers and purposes of Nebraska which are not included in
12 the category of safety regulation.

13 (3) ~~The Major Oil Pipeline Siting Act shall not apply to~~
14 ~~any major oil pipeline that has submitted an application to the~~
15 ~~United States Department of State pursuant to Executive Order 13337~~
16 ~~prior to the effective date of this act. The Major Oil Pipeline~~
17 ~~Siting Act shall not apply to any major oil pipeline that, prior to~~
18 ~~January 1, 2013, has submitted an application to the United States~~
19 ~~Department of State pursuant to Executive Order 13337 or, prior to~~
20 ~~January 1, 2013, has applied for or is granted international border~~
21 ~~crossing authority pursuant to federal law.~~

22 Sec. 3. Section 3, Legislative Bill 4, One Hundred Second
23 Legislature, First Special Session, 2011, is amended to read:

24 Sec. 3. (1)(a) The department may
25 ~~collaborate~~ (i) Collaborate with a federal agency or
26 agencies in a review under the National Environmental Policy Act
27 involving a supplemental environmental impact statement for oil
1 pipeline projects within, through, or across the state. Prior
2 to entering into such shared jurisdiction and authority, the
3 department shall collaborate with such agencies to set forth
4 responsibilities and schedules for an effective and timely review
5 process; or

6 (ii) Evaluate any route for an oil pipeline within,
7 through, or across the state and submitted by a pipeline carrier
8 for the stated purpose of being included in a federal agency's
9 or agencies' National Environmental Policy Act review process. Any
10 such evaluation shall provide opportunities for public review and
11 comment and shall include, but not be limited to, an analysis of
12 the environmental, economic, social, and other impacts associated
13 with the proposed route and route alternatives in Nebraska. The
14 department may collaborate with a federal agency or agencies and
15 set forth the responsibilities and schedules that will lead to an
16 effective and timely evaluation.

17 ~~Prior to entering into such shared jurisdiction and~~
18 ~~authority with a federal agency or agencies, the department shall~~
19 ~~enter into a memorandum of understanding with such federal agency~~
20 ~~or agencies that sets forth the responsibilities and schedules that~~
21 ~~will lead to an effective and timely review under the National~~
22 ~~Environmental Policy Act involving a supplemental environmental~~
23 ~~impact statement.~~

24 (b) If a pipeline carrier does not file for a federal
25 permit that may be required under federal law for an oil pipeline
26 project or does not use the department's review or evaluation under
27 subdivision (1)(a)(ii) of this section, the pipeline carrier shall
1 reimburse the department for the cost of the evaluation or review
2 within sixty days after notification from the department of the
3 cost.

4 (2) Since the objectives of the process are to ensure
5 adequate information gathering, full and careful agency and public
6 review, objective preparation of a supplemental environmental
7 impact statement, adherence to a defined schedule, and an
8 appropriate role for a pipeline carrier which avoids the appearance
9 of conflicts of interest, it is the intent of the Legislature that
10 the state fully fund the process of preparation of a supplemental
11 environmental impact statement or an evaluation conducted under
12 subdivision (1)(a)(ii) of this section and that no fees will
13 be required of an applicant. The department may contract with
14 outside vendors in the process of preparation of a supplemental
15 environmental impact statement or an evaluation conducted under
16 subdivision (1)(a)(ii) of this section. The department shall make

17 every reasonable effort to ensure that each vendor has no conflict
 18 of interest or relationship to any pipeline carrier that applies
 19 for an oil pipeline permit.

20 (3) In order for the process to be efficient and
 21 expeditious, the department's contracts with vendors pursuant to
 22 this section for a supplemental environmental impact statement
 23 or an evaluation conducted under subdivision (1)(a)(ii) of
 24 this section shall not be subject to the Nebraska Consultants'
 25 Competitive Negotiation Act or sections 73-301 to 73-306 or 73-501
 26 to 73-509.

27 (4) After the supplemental environmental impact statement
 1 or the evaluation conducted under subdivision (1)(a)(ii) of this
 2 section is prepared, the department shall submit it to the
 3 Governor. Within thirty days after receipt of the supplemental
 4 environmental impact statement or the evaluation conducted under
 5 subdivision (1)(a)(ii) of this section from the department, the
 6 Governor shall indicate, in writing, to the federal agency or
 7 agencies involved in the review or any other appropriate federal
 8 agency or body as to whether he or she approves any of the routes
 9 reviewed in the supplemental environmental impact statement or the
 10 evaluation conducted under subdivision (1)(a)(ii) of this section.

11 Sec. 4. Original section 57-1101, Reissue Revised
 12 Statutes of Nebraska, as amended by section 1, Legislative Bill
 13 1, One Hundred Second Legislature, First Special Session, 2011,
 14 section 3, Legislative Bill 1, One Hundred Second Legislature,
 15 First Special Session, 2011, and section 3, Legislative Bill 4,
 16 One Hundred Second Legislature, First Special Session, 2011, are
 17 repealed.

18 Sec. 5. Since an emergency exists, this act takes effect
 19 when passed and approved according to law.

Senator Langemeier filed the following amendment to LB1161:

FA58

Amend AM2530

Strike Section 5.

GENERAL FILE

LEGISLATIVE BILL 970. Title read. Considered.

Committee AM2391, found on page 903, was considered.

Senator Cornett asked unanimous consent to withdraw her amendment, FA50, found on page 918, and replace it with her substitute amendment, AM2572, to the committee amendment. No objections. So ordered.
 AM2572

(Amendments to Standing Committee amendments, AM2391)

- 1 1. On page 6, line 18, strike "2.45%" and insert "2.46%";
- 2 in line 20 strike "3.50%" and insert "3.51%"; in line 22 strike

3 "5.00%" and insert "5.01%"; and in line 26 strike "and before
 4 January 1, 2015,".
 5 2. On page 7, strike lines 5 through 25; and insert:
 6 1 \$0-2,999 \$0-5,999 \$0-5,599 \$0-2,999 \$0-499 2.46%
 7 2 \$3,000- \$6,000- \$5,600- \$3,000- \$500-
 8 17,999 35,999 \$28,799 17,999 4,699 3.51%
 9 3 \$18,000- \$36,000- \$28,800- \$18,000- \$4,700
 10 28,999 57,999 42,999 28,999 15,149 5.01%
 11 4 \$29,000 \$58,000 \$43,000 \$29,000 \$15,150
 12 and Over and Over and Over and Over and Over 6.84%;
 13 and in line 26 strike "(4)" and insert "(3)".
 14 3. On page 8, line 2, strike "(5)" and insert "(4)", in
 15 line 11 strike "(6)" and insert "(5)"; and in line 15 strike "(7)"
 16 and insert "(6)".

SENATOR COASH PRESIDING

Senator Cornett moved for a call of the house. The motion prevailed with 29 ayes, 1 nay, and 19 not voting.

Senator Cornett requested a roll call vote on her amendment.

Voting in the affirmative, 40:

Adams	Coash	Hadley	Krist	Nelson
Ashford	Cornett	Hansen	Lambert	Nordquist
Avery	Dubas	Harms	Langemeier	Pirsch
Bloomfield	Fischer	Harr, B.	Lathrop	Price
Brasch	Flood	Heidemann	Lautenbaugh	Schumacher
Campbell	Fulton	Howard	Louden	Smith
Carlson	Gloor	Janssen	McCoy	Sullivan
Christensen	Haar, K.	Karpisek	Mello	Wightman

Voting in the negative, 3:

Conrad	Cook	Council
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Present and not voting, 1:

Wallman

Excused and not voting, 5:

Larson	McGill	Pahls	Schilz	Seiler
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The Cornett amendment was adopted with 40 ayes, 3 nays, 1 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

SENATOR LANGEMEIER PRESIDING

Pending.

RESOLUTIONS

LEGISLATIVE RESOLUTION 508. Introduced by Gloor, 35; Campbell, 25.

PURPOSE: The purpose of this resolution is to review, assess, and provide recommendations relating to the implementation and sustainability of the Nebraska Health Care Funding Act. The issues addressed by the study shall include, but not be limited to:

(1) The distribution of funding under the act and the priority of such funding;

(2) The outcomes achieved from such funding in fulfilling the purpose of the act, which is to provide for the use of dedicated revenue for health-care-related expenditures; and

(3) The future sustainability of the Nebraska Health Care Cash Fund.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall 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 509. Introduced by Lautenbaugh, 18.

PURPOSE: To conduct a comprehensive study of the feasibility of a hydroelectric dam on the Platte River near Interstate 80. This study would address the various recreation and tourism benefits for constructing a lake in the Platte River valley. The study would also address the benefit of a hydroelectric dam in retaining the state's surface water and to the state's tax revenue.

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

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

2. That the committee shall 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.

AMENDMENT - Print in Journal

Senator Flood filed the following amendment to LB1115:
AM2546

(Amendments to Standing Committee amendments, AM2495)

- 1 1. On page 6, lines 7 through 9; page 8, lines 5 through
- 2 7 and 22 and 23; and page 9, lines 6 through 8, strike beginning
- 3 with "proposed" through "cities" and insert "agreement negotiated
- 4 pursuant to subsection (2) of this section".
- 5 2. On page 6, line 21; and page 7, line 7, strike "4" and
- 6 insert "5".
- 7 3. On page 6, line 26, after "The" insert "electing city
- 8 or cities; the".

GENERAL FILE

LEGISLATIVE BILL 970. Senator Wallman offered the following amendment to the committee amendment:
AM2588

(Amendments to AM2391)

- 1 1. On page 1, lines 17 and 21; page 2, line 7; page 4,
- 2 line 10; page 5, lines 5 and 22; page 6, line 11; page 8, line 12;
- 3 page 11, line 26; page 12, line 5; page 14, lines 10 and 16; page
- 4 17, line 25; page 18, line 6; page 19, line 20; and page 20, line
- 5 1, strike "2013" and insert "2014".
- 6 2. On page 6, lines 11 and 26, strike "2014" and insert
- 7 "2015".

The Wallman amendment lost with 5 ayes, 23 nays, 16 present and not voting, and 5 excused and not voting.

Committee AM2391, found on page 903 and considered in this day's Journal, as amended, was renewed.

The committee amendment, as amended, was adopted with 35 ayes, 4 nays, 5 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 36 ayes, 6 nays, 2 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 745. Title read. Considered.

SENATOR CARLSON PRESIDING

Committee AM2073, found on page 638, was considered.

Pending.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 949A. Introduced by Harms, 48.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2011, LB374, section 101; to appropriate funds to aid in carrying out the provisions of Legislative Bill 949, One Hundred Second Legislature, Second Session, 2012; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 599A. Introduced by Campbell, 25.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 599, One Hundred Second Legislature, Second Session, 2012; and to declare an emergency.

RESOLUTION

LEGISLATIVE RESOLUTION 510. Introduced by Nordquist, 7; Campbell, 25; Conrad, 46; Council, 11; Harms, 48; Howard, 9; Mello, 5.

PURPOSE: Over forty-seven thousand Nebraska children five years of age and younger are subject to risk factors that threaten their ability to succeed in school and beyond. These children can be found in every county throughout the state and are growing at a faster rate in rural areas. Science shows that meeting a child's cognitive, emotional, and social needs in their first five years, during the period of rapid brain growth, is imperative for the success of the child and provides for the state a greater return on investment than investments at any other time in a person's life.

The purpose of this interim study is for a select committee to gather information and provide recommendations for an early learning and development reform agenda and to develop a preliminary budget to implement and sustain the agenda. The committee should examine the early learning and development system across the state to determine how to make the current system more effective in preparing children to succeed in school and later in life.

This study shall be conducted by a select committee consisting of three members of the Appropriations Committee of the Legislature appointed by the chairperson of the committee, three members of the Education Committee of the Legislature appointed by the chairperson of the committee, and three members of the Health and Human Services Committee of the Legislature appointed by the chairperson of the committee. The chairperson of the select committee shall be selected by the members of the committee.

In conducting the study, the select committee shall consult with licensed and license-exempt child care practitioners, parents, early childhood professionals, business leaders, the Department of Health and Human

Services, the State Department of Education, members of higher education, and other interested parties.

Issues considered by the select committee may include, but shall not be limited to:

(1) Developing shared decisionmaking processes between the Department of Health and Human Services and the State Department of Education regarding early childhood;

(2) Aligning and coordinating early learning and development standards and practices across the state;

(3) Developing, promoting, rating, monitoring, and increasing access to high-quality, accountable programs;

(4) Reviewing barriers posed by family income and geography to the accessibility of high-quality early childhood care and learning opportunities;

(5) Addressing, supporting, and promoting early learning and development outcomes for children;

(6) Supporting and incentivizing the early childhood workforce in the development of their knowledge, skills, and abilities;

(7) Developing standards for early childhood provider education and staff development;

(8) Measuring outcomes and progress to improve instruction, practices, services, and policies; and

(9) Developing innovative funding strategies to maximize early childhood outcomes for children.

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

1. That the select committee shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature on or before December 31, 2012.

Referred to the Executive Board.

AMENDMENTS - Print in Journal

Senator Council filed the following amendment to LB745:
AM2566

1 1. On page 3, after line 22 insert the following new
2 subsection:

3 "(6) The provisions of this section only apply to an
4 occupation tax or rate increase that is estimated to generate
5 annual revenue in excess of one million dollars or twenty-five
6 percent of the municipality's local option sales tax revenue in the
7 prior fiscal year, whichever is greater.".

Senator Adams filed the following amendment to LB745:
AM2575

- 1 1. Strike original section 1 and all amendments thereto
- 2 and insert the following new section:
- 3 Section 1. (1) After the effective date of this act,
- 4 a municipality may impose a new occupation tax or increase the
- 5 rate of an existing occupation tax, which new occupation tax
- 6 or increased rate of an existing occupation tax is projected to
- 7 generate occupation tax revenue in excess of the applicable amount
- 8 listed in subsection (2) of this section, pursuant to section
- 9 14-109, 15-202, 15-203, 16-205, or 17-525 if the question of
- 10 whether to impose the tax has been submitted at a primary or
- 11 general election at which members of the governing body of the
- 12 municipality are nominated or elected or at a special election
- 13 held within the municipality and in which all registered voters
- 14 shall be entitled to vote on the question. The officials of
- 15 the municipality shall order the submission of the question by
- 16 submitting a certified copy of the resolution proposing the tax
- 17 to the election commissioner or county clerk at least fifty days
- 18 before the election. The election shall be conducted in accordance
- 19 with the Election Act. If a majority of the votes cast upon
- 20 the question are in favor of the new tax or increased rate
- 21 of an existing occupation tax, then the governing body of such
- 22 municipality shall be empowered to impose the new tax or to impose
- 23 the increased tax rate. If a majority of those voting on the
- 1 question are opposed to the new tax or increased rate, then the
- 2 governing body of the municipality shall not impose the new tax or
- 3 increased rate but shall maintain any existing occupation tax at
- 4 its current rate.
- 5 (2) The applicable occupation tax revenue for purposes of
- 6 subsection (1) of this section is:
- 7 (a) For cities of the metropolitan class, one million
- 8 dollars;
- 9 (b) For cities of the primary class, seven hundred fifty
- 10 thousand dollars;
- 11 (c) For cities of the first class, two hundred fifty
- 12 thousand dollars; and
- 13 (d) For cities of the second class and villages, one
- 14 hundred thousand dollars.
- 15 (3) After the effective date of this act, a municipality
- 16 shall not be required to submit the following questions to the
- 17 registered voters:
- 18 (a) Whether to change the rate of an occupation tax
- 19 imposed for a specific project which does not provide for deposit
- 20 of the tax proceeds in the municipality's general fund; or
- 21 (b) Whether to terminate an occupation tax earlier than
- 22 the determinable termination date under the original question
- 23 submitted to the registered voters.
- 24 This subsection applies to occupation taxes imposed prior

25 to, on, or after the effective date of this act.
26 (4) The provisions of this section do not apply to an
27 occupation tax subject to section 86-704.

UNANIMOUS CONSENT - Add Cointroducers

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB970. No objections. So ordered.

Senator Price asked unanimous consent to add his name as cointroducer to LB750. No objections. So ordered.

VISITORS

Visitors to the Chamber were 13 students and teachers of the Student Senator Program from District 47; Senator Schilz's son, Jake Schilz, from Ogallala; and 54 fourth-grade students and teachers from Cottonwood Elementary, Omaha.

The Doctor of the Day was Dr. Wade Fornander from Lincoln.

ADJOURNMENT

At 7:52 p.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Wednesday, March 21, 2012.

Patrick J. O'Donnell
Clerk of the Legislature

