

FORTY-SECOND DAY - MARCH 12, 2014**LEGISLATIVE JOURNAL****ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION****FORTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 12, 2014

PRAYER

The prayer was offered by Chaplain Rebecca Hjelle, Blair First United Methodist Church, Blair.

ROLL CALL

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

The roll was called and all members were present except Senators Kolowski and Lautenbaugh who were excused; and Senators Conrad, Hadley, Janssen, Karpisek, Larson, Murante, Schilz, and Schumacher who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-first day was approved.

GENERAL FILE

LEGISLATIVE BILL 560A. Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 7 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 974A. Title read. Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 7 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 867A. Title read. Considered.

Senator Hadley offered the following amendment:

FA246

Add the Emergency Clause.

The Hadley amendment was adopted with 37 ayes, 0 nays, 4 present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 3 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 1092. Title read. Considered.

Committee AM2067, found on page 629, was offered.

SENATOR WATERMEIER PRESIDING

SENATOR COASH PRESIDING

Senator Nordquist moved the previous question. The question is, "Shall the debate now close?"

Senator Nordquist moved for a call of the house. The motion prevailed with 31 ayes, 0 nays, and 18 not voting.

The motion to cease debate prevailed with 26 ayes, 9 nays, 12 present and not voting, and 2 excused and not voting.

The committee amendment was adopted with 47 ayes, 0 nays, and 2 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following amendment:

FA247

Amend AM2067

Page 1, line 6, strike beginning with "Furthermore" through the period in line 10.

Pending.

MESSAGE FROM THE GOVERNOR

March 12, 2014

Mr. President, Speaker Adams
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Adams and Members of the Legislature:

Contingent upon your approval, the following individuals are being reappointed to the Nebraska Ethanol Board:

Michael Thede, 327 "R" Road, Palmer, NE 68864
Mark A. Ondracek, 3476 Golden Eagle Circle, Blair, NE 68008-6704

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Ondracek, Mark A. - Nebraska Ethanol Board - Natural Resources
Thede, Michael - Nebraska Ethanol Board - Natural Resources

(Signed) John Wightman, Chairperson
Executive Board

AMENDMENT - Print in Journal

Senator Nordquist filed the following amendment to LB867:
AM2262

(Amendments to E & R amendments, ER155)

- 1 1. Insert the following new sections:
- 2 Sec. 4. Section 14-2138, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 14-2138 The metropolitan utilities district shall pay to
- 5 the city of the metropolitan class a sum equivalent to two percent
- 6 of the annual gross revenue derived from all retail sales of water
- 7 and gas sold by such district within such city, except that until
- 8 January 1, 2020, retail sales of gas shall not include the retail
- 9 sale of natural gas used as vehicular fuel. Such sum shall be paid
- 10 on a quarterly basis, the last quarterly payment to be made not
- 11 later than the thirtieth day of January of the next succeeding
- 12 year, except that annual payments to such city shall not be less
- 13 than five hundred thousand dollars. Such city shall not levy or
- 14 collect any license, occupation, or excise tax upon or from such
- 15 district. All payments provided by this section shall be allocated
- 16 by the district among the several utilities operated by it upon
- 17 such basis as the district shall determine.
- 18 Sec. 5. Section 14-2139, Reissue Revised Statutes of
- 19 Nebraska, is amended to read:
- 20 14-2139 A metropolitan utilities district shall pay to
- 21 every city or village of any class, other than metropolitan, in

22 which such district sells water or gas, or both, at retail, a sum
 1 equivalent to two percent of the annual gross revenue derived from
 2 all retail sales of water or gas, or both, sold by such district
 3 within the city or village, except that until January 1, 2020,
 4 retail sales of gas shall not include the retail sale of natural
 5 gas used as vehicular fuel. Such sums shall be paid not later
 6 than the thirtieth day of January of the next succeeding year.
 7 Such cities or villages shall not levy or collect any license,
 8 occupation, or excise tax upon or from such district. All payments
 9 provided by this section shall be allocated by the district among
 10 the several utilities operated by it upon such basis as the
 11 district shall determine.

12 Sec. 6. Section 66-6,102, Reissue Revised Statutes of
 13 Nebraska, is amended to read:

14 66-6,102 Gallon equivalent means: ~~the~~

15 (1) For compressed natural gas, the amount of any
 16 ~~nonliquid compressed fuel-compressed natural gas~~ that is deemed
 17 to be the energy equivalent of a gallon of gasoline according to
 18 the National Institute of Standards and Technology Handbook 130
 19 entitled Uniform Regulation for the Method of Sale of Commodities,
 20 ~~Regulation, Paragraph 2.27.1.3; or-~~

21 (2) For liquefied natural gas, the amount of liquefied
 22 natural gas that is deemed to be the energy equivalent of a gallon
 23 of diesel fuel at diesel fuel's lower heating value of one hundred
 24 twenty-eight thousand seven hundred British thermal units, which
 25 amount shall be equal to six and six-hundredths pounds of liquefied
 26 natural gas.

27 Sec. 11. Section 77-2704.13, Reissue Revised Statutes of
 1 Nebraska, is amended to read:

2 77-2704.13 Sales and use taxes shall not be imposed on
 3 the gross receipts from the sale, lease, or rental of and the
 4 storage, use, or other consumption in this state of:

5 (1) Sales and purchases of electricity, coal, gas, fuel
 6 oil, diesel fuel, tractor fuel, propane, gasoline, coke, nuclear
 7 fuel, butane, wood as fuel, and corn as fuel when more than fifty
 8 percent of the amount purchased is for use directly in irrigation
 9 or farming;

10 (2) Sales and purchases of such energy sources or fuels
 11 ~~made before April 1, 1993, or after March 31, 1994,~~ when more
 12 than fifty percent of the amount purchased is for use directly
 13 in processing, manufacturing, or refining, in the generation of
 14 electricity, in the compression of natural gas for retail sale
 15 as a vehicle fuel, or by any hospital; and -The state tax paid
 16 on purchases of such energy sources or fuels during the period
 17 beginning April 1, 1993, and ending March 31, 1994, shall not
 18 exceed one hundred thousand dollars for any one location when more
 19 than fifty percent of the amount purchased is for use directly
 20 in processing, manufacturing, or refining or by any hospital. All
 21 purchases of such energy sources or fuels for use in the generation

22 of electricity during the period beginning April 1, 1993, and
23 ending March 31, 1994, shall be taxable. Any taxpayer who has paid
24 the limit of state tax on such energy sources or fuels at one
25 location shall be exempt on all other qualifying purchases at such
26 location. Such taxpayer shall be entitled to a refund of any amount
27 of state or local option tax paid on an energy source or fuel
1 exempt under this subdivision. A refund shall be made pursuant to
2 section 77-2708; and

3 (3) Sales and purchases of water used for irrigation of
4 agricultural lands and manufacturing purposes.

5 2. Renumber the remaining sections and correct internal
6 references accordingly.

7 3. Correct the operative date and repealer sections so
8 that the sections added by this amendment become operative on
9 January 1, 2015.

UNANIMOUS CONSENT - Add Cointroducers

Senators Bloomfield and Garrett asked unanimous consent to add their names as cointroducers to LB902. No objections. So ordered.

Senator Krist asked unanimous consent to add his name as cointroducer to LB902 and LB75. No objections. So ordered.

VISITORS

Visitors to the Chamber were Connor McCoy and Coage Taylor from Gothenburg; 15 fourth-grade students and teacher from Faith Lutheran School, Lincoln; 55 members from Youth Leadership Kearney; and 45 fourth-grade students from Eagle.

RECESS

At 12:04 p.m., on a motion by Senator Scheer, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Kolowski, Lautenbaugh, and Nordquist who were excused; and Senators Ashford, Conrad, Janssen, Larson, Mello, Schilz, and Watermeier who were excused until they arrive.

COMMITTEE REPORT

Revenue

LEGISLATIVE BILL 75. Placed on General File with amendment.

AM2392

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 77-2716, Revised Statutes Supplement,
- 4 2013, is amended to read:
- 5 77-2716 (1) The following adjustments to federal adjusted
- 6 gross income or, for corporations and fiduciaries, federal taxable
- 7 income shall be made for interest or dividends received:
- 8 (a) There shall be subtracted interest or dividends
- 9 received by the owner of obligations of the United States and its
- 10 territories and possessions or of any authority, commission, or
- 11 instrumentality of the United States to the extent includable in
- 12 gross income for federal income tax purposes but exempt from state
- 13 income taxes under the laws of the United States;
- 14 (b) There shall be subtracted that portion of the
- 15 total dividends and other income received from a regulated
- 16 investment company which is attributable to obligations described
- 17 in subdivision (a) of this subsection as reported to the recipient
- 18 by the regulated investment company;
- 19 (c) There shall be added interest or dividends received
- 20 by the owner of obligations of the District of Columbia, other
- 21 states of the United States, or their political subdivisions,
- 22 authorities, commissions, or instrumentalities to the extent
- 23 excluded in the computation of gross income for federal income
- 1 tax purposes except that such interest or dividends shall not be
- 2 added if received by a corporation which is a regulated investment
- 3 company;
- 4 (d) There shall be added that portion of the total
- 5 dividends and other income received from a regulated investment
- 6 company which is attributable to obligations described in
- 7 subdivision (c) of this subsection and excluded for federal
- 8 income tax purposes as reported to the recipient by the regulated
- 9 investment company; and
- 10 (e)(i) Any amount subtracted under this subsection shall
- 11 be reduced by any interest on indebtedness incurred to carry the
- 12 obligations or securities described in this subsection or the
- 13 investment in the regulated investment company and by any expenses
- 14 incurred in the production of interest or dividend income described
- 15 in this subsection to the extent that such expenses, including
- 16 amortizable bond premiums, are deductible in determining federal
- 17 taxable income.
- 18 (ii) Any amount added under this subsection shall be
- 19 reduced by any expenses incurred in the production of such income
- 20 to the extent disallowed in the computation of federal taxable
- 21 income.

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

8 (3) There shall be subtracted from federal adjusted gross
9 income for all taxable years beginning on or after January 1, 1987,
10 the amount of any state income tax refund to the extent such refund
11 was deducted under the Internal Revenue Code, was not allowed in
12 the computation of the tax due under the Nebraska Revenue Act of
13 1967, and is included in federal adjusted gross income.

14 (4) Federal adjusted gross income, or, for a fiduciary,
15 federal taxable income shall be modified to exclude the portion of
16 the income or loss received from a small business corporation with
17 an election in effect under subchapter S of the Internal Revenue
18 Code or from a limited liability company organized pursuant to the
19 Nebraska Uniform Limited Liability Company Act that is not derived
20 from or connected with Nebraska sources as determined in section
21 77-2734.01.

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

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

7 (a) The amount of federal taxable income from operations
8 within a foreign taxing jurisdiction shall be reduced by the amount
9 of taxes actually paid to the foreign jurisdiction that are not
10 deductible solely because the foreign tax credit was elected on the
11 federal income tax return;

12 (b) The amount of after-tax income shall be divided by
13 one minus the maximum tax rate for corporations in the Internal
14 Revenue Code; and

15 (c) The result of the calculation in subdivision (b) of
16 this subsection shall be subtracted from the amount of federal

17 taxable income used in subdivision (a) of this subsection. The
18 result of such calculation, if greater than zero, shall be
19 subtracted from federal taxable income.

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

24 (8)(a) Federal adjusted gross income or, for corporations
25 and fiduciaries, federal taxable income shall be reduced, to the
26 extent included, by income from interest, earnings, and state
27 contributions received from the Nebraska educational savings plan
1 trust created in sections 85-1801 to 85-1814.

2 (b) Federal adjusted gross income or, for corporations
3 and fiduciaries, federal taxable income shall be reduced by any
4 contributions as a participant in the Nebraska educational savings
5 plan trust, to the extent not deducted for federal income tax
6 purposes, but not to exceed five thousand dollars per married
7 filing separate return or ten thousand dollars for any other
8 return. With respect to a qualified rollover within the meaning
9 of section 529 of the Internal Revenue Code from another state's
10 plan, any interest, earnings, and state contributions received from
11 the other state's educational savings plan which is qualified under
12 section 529 of the code shall qualify for the reduction provided in
13 this subdivision. For contributions by a custodian of a custodial
14 account including rollovers from another custodial account, the
15 reduction shall only apply to funds added to the custodial account
16 after January 1, 2014.

17 (c) Federal adjusted gross income or, for corporations
18 and fiduciaries, federal taxable income shall be increased by
19 the amount resulting from the cancellation of a participation
20 agreement refunded to the taxpayer as a participant in the Nebraska
21 educational savings plan trust to the extent previously deducted as
22 a contribution to the trust.

23 (9)(a) For income tax returns filed after September 10,
24 2001, for taxable years beginning or deemed to begin before January
25 1, 2006, under the Internal Revenue Code of 1986, as amended,
26 federal adjusted gross income or, for corporations and fiduciaries,
27 federal taxable income shall be increased by eighty-five percent
1 of any amount of any federal bonus depreciation received under
2 the federal Job Creation and Worker Assistance Act of 2002 or the
3 federal Jobs and Growth Tax Act of 2003, under section 168(k) or
4 section 1400L of the Internal Revenue Code of 1986, as amended,
5 for assets placed in service after September 10, 2001, and before
6 December 31, 2005.

7 (b) For a partnership, limited liability company,
8 cooperative, including any cooperative exempt from income taxes
9 under section 521 of the Internal Revenue Code of 1986, as amended,
10 limited cooperative association, subchapter S corporation, or
11 joint venture, the increase shall be distributed to the partners,

12 members, shareholders, patrons, or beneficiaries in the same
13 manner as income is distributed for use against their income tax
14 liabilities.

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

19 (d) The amount of bonus depreciation added to federal
20 adjusted gross income or, for corporations and fiduciaries, federal
21 taxable income by this subsection shall be subtracted in a
22 later taxable year. Twenty percent of the total amount of bonus
23 depreciation added back by this subsection for tax years beginning
24 or deemed to begin before January 1, 2003, under the Internal
25 Revenue Code of 1986, as amended, may be subtracted in the first
26 taxable year beginning or deemed to begin on or after January 1,
27 2005, under the Internal Revenue Code of 1986, as amended, and
1 twenty percent in each of the next four following taxable years.
2 Twenty percent of the total amount of bonus depreciation added back
3 by this subsection for tax years beginning or deemed to begin on or
4 after January 1, 2003, may be subtracted in the first taxable year
5 beginning or deemed to begin on or after January 1, 2006, under the
6 Internal Revenue Code of 1986, as amended, and twenty percent in
7 each of the next four following taxable years.

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

22 (11)(a) Federal adjusted gross income shall be reduced
23 by contributions, up to two thousand dollars per married filing
24 jointly return or one thousand dollars for any other return, and
25 any investment earnings made as a participant in the Nebraska
26 long-term care savings plan under the Long-Term Care Savings Plan
27 Act, to the extent not deducted for federal income tax purposes.

1 (b) Federal adjusted gross income shall be increased by
2 the withdrawals made as a participant in the Nebraska long-term
3 care savings plan under the act by a person who is not a qualified
4 individual or for any reason other than transfer of funds to a
5 spouse, long-term care expenses, long-term care insurance premiums,
6 or death of the participant, including withdrawals made by reason

7 of cancellation of the participation agreement or termination of
 8 the plan, to the extent previously deducted as a contribution or as
 9 investment earnings.

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

15 (13) An individual may make a one-time election within
 16 two calendar years after the date of his or her retirement from
 17 the military to exclude income received as a military retirement
 18 benefit by the individual to the extent included in federal
 19 adjusted gross income and as provided in this subsection. The
 20 individual may elect to exclude forty percent of his or her
 21 military retirement benefit income for seven consecutive taxable
 22 years beginning with the year in which the election is made or may
 23 elect to exclude fifteen percent of his or her military retirement
 24 benefit income for all taxable years beginning with the year in
 25 which he or she turns sixty-seven years of age. For purposes
 26 of this subsection, military retirement benefit means retirement
 27 benefits that are periodic payments attributable to service in
 1 the uniformed services of the United States for personal services
 2 performed by an individual prior to his or her retirement.

3 Sec. 2. This act becomes operative for all taxable years
 4 beginning or deemed to begin on or after January 1, 2015, under the
 5 Internal Revenue Code of 1986, as amended.

6 Sec. 3. Original section 77-2716, Revised Statutes
 7 Supplement, 2013, is repealed.

(Signed) Galen Hadley, Chairperson

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 853. Placed on Select File with amendment.
 ER162 is available in the Bill Room.

LEGISLATIVE BILL 1001A. Placed on Select File.

(Signed) John Murante, Chairperson

AMENDMENTS - Print in Journal

Senator Chambers filed the following amendments to LB1028:

FA248

Page 2, line 4 strike and show as stricken "which" and insert "that".

FA249

Page 2, line 6 after "having" insert "at least".

FA250

Page 2, line 7 strike and show as stricken beginning with the first "inhabitants" through "inhabitants" and insert "residents but no more than one hundred ninety-nine thousand, nine hundred ninety-nine residents".

FA251

Page 2, line 9 strike and show as stricken beginning with first "inhabitants" through "inhabitants" and insert "residents and no more than three hundred ninety-nine thousand, three hundred ninety-nine residents".

FA252

Page 2, line 20 after "emergency" insert "as defined by Black's Law Dictionary".

FA253

Page 2, line 11 reinstate stricken language and strike new language and insert "Four".

FA254

Page 2, line 13 strike and show as stricken, beginning with "The" through the period in line 14. Insert "Senior judge means the judge who has served longest as a juvenile court judge. The senior judge shall be the presiding judge."

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 464, 465, 466, 467, and 468 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 464, 465, 466, 467, and 468.

SENATOR KRIST PRESIDING

GENERAL FILE

LEGISLATIVE BILL 1092. The Chambers amendment, FA247, found in this day's Journal, was renewed.

Senator Chambers moved for a call of the house. The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 17:

Ashford	Coash	Hadley	Krist	Wallman
Bloomfield	Conrad	Hansen	Nelson	
Brasch	Cook	Johnson	Pirsch	
Chambers	Garrett	Kintner	Smith	

Voting in the negative, 5:

Avery	Campbell	Karpisek	Murante	Scheer
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Present and not voting, 21:

Adams	Davis	Harr, B.	Mello	Wightman
Bolz	Dubas	Howard	Schilz	
Carlson	Gloor	Lathrop	Schumacher	
Christensen	Haar, K.	McCoy	Seiler	
Crawford	Harms	McGill	Sullivan	

Excused and not voting, 6:

Janssen	Larson	Nordquist
Kolowski	Lautenbaugh	Watermeier

The Chambers amendment lost with 17 ayes, 5 nays, 21 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Pending.

COMMITTEE REPORT

Judiciary

LEGISLATIVE BILL 907. Placed on General File with amendment. AM2376 is available in the Bill Room.

(Signed) Brad Ashford, Chairperson

AMENDMENTS - Print in Journal

Senator Campbell filed the following amendment to LB887:
AM2370

(Amendments to Standing Committee amendments, AM2032)

- 1 1. On page 31, line 3, strike "persons" and insert
- 2 "individuals".

Senator Campbell filed the following amendment to LB887:
AM2369

(Amendments to Standing Committee amendments, AM2032)

- 1 1. On page 30, line 10, strike "public and".

Senator Campbell filed the following amendment to LB887:
AM2368

(Amendments to Standing Committee amendments, AM2032)

- 1 1. On page 14, line 24, strike "newly eligible
- 2 individuals" and insert "Wellness In Nebraska Act participants".

Senator Campbell filed the following amendment to LB887:
AM2367

(Amendments to Standing Committee amendments, AM2032)

- 1 1. On page 9, line 20, strike "nineteen years of age or"
- 2 and after "older" insert "than eighteen years of age".

Senator Nordquist filed the following amendment to LB1076:
AM2305

(Amendments to Standing Committee amendments, AM1903)

- 1 1. Insert the following new sections:
- 2 Sec. 3. Section 71-8503, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 71-8503 For purposes of the Nebraska Telehealth Act:
- 5 (1) Department means the Department of Health and Human
- 6 Services;
- 7 (2) Health care practitioner means a Nebraska
- 8 medicaid-enrolled provider who is licensed, registered, or
- 9 certified to practice in this state by the department;
- 10 (3) Telehealth means the use of ~~telecommunications~~
- 11 ~~technology by a health care practitioner to deliver health care~~
- 12 ~~services within his or her scope of practice at a site other than~~
- 13 ~~the site where the patient is located; and medical information~~
- 14 ~~electronically exchanged from one site to another, whether~~
- 15 ~~synchronously or asynchronously, to aid a health care practitioner~~
- 16 ~~in the diagnosis or treatment of a patient. Telehealth includes~~
- 17 ~~services originating from a patient's home or any other location~~
- 18 ~~where such patient is located, asynchronous services involving the~~
- 19 ~~acquisition and storage of medical information at one site that is~~
- 20 ~~then forwarded to or retrieved by a health care practitioner at~~
- 21 ~~another site for medical evaluation, and telemonitoring;~~
- 22 (4) Telehealth consultation means any contact between a
- 1 patient and a health care practitioner relating to the health care
- 2 diagnosis or treatment of such patient through telehealth; ~~and but~~
- 3 ~~does not include a telephone conversation, electronic mail message,~~
- 4 ~~or facsimile transmission between a health care practitioner and a~~
- 5 ~~patient or a consultation between two health care practitioners.~~
- 6 (5) Telemonitoring means the remote monitoring of a
- 7 patient's vital signs, biometric data, or subjective data by a
- 8 monitoring device which transmits such data electronically to a
- 9 health care practitioner for analysis and storage.
- 10 Sec. 4. Section 71-8506, Revised Statutes Supplement,
- 11 2013, is amended to read:

12 71-8506 (1) In-person contact between a health care
 13 practitioner and a patient shall not be required under the
 14 medical assistance program established pursuant to the Medical
 15 Assistance Act and Title XXI of the federal Social Security Act,
 16 as amended, for health care services delivered through telehealth
 17 that are otherwise eligible for reimbursement under such program
 18 and federal act. Such services shall be subject to reimbursement
 19 policies developed pursuant to such program and federal act. This
 20 section also applies to managed care plans which contract with
 21 the department pursuant to the Medical Assistance Act only to the
 22 extent that:

23 (a) Health care services delivered through telehealth
 24 are covered by and reimbursed under the medicaid fee-for-service
 25 program; and

26 (b) Managed care contracts with managed care plans are
 27 amended to add coverage of health care services delivered through
 1 telehealth and any appropriate capitation rate adjustments are
 2 incorporated.

3 (2) The reimbursement rate for a telehealth consultation
 4 shall, as a minimum, be set at the same rate as the medical
 5 assistance program rate for a comparable in-person consultation,
 6 and the rate shall not depend on the distance between the health
 7 care practitioner and the patient.

8 (3) The department shall establish rates for transmission
 9 cost reimbursement for telehealth consultations, considering, to
 10 the extent applicable, reductions in travel costs by health care
 11 practitioners and patients to deliver or to access health care
 12 services and such other factors as the department deems relevant.
 13 Such rates shall include reimbursement for all two-way, real-time,
 14 interactive communications, unless provided by an Internet service
 15 provider, between the patient and the physician or health care
 16 practitioner at the distant site which comply with the federal
 17 Health Insurance Portability and Accountability Act of 1996 and
 18 rules and regulations adopted thereunder and with regulations
 19 relating to encryption adopted by the federal Centers for Medicare
 20 and Medicaid Services and which satisfy federal requirements
 21 relating to efficiency, economy, and quality of care.

22 Sec. 5. Section 71-8508, Reissue Revised Statutes of
 23 Nebraska, is amended to read:

24 71-8508 ~~By July 1, 2000, the~~ The department shall
 25 adopt and promulgate rules and regulations to carry out the
 26 Nebraska Telehealth Act, including, but not limited to, rules and
 27 regulations to: (1) Ensure the provision of appropriate care to
 1 patients; (2) prevent fraud and abuse; and (3) establish necessary
 2 methods and procedures, necessary to safeguard against unnecessary
 3 utilization of telehealth consultations.

4 2. Renumber the remaining sections and correct internal
 5 references accordingly.

6 3. Correct the operative date and repealer sections so

7 that the sections added by this amendment become operative three
8 calendar months after the adjournment of this legislative session.

GENERAL FILE

LEGISLATIVE BILL 1092. Senator Chambers offered the following amendment:

FA255

Amend AM2067

Page 1, line 14, after "2033" place a period and strike remaining language through the period in line 16.

Senator Chambers offered the following motion:

MO142

Bracket until April 17, 2014.

Senator Bloomfield moved the previous question. The question is, "Shall the debate now close?"

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

Senator Bloomfield requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 30:

Adams	Coash	Johnson	McGill	Schilz
Ashford	Crawford	Karpisek	Mello	Schumacher
Avery	Dubas	Krist	Murante	Seiler
Bloomfield	Garrett	Larson	Nelson	Sullivan
Bolz	Haar, K.	Lathrop	Pirsch	Wallman
Campbell	Howard	McCoy	Scheer	Wightman

Voting in the negative, 13:

Brasch	Christensen	Gloor	Harms	Watermeier
Carlson	Conrad	Hadley	Kintner	
Chambers	Cook	Hansen	Smith	

Present and not voting, 1:

Davis

Excused and not voting, 5:

Harr, B. Janssen Kolowski Lautenbaugh Nordquist

The motion to cease debate prevailed with 30 ayes, 13 nays, 1 present and not voting, and 5 excused and not voting.

The Chambers motion to bracket failed with 14 ayes, 27 nays, 3 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Pending.

AMENDMENT - Print in Journal

Senator Campbell filed the following amendment to LB1076:
AM2314

(Amendments to Standing Committee amendments, AM1903)

- 1 1. On page 1, line 9, strike "of 2010".
- 2 2. On page 2, strike beginning with "of" in line 6
- 3 through "2014" in line 7.

COMMITTEE REPORTS

Agriculture

LEGISLATIVE RESOLUTION 413. Reported to the Legislature for further consideration with the following amendment:

AM2371

- 1 1. Strike the second Resolved clause and insert:
- 2 "2. That the Legislature further requests the United
- 3 States Department of Agriculture to not expand the exceptions to
- 4 the prohibition against the importation of any ruminant or swine or
- 5 any fresh (chilled or frozen) meat of ruminants and swine pursuant
- 6 to 9 C.F.R. 94.1 to allow the importation of fresh and chilled
- 7 beef from the country of Brazil or any region of Brazil until the
- 8 United States Secretary of Agriculture certifies to Congress that
- 9 every region of Brazil is free of foot-and-mouth disease without
- 10 vaccination."

LEGISLATIVE RESOLUTION 427. Reported to the Legislature for further consideration with the following amendment:

AM2372

- 1 1. Strike the first WHEREAS clause and insert:
- 2 "WHEREAS, in accordance with the federal Energy Policy
- 3 Act of 2005 and the Energy Independence and Security Act of
- 4 2007, the United States has demonstrated its commitment to the
- 5 long-term policy of increasing the production of clean renewable
- 6 fuels according to the federal Renewable Fuel Standard (RFS) by
- 7 enabling the increased domestic production and use of renewable
- 8 fuels, which include renewable biofuels such as ethanol, biodiesel,
- 9 cellulosic, and advanced biofuels; and"
- 10 2. Strike the first Resolved clause and insert:
- 11 "1. That the Legislature urges the United States
- 12 Government to maintain and reaffirm its commitment to realizing the

13 goals of the Energy Policy Act of 2005 and the Energy Independence
14 and Security Act of 2007 for rural economic development, energy
15 security, and diversity of our nation's energy portfolio, to lessen
16 pressure on fuel prices, to stimulate investment in development and
17 commercial deployment of advanced renewable fuel systems, and to
18 encourage clean air, other environmental benefits, and a robust and
19 sustainable renewable fuels industry by adhering to the schedule
20 of renewable fuel volume requirements set forth in the current
21 Renewable Fuel Standard."

(Signed) Ken Schilz, Chairperson

NOTICE OF COMMITTEE HEARINGS

Judiciary

Room 1113

Wednesday, March 19, 2014 1:00 p.m.

G. Randall "Rand" Hansen - Crime Victim's Reparations Committee
Rita G. Sanders - Crime Victim's Reparations Committee

Wednesday, March 19, 2014 12:00 p.m.

AM2173 - LB999

(Signed) Brad Ashford, Chairperson

Health and Human Services

Room 1510

Thursday, March 20, 2014 12:00 p.m.

Brian Buhlke - Nebraska Rural Health Advisory Commission
Joyce Bischoff - Stem Cell Research Advisory Committee

(Signed) Kathy Campbell, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 482. Introduced by Carlson, 38; Bloomfield, 17; Brasch, 16; Christensen, 44; Davis, 43; Garrett, 3; Hansen, 42; Janssen, 15; Johnson, 23; Kintner, 2; McCoy, 39; Murante, 49; Schilz, 47; Seiler, 33; Smith, 14; Watermeier, 1; Wightman, 36.

WHEREAS, a reliable and affordable energy supply is vital to Nebraska's economic growth, jobs, and the overall benefit of its citizens, and Nebraska

supports a diversified "all-the-above" energy strategy because it is in the best interest of the state and the nation; and

WHEREAS, the United States has abundant supplies of coal that provide economic and energy security benefits, and coal provides affordable and reliable electricity to the citizens of Nebraska; and

WHEREAS, carbon regulations for existing coal-fueled power plants could threaten the affordability and reliability of Nebraska's electricity supplies and risk substantial job losses through the premature closure of power plants that have just invested in pollution controls to meet the recent mercury regulations of the United States Environmental Protection Agency (EPA); and

WHEREAS, carbon dioxide emissions from coal-fueled power plants in the United States represent only 3 percent of global anthropogenic greenhouse gas emissions; and

WHEREAS, the United States Energy Information Administration projects that in the United States, electric sector carbon dioxide emissions will be 14 percent below 2005 levels in 2020, and coal-fueled power plant carbon dioxide emissions will be 19 percent below 2005 levels in 2020; and

WHEREAS, on June 25, 2013, President Obama directed the EPA Administrator to issue standards, regulations, or guidelines to address carbon dioxide emissions from new, existing, modified, and reconstructed fossil-fueled power plants; and

WHEREAS, the President expressly recognized that states "will play a central role in establishing and implementing carbon standards for existing power plants"; and

WHEREAS, the Clean Air Act requires the EPA to establish a procedure under which each state shall develop a plan for establishing and implementing standards of performance for existing sources within the state; and

WHEREAS, the Clean Air Act expressly allows states, in developing and applying such standards of performance, "to take into consideration, among other factors, the remaining useful life of the existing source to which such standard applies"; and

WHEREAS, the EPA's existing regulations provide that states may adopt less stringent emissions standards or longer compliance schedules than EPA guidelines based on factors such as unreasonable cost of control, physical impossibility of installing necessary control equipment, or other factors that make less stringent standards or longer compliance times significantly more reasonable; and

WHEREAS, it is in the best interest of electricity consumers in Nebraska to continue to benefit from reliable and affordable electricity provided by coal-based electricity generating plants.

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

1. That the Legislature urges the United States Environmental Protection Agency (EPA), in developing guidelines for regulating carbon dioxide emissions from existing power plants, to respect the primacy of Nebraska and other states and to rely on state regulators to develop performance

standards for carbon dioxide emissions that take into account the unique policies, energy needs, resource mix, and economic priorities of each state.

2. That the EPA should issue guidelines and approve state-established performance standards that are based on reductions of carbon dioxide emissions achievable by measures undertaken at fossil-fueled power plants.

3. That the EPA should allow Nebraska and other states to set less stringent performance standards or longer compliance schedules and give each state maximum flexibility to implement carbon dioxide performance standards for fossil-fueled power plants within their own jurisdiction.

4. That a copy of this resolution be sent to United States EPA Administrator Gina McCarthy and to each member of Nebraska's congressional delegation.

Laid over.

SPEAKER'S ANNOUNCEMENT

Pursuant to Rule 4, Section 8, LR482 was referred to the Reference Committee.

GENERAL FILE

LEGISLATIVE BILL 251. Title read. Considered.

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

SENATOR COASH PRESIDING

LEGISLATIVE BILL 751. Title read. Considered.

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

LEGISLATIVE BILL 751A. Title read. Considered.

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

LEGISLATIVE BILL 660. Title read. Considered.

Committee AM1985, found on page 563, was adopted with 34 ayes, 0 nays, 5 present and not voting, and 10 excused and not voting.

Senator Krist withdrew his amendment, AM1668, found on page 320.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 5 present and not voting, and 10 excused and not voting.

AMENDMENT - Print in Journal

Senator Avery filed the following amendment to LB744:
AM2393

1. On page 3, line 1, after "gifts" insert ", grants".

BILL ON FIRST READING

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

LEGISLATIVE BILL 705A. Introduced by Coash, 27.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 705, One Hundred Third Legislature, Second Session, 2014.

UNANIMOUS CONSENT - Add Cointroducers

Senators Kintner and Schilz asked unanimous consent to add their names as cointroducers to LB75. No objections. So ordered.

VISITORS

Visitors to the Chamber were 24 fourth-grade students and teacher from St. Bernard School, Omaha; and 14 members of the Nebraska Rural Electric Association from across the state.

The Doctor of the Day was Dr. Klutman from Columbus.

ADJOURNMENT

At 5:22 p.m., on a motion by Senator Davis, the Legislature adjourned until 9:00 a.m., Thursday, March 13, 2014.

Patrick J. O'Donnell
Clerk of the Legislature