TWENTIETH DAY - FEBRUARY 4, 2015

LEGISLATIVE JOURNAL

ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

TWENTIETH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, February 4, 2015

PRAYER

The prayer was offered by Senator Williams.

ROLL CALL

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

The roll was called and all members were present except Senators Chambers and K. Haar who were excused; and Senators Cook, Craighead, Hilkemann, Howard, Kolowski, Murante, Schilz, and Watermeier who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the nineteenth day was approved.

ATTORNEY GENERAL’S OPINION

Opinion 15-001

SUBJECT:   Authority Of A City To Amend An Economic Development Program Under The Local Option Economic Development Act

REQUESTED BY:   Senator Colby Coash
Nebraska State Legislature

WRITTEN BY:   Doug Peterson, Attorney General
Lynn A. Melson, Assistant Attorney General

You are considering introducing legislation to clarify the authority of a city council or village board to amend an economic development program under the Local Option Municipal Economic Development Act. Neb. Rev. Stat. §§ 18-2701 to 18-2739 (2012). The Act, in general, authorizes a city or village to propose an economic development program and to use such
funds as may be necessary for economic development activities if the program is approved by a majority of the registered voters of the city or village voting upon the question. The Act constitutes the enabling legislation to permit cities and villages to exercise the authority granted by Neb. Const. art. XIII, § 2.

You state that if the Legislature amends the Act to add a qualifying business or eligible activity after the voters have approved a particular economic development plan, this results in confusion about what action a city must then take to include the new business or activity in the plan. You have requested our opinion on two questions concerning amendment of an economic development plan. First, you ask whether, in such a circumstance (if the Legislature amends the Act to add a qualifying business or eligible activity), a city council may amend the plan to include the new business or activity as provided under § 18-2714(2) or whether the change must first be approved by the voters as provided in § 18-2714(3). Second, you ask whether Neb. Const. art. XIII, § 2 would prohibit amendment of the Act so as to instead authorize the city council to amend the plan without voter approval.

Discussion

Reviewing the relevant statutes of the Act, Neb. Rev. Stat. § 18-2705 defines “economic development program” to mean a “project or program utilizing funds derived from local sources of revenue for the purpose of providing direct or indirect financial assistance to a qualifying business . . . .” Section 18-2709 then defines “qualifying business” as a business which derives its principal source of income from that statute’s list of eligible sources. There are several steps in the adoption of an economic development program. Section 18-2710 requires the city’s governing body to prepare a proposed plan which includes the “description of the types of businesses and economic activities that will be eligible under the program for the city’s assistance.” Section 18-2712 provides that the city must present the plan at a public hearing and then adopt the proposed plan and any amendments by resolution. The city must also submit the question of the adoption of the proposed economic development plan to the registered voters at an election and, if a majority of those voting on the issue vote in favor of the question, the city then establishes the program by ordinance. §§ 18-2713 and 18-2714.

Question 1. If the Legislature amends the Act to add a qualifying business or eligible activity, can a city amend the plan to include the new business or activity or does the change have to be approved by the voters?

In our view, it appears from the language of the Act that it was the intent of the Legislature to require voter approval of a specific, detailed economic development plan. Here, pursuant to Neb. Rev. Stat. § 18-2710, the city’s proposed plan must describe “the types of businesses and economic
activities that will be eligible under the program for the city’s assistance.” As discussed above, the city must propose those types of qualifying businesses and economic development activities which are within the statutory definitions found at §§ 18-2705 and 18-2709. The governing body’s resolution adopting the proposed plan must include either the full text of the proposed plan or it may be incorporated by reference and both the resolution and the proposed plan must be filed with the city clerk’s office where it is available for public review. § 18-2712. The question of the adoption of the economic development program is then submitted to the registered voters at an election and, if a majority of those voting vote in favor of the question, the governing body then implements the program “upon the terms set out in the resolution.” §18-2713. Further, the economic development program is adopted by ordinance “in conformity with the terms of such program as set out in the original enabling resolution.” § 18-2714(1). Thus, these statutes indicate the Legislature’s overall intent that the voters approve a specific program containing a description of eligible businesses and activities and the city then adopts the program approved by the voters.

As to amendment of the approved plan, § 18-2714(3) provides:

The governing body of a city shall not amend the economic development program so as to fundamentally alter its basic structure or goals, either with regard to the qualifying businesses that are eligible to participate, the local sources of revenue used to fund the program, the uses of the funds collected, or the basic terms set out in the original enabling resolution, without submitting the proposed changes to a new vote of the registered voters of the city in the manner provided for in section 18-2713.

When construing a statute, courts should attempt to discover legislative intent from the language of the act and give effect to that intent. *Tracfone Wireless, Inc. v. Nebraska Public Service Comm’n*, 279 Neb. 426, 433, 778 N.W.2d 452, 459 (2010); *Peterson v. Minden Beef Co.*, 231 Neb. 18, 434 N.W.2d 681 (1989). Statutory language should generally be given its plain and ordinary meaning and where the words of the statute are plain, direct and unambiguous, no interpretation is necessary to ascertain their meaning. *State v. Mena-Rivera*, 280 Neb. 948, 791 N.W.2d 613 (2010); *Sorensen v. Meyer*, 220 Neb. 457, 370 N.W.2d 173 (1985). And, a court will “construe statutes relating to the same subject matter together to maintain a sensible and consistent scheme, so that effect is given to every provision. *Tracfone Wireless, Inc.* at 433, 778 N.W.2d at 459.

With these rules of statutory construction in mind, it seems to us that the language of § 18-2714(3) is plain, direct and unambiguous and requires voter approval before the city may amend the plan to include a new qualifying business or activity. You point out that § 18-2714(2) allows a city to amend its ordinance “to conform to the provisions of any existing or future state or federal law.” You suggest that this provision might allow the city to act without voter approval if the Legislature later amends the Act to
add a qualifying business or eligible activity. However, it appears to us that subsection (3) is the more specific provision with regard to changing the qualifying businesses that are eligible to participate. Furthermore, even if the language of § 18-2714 requires construction, requiring voter approval is consistent with the overall intent of the Legislature that the voters approve a specific plan and that the city then adopt that plan approved by the voters. Therefore, while the language of subsection (2) may result in some confusion, we conclude that the better answer to your first question is that, under the current statutory scheme, the voters must approve a change in the eligible businesses and activities of an economic development plan. If you wish to clarify that the city may amend the plan without voter approval, you may then wish to consider introducing legislation to that effect.

Question 2. Does Neb. Const. art. XIII, art. 2 prohibit amendment of the Act to clearly authorize the city to amend the economic development plan with regard to the description of eligible businesses and activities without first obtaining voter approval?

Neb.Const. art. XIII, § 2 provides, in pertinent part, that “the Legislature may also authorize any incorporated city or village, including cities operating under home rule charters, to appropriate such funds as may be deemed necessary for an economic or industrial development project or program subject to approval by a vote of a majority of the registered voters of such city or village voting upon the question.” “Constitutional provisions are not open to construction as a matter of course; construction is appropriate only when it has been demonstrated that the meaning of the provision is not clear and that construction is necessary.” Conroy v. Keith County Board of Equalization, 288 Neb. 196, 204, 846 N.W.2d 634, 641 (2014).

While the constitutional provision does provide that the Legislature may enact enabling legislation to authorize cities to appropriate funds for a project or program “subject to approval by a vote of a majority of the registered voters,” there is no language in art. XIII, § 2 with regard to amendment of an economic development plan. The details of the enabling legislation are left to the Legislature and the current requirements for the content of the plan, the eligibility of businesses, and the amendment of the plan are found in the statutes enacted by the Legislature. An argument could thus be made that the general language of art. XIII, § 2 does not preclude the Legislature from changing the current statutory requirements for amendment of an economic development plan. On the other hand, the one constitutional limitation on a city’s authority to appropriate funds for an economic development plan is the approval of the voters. As it is not clear whether this pertains to amendment of a plan as well as the original adoption of a plan, an argument could be made that legislation allowing the city to amend the plan without voter approval is contrary to the constitutional grant of authority to the Legislature.
Conclusion

In our opinion, for the reasons stated above, the current statutes require voter approval before a city may amend its economic development plan to include a new qualifying business or activity. You may wish to consider introducing legislation to clarify that a city may amend its plan without voter approval. However, while a plausible argument can be made that Neb. Const. art. XIII, § 2 does not preclude such legislation, it is unclear whether such legislation would be found constitutional.

Sincerely,

DOUG PETERSON
Attorney General

(Signed) Lynn A. Melson
Assistant Attorney General

pc. Patrick J. O’Donnell
Clerk of the Nebraska Legislature

09-508-29

COMMITTEE REPORT(S)

Urban Affairs

LEGISLATIVE BILL 116. Placed on General File with amendment. AM192
1 1. Strike original section 1 and insert the following new section:
2 Section 1. Section 31-735, Revised Statutes Cumulative Supplement,
3 2014, is amended to read:
4 31-735 (1) On the first Tuesday after the second Monday in September
5 which is at least fifteen months after the judgment of the district court
6 creating a sanitary and improvement district and on the first Tuesday
7 after the second Monday in September each two years thereafter, the board
8 of trustees shall cause a special election to be held, at which election
9 a board of trustees of five in number shall be elected. The board of
10 trustees shall have five members except as provided in subsection (2) of
11 this section. Each member elected to the board of trustees shall be
12 elected to a term of two years and shall hold office until such member's
13 successor is elected and qualified. Any person desiring to file for the
14 office of trustee may file for such office with the election
15 commissioner, or county clerk in counties having no election
16 commissioner, of the county in which the greater proportion in area of
17 the district is located not later than fifty days before the election. If
18 such person will serve on the board of trustees as a designated
19 representative of a limited partnership, general partnership, limited
20 liability company, public, private, or municipal corporation, estate, or
21 trust which owns real estate in the district, the filing shall indicate
22 that fact and shall include appropriate documentation evidencing such
23 fact. No filing fee shall be required. A person filing for the office of
24 trustee to be elected at the election held four years after the first
25 election of trustees and each election thereafter shall designate whether
26 he or she is a candidate for election by the resident owners of such
27 district or whether he or she is a candidate for election by all of the
1 owners of real estate located in the district. If a person filing for the
2 office of trustee is a designated representative of a limited
3 partnership, a general partnership, a limited liability company, a
4 public, private, or municipal corporation, an estate, or a trust which
5 owns real estate in the district, the name of such entity shall accompany
6 the name of the candidate on the ballot in the following form: (Name of
7 candidate) to represent (name of entity) as a member of the board. The
8 name of each candidate shall appear on only one ballot.
9 The name of a person may be written in and voted for as a candidate
10 for the office of trustee, and such write-in candidate may be elected to
11 the office of trustee. A write-in candidate for the office of trustee who
12 will serve as a designated representative of a limited partnership, a
13 general partnership, a limited liability company, a public, private, or
14 municipal corporation, an estate, or a trust which owns real estate in
15 the district shall not be elected to the office of trustee unless (a)
16 each vote is accompanied by the name of the entity which the candidate
17 will represent and (b) within ten days after the date of the election the
18 candidate provides the county clerk or election commissioner with
19 appropriate documentation evidencing his or her representation of the
20 entity. Votes cast which do not carry such accompanying designation shall
21 not be counted.
22 A trustee shall be an owner of real estate located in the district
23 or shall be a person designated to serve as a representative on the board
24 of trustees if the real estate is owned by a limited partnership, a
25 general partnership, a limited liability company, a public, private, or
26 municipal corporation, an estate, or a trust. Notice of the date of the
27 election shall be mailed by the clerk of the district not later than
28 sixty-five days prior to the election to each person who is entitled to
29 vote at the election for trustees whose property ownership or lease
30 giving a right to vote is of record on the records of the register of
31 deeds as of a date designated by the election commissioner or county
1 clerk, which date shall be not more than seventy-five days prior to the
2 election.
3 (2)(a) For any sanitary and improvement district, a person persons
4 whose ownership or right to vote becomes of record or is received after
5 the date specified pursuant to subsection (1) of this section may vote
6 when such person establishes his or her their right to vote to the
7 satisfaction of the election board. At the first election and at the
8 election held two years after the first election, any person may cast one
9 vote for each trustee for each acre of unplatted land or fraction thereof
10 and one vote for each platted lot which he or she may own in the
11 district.
12 (b) This subdivision applies to a district until the board of
13 trustees amends its articles of association pursuant to subdivision (2)
14 (d) of this section. At the election held four years after the first
15 election of trustees, two members of the board of trustees shall be
16 elected by the legal property owners resident within such sanitary and
17 improvement district and three members shall be elected by all of the
18 owners of real estate located in the district pursuant to this section.
19 Every resident property owner may cast one vote for a candidate for each
20 office of trustee to be filled by election of resident property owners
21 only. Such resident property owners may also cast one vote for each
22 acre of unplatted land or fraction thereof and for each platted lot owned
23 within the district for a candidate for each office of trustee to be
24 filled by election of all property owners. For each office of trustee to
25 be filled by election of all property owners of the district, every legal
26 property owner not resident within such sanitary and improvement district
27 may cast one vote for each acre of unplatted land or fraction thereof and
28 one vote for each platted lot which he or she owns in the district. At
29 the election held eight years after the first election of trustees and at
30 each election thereafter, three members of the board of trustees shall be
31 elected by the legal property owners resident within such sanitary and
1 improvement district and two members shall be elected by all of the
2 owners of real estate located in the district pursuant to this section,
3 except that if more than fifty percent of the homes in any sanitary and
4 improvement district are used as a second, seasonal, or recreational
5 residence, the owners of such property shall be considered legal property
owners resident within such district for purposes of electing trustees,
6 and at the election held six years after the first election of trustees
7 and at each election thereafter, three members of the board of trustees
8 shall be elected by the legal property owners resident within such
9 sanitary and improvement district and two members shall be elected by all
10 of the owners of real estate located in the district pursuant to this
11 section. If there are not any legal property owners resident within such
12 district or if not less than ninety percent of the area of the district
13 is owned for other than residential uses, the five members shall be
14 elected by the legal property owners of all property within such district
15 as provided in this section.
17 (c) Any public, private, or municipal corporation owning any land or
18 lot in the district may vote at an such election the same as an
19 individual. If more than fifty percent of the homes in any sanitary and
20 improvement district are used as a second, seasonal, or recreational
21 residence, the owners of such property shall be considered legal property
22 owners resident within such district for purposes of electing trustees.
23 For purposes of voting for trustees, each condominium apartment under a
24 condominium property regime established prior to January 1, 1984, under
25 the Condominium Property Act or established after January 1, 1984, under
26 the Nebraska Condominium Act shall be deemed to be a platted lot and the
27 lessee or the owner of the lessee's interest, under any lease for an
28 initial term of not less than twenty years which requires the lessee to
29 pay taxes and special assessments levied on the leased property, shall be
30 deemed to be the owner of the property so leased and entitled to cast the
31 vote of such property. When ownership of a platted lot or unplatted land
1 is held jointly by two or more persons, whether as joint tenants, tenants
2 in common, limited partners, members of a limited liability company, or
any other form of joint ownership, only one person shall be entitled to
cast the vote of such property. The executor, administrator, guardian, or
trustee of any person or estate interested shall have the right to vote.
No corporation, estate, or irrevocable trust shall be deemed to be a
resident owner for purposes of voting for trustees. Should two or more
persons or officials claim the right to vote on the same tract, the
election board shall determine the party entitled to vote. Such board
shall select one of their number chairperson and one of their number
clerk. In case of a vacancy on such board, the remaining trustees shall
fill the vacancy on such board until the next election.
(d) For any sanitary and improvement district which has been in
existence for at least ten years, which has less than seventy property
owners entitled to vote for trustees, which has at least two resident
property owners, and in which less than ten percent of the area of the
district is owned for other than residential uses, the board of trustees
may amend its articles of association as provided in section 31-740.01 to
provide for a reduction in the number of trustees on the board from five
members to three members to be effective at the beginning of the term of
office for the board of trustees elected at the next election. At the
next election and at each election thereafter, two members of the board
of trustees shall be elected by the legal property owners resident within
such sanitary and improvement district and one member shall be elected by
all of the owners of real estate located in the district pursuant to this
section. Every resident property owner may cast one vote for a candidate
for each office of trustee to be filled by election of resident property
owners only. Such resident property owners may also each cast one vote
for each acre of unplatted land or fraction thereof and for each platted
lot owned within the district for a candidate for the office of trustee
to be filled by election of all property owners. For the office of
trustee to be filled by election of all property owners of the district,
every legal property owner not resident within such sanitary and
improvement district may cast one vote for each acre of unplatted land or
fraction thereof and one vote for each platted lot which he or she owns
in the district.
(3) The election commissioner or county clerk shall hold any
election required by subsection (1) of this section by sealed mail ballot
by notifying the board of trustees on or before July 1 of a given year.
The election commissioner or county clerk shall, at least twenty days
prior to the election, mail a ballot and return envelope to each person
who is entitled to vote at the election and whose property ownership or
lease giving a right to vote is of record with the register of deeds as
of the date designated by the election commissioner or county clerk,
which date shall not be more than seventy-five days prior to the
election. The ballot and return envelope shall include: (a) The names and
addresses of the candidates; (b) room for write-in candidates; and (c)
instructions on how to vote and return the ballot. Such ballots shall be
returned to the election commissioner or county clerk no later than 5
p.m. on the date set for the election.
LEGISLATIVE BILL 266. Placed on General File with amendment. AM122

1 1. On page 17, line 27, strike "two-mile" and insert "one-mile".

(Signed) Sue Crawford, Chairperson

NOTICE OF COMMITTEE HEARING(S)
Government, Military and Veterans Affairs
Room 1507

Wednesday, February 11, 2015 1:30 p.m.

LB282
LB283
LB365
LB403

Thursday, February 12, 2015 1:30 p.m.

LB105
LB106
LB492
LB561

(Signed) John Murante, Chairperson

COMMITTEE REPORT(S)
Government, Military and Veterans Affairs

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Tim Hofbauer - State Emergency Response Commission
Dana Miller - State Emergency Response Commission


The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Carol E. Schlegel - Nebraska Tourism Commission

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Daryl L. Bohac, Adjutant General - Military Department


The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

John Hilgert, Director - Department of Veterans Affairs


The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Jim Heine - State Fire Marshal


The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Samuel Seever - State Personnel Board
Christopher Waddle - State Personnel Board


(Signed) John Murante, Chairperson
RESOLUTION(S)

Pursuant to Rule 4, Sec. 5(b), LR43 was adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR43.

MOTION(S) - Confirmation Report(s)

Senator B. Harr moved the adoption of the Business and Labor Committee report for the confirmation of the following appointment(s) found on page 339:

Department of Labor
John Albin, Commissioner

Voting in the affirmative, 35:

Baker Ebke Harr, B. Lindstrom Schnoor
Bloomfield Friesen Johnson McCollister Schumacher
Bolz Garrett Kintner McCoy Seiler
Brasch Gloor Koltermann Mello Smith
Campbell Groene Krist Nordquist Sinner
Crawford Hadley Kuehn Pansing Brooks Sullivan
Davis Hansen Larson Riepe Williams

Voting in the negative, 0.

Present and not voting, 4:

Coash Hughes Morfeld Scheer

Excused and not voting, 10:

Chambers Craighead Hilkemann Kolowski Schilz
Cook Haar, K. Howard Murante Watermeier

The appointment was confirmed with 35 ayes, 0 nays, 4 present and not voting, and 10 excused and not voting.

Senator Campbell moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 364:

Nebraska Child Abuse Prevention Fund Board
Todd Bartee
Mary Fran Flood

Voting in the affirmative, 33:
The appointments were confirmed with 33 ayes, 0 nays, 8 present and not voting, and 8 excused and not voting.

Senator Schilz moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 364:

Nebraska Natural Resources Commission
   Brian Barels
   Stan Clouse
   Steven Huggenberger
   Thomas Knutson
   Don Kraus
   Tom Palmetree
   Scott Smathers
   Lindsey Smith
   Walter Dennis Strauch
   Loren Taylor

Voting in the affirmative, 35:

Baker       Friesen       Hughes       McCollister       Schnoor
Bloomfield  Garrett       Johnson       McCoy           Schumacher
Bolz        Gloor          Kintner       Mello           Seiler
Brasch       Groene        Koltermann    Nordquist       Stinner
Campbell    Hadley         Krist         Pansing Brooks  Sullivan
Crawford    Hansen         Kuehn        Scheer          Sullivan
Ebke        Harr, B.       Lindstrom     Schilz          Williams

Voting in the negative, 0.

Present and not voting, 8:

Coash       Hughes        Larson        Scheer
Groene      Kintner       Morfeld       Smith

Excused and not voting, 8:

Chambers    Haar, K.      Howard        Murante
Craighead   Hilkemann     Kolowski      Watermeier
Voting in the negative, 0.

Present and not voting, 6:

Coash    Davis    Morfeld
Cook     Larson    Riepe

Excused and not voting, 8:

Chambers    Haar, K.    Howard    Murante
Craighead    Hilkemann    Kolowski    Watermeier

The appointments were confirmed with 35 ayes, 0 nays, 6 present and not voting, and 8 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 430. Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 4 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 247. Title read. Considered.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 5 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 219. Title read. Considered.

Committee AM43, found on page 324, was adopted with 38 ayes, 0 nays, 3 present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 4 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 18. Title read. Considered.

Senator Groene offered his amendment, AM169, found on page 373.

Senator Groene moved for a call of the house. The motion prevailed with 40 ayes, 0 nays, and 9 not voting.

Senator Groene requested a roll call vote on his amendment.

Voting in the affirmative, 19:
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Voting in the negative, 27:

- Baker
- Bolz
- Campbell
- Coash
- Cook
- Crawford
- Davis
- Gloor
- Hadley
- Hansen
- Harr, B.
- Johnson
- Kolowski
- Krist
- Kuehn
- McCollister
- Mello
- Morfeld
- Nordquist
- Pansing
- Brooks
- Riepe
- Schumacher
- Seiler
- Smith
- Stinner
- Sullivan
- Williams

Excused and not voting, 3:

- Chambers
- Haar, K.
- Howard

The Groene amendment lost with 19 ayes, 27 nays, and 3 excused and not voting.

The Chair declared the call raised.

Advanced to Enrollment and Review Initial with 28 ayes, 13 nays, 5 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 18A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 30 ayes, 7 nays, 9 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 109.** Title read. Considered.

Committee AM66, found on page 329, was adopted with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

**NOTICE OF COMMITTEE HEARING(S)**

Appropriations

Room 1524

Monday, February 23, 2015 1:30 p.m.

LB656
LB657
LB658
COMMITTEE REPORT(S)
Agriculture

The Agriculture Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

William Marshall III - Nebraska State Fair Board


The Agriculture Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Greg Ibach, Director - Department of Agriculture


RESOLUTION(S)

LEGISLATIVE RESOLUTION 49. Introduced by Cook, 13.

WHEREAS, Zaiid Sharif Zakir Ibn El Gaines Liwaru died on January 24, 2015, in a car accident in Omaha; and

WHEREAS, Zaiid was the son of Sharif Zakir Liwaru and Gabrielle Gaines-Liwaru; and

WHEREAS, Zaiid was born in Omaha and attended Omaha Public Schools, graduating from Omaha North High School in 2013; and

WHEREAS, Zaiid was involved in the National Honor Society, the National Society of Black Engineers, and held various leadership positions in high school; and

WHEREAS, Zaiid initially studied at the University of Nebraska Omaha and then studied at Metropolitan Community College; and
WHEREAS, at his memorial service, Zaiid was remembered for his love of art and for his optimism, humor, and generosity; and
WHEREAS, Zaiid was also remembered as being smart, involved, outgoing, and open to different people, different places, and offbeat ways of doing things. Zaiid was described by his mother as "a connector and a lover of all souls".
NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FOURTH LEGISLATURE OF NEBRASKA, FIRST SESSION:
1. That the Legislature extends its sympathy to the family of Zaiid Sharif Zakir Ibn El Gaines Liwaru.
2. That a copy of this resolution be sent to the family of Zaiid Sharif Zakir Ibn El Gaines Liwaru.

Laid over.

LEGISLATIVE RESOLUTION 50. Introduced by Cook, 13.

WHEREAS, Gene Haynes has been named a 2015 Distinguished NEBRASKAland Foundation; and
WHEREAS, Gene has spent over 48 years in the Omaha Public School system including as a teacher, coach, and principal; and
WHEREAS, Gene began his teaching career at Omaha Technical High School in 1967 and coached the school’s basketball team for 13 years; and
WHEREAS, Gene became the first African-American head basketball coach in the State of Nebraska in 1971; and
WHEREAS, Gene moved to Omaha North High School in 1987 to serve as the school’s assistant principal and athletic director; and
WHEREAS, Gene has been the principal of Omaha North High School since 2001; and
WHEREAS, on October 24, 2014, Gene R. Haynes Street was named in his honor near Omaha North High School.
NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FOURTH LEGISLATURE OF NEBRASKA, FIRST SESSION:
1. That the Legislature congratulates Gene Haynes for being named a 2015 Distinguished NEBRASKAlander by the NEBRASKAland Foundation.
2. That a copy of this resolution be sent to Gene Haynes.

Laid over.

LEGISLATIVE RESOLUTION 51. Introduced by Johnson, 23.

WHEREAS, Ryan Mueller, a history and government teacher at Wahoo Public High School, has won the Veterans of Foreign Wars (VFW) Nebraska Citizenship Education Teacher of the Year Award for grades nine through twelve; and
WHEREAS, each year, the Nebraska VFW recognizes three exceptional teachers for their outstanding commitment to teach Americanism and patriotism to their students; and
WHEREAS, Ryan was nominated by the principal of Wahoo Public High School for his service to the Close-Up Foundation, County Government Day, Nebraska Student Vote, the Veteran's Day Assembly, and his work in the classroom promoting patriotism and citizenship; and
WHEREAS, Ryan will be presented with the award at the VFW State Convention in Norfolk on June 6, 2015.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FOURTH LEGISLATURE OF NEBRASKA, FIRST SESSION:
1. That the Legislature congratulates Ryan Mueller for winning the Veterans of Foreign Wars Nebraska Citizenship Education Teacher of the Year Award.
2. That a copy of this resolution be sent to Ryan Mueller.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 198. Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 118. Title read. Considered.

Committee AM97, found on page 330, was offered.

Senator Larson withdrew his amendments, AM77 and AM98, found on pages 318 and 326.

Senator Larson offered the following amendment to the committee amendment:
AM221
(Amendments to Standing Committee amendments, AM97)
1 1. On page 1, lines 6 and 7, strike "public accommodations" and insert "guestrooms and suites"; and in line 9 after "guestrooms" and insert "and suites".
4 2. On page 2, line 9, after the period insert "The products that tobacco retail outlets sell are legal for customers who meet the age requirement. Customers should be able to try them within the tobacco retail outlet, especially given the way that tobacco customization may occur in how tobacco is blended and cigars are produced.".
9 3. Insert the following new amendment:
10 4. On page 4, line 25; and page 6, line 2, after the period insert "Cigar shops are a variation of a tobacco retail outlet, which has a liquor license. The issue of whether a liquor license shall be granted to
a cigar shop is an entirely separate issue that deals with an entire separate chapter of state law. Whether a liquor license is granted is at the recommendation of the local governing body and the discretion of the Nebraska Liquor Control Commission.

The Larson amendment was adopted with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

The committee amendment, as amended, 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 34 ayes, 2 nays, 8 present and not voting, and 5 excused and not voting.

VISITORS

Visitors to the Chamber were members of the AFL-CIO from across the state; and members from Scottsbluff/Gering Chamber, Scotts Bluff Leadership Class, Sidney Area Chamber, Cheyenne County Leadership Class, and Dawes County Entrepreneur Leadership Training Academy.

The Doctor of the Day was Dr. Michelle Sell from Central City.

ADJOURNMENT

At 12:04 p.m., on a motion by Senator Johnson, the Legislature adjourned until 9:00 a.m., Thursday, February 5, 2015.

Patrick J. O'Donnell
Clerk of the Legislature