

SIXTY-NINTH DAY - APRIL 26, 2011

LEGISLATIVE JOURNAL

**ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION**

SIXTY-NINTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, April 26, 2011

PRAYER

The prayer was offered by Pastor David Kramer, St. John Lutheran Church, Beatrice.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Gloor presiding.

The roll was called and all members were present except Senators B. Harr, Wallman, and Wightman who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the sixty-eighth day was approved.

COMMITTEE REPORT

Enrollment and Review

LEGISLATIVE BILL 648. Placed on Final Reading.
ST27

The following changes, required to be reported for publication in the Journal, have been made:

1. In the E & R amendments, ER80, on page 6, lines 4 and 8, "section 43-1314" has been struck and "sections 43-1314 and 71-1902" inserted; in line 8 "juveniles" has been struck and "child placement" inserted; and in line 11 "to change foster care licensure requirements for child-caring agencies;" has been inserted after the semicolon.

(Signed) Tyson Larson, Chairperson

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 360. Placed on Select File with amendment.
ER97

- 1 1. On page 1, line 4, strike "eliminate" and
- 2 insert "change"; and in line 5 strike "generating" and insert
- 3 "generation".

LEGISLATIVE BILL 137. Placed on Select File with amendment.
ER96

- 1 1. In the Standing Committee amendments, AM735, on page
- 2 1, line 10, after "motion" insert an underscored comma; in line 11
- 3 strike the comma and show as stricken; in line 16 after the second
- 4 comma insert "and"; and in line 23 strike "him", show as stricken,
- 5 and insert "the prisoner".

LEGISLATIVE BILL 386. Placed on Select File with amendment.
ER98

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. For purposes of sections 1 to 3 of this act:
- 4 (1) Department means the Department of Economic
- 5 Development;
- 6 (2) Distressed area means a municipality, county with a
- 7 population of fewer than one hundred thousand inhabitants according
- 8 to the most recent federal decennial census, unincorporated area
- 9 within a county, or census tract in Nebraska that (a) has an
- 10 unemployment rate which exceeds the statewide average unemployment
- 11 rate, (b) has a per capita income below the statewide average per
- 12 capita income, or (c) had a population decrease between the two
- 13 most recent federal decennial censuses;
- 14 (3) Eligible company has the same meaning as qualified
- 15 business in subsection (1) of section 77-5715;
- 16 (4) Intern means any person who is working in a
- 17 professional environment for a limited period of time to gain
- 18 sufficient practical work experience in a professional or technical
- 19 position to allow for career decisionmaking and to provide
- 20 the employer valuable skills to accelerate short-term business
- 21 objectives and who (a) is enrolled full time in a four-year
- 22 college or university in Nebraska and has achieved junior or senior
- 23 status by such institution's criteria, (b) is enrolled full time
- 1 in a two-year college in Nebraska and has successfully completed
- 2 a minimum of one-half of the total credit hours required for an
- 3 associate degree, or (c) having residency in Nebraska, is enrolled
- 4 full time in a four-year college or university in a state other
- 5 than Nebraska and has achieved junior or senior status by such
- 6 institution's criteria; and

7 (5) Internship means any internship that did not exist
8 before the operative date of this act.

9 Sec. 2. (1) The intent of sections 1 to 3 of this act
10 is to connect Nebraska students pursuing postsecondary degrees with
11 targeted industries in order to retain such students and attract
12 workers to Nebraska by assisting companies willing to provide paid
13 internships.

14 (2) An eligible company may apply to the department for a
15 job training grant to assist in the hiring of an intern if:

16 (a) The company certifies that the internship meets the
17 definition of internship in section 1 of this act;

18 (b) The internship pays at least the federal minimum
19 wage; and

20 (c) The intern will work a minimum of two hundred hours
21 in a twelve-week period but no more than one thousand hours in a
22 fifty-week period.

23 (3) The department may provide a job training grant of up
24 to the lesser of forty percent of the cost of the internship or
25 three thousand five hundred dollars, except that if the internship
26 is in a distressed area, the job training grant may be up to the
27 lesser of sixty percent of the cost of the internship or five
1 thousand dollars.

2 (4) An eligible company may apply for no more than two
3 job training grants for the same intern, shall not be awarded
4 more than five job training grants at any one location in any
5 twelve-month period, and shall not be awarded more than ten job
6 training grants total in any twelve-month period.

7 (5) An eligible company may allow an intern to
8 telecommute if the eligible company is located more than thirty
9 miles from the college or university in which the intern is
10 enrolled and if the college or university is in Nebraska.

11 (6) The department shall, to the extent possible, assure
12 that the distribution of job training grants under sections 1 to
13 3 of this act provides equitable access to the grants by all
14 geographic areas of the state.

15 (7) The department shall not allocate more than one
16 million five hundred thousand dollars in each of FY2011-12 and
17 FY2012-13 from the Job Training Cash Fund for purposes of this
18 section. The department may receive funds from public, private, or
19 other sources for purposes of this section.

20 Sec. 3. The department may adopt and promulgate rules and
21 regulations to govern the award and disbursement of job training
22 grants under section 2 of this act.

23 Sec. 4. Section 81-1201.21, Revised Statutes Cumulative
24 Supplement, 2010, is amended to read:

25 81-1201.21 (1) There is hereby created the Job Training
26 Cash Fund. The fund shall be under the direction of the Department
27 of Economic Development. Money may be transferred to the fund
1 pursuant to subdivision (1)(b)(iv) of section 48-621 and from

2 the Cash Reserve Fund at the direction of the Legislature. The
 3 department shall establish a subaccount for all money transferred
 4 from the Cash Reserve Fund to the Job Training Cash Fund on or
 5 after July 1, 2005.

6 (2) The department shall use the Job Training Cash Fund
 7 or the subaccount established in subsection (1) of this section (a)
 8 to provide reimbursements for job training activities, including
 9 employee assessment, preemployment training, on-the-job training,
 10 training equipment costs, and other reasonable costs related to
 11 helping industry and business locate or expand in Nebraska, ~~or~~
 12 (b) to provide upgrade skills training of the existing labor force
 13 necessary to adapt to new technology or the introduction of new
 14 product lines, or (c) to provide job training grants pursuant to
 15 section 2 of this act.

16 (3) The department shall establish a subaccount within
 17 the fund to provide training grants for training employees and
 18 potential employees of businesses that (a) employ twenty-five or
 19 fewer employees on the application date, (b) employ, or train for
 20 potential employment, residents of rural areas of Nebraska, or
 21 (c) are located in or employ, or train for potential employment,
 22 residents of high-poverty areas as defined in section 81-1203.
 23 The department shall calculate the amount of prior year investment
 24 income earnings accruing to the fund and allocate such amount
 25 to the subaccount for training grants under this subsection. The
 26 subaccount shall also be used as provided in the Teleworker Job
 27 Creation Act.

1 (4) Any money in the fund available for investment
 2 shall be invested by the state investment officer pursuant to
 3 the Nebraska Capital Expansion Act and the Nebraska State Funds
 4 Investment Act.

5 Sec. 5. This act becomes operative on June 1, 2011.

6 Sec. 6. Original section 81-1201.21, Revised Statutes
 7 Cumulative Supplement, 2010, is repealed.

8 Sec. 7. Since an emergency exists, this act takes effect
 9 when passed and approved according to law.

(Signed) Tyson Larson, Chairperson

MESSAGE FROM THE GOVERNOR

April 21, 2011

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

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

Contingent upon your approval, the following individual is being reappointed to the State Racing Commission:

Helen Abbott Feller, 1121 18th Street, Wisner, NE 68791

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

MOTION - Withdraw LR121

Senator Larson renewed his motion, MO33, found on page 1243, to withdraw LR121.

The Larson motion to withdraw the resolution prevailed with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 382. ER90, found on page 1221, was adopted.

Senator Adams renewed his amendment, AM1265, found on page 1285.

The Adams amendment was adopted with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 382A. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 464. Senator Campbell offered the following amendment:

AM1238

- 1 1. Insert the following new sections:
- 2 Sec. 2. This act becomes operative on July 1, 2011.
- 3 Sec. 4. Since an emergency exists, this act takes effect
- 4 when passed and approved according to law.
- 5 2. Renumber the remaining section accordingly.

The Campbell amendment was adopted with 36 ayes, 1 nay, 10 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 200. ER78, found on page 1044, was adopted.

Senator Council withdrew her amendment, AM1150, found on page 1138.

Senator Council withdrew her amendment, AM1270, found on page 1276.

Senator Council offered the following amendment:

AM1303

1 1. Strike the original sections and all amendments

2 thereto and insert the following sections:

3 Section 1. Sections 1 to 6 of this act shall be known and
4 may be cited as the Nebraska Healthy Food Financing Initiative Act.

5 Sec. 2. (1) The Legislature finds that:

6 (a) Access to healthy foods is a basic human necessity.

7 When fresh fruits and vegetables and other healthy foods are not
8 easily available or affordable, people, particularly low-income
9 families, children, the elderly, and other at-risk populations,
10 face serious barriers to eating a healthy diet. Research indicates
11 that residents of low-income, minority, and rural communities are
12 most often affected by poor access to supermarkets and other
13 retailers offering healthy food choices. Lack of access to healthy,
14 affordable food items contributes to the increased prevalence of
15 obesity and other diet-related diseases which ultimately impose
16 substantial societal costs, including increased public costs in
17 providing health services; and

18 (b) It is in the interest of the welfare of the state
19 and its citizens to pursue opportunities for increasing access
20 in underserved communities to retail grocers, urban and rural
21 farm stands, farmers markets, food consumer cooperatives, community
22 gardens, and direct farmer-to-consumer and institution marketing
23 systems.

1 (2) It is the intent of the Legislature to stimulate
2 financing for grocery retail and other sources of healthy food for
3 underserved communities in Nebraska, in both urban and rural areas;
4 to increase access to healthy, affordable food so as to improve
5 diets and health; to support expanded economic opportunities in
6 low-income and rural communities; and to provide expanded markets
7 for Nebraska-grown farm products.

8 Sec. 3. For purposes of the Nebraska Healthy Food
9 Financing Initiative Act, underserved community means a geographic
10 area that has limited access to healthy food retailers and is
11 located in a lower-income or high-poverty area or an area that
12 is otherwise determined to have serious healthy food access
13 limitations.

14 Sec. 4. (1) To the extent that funds are available and in
15 consultation with the Department of Agriculture and the Department
16 of Health and Human Services, the Rural Development Commission
17 shall establish a program of financial assistance involving both

18 the public and private sectors to increase access to fresh fruits
19 and vegetables and other nutritional foodstuffs in underserved
20 communities. Financial assistance includes: (a) Grants; (b) loans
21 made in participation with a financial institution pursuant to a
22 contract, the terms and conditions of which shall be determined by
23 the Rural Development Commission in conjunction with the financial
24 institution; and (c) interest rate assistance on loans made through
25 a financial institution.

26 (2) The commission shall contract with one or more
27 entities certified as a community development entity for purposes
1 of 26 U.S.C. 45D of the Internal Revenue Code to develop
2 and administer the program of financial assistance described in
3 this section, raise matching funds, acquire private investment
4 capital, market the program statewide, evaluate applicants, make
5 award decisions, underwrite loans made in participation with a
6 financial institution, and monitor compliance and impact. Any
7 funds administered by a community development entity under the
8 Nebraska Healthy Food Financing Initiative Act that are recovered
9 as loan repayments or in any other manner may be utilized by the
10 community development entity to provide financial assistance to
11 other eligible projects subject to the approval of the commission.

12 (3)(a) Such programs of financial assistance shall
13 provide funding on a competitive, one-time basis as appropriate for
14 the following eligible projects:

15 (i) New construction of retail grocery structures;

16 (ii) Grocery store renovations, expansion, and
17 infrastructure upgrades;

18 (iii) Establishment of farmers markets, food
19 cooperatives, community gardening projects, mobile markets
20 and delivery projects, and distribution projects that enable food
21 retailers in underserved communities to regularly obtain fresh
22 produce; and

23 (iv) Other projects that create or improve healthy food
24 outlets that meet the intent of the Nebraska Healthy Food Financing
25 Initiative Act.

26 (b) Funding made available for projects included in
27 subdivision (a) of this subsection may be used for:

1 (i) Site acquisition and preparation;

2 (ii) Construction costs;

3 (iii) Equipment and furnishings;

4 (iv) Workforce training;

5 (v) Security;

6 (vi) Certain predevelopment costs such as market studies
7 and appraisals;

8 (vii) Working capital for first-time inventory and
9 start-up costs; and

10 (viii) Other costs for eligible projects.

11 (c) In order to be considered for funding, an applicant
12 shall meet the following criteria:

13 (i) The project for which the applicant seeks funding
14 shall benefit an underserved community;

15 (ii) The applicant shall demonstrate a meaningful
16 commitment to provide regular offerings of fresh fruits and
17 vegetables; and

18 (iii) If applicable, the applicant shall accept
19 Supplemental Nutrition Assistance Program and Special Supplemental
20 Nutrition Program for Women, Infants, and Children benefits. For
21 households in underserved communities that are not eligible to
22 accept such benefits, the applicant shall demonstrate a meaningful
23 commitment to make healthy food affordable to such low-income
24 households in underserved communities.

25 (d) Applicants shall be evaluated on the following
26 criteria to determine the funding awarded:

27 (i) Demonstrated capacity to successfully implement the
1 project, including the applicant's relevant experience and the
2 likelihood that the project will be economically self-sustaining;

3 (ii) The ability of the applicant to repay debt;

4 (iii) The degree to which the project requires an
5 investment of public funding to move forward, create impact,
6 or be competitive and the level of need in the area to be served;

7 (iv) The degree to which the project will provide
8 new markets for Nebraska-grown fruits and vegetables and other
9 Nebraska-grown food items;

10 (v) The degree to which the project will have a positive
11 economic impact on the underserved community, including creating or
12 retaining jobs for local residents; and

13 (vi) Other criteria the commission determines to be
14 consistent with the purposes of the act.

15 Sec. 5. The Nebraska Healthy Food Financing Initiative
16 Cash Fund is created. The State Treasurer shall credit to the
17 fund any money appropriated to the fund by the Legislature and any
18 money received as gifts or grants or other public or private funds
19 obtained for the purposes of the Nebraska Healthy Food Financing
20 Initiative Act. The fund may be used to carry out the purposes
21 of the act and, to the extent practicable, to leverage other
22 funding, including, but not limited to, new markets tax credits,
23 federal and foundation grant programs, incentives available to
24 designated enterprise zones, operator equity, and funding from
25 private sector financial institutions pursuant to the federal
26 Community Reinvestment Act of 1977, 12 U.S.C. 2901 et seq., and
27 12 C.F.R. parts 25, 228, 345, and 563e. Any money in the fund
1 available for investment shall be invested by the state investment
2 officer pursuant to the Nebraska Capital Expansion Act and the
3 Nebraska State Funds Investment Act.

4 Sec. 6. It is the intent of the Legislature that one
5 hundred fifty thousand dollars shall be appropriated annually to
6 provide funding for the Nebraska Healthy Food Financing Initiative
7 Act.

8 Sec. 7. Section 13-208, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 13-208 The total amount of tax credit granted for
11 programs approved and certified under the Community Development
12 Assistance Act by the department for any fiscal year shall not
13 exceed ~~three hundred fifty-two~~ two hundred thousand dollars.

14 Sec. 8. Section 81-3603, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 81-3603 The Rural Development Commission shall:

17 (1) Focus attention on and increase awareness of the
18 opportunities and needs of rural Nebraskans;

19 (2) Advocate for rural Nebraska by proposing solutions to
20 rural challenges;

21 (3) Strengthen community sustainability and growth in
22 rural Nebraska through increased community-based wealth creation,
23 expanded economic opportunity, and improved quality of life;

24 (4) Stimulate rural development innovation and foster
25 information transfer to, from, and within rural Nebraska;

26 (5) Encourage and support continuity, coordination, and
27 cooperation among national, state, multicommunity, and local rural
1 development initiatives and service providers;

2 (6) Ensure that rural Nebraskans are afforded the
3 opportunity to determine rural Nebraska's development agenda;

4 (7) Serve as an advisory body to the Governor, state
5 agencies, and the Legislature on rural development issues;

6 (8) Establish an information clearinghouse on rural
7 challenges and needs, development services, model initiatives,
8 available resources, and service providers;

9 (9) Foster community-based development initiatives
10 through multicommunity partnerships;

11 (10) Support strategic planning and research for and
12 evaluation of rural development initiatives and service providers
13 by administering the Nebraska Development Network Program;

14 (11) Serve as Nebraska's rural development council within
15 the meaning of the National Rural Development Partnership by
16 providing inventories, reports, assessments, and implementation
17 plans as appropriate; ~~and~~

18 (12) Participate in the Partnership for Rural Nebraska;
19 and-

20 (13) Administer the Nebraska Healthy Food Financing
21 Initiative Act.

22 Sec. 9. Original sections 13-208 and 81-3603, Reissue
23 Revised Statutes of Nebraska, are repealed.

Senator Council moved for a call of the house. The motion prevailed with
30 ayes, 0 nays, and 19 not voting.

Senator Council requested a roll call vote on her amendment.

Voting in the affirmative, 27:

Adams	Conrad	Harr, B.	Mello	Schumacher
Ashford	Cook	Howard	Nordquist	Smith
Avery	Council	Karpisek	Pahls	Wallman
Campbell	Dubas	Krist	Pankonin	
Carlson	Gloor	Lathrop	Pirsch	
Coash	Haar, K.	McGill	Price	

Voting in the negative, 8:

Brasch	Hansen	Janssen	McCoy
Fischer	Heidemann	Louden	Utter

Present and not voting, 13:

Bloomfield	Flood	Harms	Nelson	Wightman
Christensen	Fulton	Larson	Schilz	
Cornett	Hadley	Lautenbaugh	Sullivan	

Excused and not voting, 1:

Langemeier

The Council amendment was adopted with 27 ayes, 8 nays, 13 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Senator Fischer requested a machine vote on the advancement of the bill.

Senator Council moved for a call of the house. The motion prevailed with 45 ayes, 0 nays, and 4 not voting.

Senator Council requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 26:

Adams	Conrad	Harr, B.	Mello	Smith
Ashford	Cook	Howard	Nordquist	Wallman
Avery	Council	Karpisek	Pahls	
Campbell	Dubas	Krist	Pankonin	
Carlson	Gloor	Lathrop	Pirsch	
Coash	Haar, K.	McGill	Price	

Voting in the negative, 13:

Brasch	Fulton	Heidemann	Louden	Utter
Fischer	Hansen	Janssen	McCoy	
Flood	Harms	Larson	Schumacher	

Present and not voting, 9:

Bloomfield	Cornett	Lautenbaugh	Schilz	Wightman
Christensen	Hadley	Nelson	Sullivan	

Excused and not voting, 1:

Langemeier

Advanced to Enrollment and Review for Engrossment with 26 ayes, 13 nays, 9 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 200A. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 289. ER91, found on page 1230, was adopted.

Senator Mello offered the following amendment:
AM1239 is available in the Bill Room.

The Mello amendment was adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 289A. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 665. Senator Pirsch offered the following amendment:
AM1284

- 1 1. Insert the following new section:
- 2 Sec. 3. Since an emergency exists, this act takes effect
- 3 when passed and approved according to law.

The Pirsch amendment was adopted with 25 ayes, 0 nays, 22 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 535. ER92, found on page 1233, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 449. ER93, found on page 1238, was adopted.

Senator Nelson offered the following amendment:
AM1302

(Amendments to Standing Committee amendments, AM867)

- 1 1. Insert the following new section:
- 2 Sec. 6. Section 32-616, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 32-616 (1) Any registered voter who was not a candidate
- 5 in the primary election and who was not registered to vote with
- 6 a party affiliation on or before March 1 in the calendar year
- 7 of the general election may have his or her name placed on the
- 8 general election ballot for a partisan office by filing petitions
- 9 as prescribed in sections 32-617 to 32-621 or by nomination by
- 10 political party convention or committee.
- 11 (2) Any candidate who was defeated in the primary
- 12 election and any registered voter who was not a candidate in
- 13 the primary election may have his or her name placed on the general
- 14 election ballot if a vacancy exists on the ballot under subsection
- 15 (2) of section 32-625 and the candidate files for the office by
- 16 petition as prescribed in sections 32-617 and 32-618 or files as a
- 17 write-in candidate as prescribed in section 32-615.
- 18 2. On page 1, line 13, strike beginning with "and"
- 19 through the second "to", show as stricken, and insert "or".
- 20 3. On page 19, line 11, strike "pages" and insert
- 21 "papers".
- 22 4. Renumber the remaining sections and correct the
- 1 repealer accordingly.

The Nelson amendment was adopted with 25 ayes, 5 nays, 18 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Feller, Helen Abbott - State Racing Commission - General Affairs

(Signed) John Wightman, Chairperson
Executive Board

RESOLUTION

LEGISLATIVE RESOLUTION 171. Introduced by Karpisek, 32.

WHEREAS, Don Rytych, a fifth grade teacher at Shickley Public School, is retiring after a 51-year teaching career; and

WHEREAS, Don Rytych has spent his entire 51-year teaching career at Shickley Public School, which is one of the longest tenures for a Nebraska teacher at any one school; and

WHEREAS, during his long and distinguished career, Don Rytych has taught the sixth grade, the eighth grade, and junior high math and science before moving into his current position of teaching the fifth grade; and

WHEREAS, Don Rytych has been a valued member of Shickley Public School throughout his 51-year teaching career, and his talents and love for teaching will be missed.

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

1. That the Legislature congratulates Don Rytych on his retirement and thanks him for his dedication to education in the State of Nebraska.

2. That a copy of this resolution be sent to Don Rytych.

Laid over.

VISITORS

Visitors to the Chamber were 46 fourth-grade students, teachers, and sponsors from St. Wenceslaus, Wahoo; 48 fourth-grade students and teachers from St. Mary's Elementary, David City; Senator Heidemann's daughter-in-law and granddaughter, Kassie and Aliva Heidemann, from Lincoln; and 42 fifth-grade students and teachers from Howard Elementary, Fremont.

RECESS

At 11:52 a.m., on a motion by Senator Harms, 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 Ashford, Conrad, Fulton, Heidemann, Mello, and Nelson who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 252. Senator Coash renewed his amendment, AM1097, found on page 1288.

SPEAKER FLOOD PRESIDING

Senator Coash offered the following motion:

MO36

Suspend the rules, Rule 7, Sec. 3(d), to permit consideration of AM1097.

The Coash motion to suspend the rules prevailed with 30 ayes, 2 nays, 13 present and not voting, and 4 excused and not voting.

Senator Coash renewed his amendment, AM1097, found on page 1288 and considered in this day's Journal.

The Coash amendment was adopted with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

SENATOR GLOOR PRESIDING

LEGISLATIVE BILL 106. Title read. Considered.

Committee AM731, found on page 859, was considered.

Senator Louden renewed his amendment, AM870, found on page 978, to the committee amendment.

The Louden amendment was adopted with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

The committee amendment, as amended, was adopted with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 26 ayes, 3 nays, 15 present and not voting, and 5 excused and not voting.

BILL ON FIRST READING

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

LEGISLATIVE BILL 549A. Introduced by Council, 11.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 549, One Hundred

Second Legislature, First Session, 2011; and to declare an emergency.

COMMITTEE REPORT

Government, Military and Veterans Affairs

LEGISLATIVE BILL 142. Placed on General File with amendment. AM934 is available in the Bill Room.

(Signed) Bill Avery, Chairperson

GENERAL FILE

LEGISLATIVE BILL 549. Title read. Considered.

Committee AM1121, found on page 1211, was adopted with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

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

LEGISLATIVE BILL 345. Title read. Considered.

Committee AM273, found on page 891, was considered.

Senator Conrad renewed her amendment, AM1018, found on page 1287, to the committee amendment.

The Conrad amendment was adopted with 29 ayes, 0 nays, 11 present and not voting, and 9 excused and not voting.

The committee amendment, as amended, was adopted with 30 ayes, 0 nays, 10 present and not voting, and 9 excused and not voting.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 9 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 345A. Title read. Considered.

SENATOR CARLSON PRESIDING

Advanced to Enrollment and Review Initial with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 382. Placed on Final Reading.

ST28

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Standing Committee amendments, AM1101, on page 14, line 5, "and" has been struck; and in line 6 "section 79-1028.01, Revised Statutes Cumulative Supplement, 2010, as amended by section 21, Legislative Bill 235, One Hundred Second Legislature, First Session, 2011, and section 79-1003, Revised Statutes Cumulative Supplement, 2010, as amended by section 2, Legislative Bill 18, One Hundred Second Legislature, First Session, 2011, and section 5, Legislative Bill 235, One Hundred Second Legislature, First Session, 2011," has been inserted after the last comma.

2. The E & R amendment, ER90, has been struck.

3. On page 1, the matter beginning with "sections" in line 1 through line 6 has been struck and "section 79-988.01, Reissue Revised Statutes of Nebraska, sections 79-958, 79-966, 79-9,113, and 81-2017, Revised Statutes Cumulative Supplement, 2010, section 79-1028.01, Revised Statutes Cumulative Supplement, 2010, as amended by section 21, Legislative Bill 235, One Hundred Second Legislature, First Session, 2011, and section 79-1003, Revised Statutes Cumulative Supplement, 2010, as amended by section 2, Legislative Bill 18, One Hundred Second Legislature, First Session, 2011, and section 5, Legislative Bill 235, One Hundred Second Legislature, First Session, 2011; to change contribution and deposit requirements for employees and employers for school retirement systems and the Nebraska State Patrol Retirement System; to change provisions relating to calculation of state aid for schools; to repeal the original sections; and to declare an emergency." inserted.

LEGISLATIVE BILL 382A. Placed on Final Reading.**LEGISLATIVE BILL 464.** Placed on Final Reading.

(Signed) Tyson Larson, Chairperson

MESSAGES FROM THE GOVERNOR

April 26, 2011

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 35, 70e, 112e, 156, 235e, 279, 297, 337e, 366, 385e, 388, 388A, 407, 431e, 477, 479, 499, 512, 524, 544, and 558 were received in my office on April 20, 2011.

These bills were signed and delivered to the Secretary of State on April 26, 2011.

Sincerely,
(Signed) Dave Heineman
Governor

April 26, 2011

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

Dear Mr. President and Members of the Legislature:

I am returning LB 600e and LB 600Ae without my signature and with my objections.

I am concerned that the LB 600 tax increase will artificially inflate provider rates to a level that is neither fiscally responsible or sustainable.

This legislation proposes to increase taxes on nursing home patients annually by \$14 million and to use these state tax funds to receive federal tax funds. The National Commission on Fiscal Responsibility and Reform, commonly known as the deficit commission, referred to provider taxes as a gimmick and recommended elimination of the practice. Frankly, this provider tax is a shell game in the sense that our state would not be obtaining "free federal money" - the funds are our own citizens' federal tax dollars. It is only a matter of time before the federal government will put an end to this obvious manipulation of taxpayer dollars. When this happens, an additional \$18.6 million annually would be required to replace the increased rates financed in LB 600.

I also have concerns about the structure of the bill which requires the Department of Health and Human Services to pay providers the increased rate before the Department can collect the tax from providers. The retroactive rate payments in the bill are also of great concern given the great length of time that may pass before the federal government either approves or disapproves the provider tax as it is fashioned in LB 600.

I understand the difficult circumstances that nursing facilities are facing. However, raising taxes on nursing home patients by \$14 million each year to fund an accounting gimmick is not a policy that I can support.

For these reasons, I respectfully urge you to sustain my veto of LB 600e and LB 600Ae.

Sincerely,
(Signed) Dave Heineman
Governor

April 26, 2011

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

Dear Mr. President and Members of the Legislature:

I am returning LB 204 and LB 204A without my signature and with my objections.

LB 204 requires all students to have undergone blood-lead testing prior to enrollment in kindergarten or upon enrollment for the first time in a Nebraska school unless a specific exemption applies.

While the detection of elevated blood lead levels in children is important, the tie to kindergarten entrance requirements is overly broad and will likely result in children not at risk of elevated blood lead levels being tested. In 2009, the U.S. Centers for Disease Control (CDC) revised its recommendations related to blood lead screening. The CDC now recommends against universal screening and in favor of targeted screening programs in order to decrease the unwarranted blood lead testing for children who are not at risk. Screening should be focused on populations identified at highest risk of lead exposure.

Additionally, LB 204 mandates that parents or guardians cover the additional costs to have such testing completed. Risk criteria established in LB 204 are likely to over identify children resulting in unnecessary testing and in increased health-care costs.

For these reasons, I urge you to sustain my veto of LB 204 and LB 204A.

Sincerely,
(Signed) Dave Heineman
Governor

AMENDMENTS - Print in Journal

Senator Flood filed the following amendment to LB463:
AM1306 is available in the Bill Room.

Senator Ashford filed the following amendment to LB463:
AM1297

(Amendments to AM1131)

- 1 1. On page 26, line 25, strike "tantamount" and
- 2 insert "paramount"; and in line 26 strike "citizens" and insert
- 3 "residents".
- 4 2. On page 27, line 9, strike "these programs" and insert
- 5 "court appointed special advocate programs"; and in line 25 strike
- 6 "Operates" and insert "Has the ability to operate".
- 7 3. On page 28, line 21, after "report" insert "regarding
- 8 the grant".
- 9 4. On page 35, line 20, strike "jurisdiction" and insert
- 10 "supervision"; in line 21 strike "under the jurisdiction" and
- 11 insert "committed to the care, custody, or supervision"; and strike
- 12 beginning with "ten" in line 24 through "that" in line 25 and
- 13 insert "five days per quarter or the hourly equivalent except when
- 14 excused by school authorities or when a documented illness".

RESOLUTION

LEGISLATIVE RESOLUTION 172. Introduced by Carlson, 38.

WHEREAS, Dave Barnard, a teacher at Superior High School, is retiring after a 33-year teaching career; and

WHEREAS, one of Dave Barnard's many achievements during his long and distinguished teaching career is the improvement that he has brought to the Superior FFA Chapter through his leadership and work as an FFA advisor; and

WHEREAS, when Dave Barnard first came to Superior, the Superior FFA Chapter did not receive much recognition. Through Dave Barnard's hard work and dedication, the Superior FFA Chapter is now one of the most recognized chapters in the state after having earned numerous local, state, and even national awards throughout the years; and

WHEREAS, in recognition of his hard work and dedication, Dave Barnard was named the 2011 Nebraska FFA Advisor of the Year during the 83rd Annual Nebraska FFA Convention held in Lincoln, Nebraska.

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

1. That the Legislature congratulates Dave Barnard on his retirement and for being named the 2011 Nebraska FFA Advisor of the Year.
2. That a copy of this resolution be sent to Dave Barnard.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 404. Title read. Considered.

Advanced to Enrollment and Review Initial with 29 ayes, 0 nays, 11 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 589. Title read. Considered.

Committee AM858, found on page 1019, was considered.

Pending.

BILL ON FIRST READING

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

LEGISLATIVE BILL 699. Introduced by Redistricting Committee: Langemeier, 23, Chairperson; Conrad, 46; Dubas, 34; Fischer, 43; Lautenbaugh, 18; Mello, 5; Nelson, 6; Schilz, 47.

A BILL FOR AN ACT relating to redistricting; to amend sections 24-201.02 and 24-201.04, Reissue Revised Statutes of Nebraska; to change boundaries of the Supreme Court judicial districts by the adoption of maps by reference; to harmonize provisions; to repeal the original sections; and to declare an emergency.

MOTIONS - Print in Journal

Senator Council filed the following motion to LB204:
MO39

Becomes law notwithstanding the objections of the Governor.

Senator Council filed the following motion to LB204A:
MO40

Becomes law notwithstanding the objections of the Governor.

AMENDMENT - Print in Journal

Senator Hadley filed the following amendment to LB590:
AM1289

(Amendments to Standing Committee amendments, AM1072)

1 1. On page 24, line 27, after "(1)" insert "Any
2 nonparticipating manufacturer may post a bond or its cash
3 equivalent for the benefit of the state which is subject to
4 execution under subsection (3) of this section.".

5 2. On page 30, strike lines 18 through 27 and insert:

6 "(3) As a condition of the stamping agent's agreement

7 to purchase cigarettes from a nonparticipating manufacturer, a

8 stamping agent may require a nonparticipating manufacturer to
 9 prepay the escrow deposit amount owed pursuant to subdivision (2)
 10 of section 69-2703 by the nonparticipating manufacturer into the
 11 escrow account designated in its certification of compliance on
 12 file with the state. The stamping agent may require proof from the
 13 escrow agent of the prepayment of escrow.

14 (4) A stamping agent shall not be liable for escrow
 15 deposits under subsection (1) or (2) of this section if the
 16 stamping agent, at the time of purchase of such nonparticipating
 17 manufacturers' cigarettes:

18 (a) Requires the nonparticipating manufacturer to prepay
 19 the escrow deposit under subsection (3) of this section;

20 (b) Obtains a proof of prepayment of the escrow owed from
 21 the escrow agent under subsection (3) of this section; and

22 (c) Determines that the nonparticipating manufacturer is
 1 on the state directory pursuant to section 69-2706."

2 3. On page 31, strike lines 1 through 4; in line 24
 3 after "report" insert "required under section 69-2708 or section 14
 4 or 26 of this act"; and in line 25 after "certification" insert
 5 "required under section 69-2708, subsection (2) of section 77-2603,
 6 or section 14 of this act".

7 4. On page 32, strike beginning with "during" in line
 8 23 through "section" in line 24 and insert "within ten days after
 9 receipt of notice of such violation".

10 5. On page 41, strike beginning with the comma in line
 11 7 through the first comma in line 8 and insert "under subsection
 12 (2) of section 69-2709"; and in line 10 after the period insert
 13 "If a stamping agent's license is terminated in another state for
 14 a violation similar to those listed in subdivision (2)(a), (b),
 15 (c), or (d) of section 69-2709 that was not knowing or intentional,
 16 the stamping agent shall not be subject to license termination if
 17 the stamping agent fully cures such violation and provides notice
 18 of such cure to the Department of Revenue within ten days after
 19 receipt of notice of such violation.".

20 6. On page 54, line 24, strike beginning with "has"
 21 through "Commissioner" and insert "is excused from liability".

22 7. On page 60, line 18, reinstate "thirty" and strike
 23 "fifteen".

MOTION - Print in Journal

Senator Mello filed the following motion to LB682:

MO41

Bracket until January 4, 2012.

VISITORS

Visitors to the Chamber were 26 fourth-grade students and teachers from Yutan; and 38 fourth-grade students and teachers from Morton Elementary, Hastings.

ADJOURNMENT

At 4:00 p.m., on a motion by Senator Brasch, the Legislature adjourned until 9:00 a.m., Wednesday, April 27, 2011.

Patrick J. O'Donnell
Clerk of the Legislature