

SEVENTIETH DAY - APRIL 29, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION****SEVENTIETH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, April 29, 2009

PRAYER

The prayer was offered by Father Lloyd Gnirk, St. John's Catholic Church, Valley.

ROLL CALL

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

The roll was called and all members were present except Senators Dierks, Heidemann, and Pankonin who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the sixty-ninth day was approved.

BILL ON FIRST READING

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

LEGISLATIVE BILL 246A. Introduced by Dubas, 34.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 246, One Hundred First Legislature, First Session, 2009.

GENERAL FILE

LEGISLATIVE BILL 307. Senator Council offered the following motion:
MO39
Indefinitely postpone.

Laid over.

LEGISLATIVE BILL 342. Committee AM741, found on page 818 and considered on page 1223, as amended, was renewed.

Senator Campbell renewed her amendment, AM1225, found on page 1204 and considered on page 1223, to the committee amendment.

The Campbell amendment was adopted with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

The committee amendment, as amended, was adopted with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 568. Title read. Considered.

Committee AM732, found on page 859, was considered.

Senator Wallman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

The committee amendment was adopted with 38 ayes, 0 nays, 10 present and not voting, and 1 excused and not voting.

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

MOTIONS - Print in Journal

Senator Gay filed the following motion to LB346:
MO40
Indefinitely postpone.

Senator Gay filed the following motion to LB346A:
MO41
Indefinitely postpone.

Senator Avery filed the following motion to LB136:
MO42
Indefinitely postpone.

Senator Avery filed the following motion to LB136A:
MO43
Indefinitely postpone.

Senator Dubas filed the following motion to LB356:
MO44
Indefinitely postpone.

Senator Dubas filed the following motion to LB356A:
MO45
Indefinitely postpone.

Senator Nordquist filed the following motion to LB601:
MO46
Indefinitely postpone.

Senator Nordquist filed the following motion to LB601A:
MO47
Indefinitely postpone.

AMENDMENT - Print in Journal

Senator Adams filed the following amendment to LB545:
AM1232

(Amendments to AM1119)

- 1 1. In AM1118:
- 2 a. Strike section 7 and all amendments thereto and insert
- 3 the following new section:
- 4 Sec. 7. Section 79-1007.10, Reissue Revised Statutes of
- 5 Nebraska, is amended to read:
- 6 79-1007.10 (1) For state aid calculated for school fiscal
- 7 year 2008-09 and each school fiscal year thereafter, all school
- 8 fiscal years except 2009-10 through 2013-14, the cost growth factor
- 9 shall equal the sum of: (1)-(a) One; plus (2)-(b) the basic
- 10 allowable growth rate pursuant to section 79-1025 for the school
- 11 fiscal year in which the aid is to be distributed; plus (3)-(c)
- 12 the basic allowable growth rate pursuant to section 79-1025 for the
- 13 school fiscal year immediately preceding the school fiscal year in
- 14 which the aid is to be distributed; plus (4)-(d) one percent.
- 15 (2)(a) For state aid calculated for school fiscal year
- 16 2009-10, the cost growth factor shall equal the sum of: (i) One;
- 17 plus (ii) the basic allowable growth rate pursuant to section
- 18 79-1025 for the school fiscal year in which the aid is to be
- 19 distributed; plus (iii) the basic allowable growth rate pursuant to
- 20 section 79-1025 for the school fiscal year immediately preceding
- 21 the school fiscal year in which the aid is to be distributed; plus
- 22 (iv) one and five-tenths percent.
- 1 (b) For state aid calculated for school fiscal year
- 2 2010-11, the cost growth factor shall equal the sum of: (i) One;
- 3 plus (ii) the basic allowable growth rate pursuant to section
- 4 79-1025 for the school fiscal year in which the aid is to be
- 5 distributed; plus (iii) the basic allowable growth rate pursuant to
- 6 section 79-1025 for the school fiscal year immediately preceding
- 7 the school fiscal year in which the aid is to be distributed; plus
- 8 (iv) two percent.
- 9 (c) For state aid calculated for school fiscal years
- 10 2011-12 through 2013-14, the cost growth factor shall equal the sum

11 of: (i) One; plus (ii) the basic allowable growth rate pursuant to
 12 section 79-1025 for the school fiscal year in which the aid is to
 13 be distributed; plus (iii) the basic allowable growth rate pursuant
 14 to section 79-1025 for the school fiscal year immediately preceding
 15 the school fiscal year in which the aid is to be distributed; plus
 16 (iv) one and five-tenths percent.

17 b. On page 45, line 9, strike "and 2010-11" and insert
 18 "through 2013-14"; and in line 11 strike "thirty" and insert
 19 "fifteen".

20 2. In the Adams amendment, AM1078, strike section 9 and
 21 all amendments thereto and insert the following new section:

22 Sec. 9. Section 79-1007.18, Reissue Revised Statutes of
 23 Nebraska, is amended to read:

24 79-1007.18 (1) For school fiscal year 2008-09 and each
 25 school fiscal year thereafter, the department shall calculate an
 26 averaging adjustment for districts if the basic funding per formula
 27 student is less than the ~~statewide average basic funding per~~
 1 ~~formula student averaging adjustment threshold~~ and the general
 2 fund levy for the school fiscal year immediately preceding the
 3 school fiscal year for which aid is being calculated was at least
 4 ninety-six cents per one hundred dollars of taxable valuation
 5 for aid calculated for school fiscal year 2008-09 and at least
 6 one dollar per one hundred dollars of taxable valuation for aid
 7 calculated for school fiscal year 2009-10 and each school fiscal
 8 year thereafter. For school districts that are members of a
 9 learning community, the general fund levy for purposes of this
 10 section includes both the common general fund levy and the school
 11 district general fund levy authorized pursuant to subdivisions
 12 (2)(b) and (2)(c) of section 77-3442. The averaging adjustment
 13 ~~for aid calculated for school fiscal year 2008-09~~ shall equal
 14 seventy-five percent of the product of the district's formula
 15 students multiplied by the percentage specified in subsection (4)
 16 or (5) of this section for such district of the difference between
 17 ~~the statewide average basic funding per formula student averaging~~
 18 ~~adjustment threshold~~ minus such district's basic funding per
 19 formula student. ~~The averaging adjustment for aid calculated for~~
 20 ~~school fiscal year 2009-10 and each school fiscal year thereafter~~
 21 ~~shall equal the district's formula students multiplied by the~~
 22 ~~percentage specified in this section for such district of the~~
 23 ~~difference between the statewide average basic funding per formula~~
 24 ~~student minus such district's basic funding per formula student.~~

25 (2)(a) For school fiscal year 2008-09, the averaging
 26 adjustment threshold shall equal the statewide average basic
 27 funding per formula student.

1 (b) For school fiscal year 2009-10 and each school fiscal
 2 year thereafter, the averaging adjustment threshold shall equal the
 3 lesser of (i) the averaging adjustment threshold for the school
 4 fiscal year immediately preceding the school fiscal year for which
 5 aid is being calculated increased by the sum of the basic allowable

6 growth rate plus five-tenths of one percent or (ii) the statewide
7 average basic funding per formula student for the school fiscal
8 year for which aid is being calculated.

9 ~~(2)-(3)~~ The percentage to be used in the calculation of
10 an averaging adjustment shall be based on the general fund levy for
11 the school fiscal year immediately preceding the school fiscal year
12 for which aid is being calculated.

13 ~~(3)-(4)~~ The percentages to be used in the calculation of
14 averaging adjustments for school fiscal year 2008-09 shall be as
15 follows:

16 (a) If such levy was at least ninety-six cents per one
17 hundred dollars of taxable valuation but less than ninety-seven
18 cents per one hundred dollars of taxable valuation, the percentage
19 shall be ten percent;

20 (b) If such levy was at least ninety-seven cents per one
21 hundred dollars of taxable valuation but less than ninety-eight
22 cents per one hundred dollars of taxable valuation, the percentage
23 shall be twenty percent;

24 (c) If such levy was at least ninety-eight cents per
25 one hundred dollars of taxable valuation but less than ninety-nine
26 cents per one hundred dollars of taxable valuation, the percentage
27 shall be thirty percent;

1 (d) If such levy was at least ninety-nine cents per one
2 hundred dollars of taxable valuation but less than one dollar per
3 one hundred dollars of taxable valuation, the percentage shall be
4 forty percent;

5 (e) If such levy was at least one dollar per one hundred
6 dollars of taxable valuation but less than one dollar and one cent
7 per one hundred dollars of taxable valuation, the percentage shall
8 be fifty percent;

9 (f) If such levy was at least one dollar and one cent per
10 one hundred dollars of taxable valuation but less than one dollar
11 and two cents per one hundred dollars of taxable valuation, the
12 percentage shall be sixty percent;

13 (g) If such levy was at least one dollar and two
14 cents per one hundred dollars of taxable valuation but less than
15 one dollar and three cents per one hundred dollars of taxable
16 valuation, the percentage shall be seventy percent;

17 (h) If such levy was at least one dollar and three cents
18 per one hundred dollars of taxable valuation but less than one
19 dollar and four cents per one hundred dollars of taxable valuation,
20 the percentage shall be eighty percent; and

21 (i) If such levy was at least one dollar and four cents
22 per one hundred dollars of taxable valuation, the percentage shall
23 be ninety percent.

24 ~~(4)-(5)~~ The percentages to be used in the calculation
25 of averaging adjustments for school fiscal year 2009-10 and each
26 school fiscal year thereafter shall be as follows:

27 (a) If such levy was at least one dollar per one hundred

- 1 dollars of taxable valuation but less than one dollar and one cent
 2 per one hundred dollars of taxable valuation, the percentage shall
 3 be fifty percent;
- 4 (b) If such levy was at least one dollar and one cent per
 5 one hundred dollars of taxable valuation but less than one dollar
 6 and two cents per one hundred dollars of taxable valuation, the
 7 percentage shall be sixty percent;
- 8 (c) If such levy was at least one dollar and two
 9 cents per one hundred dollars of taxable valuation but less than
 10 one dollar and three cents per one hundred dollars of taxable
 11 valuation, the percentage shall be seventy percent;
- 12 (d) If such levy was at least one dollar and three cents
 13 per one hundred dollars of taxable valuation but less than one
 14 dollar and four cents per one hundred dollars of taxable valuation,
 15 the percentage shall be eighty percent; and
- 16 (e) If such levy was at least one dollar and four cents
 17 per one hundred dollars of taxable valuation, the percentage shall
 18 be ninety percent.

RESOLUTION

LEGISLATIVE RESOLUTION 102. Introduced by Giese, 17; Avery, 28; Christensen, 44; Flood, 19; Hadley, 37; Harms, 48; Janssen, 15; Langemeier, 23; Louden, 49; Pankonin, 2; Schilz, 47; Stuthman, 22.

PURPOSE: The purpose of this interim study is to examine issues relating to the Nebraska Expressway System. The issues addressed by this interim study shall include, but not be limited to:

- (1) A review of the initial establishment of the expressway system in 1988, including the factors used by the Department of Roads to determine the initial expressway routes;
- (2) A review of the process used by the Department of Roads to include additional highway routes in the expressway system;
- (3) An analysis of how the Department of Roads views the expressway system as a key component of the overall state highway system;
- (4) An analysis of methods used by the Department of Roads to prioritize upgrades to the state highway system, including the possible use of commercial traffic volume or other economic factors to prioritize construction;
- (5) A review of the process used by the Department of Roads to apply for and utilize earmarked federal funding for the expressway system; and
- (6) An analysis of possible funding methods to complete the unfinished 179 miles of the planned 600-mile system, as well as additional expressway projects proposed in the Department of Roads long-range planning.

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

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

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

Referred to the Executive Board.

GENERAL FILE

LEGISLATIVE BILL 630. Committee AM874, found on page 904 and considered on page 1232, was renewed.

SENATOR STUTHMAN PRESIDING

Senator Schilz renewed his amendment, FA27, found on page 1020 and considered on page 1232, to the committee amendment.

PRESIDENT SHEEHY PRESIDING

Senator Janssen moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 4 nays, and 19 not voting.

Senator Schilz moved for a call of the house. The motion prevailed with 37 ayes, 0 nays, and 12 not voting.

Senator Schilz requested a roll call vote on his amendment.

Voting in the affirmative, 29:

Adams	Fischer	Hadley	McCoy	Schilz
Campbell	Flood	Hansen	Nelson	Stuthman
Carlson	Friend	Harms	Pahls	Sullivan
Christensen	Fulton	Janssen	Pankonin	Utter
Coash	Gay	Lautenbaugh	Pirsch	Wightman
Dierks	Gloor	Louden	Price	

Voting in the negative, 17:

Ashford	Council	Howard	Nantkes	White
Avery	Dubas	Lathrop	Nordquist	
Cook	Giese	McGill	Rogert	
Cornett	Haar	Mello	Wallman	

Excused and not voting, 3:

Heidemann	Karpisek	Langemeier
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The Schilz amendment was adopted with 29 ayes, 17 nays, and 3 excused and not voting.

The Chair declared the call raised.

The committee amendment, as amended, was adopted with 42 ayes, 2 nays, 4 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 42 ayes, 3 nays, 3 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 224. Title read. Considered.

Committee AM949, found on page 1171, was considered.

Pending.

AMENDMENT - Print in Journal

Senator Campbell filed the following amendment to LB542:
AM1224

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 38-1136, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 38-1136 (1) The department, with the recommendation
- 6 of the board, shall adopt and promulgate rules and regulations
- 7 governing the performance of duties by licensed dental hygienists
- 8 and dental assistants.
- 9 (2) The department, with the recommendation of the board,
- 10 shall adopt and promulgate rules and regulations relating to the
- 11 performance of duties by dental assistants which may include basic
- 12 qualifications, education, training, and competency assessment of
- 13 dental assistants.
- 14 Sec. 2. Original section 38-1136, Reissue Revised
- 15 Statutes of Nebraska, is repealed.

VISITORS

Visitors to the Chamber were 25 fourth- and fifth-grade students from Ansley; 16 fourth-grade students from St. Patrick School, Lincoln; 12 fourth-grade students from St. Joan of Arc Elementary, Omaha; Fred Schneider from Lincoln; 47 fourth-grade students from Joslyn Elementary, Omaha; Senator Frank Kloucek from Scotland, South Dakota, Myron Rau from Sioux Falls, South Dakota, and Larry and Nancy Bowers from Armour, South Dakota; 41 eleventh-grade students and teachers from Wood River; Senator Hadley's wife and sister-in-law, Marilyn Hadley and Kathy Bowen, from Kearney; 50 fourth-grade students from Central City; and 30

twelfth-grade students from Wilber Clatonia School, Wilber.

RECESS

At 11:58 a.m., on a motion by Speaker Flood, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Adams, Ashford, Cornett, Dierks, Friend, Fulton, Hadley, Langemeier, Loudon, Nantkes, Utter, and White who were excused until they arrive.

AMENDMENT - Print in Journal

Senator Council filed the following amendment to LB679:
AM1245

(Amendments to Final Reading copy)

- 1 1. Strike the original sections and insert the following
- 2 sections:
- 3 Section 1. Section 43-1302, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 43-1302 ~~(1)(a) Until January 1, 2006, (1) It is the~~
- 6 intent of the Legislature that no person with a conflict of
- 7 interest as described in this section shall be a member of the
- 8 state board. No person or person whose spouse, parent, sibling,
- 9 or child by blood or marriage is employed by or who receives or
- 10 distributes funds from the Department of Health and Human Services,
- 11 a child-caring agency, a child-placing agency, a court, a county,
- 12 or a designated contractor of any such agency is eligible to
- 13 be a member of the state board, except that a practitioner of
- 14 pediatric medicine licensed under the Uniform Credentialing Act and
- 15 a guardian ad litem who receives less than one-half of his or her
- 16 income for such services are eligible to be members of the state
- 17 board.
- 18 (2) The terms of members serving on the state board on
- 19 the effective date of this act who have a conflict of interest
- 20 as described in this section shall expire on the thirtieth day
- 21 after the effective date of this act. The Governor shall make any
- 22 appointments needed to have a nine-member state board that meets
- 1 the requirements of this section. Such appointments shall be made
- 2 and qualified within thirty days after the effective date of this
- 3 act. For such appointments, the terms of such members shall begin
- 4 on the thirty-first day after the effective date of this act, and
- 5 the Governor shall designate terms of one, two, or three years

6 for such appointments to maintain as equal a rotation of terms as
 7 possible.

8 (3) On and after the thirty-first day after the effective
 9 date of this act: The the State Foster Care Review Board shall
 10 be comprised of nine members to be appointed by the Governor;
 11 subject to confirmation by a majority of the members elected to
 12 and confirmed by the Legislature. At least one member shall be an
 13 attorney with legal expertise in child welfare. Two members shall
 14 be. At least one member shall be a guardian ad litem, at least
 15 one member shall be a practitioner of pediatric medicine licensed
 16 under the Uniform Credentialing Act, at least one member shall
 17 be a former foster parent, and six members shall be members in
 18 good standing from local foster care review boards with two from
 19 each of the three congressional districts as they such districts
 20 existed on January 1, 2009. 1982. In addition to the six members
 21 representative of the congressional districts, three members shall
 22 be appointed by the Governor from a group consisting of all the
 23 chairpersons of the local boards, and one such chairperson shall
 24 be appointed from each such congressional district. The appointment
 25 of a member of a local board to the state board shall does not
 26 create a vacancy on the local board. Members other than those
 27 appointed from the group consisting of all the chairpersons of
 1 the local boards shall be appointed to three year terms, and those
 2 members appointed from the group consisting of all the chairpersons
 3 of local boards shall be appointed to two year terms. No person
 4 shall serve on the state board for more than six consecutive years.
 5 For any vacancy occurring prior to an expired term, the Governor
 6 shall appoint a member who meets the qualifications of his or
 7 her predecessor and such appointee shall serve out the unexpired
 8 term. Members whose terms have expired shall continue to serve
 9 until their successors have been appointed and qualified. No person
 10 employed by a child caring agency, a child placing agency, or a
 11 court shall be appointed to the state board.

12 (b) On and after January 1, 2006, the State Foster
 13 Care Review Board shall be comprised of eleven members appointed
 14 by the Governor with the approval of a majority of the members
 15 elected to the Legislature, consisting of: Three members of local
 16 foster care review boards, one from each congressional district;
 17 one practitioner of pediatric medicine, licensed under the Uniform
 18 Credentialing Act; one practitioner of child clinical psychology,
 19 licensed under the Uniform Credentialing Act; one social worker
 20 eertified under the Uniform Credentialing Act, with expertise in
 21 the area of child welfare; one attorney who is or has been a
 22 guardian ad litem; one representative of a statewide child advocacy
 23 group; one director of a child advocacy center; one director of
 24 a court appointed special advocate program; and one member of the
 25 public who has a background in business or finance.

26 The terms of members appointed pursuant to this
 27 subdivision shall be three years, except that of the initial

1 members of the state board, one third shall be appointed for terms
 2 of one year, one third for terms of two years, and one third for
 3 terms of three years, as determined by the Governor. No person
 4 appointed by the Governor to the state board shall serve more
 5 than two consecutive three year terms. An appointee to a vacancy
 6 occurring from an unexpired term shall serve out the term of
 7 his or her predecessor. Members whose terms have expired shall
 8 continue to serve until their successors have been appointed and
 9 qualified. Members serving on the state board on December 31, 2005,
 10 shall continue in office until the members appointed under this
 11 subdivision take office. The members of the state board shall, to
 12 the extent possible, represent the three congressional districts
 13 equally.

14 ~~(2)-(4)~~ The state board shall select a chairperson,
 15 vice-chairperson, and such other officers as the state board deems
 16 necessary. Members of the state board shall be reimbursed for their
 17 actual and necessary expenses as provided in sections 81-1174 to
 18 81-1177. The state board shall employ or contract for services from
 19 such persons as are necessary to aid it in carrying out its duties.

20 Sec. 2. Original section 43-1302, Reissue Revised

21 Statutes of Nebraska, is repealed.

22 Sec. 3. Since an emergency exists, this act takes effect
 23 when passed and approved according to law.

RESOLUTIONS

LEGISLATIVE RESOLUTION 103. Introduced by Agriculture
 Committee: Carlson, 38, Chairperson; Council, 11; Dierks, 40; Dubas, 34;
 Karpisek, 32; Price, 3; Schilz, 47; Wallman, 30.

PURPOSE: The purpose of this resolution is to examine the statutory duties and responsibilities of riparian landowners adjacent to natural streams and other watercourses for the control and removal of noxious and invasive vegetation within and adjacent to the streambed. The study shall particularly examine those duties imposed upon adjacent landowners under the Noxious Weed Control Act and the drainage statutes in Chapter 31, article 2, of the Nebraska Revised Statutes. It is a goal of the study to arrive at conclusions regarding the applicability and equity of such duties in relation to societal factors that have altered natural stream flows over time and the efficacy of enforcement of such duties as a means to achieve the objectives and societal benefits of vegetation management projects.

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

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 104. Introduced by Agriculture Committee: Carlson, 38, Chairperson; Council, 11; Dierks, 40; Dubas, 34; Karpisek, 32; Price, 3; Schilz, 47; Wallman, 30.

PURPOSE: The purpose of this resolution is to examine mechanisms to mitigate marketing risks to producers and other grain market participants beyond those currently available under the Grain Dealer Act and the Grain Warehouse Act. In particular, the study shall examine the concept of producer-funded indemnity programs as a means to insure marketing transactions entered into by producers and other market participants. The study shall compile information regarding indemnity funds existing in other states and identify policy considerations in the establishment and design of such indemnity programs. The study shall seek to involve the participation of the grain warehouse department of the Public Service Commission, commodity producers, and grain market participants.

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

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

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

Referred to the Executive Board.

SELECT FILE

LEGISLATIVE BILL 237. ER8091, found on page 1158, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 237A. Senator Lathrop offered the following amendment:

AM1246

- 1 1. Strike original section 2 and insert the following new
- 2 section:
- 3 Sec. 2. There is hereby appropriated (1) \$13,000 from
- 4 the General Fund and \$7,000 from federal funds for FY2009-10 and
- 5 (2) \$13,000 from the General Fund and \$7,000 from federal funds
- 6 for FY2010-11 to the Department of Health and Human Services, for
- 7 Program 33, to aid in carrying out the provisions of Legislative
- 8 Bill 237, One Hundred First Legislature, First Session, 2009.

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

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 92. ER8092, found on page 1159, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 97. ER8094, found on page 1207, was adopted.

Senator Stuthman renewed his amendment, AM1234, found on page 1220.

The Stuthman amendment was adopted with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

Senator Flood offered the following amendment:
AM1259

(Amendments to E & R amendments, ER8094)

- 1 1. Insert the following section:
- 2 Sec. 35. The following section is outright repealed:
- 3 Section 28-321, Reissue Revised Statutes of Nebraska.
- 4 2. On page 5, lines 3 and 4; page 6, lines 3 and 4; and
- 5 page 7, lines 6 and 7, strike "and afford the victim and parties a
- 6 right to attend and be heard".
- 7 3. On page 10, line 25; page 43, line 21; and page 44,
- 8 line 16, strike "28-323" and insert "28-322.04".
- 9 4. On page 44, line 21, strike "and 33" and insert "33,
- 10 and 35".
- 11 5. Renumber the remaining section accordingly.

The Flood amendment was adopted with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

Senator Lautenbaugh offered the following amendment:
AM1255

(Amendments to E & R amendments, ER8094)

- 1 1. On page 24, after line 13, insert the following new
- 2 subsection:
- 3 "(12) The changes made to this section by this
- 4 legislative bill and Laws 2006, LB 1199, shall apply to offenses
- 5 committed prior to the operative date of this section for which
- 6 the statute of limitations has not expired as of such date and to
- 7 offenses committed on or after such date.".
- 8 2. On page 26, strike beginning with "As" in line 14
- 9 through "requires" in line 15 and insert "For purposes of the
- 10 Sex Offender Registration Act"; in line 22 after "network" insert
- 11 "primarily"; and in line 23 after "text" insert "or voice".
- 12 3. On page 27, after line 4, insert the following new
- 13 subdivision:

14 "(4) Domain name means a series of text-based symbols,
 15 letters, numbers, or text characters used to provide recognizable
 16 names to numerically addressed Internet resources that are
 17 registered by the Internet Corporation for Assigned Names and
 18 Numbers"; in line 5 strike "(4)" and insert "(5)"; in line 9
 19 strike "(5)" and insert "(6)"; strike beginning with "computer"
 20 in line 10 through "the" in line 11; in line 13 strike "(6)" and
 21 insert "(7)"; in line 19 strike "(7)" and insert "(8)"; in line
 22 24 after the semicolon insert "and"; and in line 25 strike "(8)"
 1 and insert "(9)".

2 4. On page 28, line 8, strike "; and" and insert an
 3 underscored period and strike lines 9 through 13.

4 5. On page 31, line 21; page 34, lines 7 and 8; page
 5 36, lines 7 and 16; and page 40, lines 7 and 16, strike "uniform
 6 resource locators" and insert "domain names".

7 6. On page 31, line 22; page 34, line 8; page 36, lines 8
 8 and 16; and page 40, lines 8 and 16, strike "or used".

9 7. On page 32, line 3, strike "or used" and ", at any
 10 time"; and in line 7 strike "or used".

11 8. On page 36, lines 19 and 20; and page 40, lines 19
 12 and 20, strike "within five working days" and insert "by the next
 13 working day".

14 9. On page 36, line 24; and page 40, line 24, strike
 15 "potential or".

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

Advanced to Enrollment and Review for Engrossment.

COMMITTEE REPORTS

Appropriations

LEGISLATIVE BILL 311. Placed on General File with amendment. AM886 is available in the Bill Room.

LEGISLATIVE BILL 312. Placed on General File.

LEGISLATIVE BILL 313. Placed on General File with amendment. AM887 is available in the Bill Room.

LEGISLATIVE BILL 314. Placed on General File with amendment. AM888 is available in the Bill Room.

LEGISLATIVE BILL 315. Placed on General File with amendment. AM889 is available in the Bill Room.

LEGISLATIVE BILL 316. Placed on General File with amendment. AM890 is available in the Bill Room.

LEGISLATIVE BILL 318. Placed on General File.

LEGISLATIVE BILL 456. Placed on General File with amendment.
AM1214

- 1 1. Insert the following new section:
 2 Sec. 6. Since an emergency exists, this act takes effect
 3 when passed and approved according to law.
 4 2. On page 10, after line 12, insert the following new
 5 paragraphs:
 6 "(17) On or before June 15, 2010, the State Treasurer,
 7 at the direction of the budget administrator, shall transfer
 8 ninety-five million dollars from the Cash Reserve Fund to the
 9 General Fund.
 10 (18) On or before June 15, 2011, the State Treasurer,
 11 at the direction of the budget administrator, shall transfer one
 12 hundred fifty-one million dollars from the Cash Reserve Fund to the
 13 General Fund.
 14 (19) On June 15, 2009, the State Treasurer shall transfer
 15 seven million five hundred thousand dollars from the Cash Reserve
 16 Fund to the Governor's Emergency Cash Fund.
 17 (20) On July 7, 2009, the State Treasurer shall
 18 transfer one million dollars from the Cash Reserve Fund to the
 19 State Visitors Promotion Cash Fund. The Department of Economic
 20 Development shall use such funds to provide funding for the
 21 promotion and support of the hosting of a Special Olympics national
 22 event by a city of the primary class."

(Signed) Lavon Heidemann, Chairperson

SELECT FILE

LEGISLATIVE BILL 402. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 286. ER8059, found on page 1007, was adopted.

Senator Karpisek renewed his amendment, AM1029, found on page 1012.

SENATOR ROBERT PRESIDING

The Karpisek amendment was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 188. ER8063, found on page 1022, was adopted.

Senator Pankonin renewed his amendment, AM1063, found on page 1026.

The Pankonin amendment was adopted with 36 ayes, 0 nays, 11 present and

not voting, and 2 excused and not voting.

Senator Pankonin renewed his amendment, AM1153, found on page 1225.

The Pankonin amendment was adopted with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 495. ER8066, found on page 1048, was adopted.

Senator Friend withdrew his amendment, AM1025, found on page 1010.

Senator Friend renewed his amendment, AM1211, found on page 1200.

SENATOR LANGEMEIER PRESIDING

The Friend amendment was adopted with 38 ayes, 0 nays, and 11 present and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 653. ER8095, found on page 1208, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 497. ER8064, found on page 1022, was adopted.

Senator Fischer asked unanimous consent to withdraw her amendment, AM1155, found on page 1159, and replace it with her substitute amendment, AM1182, found on page 1215. No objections. So ordered.

The Fischer amendment was adopted with 33 ayes, 0 nays, and 16 present and not voting.

Senator Janssen asked unanimous consent to withdraw his amendment, AM1174, found on page 1190, and replace it with his substitute amendment, AM1240. No objections. So ordered.

AM1240

(Amendments to AM1015)

- 1 1. Strike section 2 and all amendments thereto and insert
- 2 the following new sections:
- 3 Sec. 2. Section 60-498.02, Revised Statutes Cumulative
- 4 Supplement, 2008, is amended to read:
- 5 60-498.02 (1) At the expiration of thirty days after the
- 6 date of arrest as described in subsection (2) of section 60-6,197
- 7 or if after a hearing pursuant to section 60-498.01 the director
- 8 finds that the operator's license should be revoked, the director

9 shall (a) revoke the operator's license of a person arrested for
10 refusal to submit to a chemical test of blood, breath, or urine
11 as required by section 60-6,197 for a period of one year and
12 (b) revoke the operator's license of a person who submits to a
13 chemical test pursuant to such section which discloses the presence
14 of a concentration of alcohol specified in section 60-6,196 for a
15 period of ninety days unless the person's driving record abstract
16 maintained in the department's computerized records shows one or
17 more prior administrative license revocations on which final orders
18 have been issued during the immediately preceding twelve-year
19 period at the time the order of revocation is issued, in which case
20 the period of revocation shall be one year. Except as otherwise
21 provided in section 60-6,211.05, a new operator's license shall
22 not be issued to such person until the period of revocation has
1 elapsed. If the person subject to the revocation is a nonresident
2 of this state, the director shall revoke only the nonresident's
3 operating privilege as defined in section 60-474 of such person and
4 shall immediately forward the operator's license and a statement of
5 the order of revocation to the person's state of residence.

6 ~~(2)~~(2)(a) At the expiration of thirty days after an
7 order of revocation is entered under ~~subsection (1) subdivision~~
8 (1)(b) of this section, any person whose operator's license has
9 been administratively revoked for a period of ninety days for
10 submitting to a chemical test pursuant to section 60-6,197 which
11 disclosed the presence of a concentration of alcohol in violation
12 of section 60-6,196 may make application to the director for
13 issuance of an employment driving permit pursuant to section
14 60-4,130.

15 (b) At the expiration of sixty days after an order of
16 revocation is entered under subdivision (1)(a) of this section, any
17 person whose operator's license has been administratively revoked
18 for refusal to submit to a chemical test pursuant to section
19 60-6,197, may make application to the director for issuance of
20 an employment driving permit pursuant to section 60-4,130 unless
21 the person's driving record abstract maintained in the department's
22 computerized records shows one or more prior administrative license
23 revocations on which final orders have been issued during the
24 immediately preceding twelve-year period at the time of the
25 revocation is issued.

26 (3)(a) At the expiration of thirty days after an order
27 of administrative license revocation for ninety days is entered
1 under ~~subsection (1) subdivision (1)(b)~~ of this section, any person
2 who submitted to a chemical test pursuant to section 60-6,197
3 which disclosed the presence of a concentration of alcohol in
4 violation of section 60-6,196 is eligible for an order to allow
5 application for an ignition interlock permit to operate a motor
6 vehicle equipped with an ignition interlock device pursuant to
7 section 60-6,211.05 upon presentation of sufficient evidence to the
8 Department of Motor Vehicles that such a device is installed.

9 (b) At the expiration of sixty days after an order of
 10 administrative license revocation for one year is entered under
 11 ~~subsection (1) subdivision (1)(b)~~ of this section, any person who
 12 submitted to a chemical test pursuant to section 60-6,197 which
 13 disclosed the presence of a concentration of alcohol in violation
 14 of section 60-6,196 is eligible for an order to allow application
 15 for an ignition interlock permit in order to operate a motor
 16 vehicle equipped with an ignition interlock device pursuant to
 17 section 60-6,211.05 upon presentation of sufficient evidence to the
 18 Department of Motor Vehicles that such a device is installed.

19 (c) At the expiration of sixty days after an order
 20 of administrative license revocation is entered under subdivision
 21 (1)(a) of this section, any person who refused to submit to
 22 a chemical test pursuant to section 60-6,197 is eligible for
 23 an order to allow application for an ignition interlock permit
 24 in order to operate a motor vehicle equipped with an ignition
 25 interlock device pursuant to section 60-6,211.05 upon presentation
 26 of sufficient evidence to the department that such a device is
 27 installed, unless the person's driving record abstract maintained
 1 in the department's computerized records shows one or more prior
 2 administrative license revocations on which final orders have been
 3 issued during the immediately preceding twelve-year period at the
 4 time of the revocation is issued.

5 (e)-(d) A person operating a motor vehicle pursuant to
 6 this subsection shall only operate the motor vehicle to and from
 7 his or her residence, to his or her place of employment, his or
 8 her school, or an alcohol treatment program, required visits with
 9 his or her probation officer, or an ignition interlock service
 10 facility. Such permit shall indicate for which purposes the permit
 11 may be used. All permits issued pursuant to this subsection shall
 12 indicate that the permit is not valid for the operation of any
 13 commercial motor vehicle.

14 (4) No person shall be eligible for an employment driving
 15 permit or an ignition interlock permit during any period of time
 16 during which his or her operator's license is subject to an
 17 administrative revocation order for refusal to submit to a chemical
 18 test of blood, breath, or urine as required by section 60-6,197.

19 (5)-(4) A person may have his or her eligibility for a
 20 license reinstated upon payment of a reinstatement fee as required
 21 by section 60-694.01.

22 (6)(a)-(5)(a) A person whose operator's license is
 23 subject to revocation pursuant to subsection (3) of section
 24 60-498.01 shall have all proceedings dismissed or his or her
 25 operator's license immediately reinstated without payment of the
 26 reinstatement fee upon receipt of suitable evidence by the director
 27 that:

1 (i) Within the thirty-day period following the date
 2 of arrest, the prosecuting attorney responsible for the matter
 3 declined to file a complaint alleging a violation of section

4 60-6,196 and notified the director by first-class mail or facsimile
5 transmission of such decision and the director received such notice
6 within such period or the notice was postmarked within such period;
7 or

8 (ii) The defendant, after trial, was found not guilty
9 of violating section 60-6,196 or such charge was dismissed on the
10 merits by the court.

11 (b) The director shall adopt and promulgate rules and
12 regulations establishing standards for the presentation of suitable
13 evidence of compliance with subdivision (a) of this subsection.

14 (c) If a charge is filed for a violation of section
15 60-6,196 pursuant to an arrest for which all proceedings were
16 dismissed under this subsection, the prosecuting attorney shall
17 notify the director by first-class mail or facsimile transmission
18 of the filing of such charge and the director may reinstate an
19 administrative license revocation under this section as of the
20 date that the director receives notification of the filing of the
21 charge, except that a revocation shall not be reinstated if it was
22 dismissed pursuant to section 60-498.01.

23 Sec. 8. Section 60-6,197.05, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 60-6,197.05 Any period of revocation imposed for a
26 violation of section 60-6,196 or 60-6,197 shall be reduced
27 by any period imposed under section 60-498.02. Any period of
1 revocation imposed under subdivision (1) of section 60-6,197.03 for
2 a violation of section 60-6,196 or 60-6,197 or under subdivision
3 (2)(a) of section 60-6,196, as such section existed prior to July
4 16, 2004, shall not prohibit the operation of a motor vehicle under
5 the terms and conditions of an employment driving permit issued
6 pursuant to subsection (2) of section 60-498.02.

7 2. On page 4, line 8, strike "Department of Motor
8 Vehicles", show as stricken, and insert "department".

9 3. On page 36, line 14, after "60-6,197.03," insert
10 "60-6,197.05,".

11 4. Renumber the remaining sections accordingly.

The Janssen amendment was adopted with 33 ayes, 0 nays, and 16 present and not voting.

Senator Fulton renewed his amendment, AM1062, found on page 1190.

SENATOR ROBERT PRESIDING

Senator Fulton moved for a call of the house. The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

Senator Fulton requested a roll call vote, in reverse order, on his amendment.

Voting in the affirmative, 14:

Christensen	Dubas	Gloor	Pirsch	Wallman
Cook	Fulton	Harms	Price	Wightman
Dierks	Giese	Janssen	Rogert	

Voting in the negative, 15:

Ashford	Fischer	Langemeier	Nantkes	Stuthman
Campbell	Hansen	Lautenbaugh	Nelson	Sullivan
Carlson	Karpisek	Louden	Schilz	Utter

Present and not voting, 17:

Adams	Gay	Howard	Mello	White
Avery	Haar	Lathrop	Nordquist	
Cornett	Hadley	McCoy	Pahls	
Flood	Heidemann	McGill	Pankonin	

Excused and not voting, 3:

Coash	Council	Friend
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The Fulton amendment lost with 14 ayes, 15 nays, 17 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 497A. Advanced to Enrollment and Review for Engrossment.

RESOLUTION

LEGISLATIVE RESOLUTION 105. Introduced by Ashford, 20; Nelson, 6.

WHEREAS, Donald G. Gilpin has made a tremendous impact on Omaha Westside High School since he first began working there in 1976; and

WHEREAS, Mr. Gilpin has taught business and marketing classes at Omaha Westside High School for many years, helping numerous students along the way; and

WHEREAS, Mr. Gilpin has been a longtime member of the Westside Education Association and the Nebraska Association of Marketing Educators. He also served on the board of directors of DECA for ten years; and

WHEREAS, Mr. Gilpin has also been an influential coach at Omaha Westside High School, serving at various times as soccer coach, football

coach, and wrestling coach. He was also named Girls' High School Soccer Coach of the Year in 1994; and

WHEREAS, Mr. Gilpin will be retiring this year; and

WHEREAS, Mr. Gilpin, throughout his professional teaching, coaching, and administrative career has touched the lives of numerous athletes, students, faculty, and staff by providing a challenging and positive learning environment as well as exemplary leadership.

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

1. That the Legislature recognizes and congratulates Donald G. Gilpin for his many years of service to Omaha Westside High School.

2. That a copy of this resolution be sent to Donald G. Gilpin.

Laid over.

BILL ON FIRST READING

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

LEGISLATIVE BILL 342A. Introduced by Gay, 14.

A BILL FOR AN ACT relating to appropriations; to reduce an appropriation to aid in carrying out the provisions of Legislative Bill 342, One Hundred First Legislature, First Session, 2009.

GENERAL FILE

LEGISLATIVE BILL 224. Committee AM949, found on page 1171 and considered in this day's Journal, was renewed.

Senator Carlson moved for a call of the house. The motion prevailed with 33 ayes, 0 nays, and 16 not voting.

Senator White requested a record vote on the committee amendment.

Voting in the affirmative, 28:

Adams	Dubas	Gloor	Mello	Stuthman
Avery	Fischer	Hadley	Nantkes	Sullivan
Carlson	Flood	Harms	Pirsch	Utter
Christensen	Fulton	Lautenbaugh	Price	Wightman
Coash	Gay	Louden	Rogert	
Cook	Giese	McCoy	Schilz	

Voting in the negative, 4:

Hansen	Karpisek	Wallman	White
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Present and not voting, 10:

Campbell	Haar	Lathrop	Nelson	Pahls
Cornett	Janssen	McGill	Nordquist	Pankonin

Excused and not voting, 7:

Ashford	Dierks	Heidemann	Langemeier
Council	Friend	Howard	

The committee amendment was adopted with 28 ayes, 4 nays, 10 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review Initial with 32 ayes, 4 nays, 6 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 232. Title read. Considered.

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

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 285. Placed on Select File with amendment. ER8103 is available in the Bill Room.

LEGISLATIVE BILL 9. Placed on Select File with amendment. ER8099

- 1 1. On page 1, line 3, strike "biofuels used" and insert
- 2 "wood and corn used as fuel".

LEGISLATIVE BILL 494. Placed on Select File.

LEGISLATIVE BILL 633. Placed on Select File with amendment. ER8102

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. This act shall be known and may be cited as
- 4 the Neighborhood Development Act.
- 5 Sec. 2. The Legislature finds that there is a need to:
- 6 (1) Stimulate local community development efforts
- 7 statewide;
- 8 (2) Build an environment to engage in more effective
- 9 community development; and
- 10 (3) Assist community improvement groups which have
- 11 positive impacts upon the vitality, cohesiveness, and continued

12 viability of both urban and rural communities throughout the state.
13 Sec. 3. The purposes of the Neighborhood Development Act
14 are to:

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

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

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

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

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

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

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

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

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

16 Sec. 5. (1) The Neighborhood Development Grant Fund is
17 created. The fund shall be used by the college to carry out its
18 duties and responsibilities under the Neighborhood Development Act.
19 It is the intent of the Legislature that one hundred twenty-five
20 thousand dollars be appropriated to the fund for FY2009-10 and each
21 of the following fiscal years through FY2012-13.

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

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

8 (2) To be eligible for a grant, the applying community
9 improvement group shall:

10 (a) Demonstrate that the grant funds will be used for a

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

6 and

7 (6) The efficiency of the proposed allocation of state,
 8 local, public, and private resources in solving the local community
 9 needs.

10 Sec. 8. Upon completion of a project for which a grant
 11 has been received or within one year from the date of receipt of
 12 a grant, whichever comes first, the recipient community improvement
 13 group shall provide the college with an evaluation reporting the
 14 results of the project.

15 Sec. 9. The college shall submit an annual report to the
 16 Governor and the Legislature on or before January 1 of each year
 17 listing the recipients and amounts of grants made pursuant to the
 18 Neighborhood Development Act in the previous year, the impact of
 19 the grants, and an evaluation of each project's performance based
 20 on the documented reports of the recipient community improvement
 21 groups.

22 Sec. 10. The Neighborhood Development Act terminates on
 23 June 30, 2013.

24 2. On page 1, line 2, strike "and"; and in line 3 after
 25 "duties" insert "; and to provide a termination date".

LEGISLATIVE BILL 160. Placed on Select File with amendment.
 ER8101

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

3 Section 1. In addition to other powers authorized by law,
 4 the board of directors of a natural resources district encompassing
 5 a city of the metropolitan class, upon an affirmative vote of
 6 two-thirds of the members of the board of directors, may issue
 7 negotiable bonds and refunding bonds of the district, entitled
 8 flood protection and water quality enhancement bonds, with terms
 9 determined appropriate by the board of directors, payable from
 10 an annual special flood protection and water quality enhancement
 11 bond levy upon the taxable value of all taxable property in the
 12 district. Such special bond levy is includable in the computation
 13 of other limitations upon the district's tax levy and shall not
 14 exceed one cent on each one hundred dollars of taxable valuation
 15 annually on all of the taxable property within the district without
 16 approval by a majority of registered voters of the district at an
 17 election in accordance with the Election Act called by the board
 18 of directors and held in conjunction with a statewide primary or
 19 general election.

20 Sec. 2. (1) The proceeds of bonds issued pursuant
 21 to section 1 of this act shall be used to pay costs of
 22 design, rights-of-way acquisition, and construction of multipurpose
 23 projects and practices for storm water management within the
 1 natural resources district issuing such bonds, including flood
 2 control and water quality. For purposes of this section, flood
 3 control and water quality projects and practices include, but are

4 not limited to, low-impact development best management measures,
5 flood plain buyout, dams, reservoir basins, and levees. The
6 proceeds of bonds issued pursuant to section 1 of this act
7 shall not be used to fund combined sewer separation projects in
8 a city of the metropolitan class. No project for which bonds are
9 issued under section 1 of this act shall include a reservoir or
10 water quality basin having a permanent pool greater than four
11 hundred surface acres. Any project having a permanent pool greater
12 than twenty surface acres shall provide for public access.

13 (2) A district shall not acquire real property for a
14 project described in subsection (1) of this section by eminent
15 domain proceedings pursuant to sections 76-704 to 76-724 if the
16 real property is to be conveyed to a private entity or private
17 enterprise after such acquisition.

18 (3) Proceeds from bonds issued pursuant to section 1 of
19 this act or funds of a natural resources district encompassing
20 a city of the metropolitan class may be used to pay costs of a
21 reservoir or water quality basin project or projects greater than
22 twenty surface acres except when the county board of the affected
23 county votes on and passes a resolution stating that it does not
24 approve of the construction of such reservoir or water quality
25 basin project or projects within its exclusive zoning jurisdiction.
26 A vote on the resolution must take place within ninety days
27 after notice from the board of directors of the natural resources
1 district of its intent to issue bonds, seek voter approval of
2 bonds, or otherwise fund a reservoir or water quality basin project
3 or projects within such county's exclusive zoning jurisdiction
4 pursuant to section 1 of this act.

5 (4) Proceeds of bonds issued pursuant to section 1 of
6 this act shall not be used to fund any project in any city or
7 county (a) located within a watershed in which is located a city
8 of the metropolitan class and (b) which is party to an agreement
9 under the Interlocal Cooperation Act, unless such city or county
10 has adopted a storm water management plan approved by the board of
11 directors of the natural resources district encompassing a city of
12 the metropolitan class.

13 Sec. 3. For the purpose of making partial payments, the
14 board of directors of a natural resources district issuing bonds
15 pursuant to section 1 of this act may issue warrants having terms
16 as determined appropriate by the board, payable from the proceeds
17 of such bonds.

18 Sec. 4. The board of directors of a natural resources
19 district issuing bonds pursuant to section 1 of this act may agree
20 to pay fees to fiscal agents in connection with the placement of
21 warrants or bonds of the district. Such warrants and bonds shall
22 be subject to the same conditions as provided by section 2-3254.07
23 for improvement project area bonds and such other conditions as the
24 board of directors determines appropriate.

25 Sec. 5. The authority to issue bonds for qualified

26 projects granted in section 1 of this act terminates on December
27 31, 2019, except that (1) any bonds already issued and outstanding
1 for qualified projects as of such date are permitted to remain
2 outstanding and the district shall retain all powers of taxation
3 provided for in section 1 of this act to provide for the payment
4 of principal and interest on such bonds and (2) refunding bonds
5 may continue to be issued and outstanding as of December 31,
6 2019, including extension of principal maturities if determined
7 appropriate.

8 Sec. 6. Section 2-3234, Revised Statutes Cumulative
9 Supplement, 2008, is amended to read:

10 2-3234 ~~Each~~ Except as provided in section 2 of this
11 ~~act, each~~ district shall have the power and authority to exercise
12 the power of eminent domain when necessary to carry out its
13 authorized purposes within the limits of the district or outside
14 its boundaries. Exercise of eminent domain shall be governed by the
15 provisions of sections 76-704 to 76-724, except that whenever any
16 district seeks to acquire the right to interfere with the use of
17 any water being used for power purposes in accordance with sections
18 46-204, 70-668, 70-669, and 70-672 and is unable to agree with
19 the user of such water upon the compensation to be paid for such
20 interference, the procedure to condemn property shall be followed
21 in the manner set forth in sections 76-704 to 76-724 and no other
22 property shall be included in such condemnation. No district shall
23 contract for delivery of water to persons within the corporate
24 limits of any village, city, or metropolitan utilities district,
25 nor in competition therewith outside such corporate limits, except
26 by consent of and written agreement with the governing body of such
27 political subdivision. A village, city, or metropolitan utilities
1 district may negotiate and, if necessary, exercise the power of
2 eminent domain for the acquisition of water supply facilities of
3 the district which are within its boundaries.

4 Sec. 7. Section 2-3290.01, Revised Statutes Cumulative
5 Supplement, 2008, is amended to read:

6 2-3290.01 (1) A district shall permit public use of
7 those portions of a water project located on lands owned by
8 the district and on land over which the district has a lease
9 or an easement permitting use thereof for public recreational
10 purposes. All recreational users of such portions of a water
11 project shall abide by the applicable rules and regulations adopted
12 and promulgated by the board.

13 (2) The district shall provide public access for
14 recreational use at designated access points at any water
15 project. Recreational users, whether public or private, shall
16 abide by all applicable rules and regulations for use of the
17 water project adopted and promulgated by the district or the
18 political subdivision in which the water project is located. Public
19 recreational users may only access the water project through such
20 designated access points. Nothing in this subsection shall require

21 public access when the portion of the project cost paid by the
 22 natural resources district with public funds does not exceed twenty
 23 percent of the total cost of the project.

24 (3) For purposes of this section, water project means
 25 a project with cooperators or others, as authorized in section
 26 2-3235, that results in construction of a reservoir or other body
 27 of water having a permanent pool suitable for recreational purposes
 1 greater than one hundred fifty surface acres, the construction
 2 of which commenced after July 14, 2006. Water project shall
 3 not mean soil conservation projects, wetlands projects, projects
 4 described in section 2 of this act, or other district projects with
 5 cooperators or others that do not have a recreational purpose.

6 (4) For projects funded under section 2 of this act that
 7 result in a reservoir or other body of water having a permanent
 8 pool suitable for recreational purposes greater than twenty surface
 9 acres, the district shall provide public access for recreational
 10 use at designated access points and shall include access to the
 11 land area a minimum distance of one hundred feet from the permanent
 12 pool. Recreational users, whether public or private, shall abide
 13 by all applicable rules, regulations, ordinances, or resolutions
 14 for use of the project adopted by the district or the political
 15 subdivision in which the project is located. Public recreational
 16 users may only access the project through such designated access
 17 points.

18 Sec. 8. The Revisor of Statutes shall assign sections 1
 19 to 5 of this act within Chapter 2, article 32.

20 Sec. 9. Original sections 2-3234 and 2-3290.01, Revised
 21 Statutes Cumulative Supplement, 2008, are repealed.

22 2. On page 1, line 5, after the second semicolon
 23 insert "to provide for public access as prescribed; to harmonize
 24 provisions;".

(Signed) Jeremy Nordquist, Chairperson

AMENDMENT - Print in Journal

Senator Karpisek filed the following amendment to LB626:
 AM1256

(Amendments to Standing Committee amendments, AM972)

- 1 1. On page 6, strike beginning with "This" in line 15
- 2 through the period in line 19.

VISITORS

Visitors to the Chamber were Treg, Beth, Garrison, Anna, and Chet Fisher from Beaver City; Senator Sullivan's uncle and cousins, Richard Kokes from Hemet, California and Allan and Shirley Blaha from Lincoln; 25 eighth-grade students from Guardian Angels, West Point; 72 fourth-grade students from Palisades Elementary, Omaha; 12 seventh- and eighth-grade

students from Deshler Lutheran, Deshler; Thomas Pomeranz from Indianapolis, Indiana; and former Senator Ray Janssen from Nickerson.

The Doctor of the Day was Dr. Jay Matzke from Gothenburg.

ADJOURNMENT

At 5:04 p.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Thursday, April 30, 2009.

Patrick J. O'Donnell
Clerk of the Legislature

