THIRTEENTH DAY - JANUARY 28, 2013

LEGISLATIVE JOURNAL

ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION

THIRTEENTH DAY

Legislative Chamber, Lincoln, Nebraska
Monday, January 28, 2013

PRAYER

The prayer was offered by Senator Johnson.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senator Price who was excused; and Senator Nordquist who was excused until he arrives.

CORRECTIONS FOR THE JOURNAL

The Journal for the twelfth day was approved.

COMMITTEE REPORTS

Urban Affairs

LEGISLATIVE BILL 87. Placed on General File.
LEGISLATIVE BILL 111. Placed on General File.
LEGISLATIVE BILL 112. Placed on General File.
LEGISLATIVE BILL 113. Placed on General File.

LEGISLATIVE BILL 49. Placed on General File with amendment.

AM31

1. Strike the original sections and insert the following new sections:
2. Section 1. Section 71-1581, Reissue Revised Statutes of Nebraska, is amended to read:
3. 71-1581 Any two or more cities, two or more counties, or any combination of cities and counties may, by resolution or ordinance of their separate governing bodies, establish a regional housing agency by adopting a joint resolution or ordinance declaring that there is a need for a regional housing agency to provide decent, safe, and sanitary housing that is affordable to persons of low and moderate income residing in
a multijurisdictional area and that this need would be more
efficiently served by the establishment of a regional housing
agency. A local housing authority or agency established by a county
which contains a city of the metropolitan class and a local housing
authority or agency established by a city of the metropolitan
class within such county, which authorities or agencies were
established prior to the effective date of this act, shall create
a joint committee to develop a plan for the creation of a single
housing agency within such county. The committee shall consist of
two members from the board of each existing authority or agency
and three independent members selected by the four authority or
agency board members. The committee shall report its findings and
recommendations to the Urban Affairs Committee of the Legislature
by January 1, 2014.

Sec. 2. Original section 71-1581, Reissue Revised
Statutes of Nebraska, is repealed.
Sec. 3. Since an emergency exists, this act takes effect
when passed and approved according to law.

(Signed) Amanda McGill, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 125. Placed on General File with amendment.
AM47

1. Strike the original sections and insert the following
new sections:
Section 1. Section 32-545, Reissue Revised Statutes of
Nebraska, is amended to read:
32-545 (1) A member of the board of education of a Class
V school district shall be elected from each district provided for
in section 32-552. Such election shall be held on the date provided
in section 14-201 for the election of elective officers of a city
of the metropolitan class. The members of such board of education
shall meet the qualifications found in sections 79-543 and
79-552. At each statewide general election, six
(2) The term of office of each member serving on the
effective date of this act expires on the fourth Monday after such
election in 2013.
(3) At the election on the date provided in subsection
(1) of this section for 2013, members of the board shall be
elected to serve for four years from and including the first fourth
Monday of the January following after their election or until their
successors are elected and qualified.
(4) Beginning in 2013, candidates shall be
nominated at the statewide primary election held for nomination of
candidates for city council pursuant to section 14-204. Candidates
for election to such board of education shall be nominated upon
a nonpartisan ballot. At the statewide general election in 1976
and each four years thereafter, one member shall be elected from each even-numbered district. At the statewide general election in 1978 and each four years thereafter, one member shall be elected from each odd-numbered district. The members shall meet the qualifications found in section 79-543.

Sec. 2. Section 32-552, Reissue Revised Statutes of Nebraska, is amended to read:

299

32-552 (1) At least five months prior to an election, the governing board of any political subdivision requesting the adjustment of the boundaries of election districts shall provide written notification to the election commissioner or county clerk of the need and necessity of his or her office to perform such adjustments.

(2) After the next federal decennial census, the election commissioner of the county in which the greater part of a Class IV school district is situated shall, subject to review by the school board, divide the school district into seven numbered districts, substantially equal in population as determined by the most recent federal decennial census. The election commissioner shall consider the location of schools within the district and their boundaries. The election commissioner shall adjust the boundaries of the election districts, subject to final review and adjustment by the school board, to conform to changes in the territory and population of the school district and also following each federal decennial census. Except when specific procedures are otherwise provided, section 32-553 shall apply to all Class IV school districts.

(3) For purposes of election of members to the board of education of a Class V school district:

(a)(i) The Legislature hereby divides such school district into nine numbered election districts of compact and contiguous territory and of as nearly equal population as may be practical. Each election district shall be entitled to one member on the board of education of such Class V school district. The Legislature adopts the official population figures and maps from the 2010 Census Redistricting (Public Law 94-171) TIGER/Line Shapefiles published by the United States Department of Commerce, Bureau of the Census. The numbers and boundaries of the election districts are designated and established by maps identified and labeled as OPS 13-001, filed with the election commissioner of the county in which such school district is located and with the Secretary of State, and incorporated by reference as part of this legislative bill; (ii) when questions of interpretation of such election district boundaries arise, the maps referred to in subdivision (a)(i) of this subsection in possession of such election commissioner shall serve as the indication of the legislative intent in drawing the election district boundaries; (iii) the Secretary of State and such election commissioner shall also have available for viewing on his or her web site the maps referred to in subdivision (a)(i) of this subsection identifying
the boundaries for such election districts; and (iv) the twelve numbered districts in existence on January 1, 2013, shall remain unchanged until the terms of members elected at the election in May 2013 begin; and

(3) The (b) After the next federal decennial census after the effective date of this act, the election commissioner of the county in which the greater part of a Class V school district is situated shall divide the school district into twelve nine numbered districts of compact and contiguous territory and of as nearly equal population as may be practical. The election commissioner shall adjust the boundaries of such districts, subject to final review and adjustment by the school board, to conform to changes in the territory of the school district and also following each federal decennial census.

Sec. 3. Section 32-570, Revised Statutes Cumulative Supplement, 2012, is amended to read:

32-570 (1) A vacancy in the membership of a school board shall occur as set forth in section 32-560 or in the case of absences, unless excused by a majority of the remaining members of the board, when a member is absent from the district for a continuous period of sixty days at one time or from more than two consecutive regular meetings of the board. The resignation of a member or any other reason for a vacancy shall be made a part of the minutes of the school board. The school board shall give notice of the date the vacancy occurred, the office vacated, and the length of the unexpired term (a) in writing to the election commissioner or county clerk and (b) by a notice published in a newspaper of general circulation in the school district.

(2) A person appointed to fill a vacancy on the school board of a Class I school district by the remaining members of the board shall hold office until the beginning of the next school year. A board member of a Class I school district elected to fill a vacancy at a regular or special school district meeting shall serve for the remainder of the unexpired term or until a successor is elected and qualified.

(3) Except as provided in subsection (4) of this section, a vacancy in the membership of a school board of a Class II, III, IV, V, or VI school district resulting from any cause other than the expiration of a term shall be filled by appointment of a qualified registered voter by the remaining members of the board. If the vacancy occurs in a Class II school district prior to July 1 preceding the general election in the middle of the vacated term, the appointee shall serve until a registered voter is elected at such general election for the remainder of the unexpired term. If the vacancy occurs in a Class III, IV, V or VI school district prior to February 1 preceding the general election in the middle of the vacated term, the appointee shall serve until a registered voter is nominated at the next primary election and elected at the following general election for the remainder of the unexpired
(4) Any vacancy in the membership of a school board of a school district described in section 79-549 which does not nominate candidates at a primary election and elect members at the following general election shall be filled by appointment of a qualified registered voter by the remaining members of the board. If the vacancy occurs at least twenty days prior to the first regular caucus to be held during the term that was vacated, the appointee shall serve until a registered voter is nominated and elected to fill the vacancy for the remainder of the term in the manner provided for nomination and election of board members in the district. If the vacancy occurred less than twenty days prior to the second regular caucus to be held during the term that was vacated, the appointee shall serve until a registered voter is nominated and elected to fill the vacancy for the remainder of the term in the manner provided for nomination and election of board members in the district. If the vacancy occurred less than twenty days prior to the second regular caucus held during the term that was vacated or after such caucus, the appointment shall be for the remainder of the unexpired term.

(5) A vacancy in the membership of a school board of a Class V school district resulting from any cause other than the expiration of a term shall be filled by appointment of a qualified registered voter by the remaining members of the board for the remainder of the unexpired term. A registered voter appointed pursuant to this subsection shall meet the same requirements as the member whose office is vacant.

(6) If any school board fails to fill a vacancy on the board, the vacancy may be filled by election at a special election or school district meeting called for that purpose. Such election or meeting shall be called in the same manner and subject to the same procedures as other special elections or school district meetings.

(7) If there are vacancies in the offices of one-half or more of the members of a school board, the Secretary of State shall conduct a special school district election to fill such vacancies.

Sec. 4. Section 79-4,129, Reissue Revised Statutes of Nebraska, is amended to read:

(1) Within thirty days after the classification of the reorganized school districts by the county clerk under section 79-4,128, the state committee shall appoint from among the legal voters of each new school district created the number of members necessary to constitute a school board of the class in
which the new school district has been classified. A reorganized school district shall be formed and organized and shall have a school board not later than April 1 following the last legal action, as prescribed in section 79-4,128, necessary to effect the changes in boundaries as set forth in the plan of reorganization, although the physical reorganization of such reorganized school district shall take effect July 1 following the classification of the reorganized school districts under section 79-4,128. The first board shall be appointed on an at-large basis, and all boards shall be elected at large until such time as election districts are established as provided in section 32-554.

(2) In appointing the first school board of a Class II school district, the members shall be appointed so that the terms of three members expire on the date of the first regular meeting of the board in January after the first even-numbered year following their appointment and the terms of the three remaining members expire on the date of the first regular meeting of the board in January after the second even-numbered year following their appointment. At the statewide general election in the first even-numbered year after the reorganization, three board members in each Class II school district shall be elected to terms of four years. Thereafter all candidates shall be elected to terms of four years. Each member's term shall begin on the date of the first regular meeting of the board in January following his or her election.

(3) In appointing the first school board of a Class III school district with a six-member board serving terms of four years, the terms of three members shall expire on the first Thursday after the first even-numbered year following their appointment and the terms of the three remaining members shall expire on the first Thursday after the second even-numbered year following their appointment. Thereafter all Class III district school boards with six-member boards shall be elected to terms of four years.

(4) In appointing the first school board of a Class III school district with a nine-member board serving terms of four years, the terms of four members shall expire on the first Tuesday in January after the first even-numbered year following their appointment and the terms of five members shall expire on the first Tuesday in January after the second even-numbered year following their appointment. Thereafter all Class III district school boards with nine-member boards shall be elected to terms of four years.

(5) In appointing the first school board of a Class IV school district, the members shall be appointed so that the terms of three members shall expire on the third Monday in May of the first odd-numbered year following their appointment and the terms of four members shall expire on the third Monday in May of the
second odd-numbered year following their appointment. Thereafter all Class IV district school boards shall be elected to terms of four years.

(6) In appointing the first school board of a Class V school district after a reorganization under this section with a twelve-member nine-member board serving terms of four years, the terms of six members shall expire on the first Monday in January after the first even-numbered fourth Monday after the date of the election held pursuant to section 14-201 year following their appointment and the terms of six members shall expire on the first Monday in January after the second even-numbered year following their appointment. Thereafter all Class V district school boards shall be elected to terms of four years.

(7) The school boards appointed under this section shall proceed at once to organize in the manner prescribed by law.

Sec. 5. Section 79-552, Reissue Revised Statutes of Nebraska, is amended to read:

(1) The board of education of a Class V school district shall consist of twelve members, one until the fourth Monday after the date in 2013 of the election held pursuant to section 14-201 and shall consist of nine members thereafter. One member shall be elected from each district pursuant to section 32-545, and also may include a nonvoting student member or members selected pursuant to section 79-559. Each elected member shall be a resident of the district for at least six months prior to the election. Each candidate for election to and each member of the board of education shall be a taxpayer in and a resident of the district of such school district as designated pursuant to section 32-552.

(2) All persons elected as members of the board of education shall take and subscribe to the usual oath of office before the first fourth Monday in January following their election, and the student member shall take and subscribe to the usual oath of office before the first Monday in January following his or her designation. In case any person so elected fails so to do, his or her election shall be void and the vacancy shall be filled by the board as provided in section 32-570.

Sec. 6. Section 79-559, Reissue Revised Statutes of Nebraska, is amended to read:

(1) The school board or board of education of any Class II, III, IV, V, or VI school district may include at least one nonvoting member who is a public high school student from the district. If the board elects to include such a nonvoting student member, the student member shall serve for a term of one year, beginning on September 1, and shall be the student body or student council president, the senior class representative, or a representative elected from and by the entire student body, as designated by the voting members of the board.

(2) Any nonvoting student member of the board has the
privilege of attending all open meetings of the board but shall be
excluded from executive sessions.

Sec. 7. Original sections 32-545, 32-552, 79-4,129,
79-552, and 79-559, Reissue Revised Statutes of Nebraska, and
section 32-570, Revised Statutes Cumulative Supplement, 2012, are
repealed.

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

(Signed) Bill Avery, Chairperson

NOTICE OF COMMITTEE HEARINGS
Banking, Commerce and Insurance

Room 1507

Monday, February 4, 2013 1:30 p.m.

LB27
LB337
LB426
LB628

Tuesday, February 5, 2013 1:30 p.m.

LB170
LB616
LB38
LB283

(Signed) Mike Gloor, Chairperson

Transportation and Telecommunications

Room 1113

Monday, February 4, 2013 1:30 p.m.

LB117
LB174
LB398
LB548

(Signed) Annette Dubas, Chairperson
LEGISLATIVE BILL 1. Title read. Considered.
Advanced to Enrollment and Review Initial with 43 ayes, 0 nays, 3 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 2. Title read. Considered.
Advanced to Enrollment and Review Initial with 42 ayes, 0 nays, 4 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 30. Title read. Considered.
Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 5 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 35. Title read. Considered.
Senator Dubas offered the following amendment:
AM46
1 1. Insert the following new section:
2  Sec. 11. Since an emergency exists, this act takes effect
3  when passed and approved according to law.

The Dubas amendment was adopted with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 72. Title read. Considered.
Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 6 present and not voting, and 3 excused and not voting.
LEGISLATIVE BILL 100. Title read. Considered.

SPEAKER ADAMS PRESIDING

PRESIDENT SHEEHY PRESIDING

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 5 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 146. Title read. Considered.

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

RESOLUTION

LEGISLATIVE RESOLUTION 44. Introduced by Mello, 5.

WHEREAS, the Omaha Jaycees recently named the 2012 recipients of the 80th Annual Ten Outstanding Young Omahans Award; and

WHEREAS, this award is annually presented to ten people between the ages of twenty-one and forty who exemplify excellence in both the professional and personal arenas while also taking an active role in the community; and

WHEREAS, the 2012 recipients of the 80th Annual Ten Outstanding Young Omahans Award are Oscar Duran, Adrienne Fay, Dan Gilbert, Christian D. Gray, Sarah Helvey, David Patterson, Angie Schendt, Meagon Schnoor, Angel Starks, and Erin E. Swanson; and

WHEREAS, these ten individuals will be recognized at an award dinner to be held on January 30, 2013; and

WHEREAS, the Legislature recognizes outstanding individual achievements like receiving the 80th Annual Ten Outstanding Young Omahans Award.

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

1. That the Legislature congratulates Oscar Duran, Adrienne Fay, Dan Gilbert, Christian D. Gray, Sarah Helvey, David Patterson, Angie Schendt, Meagon Schnoor, Angel Starks, and Erin E. Swanson on receiving the 80th Annual Ten Outstanding Young Omahans Award.

2. That a copy of this resolution be sent to Oscar Duran, Adrienne Fay, Dan Gilbert, Christian D. Gray, Sarah Helvey, David Patterson, Angie Schendt, Meagon Schnoor, Angel Starks, and Erin E. Swanson.

Laid over.
NOTICE OF COMMITTEE HEARINGS
Business and Labor

Room 2102

Monday, February 4, 2013 1:30 p.m.

LB177
LB560
LB559
LB248

(Signed) Steve Lathrop, Chairperson

Urban Affairs

Room 1510

Tuesday, February 5, 2013 1:30 p.m.

LB377
LB591
LB633
LB643

(Signed) Amanda McGill, Chairperson

General Affairs

Room 1510

Monday, February 4, 2013 1:30 p.m.

LB6
LB413
LB579

(Signed) Russ Karpisek, Chairperson

MOTION - Print in Journal

Senator Larson filed the following motion to LB654:

MO4
Indefinitely postpone.
Senator Schumacher filed the following amendment to LB84:

AM25
1. Strike the original sections and insert the following new sections:

Section 1. Section 60-6,356, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,356 (1) An all-terrain vehicle or a utility-type vehicle shall not be operated on any controlled-access highway with more than two marked traffic lanes. The crossing of any controlled-access highway with more than two marked traffic lanes shall not be permitted except as provided in subsection (9) of this section. Subsections (2), (3), and (5) through (8) of this section authorize and apply to operation of an all-terrain vehicle or a utility-type vehicle only on a highway other than a controlled-access highway with more than two marked traffic lanes.

(2) An all-terrain vehicle or a utility-type vehicle may be operated in accordance with the operating requirements of subsection (3) of this section:

(a) Outside the corporate limits of a city, village, or unincorporated village if incidental to the vehicle's use for agricultural purposes;

(b) Within the corporate limits of a city or village if authorized by the city or village by ordinance adopted in accordance with this section; or

(c) Within an unincorporated village if authorized by the county board of the county in which the unincorporated village is located by resolution in accordance with this section.

(3) An all-terrain vehicle or a utility-type vehicle may be operated as authorized in subsection (2) of this section when such operation occurs only between the hours of sunrise and sunset.

Any person operating an all-terrain vehicle or a utility-type vehicle as authorized in subsection (2) of this section shall have a valid Class O operator's license or a farm permit as provided in section 60-4,126, shall have liability insurance coverage for the all-terrain vehicle or a utility-type vehicle while operating the all-terrain vehicle or a utility-type vehicle on a highway, and shall not operate such vehicle at a speed in excess of thirty miles per hour. The person operating the all-terrain vehicle or a utility-type vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within five days of such a request. When operating an all-terrain vehicle or a utility-type vehicle as authorized in subsection (2) of this section, the headlight and taillight of the vehicle shall be on and the vehicle shall be equipped with a bicycle safety flag which extends not less than five feet above ground attached to the rear of such vehicle.

The bicycle safety flag shall be triangular in shape with an area of not less than thirty square inches and shall be day-glow in...
23  color.
24  (4) All-terrain vehicles and utility-type vehicles may
25  be operated without complying with subsection (3) of this section
26  on highways in parades which have been authorized by the State
27  of Nebraska or any department, board, commission, or political
28  subdivision of the state.
29  (5) Subject to subsection (1) of this section, the The
30  crossing of a highway other than a controlled-access highway with
31  more than two marked traffic lanes shall be permitted by an
32  all-terrain vehicle or a utility-type vehicle without complying
33  with subsection (3) of this section only if:
34  (a) The crossing is made at an angle of approximately
35  ninety degrees to the direction of the highway and at a place where
36  no obstruction prevents a quick and safe crossing;
37  (b) The vehicle is brought to a complete stop before
38  crossing the shoulder or roadway of the highway;
39  (c) The operator yields the right-of-way to all oncoming
40  traffic that constitutes an immediate potential hazard;
41  (d) In crossing a divided highway, the crossing is made
42  only at an intersection of such highway with another highway; and
43  (e) Both the headlight and taillight of the vehicle are
44  on when the crossing is made.
45  (6) All-terrain vehicles and utility-type vehicles may
46  be operated outside the corporate limits of any municipality by
47  electric utility personnel within the course of their employment
48  in accordance with the operation requirements of subsection (3) of
49  this section, except that the operation of the vehicle pursuant to
50  this subsection need not be limited to the hours between sunrise
51  and sunset.
52  (7) A city or village may adopt an ordinance authorizing
53  the operation of all-terrain vehicles and utility-type vehicles
54  within the corporate limits of the city or village if the operation
55  is in accordance with subsection (3) of this section. The city
56  or village may place other restrictions on the operation of
57  all-terrain vehicles and utility-type vehicles within its corporate
58  limits.
59  (8) A county board may adopt a resolution authorizing the
60  operation of all-terrain vehicles and utility-type vehicles within
61  any unincorporated village within the county if the operation is
62  in accordance with subsection (3) of this section. The county may
63  place other restrictions on the operation of all-terrain vehicles
64  and utility-type vehicles within the unincorporated village.
65  (9) The crossing of a controlled-access highway with more
66  than two marked traffic lanes shall be permitted by a utility-type
67  vehicle if the operation is in accordance with the operation
68  requirements of subsection (3) of this section and if the following
69  requirements are met:
70  (a) The crossing is made at an intersection that is
71  controlled by a traffic control signal and is made in compliance
with such traffic control signal; and
(b) The crossing at such intersection is specifically authorized as follows:
(i) If such intersection is located within the corporate limits of a city or village, by ordinance of such city or village;
(ii) If such intersection is located within an unincorporated village, by resolution of the county board of the county in which such unincorporated village is located; or
(iii) If such intersection is located outside the corporate limits of a city or village and outside any unincorporated village, by resolution of the county board of the county in which such intersection is located.

Sec. 2. Original section 60-6,356, Reissue Revised Statutes of Nebraska, is repealed.

Senator Schumacher filed the following amendment to LB85:
AM37
1. On page 4, line 17, strike "and (ii)" and insert "(ii) there is no other vehicular traffic stopped at the intersection, and (iii)".

UNANIMOUS CONSENT - Add Cointroducers

Senators Ashford and Murante asked unanimous consent to add their names as cointroducers to LB125. No objections. So ordered.

Senators Lautenbaugh and Schilz asked unanimous consent to add their names as cointroducers to LB204. No objections. So ordered.

Senator Davis unanimous consent to add his name as cointroducer to LB613. No objections. So ordered.

VISITORS

Visitors to the Chamber were members representing ABATE of Nebraska.

ADJOURNMENT

At 11:45 a.m., on a motion by Senator Carlson, the Legislature adjourned until 10:00 a.m., Tuesday, January 29, 2013.

Patrick J. O'Donnell
Clerk of the Legislature