

FORTY-SIXTH DAY - MARCH 20, 2013
LEGISLATIVE JOURNAL
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION

FORTY-SIXTH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 20, 2013

PRAYER

The prayer was offered by Senator Hansen.

ROLL CALL

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

The roll was called and all members were present except Senators Conrad and Watermeier who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-fifth day was approved.

RESOLUTIONS

LEGISLATIVE RESOLUTION 112. Introduced by Bolz, 29.

WHEREAS, Patricia Morrow is a student at Lincoln Southeast High School and a member of the Lincoln Southeast High School swimming and diving team; and

WHEREAS, Patricia Morrow demonstrates good character and dedication to her sport, team, and academics; and

WHEREAS, Patricia Morrow swam a leg on the state champion team in the Girls 200 Yard Freestyle Relay at the 2013 Girls' State Swimming and Diving Championships; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

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

1. That the Legislature congratulates Patricia Morrow on her exceptional personal achievements.

2. That a copy of this resolution be sent to Patricia Morrow and to Coach Ivy Johnson.

Laid over.

LEGISLATIVE RESOLUTION 113. Introduced by Bolz, 29.

WHEREAS, Sophia Nelson is a student at Lincoln Southwest High School and a member of the Lincoln Southwest High School swimming and diving team; and

WHEREAS, Sophia Nelson demonstrates good character and dedication to her sport, team, and academics; and

WHEREAS, Sophia Nelson won a state gold medal swimming the breaststroke leg in the 200 Yard Medley Relay at the 2013 Girls' State Swimming and Diving Championships; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

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

1. That the Legislature congratulates Sophia Nelson on becoming a state gold medalist at the 2013 Girls' State Swimming and Diving Championships.

2. That a copy of this resolution be sent to Sophia Nelson and to Coach Robert Calegan.

Laid over.

LEGISLATIVE RESOLUTION 114. Introduced by Bolz, 29.

WHEREAS, Alexa Goldenstein is a student at Lincoln Southeast High School and a member of the Lincoln Southeast High School swimming and diving team; and

WHEREAS, Alexa Goldenstein demonstrates good character and dedication to her sport, team, and academics; and

WHEREAS, Alexa Goldenstein swam a leg on the state champion team in the Girls 200 Yard Freestyle Relay at the 2013 Girls' State Swimming and Diving Championships; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

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

1. That the Legislature congratulates Alexa Goldenstein on her exceptional personal achievements.

2. That a copy of this resolution be sent to Alexa Goldenstein and to Coach Ivy Johnson.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 613. Senator Chambers offered his amendment, FA34, found on page 776, to the committee amendment.

Senator Chambers moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

The Chambers amendment was adopted with 45 ayes, 0 nays, and 4 present and not voting.

The Chair declared the call raised.

Pending.

COMMITTEE REPORTS

Natural Resources

LEGISLATIVE BILL 402. Placed on General File with amendment. AM684

1 1. Strike the original sections and insert the following
2 new sections:
3 Section 1. Section 70-1903, Revised Statutes Cumulative
4 Supplement, 2012, is amended to read:
5 70-1903 For purposes of the Rural Community-Based Energy
6 Development Act:

7 (1) C-BED project or community-based energy development
8 project means a new ~~wind~~-energy generation project using wind,
9 solar, biomass, landfill gas, or a low-emission fuel source that
10 reduces the overall carbon emissions of the regional generation
11 system as the fuel source that:

12 ~~(a) Has an ownership structure as follows: (i) For a C-BED~~
13 ~~project that consists of more than two turbines, has one or more~~
14 ~~qualified owners with no single individual qualified owner owning~~
15 ~~directly or indirectly more than fifteen percent of the project~~
16 ~~and with at least thirty-three at least twenty-five percent of the~~
17 ~~gross power purchase agreement payments flowing to the qualified~~
18 ~~owner or owners or as payments to the local community; ~~or~~ and~~

19 ~~(ii) For a C-BED project that consists of one or~~
20 ~~two turbines, has one or more qualified owners with at least~~
21 ~~thirty-three percent of the gross power purchase agreement payments~~
22 ~~flowing to a qualified owner or owners or local community; and~~

23 (b) Has a resolution of support adopted:

1 (i) By the county board of each county in which the C-BED
2 project is to be located; or

3 (ii) By the tribal council for a C-BED project located
4 within the boundaries of an Indian reservation;

5 ~~(2) Debt financing payments means principal, interest,~~
6 ~~and other typical financing costs paid by the C-BED project company~~

7 to one or more third party financial institutions for the financing
 8 or refinancing of the construction of the C-BED project. Debt
 9 financing payments does not include the repayment of principal at
 10 the time of a refinancing;

11 ~~(3)~~(2) Electric utility means an electric supplier that:

12 (a) Owns more than one hundred miles of
 13 one-hundred-fifteen-kilovolt or larger transmission lines in the
 14 State of Nebraska;

15 (b) Owns more than two hundred megawatts of electric
 16 generating facilities; and

17 (c) Has the obligation to directly serve more than two
 18 hundred megawatts of wholesale or retail electric load in the State
 19 of Nebraska;

20 ~~(4)~~(3) Gross power purchase agreement payments means the
 21 total amount of payments during the life first twenty years of the
 22 agreement; and, ~~For power purchase agreements entered into on or~~
 23 ~~before December 31, 2011, if the qualified owners have a combined~~
 24 ~~total of at least thirty three percent of the equity ownership in~~
 25 ~~the C-BED project, gross power purchase agreement payments shall be~~
 26 ~~reduced by the debt financing payments; and~~

27 (4) Payments to the local community include, but are not
 1 limited to:

2 (a) Lease and easement payments to property owners made
 3 as part of a C-BED project;

4 (b) Contract payments for concrete, steel, gravel,
 5 towers, turbines, blades, wire, engineering, procurement,
 6 construction, geotechnical, environmental, meteorological, legal,
 7 or payments for other components, equipment, materials, or services
 8 that are necessary to permit or construct the C-BED project
 9 and that are provided by a company that has been organized or
 10 incorporated in Nebraska under Nebraska law and has employed at
 11 least five Nebraska residents for at least eighteen months prior to
 12 the date of the project application for certification as a C-BED
 13 project; and

14 (c) Payments that are for physical parts, materials,
 15 or components that are manufactured, assembled, or fabricated in
 16 Nebraska and that are not described in subdivision (a) or (b) of
 17 this subsection.

18 Such payments need not be made directly from power
 19 purchase agreement revenue and may be made from other funds in
 20 advance of receiving power purchase agreement revenue; and

21 (5) Qualified owner means:

22 (a) A Nebraska resident;

23 (b) A limited liability company that is organized under
 24 the Limited Liability Company Act or the Nebraska Uniform Limited
 25 Liability Company Act and that is made up of members who are
 26 Nebraska residents;

27 (c) A Nebraska nonprofit corporation organized under the
 1 Nebraska Nonprofit Corporation Act;

2 (d) An electric supplier as defined in section
3 70-1001.01, except that ownership in a single C-BED project is
4 limited to no more than:

- 5 (i) Fifteen percent either directly or indirectly by a
6 single electric supplier; and
7 (ii) A combined total of twenty-five percent ownership
8 either directly or indirectly by multiple electric suppliers; ~~or~~
9 (e) A tribal council;:

10 (f) A domestic corporation organized in Nebraska under
11 the Business Corporation Act and domiciled in Nebraska; or

12 (g) A cooperative corporation organized under sections
13 21-1301 to 21-1306 and domiciled in Nebraska.

14 Sec. 2. Section 70-1904, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 70-1904 (1) A C-BED project developer and an electric
17 utility are authorized to negotiate in good faith mutually
18 agreeable power purchase agreement terms.

19 (2) A qualified owner or any combination of qualified
20 owners may develop a C-BED project with an equity partner that
21 is not a qualified owner, ~~if not more than sixty seven~~
22 ~~percent of the gross power purchase agreement payments flow to~~
23 ~~the nonqualified owners.~~

24 (3) Except for an inherited interest, the transfer of the
25 interest of a qualified owner in a C-BED project to any person
26 other than a ~~another~~ qualified owner or other qualified owners
27 is prohibited during the initial ten years of the power purchase
1 agreement.

2 (4) A C-BED project that is operating under a power
3 purchase agreement is not eligible for any applicable net energy
4 billing.

5 (5) A C-BED project shall be subject to approval by the
6 Nebraska Power Review Board in accordance with Chapter 70, article
7 10, or shall receive certification as a qualifying facility in
8 accordance with the federal Public Utility Regulatory Policies Act
9 of 1978, 16 U.S.C. 2601 et seq., with written notice of such
10 certification provided to the Nebraska Power Review Board.

11 (6) A C-BED project developer shall notify ~~the any~~
12 electric utility that has a power purchase agreement with ~~a the~~
13 C-BED project if there is a change in project ownership which makes
14 the project no longer eligible as a C-BED project.

15 Sec. 3. Section 70-1909, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 70-1909 An electric supplier as defined in section
18 70-1001.01 may agree to limit its exercise of the power of
19 eminent domain to acquire a C-BED project ~~which is a renewable~~
20 ~~energy generation facility producing electricity with wind~~ and any
21 related facilities if such electric supplier enters into a contract
22 to purchase output from such facility for a term of ten years or
23 more.

24 Sec. 4. Section 77-2704.57, Revised Statutes Cumulative
25 Supplement, 2012, is amended to read:

26 77-2704.57 (1) Sales and use tax shall not be imposed
27 on the gross receipts from the sale, lease, or rental of personal
1 property for use in a C-BED project or community-based energy
2 development project. This exemption shall be conditioned upon
3 filing requirements for the exemption as imposed by the Tax
4 Commissioner. The requirements imposed by the Tax Commissioner
5 shall be related to ensuring that the property purchased qualifies
6 for the exemption. The Tax Commissioner may require the filing
7 of the documents showing compliance with section 70-1907, the
8 organization of the project, the distribution of the payments,
9 the power purchase agreements, the project pro forma, articles of
10 incorporation, operating agreements, and any amendments or changes
11 to these documents during the life of the power purchase agreement.

12 (2) The Tax Commissioner shall notify an electric utility
13 that has a power purchase agreement with a C-BED project if
14 there is a change in project ownership which makes the project no
15 longer eligible as a C-BED project. Purchase of a C-BED project
16 by an electric utility prior to the end of the power purchase
17 agreement disqualifies the C-BED project for the exemption, but the
18 Department of Revenue may not recover the amount of the sales and
19 use tax that was not paid by the project prior to the purchase.

20 (3) For purposes of this section, ~~the terms:~~(a) C-BED
21 project or community-based energy development project, (b) gross
22 power purchase agreement payments, (c) qualified owner, and (d)
23 payments to the local community have the definitions found in
24 section 70-1903. ~~means a new wind energy project that:~~

25 (i) ~~Has an ownership structure as follows:~~

26 (A) ~~For a C-BED project that consists of more than~~
27 ~~two turbines, has one or more qualified owners with no single~~
1 ~~individual qualified owner owning directly or indirectly more than~~
2 ~~fifteen percent of the project and with at least thirty three~~
3 ~~percent of the gross power purchase agreement payments flowing to~~
4 ~~the qualified owner or owners or local community; or~~

5 (B) ~~For a C-BED project that consists of one or~~
6 ~~two turbines, has one or more qualified owners with at least~~
7 ~~thirty three percent of the gross power purchase agreement payments~~
8 ~~flowing to a qualified owner or owners or local community; and~~

9 (ii) ~~Has a resolution of support adopted:~~

10 (A) ~~By the county board of each county in which the C-BED~~
11 ~~project is to be located; or~~

12 (B) ~~By the tribal council for a C-BED project located~~
13 ~~within the boundaries of an Indian reservation;~~

14 (b) ~~Debt financing payments means principal, interest,~~
15 ~~and other typical financing costs paid by the C-BED project company~~
16 ~~to one or more third party financial institutions for the financing~~
17 ~~or refinancing of the construction of the C-BED project. Debt~~
18 ~~financing payments does not include the repayment of principal at~~

- 19 the time of a refinancing;
- 20 (c) New wind energy project means any tangible
 21 personal property incorporated into the manufacture, installation,
 22 construction, repair, or replacement of a device, such as a wind
 23 charger, windmill, or wind turbine, which is used to convert wind
 24 energy to electrical energy or for the transmission of electricity
 25 to the purchaser; and
- 26 (d) Qualified owner means:
- 27 (i) A Nebraska resident;
- 1 (ii) A limited liability company that is organized under
 2 the Limited Liability Company Act or the Nebraska Uniform Limited
 3 Liability Company Act and that is entirely made up of members who
 4 are Nebraska residents;
- 5 (iii) A Nebraska nonprofit corporation organized under
 6 the Nebraska Nonprofit Corporation Act;
- 7 (iv) An electric supplier as defined in section
 8 70-1001.01, except that ownership in a single C-BED project is
 9 limited to no more than:
- 10 (A) Fifteen percent either directly or indirectly by a
 11 single electric supplier; and
- 12 (B) A combined total of twenty five percent ownership
 13 either directly or indirectly by multiple electric suppliers; or
- 14 (v) A tribal council.
- 15 (4) Gross power purchase agreement payments are the
 16 total amount of payments during the life of the agreement. For
 17 power purchase agreements entered into on or before December 31,
 18 2011, if the qualified owners have a combined total of at least
 19 thirty three percent of the equity ownership in the C-BED project,
 20 gross power purchase agreement payments shall be reduced by the
 21 debt financing payments. For the purpose of determining eligibility
 22 of the project, an estimate of the payments and their recipients
 23 shall be used.
- 24 (5) Payments to the local community include, but are not
 25 limited to, lease payments to property owners on whose property a
 26 turbine is located, wind agreement payments, and real and personal
 27 property tax receipts from the C-BED project.
- 1 ~~(6)-(4)~~ The Department of Revenue may examine the actual
 2 payments and the distribution of the payments to determine if the
 3 projected distributions were met. If the payment distributions to
 4 qualified owners do not meet the requirements of this section, the
 5 department may recover the amount of the sales or use tax that was
 6 not paid by the project at any time up until the end of three years
 7 after the end of the power purchase agreement.
- 8 ~~(7)-(5)~~ At any time prior to the end of the power
 9 purchase agreements, the project may voluntarily surrender the
 10 exemption granted by the Tax Commissioner and pay the amount of
 11 sales and use tax that would otherwise have been due.
- 12 ~~(8)-(6)~~ The amount of the tax due under either subsection
 13 ~~(4) or (5) (6) or (7)~~ of this section shall be increased by

14 interest at the rate specified in section 45-104.02, as such rate
 15 may from time to time be adjusted, from the date the tax would have
 16 been due if no exemption was granted until the date paid.

17 Sec. 5. Original sections 70-1904 and 70-1909, Reissue
 18 Revised Statutes of Nebraska, and sections 70-1903 and 77-2704.57,
 19 Revised Statutes Cumulative Supplement, 2012, are repealed.

LEGISLATIVE BILL 522. Placed on General File with amendment.
 AM709

1 1. Strike original section 1 and insert the following new
 2 section:
 3 Section 1. If the Department of Natural Resources issues
 4 closing notices prohibiting surface water appropriators from
 5 storing or diverting natural or instream flows for irrigation to
 6 comply with an interstate compact or decree, then the department
 7 shall provide reasonable compensation for affected water users
 8 through the affected irrigation districts. The irrigation districts
 9 shall use such compensation to reasonably compensate surface water
 10 users who have had to forgo the use of water. Funding for such
 11 compensation shall be provided through the General Fund.

12 For purposes of this section, reasonable compensation
 13 means the equivalent to the current compensation for dry-year
 14 leases used by the natural resources district in which the
 15 irrigation district is located for the conversion of acres from
 16 irrigated acres to dry-land acres for a period of one year. Or,
 17 if the irrigation district is located in more than one natural
 18 resources district, the equivalent of the average of each such
 19 natural resources districts' compensation to dry-year leases used
 20 by each such natural resources district for the conversion of acres
 21 from irrigated acres to dry-land acres for a period of one year.

LEGISLATIVE RESOLUTION 40. Reported to the Legislature for
 further consideration.

(Signed) Tom Carlson, Chairperson

Judiciary

LEGISLATIVE BILL 543. Placed on General File.

LEGISLATIVE BILL 123. Indefinitely postponed.

LEGISLATIVE BILL 182. Indefinitely postponed.

LEGISLATIVE BILL 520. Indefinitely postponed.

(Signed) Brad Ashford, Chairperson

Education

LEGISLATIVE BILL 357. Indefinitely postponed.

LEGISLATIVE BILL 599. Indefinitely postponed.

LEGISLATIVE BILL 604. Indefinitely postponed.

(Signed) Kate Sullivan, Chairperson

COMMITTEE REPORT

Education

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

Kim Dinsdale - Nebraska Educational Telecommunications Commission

Aye: 8 Avery, Cook, Davis, K. Haar, Kolowski, Scheer, Seiler, Sullivan.
Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Kate Sullivan, Chairperson

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 359A. Introduced by Cook, 13.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 359, One Hundred Third Legislature, First Session, 2013.

LEGISLATIVE BILL 530A. 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 530, One Hundred Third Legislature, First Session, 2013.

AMENDMENT - Print in Journal

Senator Watermeier filed the following amendment to LB589:
AM348

- 1 1. On page 3, strike beginning with "as" in line 21
- 2 through "precede" in line 22 and insert "prior to the".

MESSAGE FROM THE GOVERNOR

March 20, 2013

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

Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 27, 31, 38, 70e, 88, 117, 165, 283, 337e, 398, 426, 484, 510, 616, and 628 were received in my office on March 14, 2013.

These bills were signed and delivered to the Secretary of State on March 20, 2013.

Sincerely,
(Signed) Dave Heineman
Governor

RESOLUTIONS

LEGISLATIVE RESOLUTION 115. Introduced by Davis, 43; Harms, 48; Schilz, 47.

WHEREAS, the city of Alliance, Nebraska, was incorporated on March 28, 1888, with the arrival of the Burlington and Missouri Railroad tracks; and

WHEREAS, the arrival of the Burlington and Missouri Railroad required the development of lots, and the community of Alliance grew to a population of 840 within two years after incorporation and to 2,200 within eight years after incorporation; and

WHEREAS, the Chicago, Burlington and Quincy Railroad established its home in Alliance with the building of the depot at the end of Box Butte Avenue, which became a focus of activity for the community; and

WHEREAS, the rural area of Alliance also developed with expanded homesteading through the Kinkaid Act, which was passed by the United States Congress creating a strong agricultural base for the community; and

WHEREAS, Alliance continued to be progressive with the establishment of the first paving district which bricked Box Butte Avenue and the downtown area. Alliance also became the first city in Nebraska to adopt the city manager form of government in 1921; and

WHEREAS, during the Great Depression in the early 1930s, Alliance created a beautiful parks system under the Work Projects Administration, which remains to this day a source of beauty and pride for the community; and

WHEREAS, with the advent of World War II, Alliance experienced explosive growth with the development of a new airport for an Army air base that is now the home of the Alliance Municipal Airport, which provides both commercial and private air service and will host the 2013 State Fly-in event on August 17, 2013; and

WHEREAS, industry began evolving in the early 1960s with the creation of an industrial park, which continues to be the home of many commercial businesses today; and

WHEREAS, in the 1970s four major railroads merged into the new Burlington Northern Railroad, and Alliance was designed as a divisional

headquarters for the new railroad, resulting in another period of rapid population growth, residential development, and "bedroom" industries; and

WHEREAS, Alliance became nationally known as the "Home of Carhenge" with the fanciful recreation of Stonehenge as a tourist attraction in the 1990s; and

WHEREAS, the Alliance Public School system constructed a state of the art Performing Arts Center in 2011 to promote the value of the arts in the community; and

WHEREAS, the community of Alliance is now undertaking the challenge of enhancing the quality and availability of health services to its citizens with a major expansion of Box Butte General Hospital; and

WHEREAS, the adopted community vision for Alliance is "Building the Best Hometown in America"; and

WHEREAS, the community of Alliance is celebrating 125 years of "Building the Best Hometown in America" in 2013.

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

1. That the Legislature congratulates the city of Alliance, Nebraska, on 125 years of progress.

2. That a copy of this resolution be sent to the mayor of Alliance, Fred Feldges, to the city manager of Alliance, J. D. Cox, and to the curator of the Knight Museum and Sandhills Center and chairperson of the 125th Anniversary Celebration of Alliance, Becci Thomas.

Laid over.

LEGISLATIVE RESOLUTION 116. Introduced by Campbell, 25.

WHEREAS, Ellie Walstad is a student at Lincoln Southeast High School and a member of the Lincoln Southeast High School swimming and diving team; and

WHEREAS, Ellie Walstad demonstrates good character and dedication to her sport, team, and academics; and

WHEREAS, Ellie Walstad swam a leg on the state champion team in the Girls 200 Yard Freestyle Relay at the 2013 Girls' State Swimming and Diving Championships; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

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

1. That the Legislature congratulates Ellie Walstad on her exceptional personal achievements.

2. That a copy of this resolution be sent to Ellie Walstad and to Coach Ivy Johnson.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 613. Senator Chambers offered the following amendment, to the committee amendment:

FA35

Amend AM467

1. Page 2, line 27 strike "A" and insert "The"; page 3, line 1 strike "follow" and insert "comply with".
2. In line 1 beginning with "make" strike through "state" on line 4 and insert: "formulate recommendations designed to ensure ease of compliance for individuals and businesses and efficient administration by the state".

Senator Chambers moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

The Chambers amendment was adopted with 36 ayes, 3 nays, 9 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following amendment to the committee amendment:

FA36

Amend AM467

1. Page 2, line 21 beginning with "Any" strike through "competitiveness" in line 26 and insert: "Any modification of the tax system should be designed to ensure that such modification in no way impedes or restricts the state's ability to attract well paying jobs and investment while keeping and protecting existing jobs and businesses. The committee also shall review and analyze how the state compares to other states with reference to taxes imposed on businesses and identify ways to enhance business competitiveness".

SPEAKER ADAMS PRESIDING

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

The Chambers amendment was adopted with 39 ayes, 2 nays, 7 present and not voting, and 1 excused and not voting.

Senator Schumacher offered the following motion:

MO28

Invoke cloture pursuant to Rule 7, Sec. 10.

Senator Chambers requested a record vote on the motion to invoke cloture.

Voting in the affirmative, 44:

Adams	Coash	Harms	Lathrop	Scheer
Ashford	Cook	Harr, B.	Lautenbaugh	Schilz
Avery	Crawford	Howard	McCoy	Schumacher
Bloomfield	Davis	Johnson	McGill	Seiler
Bolz	Dubas	Karpisek	Mello	Smith
Brasch	Gloor	Kintner	Murante	Sullivan
Campbell	Haar, K.	Kolowski	Nordquist	Watermeier
Carlson	Hadley	Krist	Pirsch	Wightman
Christensen	Hansen	Larson	Price	

Voting in the negative, 2:

Chambers Conrad

Present and not voting, 2:

Nelson Wallman

Excused and not voting, 1:

Janssen

The Schumacher motion to invoke cloture prevailed with 44 ayes, 2 nays, 2 present and not voting, and 1 excused and not voting.

Committee AM467, as amended, was adopted with 47 ayes, 0 nays, 1 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 47 ayes, 1 nay, and 1 excused and not voting.

The Chair declared the call raised.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, and 97 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, and 97.

SELECT FILE

LEGISLATIVE BILL 295. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 434. Senator Price offered his amendment, AM672, found on page 758.

SENATOR COASH PRESIDING

Senator Price offered the following amendment to his amendment:

FA38

Amend AM672

1. Strike "cannot" in line 14 and replace with "shall not"
2. In line 18 after "who" add the word "intentionally"
3. Beginning on line 19, strike the word "the" through "individual" in line 22

The Price amendment was adopted with 34 ayes, 0 nays, and 15 present and not voting.

The Price amendment, AM672, as amended, was adopted with 39 ayes, 0 nays, and 10 present and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 363. ER22, found on page 533, was adopted.

Senator Avery offered his amendment, AM480, found on page 600.

SPEAKER ADAMS PRESIDING

The Avery amendment was adopted with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Senator Schumacher offered his amendment, AM579, found on page 744.

Senator Schumacher withdrew his amendment.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 363A. Advanced to Enrollment and Review for Engrossment.

AMENDMENTS - Print in Journal

Senator Mello filed the following amendment to LB402:
AM740

(Amendments to Standing Committee amendments, AM684)

- 1 1. On page 1, strike beginning with "landfill" in line 9
- 2 through "system" in line 11 and insert "or landfill gas".

Senator Krist filed the following amendment to LB613:

AM744

(Amendments to Standing Committee amendments, AM467)

1 1. Insert the following new sections:

2 Sec. 8. Section 18-1208, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 18-1208 (1) Except as otherwise provided in this section,
5 after July 19, 2012, a municipality may impose a new occupation
6 tax or increase the rate of an existing occupation tax, which
7 new occupation tax or increased rate of an existing occupation
8 tax is projected to generate annual occupation tax revenue in
9 excess of the applicable amount listed in subsection (2) of this
10 section, pursuant to section 14-109, 15-202, 15-203, 16-205, or
11 17-525 if the question of whether to impose the tax or increase
12 the rate of an existing occupation tax has been submitted at an
13 election held within the municipality and in which all registered
14 voters shall be entitled to vote on the question. The officials
15 of the municipality shall order the submission of the question by
16 submitting a certified copy of the resolution proposing the tax
17 or tax rate increase to the election commissioner or county clerk
18 at least fifty days before the election. The election shall be
19 conducted in accordance with the Election Act. If a majority of
20 the votes cast upon the question are in favor of the new tax or
21 increased rate of an existing occupation tax, then the governing
22 body of such municipality shall be empowered to impose the new tax
1 or to impose the increased tax rate. If a majority of those voting
2 on the question are opposed to the new tax or increased rate, then
3 the governing body of the municipality shall not impose the new tax
4 or increased rate but shall maintain any existing occupation tax at
5 its current rate.

6 (2) The applicable amount of annual revenue for each new
7 occupation tax or annual revenue raised by the increased rate for
8 an existing occupation tax for purposes of subsection (1) of this
9 section is:

10 (a) For cities of the metropolitan class, six million
11 dollars;

12 (b) For cities of the primary class, three million
13 dollars;

14 (c) For cities of the first class, seven hundred thousand
15 dollars; and

16 (d) For cities of the second class and villages, three
17 hundred thousand dollars.

18 (3) After July 19, 2012, a municipality shall not be
19 required to submit the following questions to the registered
20 voters:

21 (a) Whether to change the rate of an occupation tax
22 imposed for a specific project which does not provide for deposit
23 of the tax proceeds in the municipality's general fund; or

24 (b) Whether to terminate an occupation tax earlier than

25 the determinable termination date under the original question
 26 submitted to the registered voters.

27 This subsection applies to occupation taxes imposed prior
 1 to, on, or after July 19, 2012.

2 (4) The authority granted in this section and sections
 3 14-109, 15-202, 15-203, 16-205, and 17-525 to impose a new
 4 occupation tax or increase the rate of an existing occupation
 5 tax is suspended beginning on the effective date of this act
 6 through July 15, 2014. An occupation tax which was adopted by
 7 a governing body of a municipality and which is required to be
 8 approved by the registered voters but which has not been approved
 9 by the registered voters prior to the effective date of this act
 10 is null and void. Any occupation tax imposed by a governing body
 11 and approved by the registered voters, if required, prior to the
 12 effective date of this act shall continue to be imposed.

13 ~~(4)-(5)~~ The provisions of this section do not apply to an
 14 occupation tax subject to section 86-704.

15 Sec. 9. Section 77-27,142, Revised Statutes Cumulative
 16 Supplement, 2012, is amended to read:

17 ~~77-27,142 (1) Any (1)(a)~~ Except as provided in
 18 subdivision (1)(b) of this section, any incorporated municipality
 19 by ordinance of its governing body is hereby authorized to impose
 20 a sales and use tax of one-half percent, one percent, one and
 21 one-half percent, one and three-quarters percent, or two percent
 22 upon the same transactions that are sourced under the provisions
 23 of sections 77-2703.01 to 77-2703.04 within such incorporated
 24 municipality on which the State of Nebraska is authorized to impose
 25 a tax pursuant to the Nebraska Revenue Act of 1967, as amended
 26 from time to time. No sales and use tax shall be imposed pursuant
 27 to this section until an election has been held and a majority of
 1 the qualified electors have approved such tax pursuant to sections
 2 77-27,142.01 and 77-27,142.02.

3 (b) The authority granted in this subsection to adopt an
 4 ordinance imposing a sales and use tax of one and three-quarters
 5 percent or two percent is suspended beginning on the effective date
 6 of this act through July 15, 2014. Any such ordinance which was
 7 adopted by a governing body but not approved by the electors prior
 8 to the effective date of this act is null and void. Any such tax
 9 adopted by a governing body and approved by the electors prior to
 10 the effective date of this act shall continue to be imposed.

11 (2)(a) Any incorporated municipality that proposes to
 12 impose a municipal sales and use tax at a rate greater than one
 13 and one-half percent or increase a municipal sales and use tax
 14 to a rate greater than one and one-half percent shall submit the
 15 question of such tax or increase at a primary or general election
 16 held within the incorporated municipality. The question shall be
 17 submitted upon an affirmative vote by at least seventy percent
 18 of all of the members of the governing body of the incorporated
 19 municipality.

20 (b) Any rate greater than one and one-half percent shall
21 be used as follows:

22 (i) In a city of the metropolitan class, the proceeds
23 from the first one-quarter percent of the rate greater than one and
24 one-half percent shall be used to reduce other taxes, the proceeds
25 from the next one-eighth percent of the rate greater than one and
26 one-half percent shall be used for public infrastructure projects,
27 and the proceeds from the next one-eighth percent of the rate
1 greater than one and one-half percent shall be used for purposes of
2 the interlocal agreement or joint public agency agreement described
3 in subsection (3) of this section;

4 (ii) In a city of the primary class, up to fifteen
5 percent of the proceeds from the rate in excess of one and one-half
6 percent may be used for non-public infrastructure projects of
7 an interlocal agreement or joint public agency agreement with
8 another political subdivision within the municipality or the
9 county in which the municipality is located, and the remaining
10 proceeds shall be used for public infrastructure projects or
11 voter-approved infrastructure related to an economic development
12 program as defined in section 18-2705; and

13 (iii) In any incorporated municipality other than a city
14 of the metropolitan or primary class, the proceeds from the rate
15 in excess of one and one-half percent shall be used for public
16 infrastructure projects or voter-approved infrastructure related to
17 an economic development program as defined in section 18-2705.

18 For purposes of this section, public infrastructure
19 project means and includes, but is not limited to, any of the
20 following projects, or any combination thereof: Public highways and
21 bridges and municipal roads, streets, bridges, and sidewalks; solid
22 waste management facilities; wastewater, storm water, and water
23 treatment works and systems, water distribution facilities, and
24 water resources projects, including, but not limited to, pumping
25 stations, transmission lines, and mains and their appurtenances;
26 hazardous waste disposal systems; resource recovery systems;
27 airports; port facilities; buildings and capital equipment used
1 in the operation of municipal government; convention and tourism
2 facilities; redevelopment projects as defined in section 18-2103;
3 mass transit and other transportation systems, including parking
4 facilities; and equipment necessary for the provision of municipal
5 services.

6 (c) Any rate greater than one and one-half percent shall
7 terminate no more than ten years after its effective date or, if
8 bonds are issued and the local option sales and use tax revenue is
9 pledged for payment of such bonds, upon payment of such bonds and
10 any refunding bonds, whichever date is later, except as provided in
11 subdivision (2)(d) of this section.

12 (d) If a portion of the rate greater than one and
13 one-half percent is stated in the ballot question as being imposed
14 for the purpose of the interlocal agreement or joint public agency

15 agreement described in subdivision (2)(b)(ii) or subsection (3) of
16 this section, and such portion is at least one-eighth percent,
17 there shall be no termination date for the rate representing such
18 portion rounded to the next higher one-quarter or one-half percent.

19 (e) Sections 13-518 to 13-522 apply to the revenue from
20 any such tax or increase.

21 (3)(a) No municipal sales and use tax shall be imposed
22 at a rate greater than one and one-half percent or increased to a
23 rate greater than one and one-half percent unless the municipality
24 is a party to an interlocal agreement pursuant to the Interlocal
25 Cooperation Act or a joint public agency agreement pursuant to the
26 Joint Public Agency Act with a political subdivision within the
27 municipality or the county in which the municipality is located
1 creating a separate legal or administrative entity relating to a
2 public infrastructure project.

3 (b) Except as provided in subdivision (2)(b)(ii)
4 of this section, such interlocal agreement or joint public
5 agency agreement shall contain provisions, including benchmarks,
6 relating to the long-term development of unified governance
7 of public infrastructure projects with respect to the parties.
8 The Legislature may provide additional requirements for such
9 agreements, including benchmarks, but such additional requirements
10 shall not apply to any debt outstanding at the time the
11 Legislature enacts such additional requirements. The separate legal
12 or administrative entity created shall not be one that was in
13 existence for one calendar year preceding the submission of the
14 question of such tax or increase at a primary or general election
15 held within the incorporated municipality.

16 (c) Any other public agency as defined in section 13-803
17 may be a party to such interlocal cooperation agreement or joint
18 public agency agreement.

19 (d) A municipality is not required to use all of the
20 additional revenue generated by a sales and use tax imposed at a
21 rate greater than one and one-half percent or increased to a rate
22 greater than one and one-half percent under this subsection for the
23 purposes of the interlocal cooperation agreement or joint public
24 agency agreement set forth in this subsection.

25 (4) The provisions of subsections (2) and (3) of this
26 section do not apply to the first one and one-half percent of a
27 sales and use tax imposed by a municipality.

1 (5) Notwithstanding any provision of any municipal
2 charter, any incorporated municipality or interlocal agency or
3 joint public agency pursuant to an agreement as provided in
4 subsection (3) of this section may issue bonds in one or more
5 series for any municipal purpose and pay the principal of
6 and interest on any such bonds by pledging receipts from the
7 increase in the municipal sales and use taxes authorized by such
8 municipality. Any municipality which has or may issue bonds under
9 this section may dedicate a portion of its property tax levy

10 authority as provided in section 77-3442 to meet debt service
11 obligations under the bonds. For purposes of this subsection, bond
12 means any evidence of indebtedness, including, but not limited to,
13 bonds, notes including notes issued pending long-term financing
14 arrangements, warrants, debentures, obligations under a loan
15 agreement or a lease-purchase agreement, or any similar instrument
16 or obligation.

17 Sec. 10. Section 77-27,142.01, Revised Statutes
18 Cumulative Supplement, 2012, is amended to read:

19 77-27,142.01 (1) The (1)(a) Except as provided in
20 subdivision (1)(b) of this section, the governing body of any
21 incorporated municipality may submit the question of changing any
22 terms and conditions of a sales and use tax previously authorized
23 under section 77-27,142. Except as otherwise provided by section
24 77-27,142, the question of modification shall be submitted to the
25 voters at any primary or general election or at a special election
26 if the governing body submits a certified copy of the resolution
27 proposing modification to the election commissioner or county clerk
1 within the time prior to the primary, general, or special election
2 prescribed in section 77-27,142.02.

3 (b) The authority granted in this subsection to change a
4 sales and use tax to a rate of one and three-quarters percent or
5 two percent is suspended beginning on the effective date of this
6 act through July 15, 2014. Any such change which was adopted by
7 a governing body but not approved by the electors prior to the
8 effective date of this act is null and void. Any such tax adopted
9 by a governing body and approved by the electors prior to the
10 effective date of this act shall continue to be imposed.

11 (2) If the change imposes a sales and use tax at a
12 rate greater than one and one-half percent or increases the sales
13 and use tax to a rate greater than one and one-half percent, the
14 question shall include, but not be limited to:

15 (a) The percentage increase of one-quarter percent or
16 one-half percent in the sales and use tax rate;

17 (b) A list of reductions or elimination of other taxes or
18 fees, if any;

19 (c) A description of the projects to be funded, in whole
20 or in part, from the revenue collected, along with any savings or
21 efficiencies resulting from the projects;

22 (d) The year or years within which the revenue will be
23 collected and, if bonds will be issued with some or all of the
24 revenue pledged for payment of such bonds, a statement that the
25 revenue will be collected until the payment in full of such bonds
26 and any refunding bonds; and

27 (e)(i) The percentage of revenue collected to be used for
1 the purposes of the interlocal agreement or joint public agency
2 agreement as provided in subdivision (2)(b)(ii) or subsection (3)
3 of section 77-27,142; (ii) a statement of the overall purpose
4 of the agreement which is the long-term development of unified

- 5 governance of public infrastructure projects, if applicable; and
 6 (iii) the name of any other political subdivision which is a party
 7 to the agreement.
 8 This subsection does not apply to the first one and
 9 one-half percent of a sales and use tax imposed by a municipality.
 10 Sec. 11. Original section 18-1208, Reissue Revised
 11 Statutes of Nebraska, and sections 77-27,142 and 77-27,142.01,
 12 Revised Statutes Cumulative Supplement, 2012, are repealed.
 13 2. Renumber the remaining section accordingly.

Senator Chambers filed the following amendment to LB613:

FA37

Amend AM467

1. Page 3, line 11 beginning with "provides" strike through "needs" on line 13 and insert: "generates sufficient revenue to fund essential state services and to meet spending needs".

Senator Carlson filed the following amendment to LB634:

AM738

(Amendments to Standing Committee amendments, AM298)

- 1 1. Strike amendments 1 and 2 and insert the following new
 2 amendments:
 3 1. Insert the following new section:
 4 Sec. 4. Since an emergency exists, this act takes effect
 5 when passed and approved according to law.
 6 2. On page 2, strike beginning with "(4)" in line 24
 7 through line 25.

Senator Krist filed the following amendment to LB620:

AM616

- 1 1. Insert the following new sections:
 2 Sec. 3. Section 85-122, Revised Statutes Cumulative
 3 Supplement, 2012, is amended to read:
 4 85-122 The several funds for the support of the
 5 university shall be constituted and designated as follows: (1) The
 6 Permanent Endowment Fund; (2) the Temporary University Fund; (3)
 7 the University Cash Fund; (4) the United States Morrill Fund; (5)
 8 the United States Experiment Station Fund; (6) the University Trust
 9 Fund; (7) the United States Agricultural Extension Fund; (8) the
 10 Veterinary School Fund; (9) the University of Nebraska at Omaha
 11 Cash Fund; (10) the University of Nebraska at Omaha Trust Fund;
 12 (11) the University of Nebraska at Kearney Cash Fund; (12) the
 13 University of Nebraska at Kearney Trust Fund; (13) the Agricultural
 14 Field Laboratory Fund; (14) the Animal Research and Diagnosis
 15 Revolving Fund; (15) the University Facility Improvement Fund;
 16 (16) the University of Nebraska Eppley Science Hall Construction
 17 Fund; ~~and~~ (17) the University Facilities Fund; and (18) the Group
 18 Health Trust Fund. No portion of the funds designated above derived
 19 from taxation shall be disbursed for mileage or other traveling

20 expenses except as authorized by sections 81-1174 to 81-1177. No
21 expenditures shall be made for or on behalf of the School of
22 Veterinary Medicine and Surgery except from money appropriated to
23 the Veterinary School Fund. Any money in the funds designated in
1 this section available for investment shall be invested by the
2 state investment officer pursuant to the Nebraska Capital Expansion
3 Act and the Nebraska State Funds Investment Act except as provided
4 in sections 85-125, 85-192, and 85-1,123.

5 Sec. 4. The Group Health Trust Fund is created and shall
6 initially consist of all of the funds held on the effective date of
7 this act by Wells Fargo Bank in the University of Nebraska Group
8 Health Trust Fund pursuant to a trust dated July 1, 1997. The Board
9 of Regents of the University of Nebraska shall transfer such funds
10 to the fund on the effective date of this act. The fund shall be
11 used only to provide health benefits to employees of the University
12 of Nebraska, including reasonable administrative costs related to
13 the provision of such benefits. All funds withheld from the pay
14 of University of Nebraska employees for health benefits, and all
15 contributions made by the University of Nebraska, from whatever
16 source, which the university chooses to contribute to provide
17 health benefits for university employees, shall be placed in the
18 fund. Any money in the fund available for investment shall be
19 invested by the state investment officer pursuant to the Nebraska
20 Capital Expansion Act and the Nebraska State Funds Investment Act.

21 Sec. 5. Section 85-128, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 85-128 The State Treasurer shall be the custodian of all
24 the funds of the university, including the Group Health Trust Fund.
25 Disbursements from the funds named in sections 85-124 to 85-127
26 and section 4 of this act shall be made in accordance with the
27 provisions of law relating to the disbursement of university funds
1 in the hands of the State Treasurer as provided by law.

2 Sec. 6. Section 85-129, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 85-129 The State Treasurer shall be the treasurer of the
5 state university and the custodian of all funds donated to the
6 university or to the Agricultural Research Division by the United
7 States, including the Morrill, Hatch, and Adams funds, all other
8 donations, gifts, and bequests, income from land and productive
9 funds, fees paid by students, the Group Health Trust Fund, and all
10 funds for the use of the university derived from any source, except
11 (1) funds created by taxation and paid into the state treasury as
12 taxes and (2) the University Trust Fund which shall be held and
13 managed in the manner provided by section 85-123.01.

14 Sec. 7. Original sections 85-128 and 85-129, Reissue
15 Revised Statutes of Nebraska, and section 85-122, Revised Statutes
16 Cumulative Supplement, 2012, are repealed.

BILL ON FIRST READING

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

LEGISLATIVE BILL 517A. Introduced by Carlson, 38.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 517, One Hundred Third Legislature, First Session, 2013; and to declare an emergency.

UNANIMOUS CONSENT - Add Cointroducer

Senator Conrad asked unanimous consent to add her name as cointroducer to LB543. No objections. So ordered.

VISITORS

Visitors to the Chamber were Ms. Kristinne Grigoryan, Legal Advisor to the Speaker of the National Assembly of Armenia, Mr. Artem Mkrtchyan, U.S. State Department Interpreter, Lisa Lee, Lincoln Council for International Visitors; Senator Harms' wife, Patricia, from Scottsbluff, and friend, Phyllis Busch, from Lincoln; Robin Stevens from Schuyler; Senator Carlson's wife, Margo, from Holdrege, Dennis Gustafson, Pat Bakke, and Darla Bergman from Holdrege; 33 fifth-grade students, teachers, and sponsors from Christ the King School, Omaha; Senator Watermeier's daughter, Kaitlyn, from Syracuse, and Domaniac Richardson, from Syracuse; Senator Bloomfield's wife, Dee, from Hoskins, his daughter, Christina Spethman, from Wayne, and his granddaughter, Shailynn Mundil, from Winside; and 100 fourth-grade students and teachers from Fire Ridge Elementary, Elkhorn.

ADJOURNMENT

At 12:05 p.m., on a motion by Senator Scheer, the Legislature adjourned until 9:00 a.m., Thursday, March 21, 2013.

Patrick J. O'Donnell
Clerk of the Legislature