

SIXTY-EIGHTH DAY - APRIL 20, 2017

LEGISLATIVE JOURNAL

**ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION**

SIXTY-EIGHTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, April 20, 2017

PRAYER

The prayer was offered by Pastor Bob Lawrence, Auburn Church of Christ, Auburn.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Foley presiding.

The roll was called and all members were present except Senator Kuehn who was excused; and Senators Bolz, Howard, Hughes, McCollister, and Murante who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the sixty-seventh day was approved.

MOTION(S) - Confirmation Report(s)

Senator Bostelman moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 1042:

Nebraska Power Review Board
Greg Moen

Voting in the affirmative, 36:

Albrecht	Craighead	Hansen	McDonnell	Walz
Baker	Crawford	Hilgers	Morfeld	Watermeier
Blood	Ebke	Kolowski	Pansing Brooks	Wayne
Bostelman	Erdman	Kolterman	Quick	Williams
Brasch	Friesen	Krist	Scheer	
Briese	Geist	Larson	Schumacher	
Chambers	Groene	Linehan	Smith	
Clements	Halloran	Lowe	Stinner	

Voting in the negative, 0.

Present and not voting, 7:

Brewer	Hilkemann	Riepe	Wishart
Harr	Lindstrom	Vargas	

Excused and not voting, 6:

Bolz	Hughes	McCollister
Howard	Kuehn	Murante

The appointment was confirmed with 36 ayes, 0 nays, 7 present and not voting, and 6 excused and not voting.

MOTION(S) - Election Challenge Report

Senator Watermeier offered the motion found on page 1090 that the Legislature, in accord with the findings and recommendations contained in the Report of the Special Committee regarding the Election Challenge to the Qualification of Ernie Chambers, dismiss the challenge to the qualifications of Ernie Chambers and seat Ernie Chambers as a member of the One Hundred Fifth Legislature representing the 11th Legislative District.

The Watermeier motion prevailed with 42 ayes, 0 nays, 4 present and not voting, and 3 excused and not voting.

RESOLUTION(S)

LEGISLATIVE RESOLUTION 106. Introduced by Halloran, 33.

WHEREAS, Trey Gill, Rishav Srivastava, Derrick Nelson, Cole Shardelow, Drew Reed, and Samuel E. Johnson, members of Troop 207 of Hastings, have completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Throughout their scouting experience, these young men have learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 13 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only a small percentage of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Trey, Rishav, Derrick, Cole, Drew, and Samuel, through their hard work and perseverance, have joined other high achievers who are Eagle Scouts, including astronauts, leaders of government and industry, artists, scientists, and athletes.

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

1. That the Legislature congratulates Trey Gill, Rishav Srivastava, Derrick Nelson, Cole Shardelow, Drew Reed, and Samuel E. Johnson on achieving the rank of Eagle Scout.

2. That copies of this resolution be sent to Trey Gill, Rishav Srivastava, Derrick Nelson, Cole Shardelow, Drew Reed, and Samuel E. Johnson.

Laid over.

LEGISLATIVE RESOLUTION 107. Introduced by Halloran, 33.

WHEREAS, Dakota Sell and Eric Aldrich, members of Troop 192 of Hastings, have completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Throughout their scouting experience, these young men have learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 13 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only a small percentage of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Dakota and Eric, through their hard work and perseverance, have joined other high achievers who are Eagle Scouts, including astronauts, leaders of government and industry, artists, scientists, and athletes.

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

1. That the Legislature congratulates Dakota Sell and Eric Aldrich on achieving the rank of Eagle Scout.

2. That copies of this resolution be sent to Dakota Sell and Eric Aldrich.

Laid over.

LEGISLATIVE RESOLUTION 108. Introduced by Halloran, 33.

WHEREAS, Alex Kleinjan, a member of Troop 200 of Hastings, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Throughout his scouting experience, Alex has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 13 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only a small percentage of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Alex, through his hard work and perseverance, has joined other high achievers who are Eagle Scouts, including astronauts, leaders of government and industry, artists, scientists, and athletes.

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

1. That the Legislature congratulates Alex Kleinjan on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Alex Kleinjan.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 234. 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 255. Title read. Considered.

Committee AM91, found on page 448, was adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 255A. Title read. Considered.

Advanced to Enrollment and Review Initial with 29 ayes, 0 nays, 18 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 455. Title read. Considered.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 16 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 645. Title read. Considered.

Committee AM106, found on page 555, was adopted with 33 ayes, 0 nays, 14 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 430. Title read. Considered.

Committee AM176, found on page 638, was adopted with 33 ayes, 0 nays, 14 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 558. Title read. Considered.

SENATOR WATERMEIER PRESIDING

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 315. Title read. Considered.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 14 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 159. Title read. Considered.

Committee AM22, found on page 348, was adopted with 33 ayes, 0 nays, 14 present and not voting, and 2 excused and not voting.

Senator McCollister offered his amendment, AM1097, found on page 1090.

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

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 138. Title read. Considered.

Advanced to Enrollment and Review Initial with 25 ayes, 0 nays, 22 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 142. Title read. Considered.

Senator Williams offered his amendment, AM179, found on page 897.

The Williams amendment was adopted with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 29 ayes, 0 nays, 18 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 20. Title read. Considered.

Advanced to Enrollment and Review Initial with 29 ayes, 0 nays, 18 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 63. Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 154. Title read. Considered.

Advanced to Enrollment and Review Initial with 29 ayes, 0 nays, 18 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 176. Title read. Considered.

Advanced to Enrollment and Review Initial with 27 ayes, 0 nays, 20 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 383. Title read. Considered.

Committee AM49, found on page 393, was adopted with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

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

LEGISLATIVE BILL 231. Title read. Considered.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 239. Title read. Considered.

SPEAKER SCHEER PRESIDING

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 306. Title read. Considered.

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

LEGISLATIVE BILL 241. Title read. Considered.

Committee AM100, found on page 397, was adopted with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 519. Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 464. Title read. Considered.

PRESIDENT FOLEY PRESIDING

Committee AM99, found on page 404, was adopted with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 264. Title read. Considered.

Committee AM57, found on page 404, was adopted with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 371. Title read. Considered.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 86. Title read. Considered.

Committee AM33, found on page 422, was adopted with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

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

LEGISLATIVE BILL 476. Title read. Considered.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 406. Title read. Considered.

Committee AM204, found on page 454, was adopted with 32 ayes, 1 nay, 13 present and not voting, and 3 excused and not voting.

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

LEGISLATIVE BILL 584. Title read. Considered.

Committee AM181, found on page 461, was adopted with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

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

LEGISLATIVE BILL 375. Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 463. Title read. Considered.

Committee AM294, found on page 521, was adopted with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 318. Title read. Considered.

Senator Hughes offered the following amendment:

AM1114

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

The Hughes amendment was adopted with 33 ayes, 1 nay, 12 present and not voting, and 3 excused and not voting.

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

LEGISLATIVE BILL 280. Title read. Considered.

Committee AM48, found on page 557, was adopted with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

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

LEGISLATIVE BILL 624. Title read. Considered.

Committee AM330, found on page 558, was adopted with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

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

LEGISLATIVE BILL 204. Title read. Considered.

Committee AM306, found on page 572, was adopted with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

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

RESOLUTION(S)

LEGISLATIVE RESOLUTION 109. Introduced by Larson, 40.

PURPOSE: The purpose of this interim study is to examine the collection of annual assessments under the Property Assessed Clean Energy (PACE) Act. The issues addressed by this interim study shall include, but not be limited to:

- (1) A review of the process by which other types of municipal assessments, including special assessments, are collected;
- (2) A review of the role of county assessors in collecting municipal special assessments; and
- (3) An examination of Federal Housing Administration (FHA) regulations and guidelines concerning the eligibility of properties subject to PACE assessments to receive FHA-insured mortgage financing.

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

1. That the Urban Affairs 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.

COMMITTEE REPORT(S)

Business and Labor

The Business and Labor 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.

Martin Kasl - Boiler Safety Code Advisory Board

Aye: 7 Albrecht, Chambers, Crawford, Halloran, Hansen, Howard, Lowe.
Nay: 0. Absent: 0. Present and not voting: 0.

The Business and Labor 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.

Aaron Jazyuka - Boiler Safety Code Advisory Board

Aye: 7 Albrecht, Chambers, Crawford, Halloran, Hansen, Howard, Lowe.
Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Joni Albrecht, Chairperson

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Czaplewski, Mark - Nebraska Natural Resources Commission - Natural Resources

Danon, Steven F. - State Emergency Response Commission - Government, Military and Veterans Affairs

Smith, Beth - Nebraska State Fair Board - Agriculture

(Signed) Dan Watermeier, Chairperson
Executive Board

NOTICE OF COMMITTEE HEARING(S)

Health and Human Services

Room 1510

Tuesday, May 2, 2017 1:00 p.m.

Brian Brightman - State Board of Health

(Signed) Merv Riepe, Chairperson

BILL ON FIRST READING

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

LEGISLATIVE BILL 268A. Introduced by Schumacher, 22.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 268, One Hundred Fifth Legislature, First Session, 2017.

AMENDMENT(S) - Print in Journal

Senators Smith, Erdman, and Brasch filed the following amendment to LB461:
AM1095

(Amendments to Standing Committee amendments, AM954)

- 1 1. On page 3, line 18, strike "The county assessor shall use" and
- 2 insert "All agricultural land and horticultural land shall be assessed
- 3 for taxation purposes using".
- 4 2. On page 4, line 4, strike "land capability groups by the Property
- 5 Tax Administrator" and insert "productivity groups by the Agricultural
- 6 Land Valuation Committee"; in line 6 after "by" insert "the committee,"
- 7 and after "assessors" insert an underscored comma; in line 9 after "to"
- 8 insert "group soil classifications into productivity groups by class or
- 9 subclass of property. The committee shall also"; in line 10 strike
- 10 "agricultural land and horticultural land" and insert "productivity
- 11 groups"; in line 11 after "rates" insert "for each class and subclass of
- 12 agricultural land and horticultural land in each county as"; and strike
- 13 beginning with "either" in line 26 through "Institute" in line 28 and
- 14 insert "an Accredited Rural Appraiser designation granted by the American
- 15 Society of Farm Managers and Rural Appraisers".
- 16 3. On page 5, strike beginning with "and" in line 2 through the
- 17 second occurrence of "land" in line 3 and insert "for each productivity
- 18 group"; in line 7 after the period insert "The committee shall meet in
- 19 November 2017 to establish capitalization rates for each class or
- 20 subclass of agricultural land and horticultural land as provided in
- 21 section 7 of this act. Beginning in November 2018 and each November
- 22 thereafter, the committee shall review the capitalization rates and make
- 23 adjustments as necessary to ensure uniform and proportionate assessments
- 24 of all agricultural land and horticultural land"; in line 8 strike "such
- 25 meeting" and insert "the committee's meetings"; in line 15 strike "value"
- 26 and insert "productivity"; and in line 18 strike "Gross" and insert "For
- 1 irrigated cropland and dryland cropland, gross".
- 2 4. On page 5, lines 24, 30, and 31; page 6, lines 12 and 30; page 7,
- 3 lines 12, 20, and 25; and page 11, line 25, strike "land capability" and
- 4 insert "productivity".
- 5 5. On page 8, lines 30 and 31, strike "capitalization rate" and
- 6 insert "agricultural-use values".
- 7 6. On page 24, line 11, after "Board" insert "in its October

8 forecast".

9 7. On page 37, line 11, strike the first comma and show as stricken,
 10 after "each" insert "tax", and after "thereafter" insert "through tax
 11 year 2018"; and in line 14 after the period insert "For tax year 2019,
 12 the credit amount shall be one hundred forty-six dollars. For tax year
 13 2020 and each tax year thereafter, the credit amount shall be adjusted
 14 for inflation by the method provided in section 151 of the Internal
 15 Revenue Code of 1986, as amended. The one-hundred-forty-six-dollar credit
 16 amount shall be adjusted for cumulative inflation since 2019.".

Senator Hansen filed the following amendment to LB259:
 AM1106

(Amendments to Standing Committee amendments, AM933)

- 1 1. On page 12, line 1, strike "2018" and insert "2019".
- 2 2. On page 20, line 5, strike "2018" and insert "2019".

UNANIMOUS CONSENT - Add Cointroducer(s)

Unanimous consent to add Senator(s) as cointroducer(s). No objections. So ordered.

Senator Clements name added to LB661.

VISITORS

Visitors to the Chamber were Gus Woeppel, an eleventh-grade student from Norris High School; 50 fourth-grade students from St. Gerald Catholic School, Ralston; 40 fourth-grade students from Rousseau Elementary School, Lincoln; 50 members of the Youth Climate Summit; 13 twelfth-grade students and teacher from Omaha Burke High School; 34 fourth-grade students and teachers from Prairie Lane Elementary, Omaha; 13 third- and fourth-grade students from Christ Lutheran School, Juniata; and 57 fourth-grade students from Wayne Elementary.

RECESS

At 11:54 a.m., on a motion by Senator Harr, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., President Foley presiding.

ROLL CALL

The roll was called and all members were present except Senators Kuehn and Morfeld who were excused; and Senators Bolz, Chambers, Hilgers, Stinner, and Watermeier who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 492. Title read. Considered.

Committee AM310, found on page 575, was adopted with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 274. Title read. Considered.

Committee AM254, found on page 587, was adopted with 29 ayes, 1 nay, 15 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 26 ayes, 1 nay, 18 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 209. Title read. Considered.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 11 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 307. Title read. Considered.

Committee AM227, found on page 759, was adopted with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 517. Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 320. Title read. Considered.

Advanced to Enrollment and Review Initial with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 458. Title read. Considered.

Advanced to Enrollment and Review Initial with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 200. Title read. Considered.

Committee AM21, found on page 920, was adopted with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 508. Title read. Considered.

Committee AM658, found on page 922, was adopted with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 29 ayes, 0 nays, 16 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 382. Title read. Considered.

Advanced to Enrollment and Review Initial with 29 ayes, 0 nays, 16 present and not voting, and 4 excused and not voting.

AMENDMENT(S) - Print in Journal

Senator Brewer filed the following amendment to LB461:
AM1104

(Amendments to Standing Committee amendments, AM954)

- 1 1. Strike sections 1 to 9 and insert the following new sections:
- 2 Section 1. Sections 1 to 9 of this act shall be known and may be
- 3 cited as the Agricultural Valuation Fairness Act.
- 4 Sec. 2. Pursuant to Article VIII, section 1, subdivisions (4) and
- 5 (5), of the Constitution of Nebraska, the Legislature finds and declares
- 6 that:
- 7 (1) The agricultural industry is a vital part of the economy of this
- 8 state;
- 9 (2) The nature of the agricultural industry and commodity prices
- 10 affect the value of agricultural land and horticultural land;
- 11 (3) All agricultural land and horticultural land in Nebraska has an
- 12 actual value as defined in section 77-112 reflecting purposes or uses
- 13 other than agricultural or horticultural purposes or uses;
- 14 (4) Market influences to use agricultural land and horticultural
- 15 land for purposes other than agricultural or horticultural purposes are
- 16 present throughout the state and cause the prices paid for agricultural
- 17 land and horticultural land to exceed the value such land has for
- 18 agricultural or horticultural purposes;
- 19 (5) The best and most uniform way to exclude any value that
- 20 agricultural land and horticultural land has for purposes other than
- 21 agricultural or horticultural purposes is to rely on the income-producing
- 22 characteristics of the land; and
- 23 (6) Agricultural land and horticultural land should be assessed at

24 its agricultural-use value using an income approach that complies with
25 professionally accepted mass appraisal techniques.

26 Sec. 3. For purposes of the Agricultural Valuation Fairness Act:

1 (1) Agricultural land and horticultural land means a parcel of land,
2 excluding land associated with a building or enclosed structure located
3 on the parcel, which is primarily used for agricultural or horticultural
4 purposes, including wasteland lying in or adjacent to and in common
5 ownership or management with other agricultural land and horticultural
6 land;

7 (2) Agricultural or horticultural purposes means used for the
8 commercial production of any plant or animal product in a raw or
9 unprocessed state that is derived from the science and art of
10 agriculture, aquaculture, or horticulture. Agricultural or horticultural
11 purposes includes the following uses of land:

12 (a) Land retained or protected for future agricultural or
13 horticultural purposes under a conservation easement approved as required
14 by section 76-2,112 except when the parcel or a portion thereof is being
15 used for purposes other than agricultural or horticultural purposes; and

16 (b) Land enrolled in a federal or state program in which payments
17 are received for removing such land from agricultural or horticultural
18 production;

19 (3) Agricultural-use value means the value of land for agricultural
20 or horticultural purposes or uses without regard to the value of such
21 land for other purposes or uses as determined pursuant to the
22 Agricultural Valuation Fairness Act;

23 (4) Farm home site means land contiguous to a farm site which
24 includes an inhabitable residence and improvements used for residential
25 purposes and which is located outside of urban areas or outside a platted
26 and zoned subdivision;

27 (5) Farm site means the portion of land contiguous to land actively
28 devoted to agriculture which includes improvements that are agricultural
29 or horticultural in nature, including any uninhabitable or unimproved
30 farm home site; and

31 (6) Olympic average means an average that excludes the high and low
1 observations in a sample.

2 Sec. 4. (1) Agricultural land and horticultural land shall be a
3 separate and distinct class of real property for purposes of assessment.

4 (2) For assessments made on or after January 1, 2019, the assessed
5 value of agricultural land and horticultural land shall be determined as
6 follows:

7 (a) The assessed value of agricultural land and horticultural land
8 shall not be uniform and proportionate with all other real property, but
9 the assessed value shall be uniform and proportionate within the class of
10 agricultural land and horticultural land based on the income potential of
11 the land; and

12 (b) Agricultural land and horticultural land shall be valued at its
13 agricultural-use value as determined pursuant to the Agricultural
14 Valuation Fairness Act regardless of any value which such land might have
15 for purposes other than agricultural or horticultural purposes.

16 (3) The eligibility of land for agricultural-use value shall be
17 determined each year as of January 1. If land so qualified becomes
18 disqualified on or before December 31 of that year, it shall continue to
19 receive agricultural-use value until January 1 of the year following.
20 Sec. 5. (1) The county assessor shall use an income-approach
21 calculation to determine the agricultural-use value for each assessment
22 year beginning on or after January 1, 2019. The income-approach
23 calculation shall be consistent with the Agricultural Valuation Fairness
24 Act and any rules and regulations adopted and promulgated by the Tax
25 Commissioner and shall comply with professionally accepted mass appraisal
26 techniques.
27 (2) For purposes of assessing agricultural land and horticultural
28 land using the income approach, agricultural land and horticultural land
29 shall be divided into classes and subclasses of real property under
30 section 77-103.01, including, but not limited to, irrigated cropland,
31 dryland cropland, grassland used for grazing, grassland used for haying,
1 wasteland, nurseries, feedlots, and orchards, so that the categories
2 reflect uses appropriate for the valuation of such land according to law.
3 Classes shall be inventoried by subclasses of real property based on soil
4 classification indices developed by the Natural Resources Conservation
5 Service of the United States Department of Agriculture. Nothing in this
6 section shall be construed to limit the classes and subclasses of real
7 property that may be used by county assessors or the Tax Equalization and
8 Review Commission to achieve more uniform and proportionate valuations.
9 Sec. 6. (1) The Agricultural Land Valuation Committee is created.
10 The committee's purpose shall be to develop income and expense estimates
11 for all agricultural land and horticultural land in Nebraska and
12 capitalization rates necessary to produce uniform and proportionate
13 assessed valuations. The committee shall meet in November of each year
14 and at the call of the chairperson thereafter. The committee shall
15 consist of the following five persons:
16 (a) The Tax Commissioner or a designee from his or her staff who
17 shall serve as the chairperson of the committee;
18 (b) A representative of the agricultural and horticultural industry
19 appointed by the Tax Commissioner. The appointment shall be based on
20 recommendations made by not less than three industry groups designated by
21 the Tax Commissioner;
22 (c) A county assessor appointed by the Tax Commissioner. The county
23 assessor shall be skilled in the valuation of agricultural land and
24 horticultural land and shall hold a certificate issued under section
25 77-422;
26 (d) An appraiser from the private sector appointed by the Tax
27 Commissioner. Such appraiser shall hold either a valid credential as a
28 certified general real property appraiser under the Real Property
29 Appraiser Act or an MAI designation from the Appraisal Institute; and
30 (e) A representative from the faculty of one of the research
31 universities in the state specializing in agricultural economics
1 appointed by the Tax Commissioner.
2 (2) Agricultural land and horticultural land shall be valued based

3 on the agricultural-use value, reflected in a capitalized income approach
4 developed pursuant to the Agricultural Valuation Fairness Act, using
5 professionally accepted mass appraisal techniques. The assessed values of
6 agricultural land and horticultural land shall be determined on the basis
7 of the land's value in use for agricultural or horticultural purposes by
8 capitalizing the net income by a rate that reflects the agricultural-use
9 value in the ordinary course of trade.

10 (3) The Agricultural Land Valuation Committee shall meet in November
11 2018 and shall establish an initial income capitalization rate that shall
12 achieve an aggregate agricultural-use value of between fifty-five to
13 sixty-five percent of the 2018 assessed value which used the comparable
14 sales method. Comparable sales shall not be used to assess the value of
15 agricultural land and horticultural land after 2018.

16 (4) Each November for each of the succeeding four years, the
17 Agricultural Land Valuation Committee, in coordination with county
18 assessors, shall establish an annual income and capitalization rate for
19 each county for the following year which shall reduce aggregate
20 agricultural-use value in each county by an additional ten percent until
21 the aggregate agricultural-use value has been reduced to thirty percent
22 of the 2018 assessed value.

23 (5) Thereafter, the income and capitalization rate shall remain
24 fixed for three years. The eight-year Olympic average commodity price and
25 the eight-year Olympic average crop yield per soil classification index
26 from the Natural Resources Conservation Service shall be the only
27 variables considered by the county assessor when establishing an income-
28 based value for a parcel of agricultural land and horticultural land in
29 the county.

30 (6) Every third November thereafter, in coordination with county
31 assessors, the Agricultural Land Valuation Committee shall review and may
1 change income and capitalization rates for agricultural land and
2 horticultural land based on information available to the committee from
3 the United States Department of Agriculture, the Natural Resources
4 Conservation Service, the University of Nebraska Institute of Agriculture
5 and Natural Resources, the Nebraska Investment Finance Authority, the
6 Department of Revenue, and any other sources determined necessary by the
7 committee. The Department of Revenue shall electronically publish notice
8 of the committee's meetings no less than thirty days in advance.

9 (7) At the call of the chairperson, the Agricultural Land Valuation
10 Committee may review income and capitalization rates, and upon a four-
11 fifths vote of the committee, may change income and capitalization rates
12 to address unusual and exceptional circumstances that affect commodity
13 prices or crop yields.

14 (8) Gross income shall be determined by multiplying the eight-year
15 Olympic average yield for each county by the eight-year Olympic average
16 commodity price for each major crop type harvested in each county.

17 (9) For irrigated cropland, dryland cropland, and grassland used for
18 haying, the average yield information shall be determined based on the
19 eight prior years published by the United States Department of
20 Agriculture for those commodities appropriate for each Natural Resources

21 Conservation Service soil index, with the highest and lowest yields for
22 that period excluded. The average commodity price shall be based on an
23 average of the most recent eight years, excluding the highest and lowest
24 prices of that period.
25 (10) For grassland used for grazing, the average yield shall be
26 based on the carrying capacity in terms of animal-unit months and the
27 current rental value per animal-unit month for each Natural Resources
28 Conservation Service soil index. Carrying capacity, by Natural Resources
29 Conservation Service soil index, shall be based on productivity estimates
30 published by the Natural Resources Conservation Service of the United
31 States Department of Agriculture or other state or federal agencies as
1 determined by the committee. Rental values per animal-unit month shall be
2 based on an average of the most recent eight years, excluding the highest
3 and lowest values of that period.
4 (11) The gross income shall be established as a dollar-per-acre
5 value by weighting the major crop types harvested in each county by the
6 number of acres harvested in the previous year. Such crops may include
7 continuous cropland wheat, summer fallow wheat, corn for grain, dry
8 beans, sorghum for grain, sugar beets, soybeans for beans, oats, and
9 alfalfa. Additional crop information appropriate for predominant crops in
10 a county or for a Natural Resources Conservation Service soil index shall
11 also be included when available.
12 (12) Land uses such as accretion land, wasteland, orchards,
13 vineyards, nurseries, and other agricultural land uses without sufficient
14 income information available shall be valued using a professionally
15 accepted mass appraisal technique that produces an assessment that
16 complies with the percentages provided in this section.
17 (13) Expenses shall be determined by the committee to reflect
18 average expenses associated for each land use based on information from
19 the United States Department of Agriculture, the University of Nebraska
20 Institute of Agriculture and Natural Resources, landowner surveys made
21 available to the committee, or other sources that yield reliable
22 information. The committee may also use the typical landowner share,
23 which reflects the proportion of the gross receipts received by the
24 landowner in the normal course of farm operation, and typical leasing
25 arrangements as determined from surveys conducted by the Property Tax
26 Administrator or as published by other state or federal agencies.
27 Sec. 7. The Agricultural Land Valuation Committee shall determine
28 value for each Natural Resources Conservation Service soil index in each
29 county by dividing the income determined for each parcel under section 6
30 of this act by a capitalization rate established by the committee. The
31 committee shall establish the capitalization rates to be applied to each
1 class or subclass of agricultural land and horticultural land within each
2 county. The committee shall issue a report of the values established for
3 each Natural Resources Conservation Service soil index to each county
4 assessor in Nebraska no later than January 1 of each year.
5 Sec. 8. (1) The county assessor shall implement the values
6 determined by the Agricultural Land Valuation Committee under the
7 Agricultural Valuation Fairness Act. The resulting assessed values for

8 the class of agricultural land and horticultural land shall be reported
9 on the abstract of real property pursuant to section 77-1514.
10 (2) If a county assessor, based on the facts and circumstances,
11 believes that the values for a Natural Resources Conservation Service
12 soil index as determined by the committee result in values that are not
13 uniform and proportionate within the class of agricultural land and
14 horticultural land, the county assessor may petition the Tax
15 Commissioner, on or before February 1, for an alternative value to be
16 applied to that Natural Resources Conservation Service soil index. The
17 county assessor shall show that the use of the committee's income or
18 capitalization rate results in agricultural-use values that are not
19 uniform and proportionate. The Tax Commissioner shall issue a written
20 order to the county assessor no later than March 1.
21 (3) If the Property Tax Administrator, based on the facts and
22 circumstances, believes that any agricultural-use value as implemented by
23 the county assessor does not comply with the requirements of the
24 Agricultural Valuation Fairness Act, the Property Tax Administrator may
25 petition the Tax Commissioner, on or before April 1, for an order to
26 adjust the agricultural-use value to achieve compliance with the act. The
27 Tax Commissioner shall issue a written order to the Property Tax
28 Administrator no later than May 1.
29 (4) Upon receipt of a petition by either the county assessor or the
30 Property Tax Administrator under this section, the Tax Commissioner shall
31 set a date for hearing and shall give notice thereof to the county
1 assessor or Property Tax Administrator, as applicable. The hearing shall
2 be held at least five days following the mailing of such notice. At the
3 hearing, the county assessor, the Property Tax Administrator, or the
4 legal representative of the county assessor or Property Tax Administrator
5 may appear and show cause why the class or subclass of agricultural land
6 and horticultural land in the county should or should not be adjusted. At
7 the hearing, the Tax Commissioner may receive testimony from any
8 interested person. The Tax Commissioner's order may be appealed within
9 thirty days after the date of the order to the Tax Equalization and
10 Review Commission in accordance with section 77-5013.
11 (5) If, after the implementation of the orders described in
12 subsections (2) and (3) of this section, the Tax Commissioner finds that
13 the aggregate agricultural-use value of the entire class of agricultural
14 land and horticultural land either (a) does not comply with the
15 Agricultural Valuation Fairness Act or (b) exceeds the prior year's
16 aggregate agricultural-use value of the entire class of agricultural land
17 and horticultural land by more than three and one-half percent, the Tax
18 Commissioner shall issue an order to each county in the state to
19 uniformly adjust the capitalization rate to comply with the requirements
20 of this subsection.
21 (6) On or before June 5 of each year, the county assessor of any
22 county adjusted by an order of the Tax Commissioner shall recertify the
23 county abstract of assessment to the Property Tax Administrator. The
24 Property Tax Administrator shall audit the records of the county assessor
25 to determine whether the orders were implemented.

26 Sec. 9. The Tax Commissioner may adopt and promulgate rules and
 27 regulations as necessary to carry out the Agricultural Valuation Fairness
 28 Act.

29 2. On page 11, line 25, strike "land capability group" and insert

30 "Natural Resources Conservation Service soil indices".

31 3. On page 12, line 3, after "at" insert "one hundred percent of";

1 and in line 4 after "value" insert "for tax years prior to 2019, ninety

2 percent of its actual value for tax year 2019, eighty percent of its

3 actual value for tax year 2020, seventy percent of its actual value for

4 tax year 2021, sixty percent of its actual value for tax year 2022, and

5 fifty percent of its actual value for tax year 2023 and each tax year

6 thereafter. For all classes of real property subject to taxation, the

7 value shall not increase by more than three and one-half percent from the

8 prior year".

9 4. On page 53, line 4, strike "2018" and insert "2019".

MOTION(S) - Print in Journal

Senator Wayne filed the following motion to LR1CA:

MO91

Bracket until June 2, 2017.

Senator Wayne filed the following motion to LR1CA:

MO92

Recommit to the Government, Military and Veterans Affairs Committee.

AMENDMENT(S) - Print in Journal

Senator Wayne filed the following amendment to LR1CA:

FA65

On page 1, strike lines 10-20 and insert:

"In order to protect the fundamental constitutional right to vote, requiring a voter to present identification prior to being able to vote shall be prohibited."

MOTION(S) - Print in Journal

Senator Wayne filed the following motion to LB25:

MO93

Indefinitely postpone pursuant to Rule 6, Section 3(f).

VISITORS

Visitors to the Chamber were 37 third- and fourth-grade students, teachers, and sponsors from Niobrara Public School.

ADJOURNMENT

At 2:24 p.m., on a motion by Senator Blood, the Legislature adjourned until 9:00 a.m., Friday, April 21, 2017.

Patrick J. O'Donnell
Clerk of the Legislature

