

SEVENTEENTH DAY - JANUARY 30, 2015

LEGISLATIVE JOURNAL

**ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION**

SEVENTEENTH DAY

Legislative Chamber, Lincoln, Nebraska
Friday, January 30, 2015

PRAYER

The prayer was offered by Pastor Gregg Gahan, Craig Alder Grove Parish, Craig.

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 McCoy who was excused; and Senators Craighead, Kintner, Kolowski, Krist, Smith, and Watermeier who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the sixteenth day was approved.

NOTICE OF COMMITTEE HEARING(S)

Agriculture

Room 1524

Tuesday, February 17, 2015 1:30 p.m.

LB377
LB360
LB389
LB359

Room 2102

Tuesday, February 24, 2015 1:30 p.m.

LB544
LB558
LB393

(Signed) Jerry Johnson, Chairperson

COMMITTEE REPORT(S)

Enrollment and Review

LEGISLATIVE BILL 177. Placed on Select File with amendment.

ER7

1 1. Strike the original sections and all amendments thereto and

2 insert the following new sections:

3 Section 1. Section 70-619, Revised Statutes Cumulative Supplement,
4 2014, is amended to read:

5 70-619 (1) The corporate powers of the district shall be vested in
6 and exercised by the board of directors of the district. No person shall
7 be qualified to hold office as a member of the board of directors unless
8 (a) he or she is a registered voter (i) of such chartered territory, (ii)
9 of the subdivision from which a director is to be elected if such
10 chartered territory is subdivided for election purposes as provided in
11 subsection (1), (2), or (3) of section 70-612, or (iii) of one of the
12 combined subdivisions from which directors are to be elected at large as
13 provided in section 70-612 or (b) he or she is a retail customer duly
14 certified in accordance with subsection (3) of section 70-604.03.

15 (2) No person who is a full-time or part-time employee of the
16 district shall be eligible to serve as a member of the board of directors
17 of that district and no employed officer of a publicly owned electric
18 utility may serve as a member of the board of directors of any publicly
19 owned electric utility ~~No person who is a full-time or part-time employee~~
20 ~~of the district shall be eligible to serve as a member of the board of~~
21 ~~directors unless such person (a) resigns or (b) assumes an unpaid leave~~
22 ~~of absence for the term as a member. The employing district shall grant~~
23 ~~such leave of absence when requested by any employee for the purpose of~~
24 ~~the employee serving as a member of such the board of directors. A No~~
25 ~~person shall be qualified to be a member of more than one such district~~
26 ~~board, except that a director of a rural public power district may serve~~
27 ~~as a director of another public power district formed or organized for~~
1 ~~the purpose of generating electric energy or transmitting electric energy~~
2 ~~exclusively for resale to some other public power districts, rural~~
3 ~~electric cooperatives, and membership associations or municipalities. No~~
4 ~~member of a governing body of any one of the municipalities within the~~
5 ~~areas of the district may not shall be qualified to serve on the original~~
6 ~~board of directors under sections 70-603 to 70-609.~~

7 Sec. 2. Original section 70-619, Revised Statutes Cumulative
8 Supplement, 2014, is repealed.

9 2. On page 1, line 1, strike "districts".

(Signed) Matt Hansen, Chairperson

COMMITTEE REPORT(S)

Enrollment and Review

LEGISLATIVE BILL 1. Placed on Final Reading.
LEGISLATIVE BILL 2. Placed on Final Reading.
LEGISLATIVE BILL 3. Placed on Final Reading.
LEGISLATIVE BILL 4. Placed on Final Reading.
LEGISLATIVE BILL 5. Placed on Final Reading.
LEGISLATIVE BILL 6. Placed on Final Reading.
LEGISLATIVE BILL 7. Placed on Final Reading.
LEGISLATIVE BILL 8. Placed on Final Reading.
LEGISLATIVE BILL 9. Placed on Final Reading.

(Signed) Matt Hansen, Chairperson

COMMUNICATION(S)

January 27, 2015

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

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

Contingent upon your approval, as per § 72-1240, the Nebraska Investment Council has appointed the following individual as the State Investment Officer for the Nebraska Investment Council:

Michael W. Walden-Newman, 1301 Lincoln Mall, #801, Lincoln, NE 68508

Governor Heineman approved his appointment on November 18, 2014. The aforementioned appointee is respectfully submitted for your consideration. Copies of the background information are included for your review.

Sincerely,
(Signed) Gail Werner-Robertson
Chairwoman

Enclosure

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of January 29, 2015, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Bredenkamp, Troy
Nebraska Rural Electric Association
Heckman, Drew
Human Rights Campaign
Husch Blackwell LLP
Enhanced Capital
Pappas, James E.
League of Human Dignity
Planned Parenthood of the Heartland
Persad, Xavier
Human Rights Campaign
Peters, William E.
Burlington Northern Sante Fe (BNSF) Railway Company
Warbelow, Sarah
Human Rights Campaign
Ward, Tammy J.
Tabitha (Withdrawn 01/28/2015)

REPORTS

Agency reports electronically filed with the Legislature can be found on the Nebraska Legislature's website at:
<http://www.nebraskalegislature.gov/agencies/view.php>

COMMITTEE REPORT(S)
Judiciary

LEGISLATIVE BILL 209. Indefinitely postponed.

(Signed) Les Seiler, Chairperson

RESOLUTION(S)

LEGISLATIVE RESOLUTION 47. Introduced by Coash, 27.

WHEREAS, Norman Geske was born in Sioux City, Iowa, on October 31, 1915; and

WHEREAS, Norman received his bachelor of arts degree at the University of Minnesota in 1938 and his master's degree at the New York University

Institute of Fine Arts in 1953. Norman also received an honorary doctorate degree from Doane College in 1969; and

WHEREAS, Norman was drafted into the United States Army during World War II and participated in the Normandy Invasion; and

WHEREAS, Norman came to Lincoln in 1950 as the assistant director of the University of Nebraska's University Art Galleries and was named director in 1956; and

WHEREAS, Norman retired as the director of the Sheldon Museum of Art in 1983 but remained active in the arts community; and

WHEREAS, among Norman's proudest accomplishments was the establishment of the Sheldon Film Theater, now named the Mary Riepma Ross Media Arts Center; and

WHEREAS, Norman received many honors in his life including the Governor's Arts Award, the Mayor's Arts Award from the City of Lincoln, the Distinguished Service Award from the University of Nebraska at Kearney, the Sower's Award from the Lincoln Community Foundation, and the NEBRASKAland Foundation Pioneer Award; and

WHEREAS, Norman Geske passed away on September 6, 2014.

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

1. That the Legislature recognizes Norman Geske's service and support of the arts and extends its sympathy to his family.
2. That a copy of this resolution be sent to the family of Norman Geske.

Laid over.

MOTION(S) - Confirmation Report(s)

Senator Sullivan moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 329:

Coordinating Commission for Postsecondary Education
John Bernthal

Voting in the affirmative, 36:

Baker	Crawford	Hilkemann	McCollister	Seiler
Bloomfield	Davis	Howard	Mello	Stinner
Bolz	Friesen	Hughes	Nordquist	Sullivan
Brasch	Garrett	Johnson	Pansing Brooks	Williams
Campbell	Gloor	Kintner	Riepe	
Chambers	Groene	Kolterman	Scheer	
Coash	Haar, K.	Kuehn	Schnoor	
Cook	Hansen	Lindstrom	Schumacher	

Voting in the negative, 0.

Present and not voting, 6:

Ebke	Harr, B.	Morfeld
Hadley	Larson	Murante

Excused and not voting, 7:

Craighead	Krist	Schilz	Watermeier
Kolowski	McCoy	Smith	

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

Senator Scheer moved the adoption of the Banking, Commerce and Insurance Committee report for the confirmation of the following appointment(s) found on page 332:

Department of Insurance
Bruce Ramge, Director

Voting in the affirmative, 34:

Baker	Ebke	Howard	Lindstrom	Schumacher
Bloomfield	Friesen	Hughes	McCollister	Smith
Bolz	Garrett	Johnson	Morfeld	Stinner
Brasch	Gloor	Kintner	Nordquist	Sullivan
Campbell	Haar, K.	Kolterman	Riepe	Watermeier
Cook	Hansen	Kuehn	Scheer	Williams
Crawford	Hilkemann	Larson	Schnoor	

Voting in the negative, 0.

Present and not voting, 10:

Chambers	Davis	Hadley	Mello	Pansing Brooks
Coash	Groene	Harr, B.	Murante	Seiler

Excused and not voting, 5:

Craighead	Kolowski	Krist	McCoy	Schilz
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The appointment was confirmed with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

Senator Scheer moved the adoption of the Banking, Commerce and Insurance Committee report for the confirmation of the following appointment(s) found on page 333:

Department of Banking and Finance
Mark Quandahl, Director

Voting in the affirmative, 37:

Baker	Davis	Howard	McCollister	Smith
Bloomfield	Ebke	Hughes	Mello	Stinner
Brasch	Friesen	Johnson	Morfeld	Sullivan
Campbell	Garrett	Kintner	Riepe	Watermeier
Coash	Gloor	Kolterman	Scheer	Williams
Cook	Haar, K.	Kuehn	Schnoor	
Craighead	Hansen	Larson	Schumacher	
Crawford	Hilkemann	Lindstrom	Seiler	

Voting in the negative, 1:

Chambers

Present and not voting, 7:

Bolz	Hadley	Murante	Pansing Brooks
Groene	Harr, B.	Nordquist	

Excused and not voting, 4:

Kolowski	Krist	McCoy	Schilz
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The appointment was confirmed with 37 ayes, 1 nay, 7 present and not voting, and 4 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 88. Senator Schumacher offered his amendment, FA4, found on page 333.

Senator Schumacher withdrew his amendment.

Senator Kintner withdrew his amendment, AM110, found on page 333.

Senator Kintner offered his amendment, AM131, found on page 352.

Senator Chambers offered the following amendment to the Kintner amendment:

FA5

Amend AM131

Strike "thirty" and insert "twenty" on line 3.

Senator Chambers moved for a call of the house. The motion prevailed with 27 ayes, 3 nays, and 19 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 0.

Voting in the negative, 43:

Baker	Ebke	Hilkemann	Lindstrom	Schnoor
Bloomfield	Friesen	Howard	McCollister	Schumacher
Bolz	Garrett	Hughes	Morfeld	Seiler
Brasch	Gloor	Johnson	Murante	Smith
Campbell	Groene	Kintner	Nordquist	Stinner
Coash	Haar, K.	Kolterman	Pansing Brooks	Sullivan
Cook	Hadley	Krist	Riepe	Williams
Craighead	Hansen	Kuehn	Scheer	
Crawford	Harr, B.	Larson	Schilz	

Present and not voting, 2:

Chambers Davis

Excused and not voting, 4:

Kolowski McCoy Mello Watermeier

The Chambers amendment lost with 0 ayes, 43 nays, 2 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:

MO17

Reconsider the vote taken on FA5.

Senator Chambers moved for a call of the house. The motion prevailed with 24 ayes, 4 nays, and 21 not voting.

Senator Chambers requested a roll call vote on his motion to reconsider.

Voting in the affirmative, 1:

Chambers

Voting in the negative, 40:

Baker	Ebke	Hilkemann	Larson	Scheer
Bloomfield	Friesen	Howard	Lindstrom	Schilz
Bolz	Garrett	Hughes	McCollister	Schnoor
Brasch	Gloor	Johnson	Morfeld	Schumacher
Campbell	Groene	Kintner	Murante	Seiler
Coash	Haar, K.	Kolterman	Nordquist	Smith
Cook	Hadley	Krist	Pansing Brooks	Stinner
Crawford	Hansen	Kuehn	Riepe	Williams

Present and not voting, 2:

Davis Harr, B.

Excused and not voting, 6:

Craighead McCoy Sullivan
Kolowski Mello Watermeier

The Chambers motion to reconsider failed with 1 aye, 40 nays, 2 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following amendment to the Kintner amendment:

FA7

Amend AM131

In lines 3 and 4 strike "up to thirty-five dollars" and insert "five dollars".

Senator Chambers requested a roll call vote on his amendment.

The Chambers amendment lost with 0 ayes, 29 nays, 8 present and not voting, and 12 excused and not voting.

Senator Chambers offered the following motion:

MO18

Reconsider the vote taken on FA7.

Pending.

MOTION - Suspend Rules

Senator Campbell offered her motion, MO15, found on page 353, to suspend the rules, Rule 3, Section 14, to permit cancellation of the hearing on LB346 scheduled for February 4, 2015.

The Campbell motion to suspend the rules prevailed with 36 ayes, 0 nays, 4 present and not voting, and 9 excused and not voting.

AMENDMENT(S) - Print in Journal

Senator Schumacher filed the following amendment to LB65:
AM67

- 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.

COMMITTEE REPORT(S)

Health and Human Services

The Health and Human Services 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.

Todd Bartee - Nebraska Child Abuse Prevention Fund Board
Mary Fran Flood - Nebraska Child Abuse Prevention Fund Board

Aye: 7 Baker, Campbell, Cook, Crawford, Howard, Kolterman, Riepe.
Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Kathy Campbell, Chairperson

Natural Resources

The Natural Resources 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.

Brian Barels - Nebraska Natural Resources Commission
Stan Clouse - Nebraska Natural Resources Commission
Steven Huggenberger - Nebraska Natural Resources Commission
Thomas Knutson - Nebraska Natural Resources Commission
Don Kraus - Nebraska Natural Resources Commission
Tom Palmertree - Nebraska Natural Resources Commission
Scott Smathers - Nebraska Natural Resources Commission
Lindsey Smith - Nebraska Natural Resources Commission
Walter Dennis Strauch - Nebraska Natural Resources Commission
Loren Taylor - Nebraska Natural Resources Commission

Aye: 7 Friesen, Hughes, Kolowski, Lindstrom, McCollister, Schilz,
Schnoor. Nay: 0. Absent: 0. Present and not voting: 1 Johnson.

(Signed) Ken Schilz, Chairperson

COMMITTEE REPORT(S)

Health and Human Services

LEGISLATIVE BILL 23. Placed on General File.**LEGISLATIVE BILL 87.** Placed on General File.**LEGISLATIVE BILL 90.** Placed on General File.**LEGISLATIVE BILL 107.** Placed on General File.

(Signed) Kathy Campbell, Chairperson

Revenue

LEGISLATIVE BILL 70. Placed on General File with amendment.

AM118

1 1. Strike original section 2 and insert the following new sections:

2 Sec. 2. (1) Beginning sixty days after the effective date of this
3 act, in addition to the occupation tax imposed pursuant to section
4 77-3004, an additional occupation tax shall be levied upon the business
5 of operating a mechanical amusement device that:6 (a) Accepts currency, coins, tokens, or other value in exchange for
7 play;8 (b) Awards a monetary prize or anything redeemable for a monetary
9 prize;10 (c) Is played by a player using a touch screen, computer mouse,
11 touch pad, light pen, laser, or device of similar function by which the
12 player competes against software running the device; and13 (d) Has not been adjudicated by a court of competent jurisdiction
14 within the State of Nebraska to not constitute a gambling device as
15 defined in subdivision (5) of section 28-1101. Any such adjudication
16 shall be by way of a final order in which the Tax Commissioner has been
17 made a party to the action and written notice shall have been provided to
18 the Attorney General at the commencement of the action.19 (2) Any operator of such mechanical amusement device shall pay the
20 occupation tax. If an operator believes that a mechanical amusement
21 device is not taxable under subsection (1) of this section, the burden is
22 on the operator to prove to the Tax Commissioner that such device does
23 not have one or more of the characteristics required for taxability under
24 subsection (1) of this section. Such proof may be made by, among other
25 things, a showing that the software running the game remains constant
26 with the nature of a game that had its software at issue in a judicial
27 case, not overturned by appeal, in which the State of Nebraska was party,
1 the issue was litigated, and the final order found that the particular
2 game is more controlled by the player than not, and thus is predominantly
3 a game of skill.4 (3) The amount of the occupation tax shall be equal to ten percent
5 of the gross revenue derived from the operation of any mechanical
6 amusement device described in subsection (1) of this section. The Tax
7 Commissioner shall collect such occupation tax concurrently with
8 collection of the state sales tax in the same manner as the state sales

9 tax is collected.
 10 (4) For purposes of this section, gross revenue means the total
 11 aggregate receipts received from the operation of any mechanical
 12 amusement device described in subsection (1) of this section without any
 13 reduction for prizes, discounts, taxes, or expenses and includes receipts
 14 from admission costs, any consideration necessary for participation, and
 15 the value of any free tickets, games, or plays used.
 16 (5) The occupation tax imposed in this section shall not apply to
 17 any device not within the definition of a gambling device as defined in
 18 subdivision (5) of section 28-1101 or to any device that is specifically
 19 authorized by law.
 20 (6) For purposes of this section, the fact that the device is played
 21 or connected via league or tournament play shall play no factor in
 22 determining whether the occupation tax imposed by this section is due.
 23 Sec. 11. Since an emergency exists, this act takes effect when
 24 passed and approved according to law.

(Signed) Mike Gloor, Chairperson

Nebraska Retirement Systems

LEGISLATIVE BILL 446. Placed on General File.

(Signed) Jeremy Nordquist, Chairperson

NOTICE OF COMMITTEE HEARING(S)

Education

Room 1525

Monday, February 9, 2015 1:30 p.m.

- LB582
- LB509
- LB530
- LB524

Tuesday, February 10, 2015 1:30 p.m.

- LB421
- LB481
- LB96
- LB392
- LB528
- LB529

Tuesday, February 17, 2015 1:30 p.m.

LB478
LB513
LB431
LB595
LB477
LB616

(Signed) Kate Sullivan, Chairperson

Banking, Commerce and Insurance

Room 1507

Monday, February 9, 2015 1:30 p.m.

LB342
LB456
LB531
LB632

Tuesday, February 10, 2015 1:30 p.m.

LB78
LB257
LB553

(Signed) Jim Scheer, Chairperson

Health and Human Services

Room 1510

Wednesday, February 4, 2015 1:30 p.m.

LB346 (cancel)

(Signed) Kathy Campbell, Chairperson

BILL ON FIRST READING

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

LEGISLATIVE BILL 220A. Introduced by Smith, 14.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 220, One Hundred Fourth Legislature, First Session, 2015.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Frakes, Scott R. - Director, Department of Correctional Services - Judiciary
Walden-Newman, Michael W. - State Investment Officer, Nebraska
Investment Council - Nebraska Retirement Systems

(Signed) Bob Krist, Chairperson
Executive Board

AMENDMENT(S) - Print in Journal

Senator Krist filed the following amendment to LB88:

AM155

1 1. On page 2, line 13, strike "fifty" and insert "thirty-five".

Senator Kintner filed the following amendment to LB88:

AM158

1 1. On page 2, line 13, strike "fifty" and insert "thirty".

UNANIMOUS CONSENT - Add Cointroducer(s)

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

Pansing Brooks - LB294

VISITORS

Visitors to the Chamber were Kaylee Hartman and Sara Antes from Syracuse.

The Doctor of the Day was Dr. Jason Bepalec from Geneva.

ADJOURNMENT

At 12:14 p.m., on a motion by Senator Campbell, the Legislature adjourned until 10:00 a.m., Monday, February 2, 2015.

Patrick J. O'Donnell
Clerk of the Legislature