

TWENTY-FIRST DAY - FEBRUARY 5, 2015

LEGISLATIVE JOURNAL

**ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION**

TWENTY-FIRST DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, February 5, 2015

PRAYER

The prayer was offered by Pastor Gail Madson, Bethlehem Lutheran Church, Wahoo.

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 Davis who was excused; and Senators Howard, Mello, and Murante who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twentieth day was approved.

COMMITTEE REPORT(S)

Enrollment and Review

LEGISLATIVE BILL 159. Placed on Select File with amendment.
ER8

1 1. On page 1, line 3, after the second semicolon insert "to
2 harmonize provisions;".

LEGISLATIVE BILL 279. Placed on Select File with amendment.
ER13

1 1. On page 9, line 15, after "determines" insert "(1)".
2 2. On page 11, line 19; and page 15, line 28, strike "section" and
3 insert "subsection".
4 3. On page 12, line 18, strike "(b)", show as stricken, and insert "
5 (ii)"; and in line 19 strike "(2)".
6 4. On page 13, line 12, strike "(2)"; and in line 21 strike
7 "section", show as stricken, and insert "subsection".
8 5. On page 14, line 22, strike "(b)" and insert "(ii)"; and in line
9 29 after "years" insert an underscored comma.

- 10 6. On page 17, line 3, after "years" insert an underscored comma.
 11 7. On page 18, line 1, strike "section", show as stricken, and
 12 insert "subsection".
 13 8. On page 31, line 12, after "21-20,180.01" insert a comma.

LEGISLATIVE BILL 220. Placed on Select File.
LEGISLATIVE BILL 220A. Placed on Select File.
LEGISLATIVE BILL 157. Placed on Select File.
LEGISLATIVE BILL 149. Placed on Select File.

LEGISLATIVE BILL 168. Placed on Select File with amendment.
 ER9
 1 1. On page 1, line 3, strike "49-4028" and insert "19-4028".

LEGISLATIVE BILL 40. Placed on Select File with amendment.
 ER10
 1 1. On page 7, line 19; and page 12, line 7, after "form" insert an
 2 underscored comma.
 3 2. On page 11, line 28, strike "and" and show as stricken.

LEGISLATIVE BILL 43. Placed on Select File.
LEGISLATIVE BILL 88. Placed on Select File.

LEGISLATIVE BILL 190. Placed on Select File with amendment.
 ER11
 1 1. On page 1, strike beginning with "regarding" in line 3 through
 2 "members" in line 4.

LEGISLATIVE BILL 430. Placed on Select File.

(Signed) Matt Hansen, Chairperson

COMMITTEE REPORT(S)
 Nebraska Retirement Systems

The Nebraska Retirement Systems 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.

John Dinkel - Nebraska Investment Council

Aye: 5 Groene, Kolowski, Kolterman, Mello, Nordquist. Nay: 0. Absent: 1 Davis. Present and not voting: 0.

(Signed) Jeremy Nordquist, Chairperson

RESOLUTION(S)

Pursuant to Rule 4, Sec. 5(b), LRs 44 and 45 were adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 44 and 45.

ANNOUNCEMENT

The Chair announced the birthday of Senator Williams.

GENERAL FILE

LEGISLATIVE BILL 269. Title read. Considered.

Committee AM68, found on page 331, was adopted with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 94. 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 122. 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 52. Title read. Considered.

Senator Chambers offered the following motion:

MO23

Bracket until April 15, 2015.

The Chambers motion to bracket failed with 3 ayes, 24 nays, 17 present and not voting, and 5 excused and not voting.

Senator Chambers offered the following motion:

MO24

Reconsider the vote to bracket.

Senator Chambers asked unanimous consent to withdraw his motion to reconsider. No objections. So ordered.

Advanced to Enrollment and Review Initial with 28 ayes, 1 nay, 16 present and not voting, and 4 excused and not voting.

COMMITTEE REPORT(S)

Transportation and Telecommunications

LEGISLATIVE BILL 312. Placed on General File.

LEGISLATIVE BILL 313. Placed on General File.

LEGISLATIVE BILL 45. Placed on General File with amendment.

AM65

1 1. Strike original sections 2 and 3 and insert the following new
2 sections:

3 Section 1. Section 60-366, Revised Statutes Cumulative Supplement,
4 2014, is amended to read:

5 60-366 (1) Any nonresident owner who desires to register a motor
6 vehicle or trailer in this state shall register in the county where the
7 motor vehicle or trailer is domiciled or where the owner conducts a bona
8 fide business.

9 (2) A nonresident owner, except as provided in subsections (3) and
10 (4) of this section, owning any motor vehicle or trailer which has been
11 properly registered in the state, country, or other place of which the
12 owner is a resident, and which at all times, when operated or towed in
13 this state, has displayed upon it the license plate or plates issued for
14 such motor vehicle or trailer in the place of residence of such owner,
15 may operate or permit the operation or tow or permit the towing of such
16 motor vehicle or trailer within the state without registering such motor
17 vehicle or trailer or paying any fees to this state.

18 (3)(a) Except as otherwise provided in subdivision (c) of this
19 subsection, any ~~any~~ nonresident owner gainfully employed or present in
20 this state, operating a motor vehicle or towing a trailer in this state,
21 shall register such motor vehicle or trailer in the same manner as a
22 Nebraska resident, after thirty days of continuous employment or presence
23 in this state, unless the state of his or her legal residence grants
24 immunity from such requirements to residents of this state operating a
25 motor vehicle or towing a trailer in that state.

26 (b) Except as otherwise provided in subdivision (c) of this
27 subsection, any ~~any~~ nonresident owner who operates a motor vehicle or
1 tows a trailer in this state for thirty or more continuous days shall
2 register such motor vehicle or trailer in the same manner as a Nebraska
3 resident unless the state of his or her legal residence grants immunity
4 from such requirements to residents of this state operating a motor
5 vehicle or towing a trailer in that state.

6 (c) Any nonresident owner of a film vehicle may operate the film
7 vehicle for up to one year without registering the vehicle in this state.

8 (4)(a) The Department of Motor Vehicles or the Department of Revenue
9 may determine (i) that a limited liability company, partnership,
10 corporation, or other business entity that is organized under the laws of
11 another state or country and that owns or holds title to a recreational

12 vehicle is a shell company used to avoid proper registration of the
13 recreational vehicle in this state and (ii) that the recreational vehicle
14 is controlled by a Nebraska resident.

15 (b) Factors that the Department of Motor Vehicles or the Department
16 of Revenue may consider to determine that the limited liability company,
17 partnership, corporation, or other business entity is a shell company
18 used to avoid proper registration of the recreational vehicle in this
19 state include, but are not limited to:

20 (i) The limited liability company, partnership, corporation, or
21 other business entity lacks a business activity or purpose;

22 (ii) The limited liability company, partnership, corporation, or
23 other business entity does not maintain a physical location in this
24 state;

25 (iii) The limited liability company, partnership, corporation, or
26 other business entity does not employ individual persons and provide
27 those persons with Internal Revenue Service Form W-2 wage and tax
28 statements; or

29 (iv) The limited liability company, partnership, corporation, or
30 other business entity fails to file federal tax returns or fails to file
31 a state tax return in this state.

1 (c) Factors that the Department of Motor Vehicles or the Department
2 of Revenue may consider to determine that the recreational vehicle is
3 controlled by a Nebraska resident include, but are not limited to:

4 (i) A Nebraska resident was the initial purchaser of the
5 recreational vehicle;

6 (ii) A Nebraska resident operated or stored the recreational vehicle
7 in this state for any period of time;

8 (iii) A Nebraska resident is a member, partner, or shareholder or is
9 otherwise affiliated with the limited liability company, partnership,
10 corporation, or other business entity purported to own the recreational
11 vehicle; or

12 (iv) A Nebraska resident is insured to operate the recreational
13 vehicle.

14 (d) If the Department of Motor Vehicles or the Department of Revenue
15 makes the determinations described in subdivision (4)(a) of this section,
16 there is a rebuttable presumption that:

17 (i) The Nebraska resident in control of the recreational vehicle is
18 the actual owner of the recreational vehicle;

19 (ii) Such Nebraska resident is required to register the recreational
20 vehicle in this state and is liable for all motor vehicle taxes, motor
21 vehicle fees, and registration fees as provided in the Motor Vehicle
22 Registration Act; and

23 (iii) The purchase of the recreational vehicle is subject to sales
24 or use tax under section 77-2703.

25 (e) The Department of Motor Vehicles or the Department of Revenue
26 shall notify the Nebraska resident who is presumed to be the owner of the
27 recreational vehicle that he or she is required to register the
28 recreational vehicle in this state, pay any applicable taxes and fees for
29 proper registration of the recreational vehicle under the Motor Vehicle

30 Registration Act, and pay any applicable sales or use tax due on the
 31 purchase under the Nebraska Revenue Act of 1967 no later than thirty days
 1 after the date of the notice.

2 (f)(i) For a determination made by the Department of Motor Vehicles
 3 under this subsection, the Nebraska resident who is presumed to be the
 4 owner of the recreational vehicle may accept the determination and pay
 5 the county treasurer as shown in the notice, or he or she may dispute the
 6 determination and appeal the matter. Such appeal shall be filed with the
 7 Director of Motor Vehicles within thirty days after the date of the
 8 notice or the determination will be final. The director shall appoint a
 9 hearing officer who shall hear the appeal and issue a written decision.
 10 Such appeal shall be in accordance with the Administrative Procedure Act.
 11 Following a final determination in the appeal in favor of the Department
 12 of Motor Vehicles or if no further appeal is filed, the Nebraska resident
 13 shall owe the taxes and fees determined to be due, together with any
 14 costs for the appeal assessed against the owner.

15 (ii) For a determination made by the Department of Revenue under
 16 this subsection, the Nebraska resident who is presumed to be the owner of
 17 the recreational vehicle may appeal the determination made by the
 18 Department of Revenue, and such appeal shall be in accordance with
 19 section 77-2709.

20 (g) If the Nebraska resident who is presumed to be the owner of the
 21 recreational vehicle fails to pay the motor vehicle taxes, motor vehicle
 22 fees, registration fees, or sales or use tax required to be paid under
 23 this subsection, he or she shall be assessed a penalty of fifty percent
 24 of such unpaid taxes and fees. Such penalty shall be remitted by the
 25 county treasurer or the Department of Revenue to the State Treasurer for
 26 credit to the Highway Trust Fund.

27 Sec. 3. Original sections 60-366 and 60-3,104, Revised Statutes
 28 Cumulative Supplement, 2014, are repealed.

29 Sec. 4. The following section is outright repealed: Section 60-383,
 30 Reissue Revised Statutes of Nebraska.

31 2. Renumber the remaining section accordingly.

LEGISLATIVE BILL 181. Placed on General File with amendment.
 AM204

1 1. On page 2, line 19, after "vehicles" insert "owned and".

(Signed) Jim Smith, Chairperson

AMENDMENT(S) - Print in Journal

Senator K. Haar filed the following amendment to LB177:
 AM154

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

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

Senator Nordquist filed the following amendment to LB40:
 AM224 is available in the Bill Room.

MESSAGE(S) FROM THE GOVERNOR

February 4, 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, the following individual is being appointed
 to the Board of Parole:

Teresa L. Bittinger, 504 Groff Avenue, Benedict, NE 68316

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosure

COMMITTEE REPORT(S)
Banking, Commerce and Insurance

LEGISLATIVE BILL 180. Placed on General File.
LEGISLATIVE BILL 298. Placed on General File.
LEGISLATIVE BILL 352. Placed on General File.

(Signed) Jim Scheer, Chairperson

GENERAL FILE

LEGISLATIVE BILL 260. Title read. Considered.

Advanced to Enrollment and Review Initial with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 261. Title read. Considered.

Committee AM44, found on page 339, 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 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 271. Title read. Considered.

Committee AM27, found on page 339, 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, 16 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 142. Title read. Considered.

Committee AM45, found on page 347, 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 36 ayes, 1 nay, 9 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 142A. Title read. Considered.

Advanced to Enrollment and Review Initial with 39 ayes, 1 nay, 6 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 160. 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 241. Title read. Considered.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 8 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 272. Title read. Considered.

Pending.

NOTICE OF COMMITTEE HEARING(S)
Nebraska Retirement Systems

Room 1525

Tuesday, February 24, 2015 12:00 p.m.

LB655
LB551

Thursday, March 5, 2015 12:00 p.m.

Presentation of Omaha School Employees Retirement System actuarial valuation report as required by section 79-987

LB448
LB447

(Signed) Jeremy Nordquist, Chairperson

Appropriations

Room 1003

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

Agency 45 - Barber Examiners, Board of
Agency 30 - Electrical Board, State
Agency 74 - Power Review Board, Nebraska
Agency 41 - State Real Estate Commission

Agency 53 - Real Property Appraiser Board
 Agency 63 - Public Accountancy, Nebraska Board of
 Agency 59 - Board of Geologists
 Agency 62 - Land Surveyors, State Board of Examiners for
 Agency 36 - Racing Commission, Nebraska State
 Agency 58 - Board of Engineers and Architects
 Agency 66 - Abstracters Board of Examiners
 Agency 73 - Landscape Architects, State Board of
 Agency 88 - Corn Development, Utilization and Marketing Board

Wednesday, February 25, 2015 1:30 p.m.

Agency 57 - Oil and Gas Conservation Commission, Nebraska
 Agency 60 - Ethanol Board, Nebraska
 Agency 18 - Agriculture, Department of
 Agency 39 - Brand Committee, Nebraska
 Agency 56 - Wheat Board, Nebraska
 Agency 61 - Dairy Industry Development Board, Nebraska
 Agency 86 - Dry Bean Commission
 Agency 92 - Grain Sorghum Board, Nebraska

Thursday, February 26, 2015 1:30 p.m.

Agency 28 - Veterans' Affairs, Department of
 Agency 37 - Workers' Compensation Court
 Agency 77 - Industrial Relations, Commission of
 Agency 85 - Public Employees Retirement Board, Nebraska

Friday, February 27, 2015 1:30 p.m.

Agency 75 - Investment Council, Nebraska
 Agency 71 - Nebraska Energy Office
 Agency 16 - Revenue, Department of
 LB309
 LB364
 LB387
 LB442

(Signed) Heath Mello, Chairperson

AMENDMENT(S) - Print in Journal

Senator Krist filed the following amendment to LB70:
 AM235

(Amendments to Standing Committee amendments, AM118)

- 1 1. Insert the following new section:
- 2 Section 1. Section 9-1006, Revised Statutes Cumulative Supplement,
- 3 2014, is amended to read:
- 4 9-1006 The Compulsive Gamblers Assistance Fund is created. The fund

5 shall include revenue transferred from the State Lottery Operation Trust
 6 Fund under section 9-812 and the Charitable Gaming Operations Fund under
 7 section 9-1,101, revenue credited under section 3 of this act, and any
 8 other revenue received by the division or commission for credit to the
 9 fund from any other public or private source, including, but not limited
 10 to, appropriations, grants, donations, gifts, devises, bequests, fees, or
 11 reimbursements. The commission shall administer the fund for the
 12 operation of the Gamblers Assistance Program. The Director of
 13 Administrative Services shall draw warrants upon the Compulsive Gamblers
 14 Assistance Fund upon the presentation of proper vouchers by the
 15 commission. Money from the Compulsive Gamblers Assistance Fund shall be
 16 used exclusively for the purpose of providing assistance to agencies,
 17 groups, organizations, and individuals that provide education,
 18 assistance, and counseling to individuals and families experiencing
 19 difficulty as a result of problem gambling, to promote the awareness of
 20 problem gamblers assistance programs, and to pay the costs and expenses
 21 of the Gamblers Assistance Program, including travel. Any money in the
 22 fund available for investment shall be invested by the state investment
 23 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
 24 State Funds Investment Act.

25 2. On page 2, line 9, after the period insert "All taxes collected
 26 pursuant to this section shall be remitted to the State Treasurer, and
 1 the State Treasurer shall credit ninety-seven percent of such taxes to
 2 the General Fund and the remaining three percent of such taxes to the
 3 Compulsive Gamblers Assistance Fund.".

4 3. Renumber the remaining sections, correct internal references, and
 5 correct the repealer accordingly.

UNANIMOUS CONSENT - Add Cointroducer(s)

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

Mello - LB211

VISITORS

Visitors to the Chamber were members of the University of Nebraska Extension Leadership Program; and 5 seniors, teacher, and sponsors from York.

ADJOURNMENT

At 11:57 a.m., on a motion by Senator Bloomfield, the Legislature adjourned until 9:00 a.m., Friday, February 6, 2015.

Patrick J. O'Donnell
 Clerk of the Legislature

