

SEVENTY-SEVENTH DAY - MAY 7, 2015**LEGISLATIVE JOURNAL****ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION****SEVENTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, May 7, 2015

PRAYER

The prayer was offered by Senator Crawford.

ROLL CALL

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

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

CORRECTIONS FOR THE JOURNAL

The Journal for the seventy-sixth day was approved.

COMMITTEE REPORT(S)

Enrollment and Review

LEGISLATIVE BILL 294. Placed on Final Reading.

ST34

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, line 17, "and" has been struck; and in line 18 "; and to declare an emergency" has been inserted after "bill".

LEGISLATIVE BILL 566. Placed on Final Reading.

LEGISLATIVE BILL 566A. Placed on Final Reading.

LEGISLATIVE BILL 575. Placed on Final Reading.

ST35

The following changes, required to be reported for publication in the Journal, have been made:

1. In the E and R amendments, ER99, on page 1, line 5, "and 32-1203" has been struck and "32-1203, and 60-4,144" inserted; and in line 13 "to provide access to certain commercial driver's license information;" has been inserted after the semicolon.

2. In the Standing Committee amendment, AM1276, on page 32, line 13, "30, 31, and 33" has been struck and "29, 31, 32, and 34" inserted; in line 16 "section 32-304" has been struck and "sections 32-304 and 60-4,144" inserted; and in line 17 "is" has been struck and "are" inserted.

LEGISLATIVE BILL 629. Placed on Final Reading.

(Signed) Matt Hansen, Chairperson

ATTORNEY GENERAL'S OPINION

Opinion 15-007

SUBJECT: Constitutionality of Oral Health Training and Services
Fund Under Neb. Const. art. VII, § 11

REQUESTED BY: Senator Heath Mello
Nebraska Legislature

WRITTEN BY: Douglas J. Peterson, Attorney General
Lynn A. Melson, Assistant Attorney General

On April 30, 2015, we received your opinion request regarding the constitutionality of an Oral Health Training and Services Fund that is proposed in the Appropriation Committee's budget recommendations in Section 173 of AM 829 to LB 657, Section 38 of AM 831 to LB 661 and subsection (13) of AM 1246 to LB 662. Your letter refers to a particular case, *State ex rel. Creighton Univ. v. Smith*, 217 Neb. 682, 353 N.W.2d 267 (1984), in which the Nebraska Supreme Court discussed art. VII, §11 of the Nebraska Constitution. Therefore, it is our understanding that your concerns involve that constitutional provision. For the reasons set forth below, we conclude that contract payments from the Fund to both public and private institutions for oral health services and oral health workforce development as proposed in this legislation would not violate art. VII, §11 of the Nebraska Constitution.

As noted in your opinion request, AM 831 to LB 661 provides that the intent of this legislation is to develop a workforce in the practice of dentistry and oral health care, to disperse the workforce to assist at-risk populations and to focus efforts where most needed. You explained that Nebraska has a severe shortage of oral health care providers, that 82 counties are shortage areas in pediatric dentistry and that a majority of the 93 counties are general dentistry shortage areas. Under AM 831 as adopted by the Legislature on April 30, 2015, the Coordinating Commission for Postsecondary Education would administer the Oral Health Training and Services Fund and enter into a contract for certain oral health services and oral health workforce development. To be eligible to enter into a contract, an applicant would need to be "a corporation exempt for federal tax purposes under section 501(c)(3) of the Internal Revenue Code" and to submit a plan "to provide

oral health training, including assistance for the graduation of at least seventy-five dental students annually” and to provide discounted or charitable oral health services. In addition, the applicant must submit five letters of intent with school districts or federally qualified health centers to provide discounted or charitable oral health services. The plan must also include a proposal to provide training at a reduced fee to those students who agree to practice dentistry in shortage areas and a proposal to provide services using telehealth as defined in Neb. Rev. Stat. § 71-8503.

In your request letter, you stated that both private and public institutions may apply for the contract funds. You further explained that a question was raised as to the constitutionality of the legislation and you cited the case of *State ex rel. Creighton University v. Smith* in which Neb. Const. art. VII, § 11 is discussed. Article VII, § 11 prohibits the appropriation of public funds “to any school or institution of learning not owned or exclusively controlled by the state or a political subdivision thereof. . . .” However, the Nebraska Supreme Court has held this constitutional provision does not prevent the state from contracting with private institutions in fulfilling a governmental duty and furthering a public purpose.

The Supreme Court has analyzed art. VII, § 11 and upheld statutes that authorize the transportation of nonpublic school students on public school buses, grant scholarships for financial assistance to students attending nonpublic institutions, reimburse nonpublic educational institutions for the education of state wards, and that require public schools to lend textbooks to students in nonpublic schools. See *State ex rel. Bouc v. School Dist. Of City of Lincoln*, 211 Neb. 731, 320 N.W.2d 472 (1982); *Lenstrom v. Thone*, 209 Neb. 783, 311 N.W.2d 884 (1981); *Father Flanagan’s Boys Home v. Dep’t of Social Services*, 255 Neb. 303, 583 N.W.2d 774 (1998); and *Cunningham v. Lutjeharms*, 231 Neb. 756, 437 N.W.2d 806 (1989).

In *State ex rel. Creighton University v. Smith*, a contract between the state and a nonpublic medical school involving cancer research was found constitutional. In *Smith*, Creighton University sought a writ of mandamus requiring the state to consider its contract proposal for cancer research submitted pursuant to Neb. Rev. Stat. § 81-638. This statute appropriated funds to the Department of Health and Human Services to be distributed as grants and contracts for cancer research to the University of Nebraska and other postsecondary educational institutions. The Court recognized the state’s constitutional authority to contract for a public purpose, held that the act (§§ 82-637 through 81-640) was constitutional, and affirmed the issuance of a writ of mandamus requiring the state to consider Creighton University for these grants and contracts. “Regarding appropriation of public funds, to appropriate means to set apart, or assign to a particular person or use in exclusion of others, to use or employ for a particular purpose, or in a particular case.” *Id.* at 688, 353 N.W.2d at 271. The fact that a nonpublic institution derives a benefit from the contract “does not transform payments for contracted services into an appropriation of public funds proscribed by article VII, § 11” *Id.* at 689, 353 N.W.2d at 272.

“The act, §§ 81-637 through 81-640, does not set aside state money for Creighton’s special use and does not vest in Creighton any right to receive state funds. Under these circumstances there is no appropriation of public funds to Creighton.” *Id.* at 690, 353 N.W.2d at 272.

We must then determine whether contract payments pursuant to the Appropriations Committee’s proposed legislation would be considered “appropriations.”¹ The public purpose is set out in the intent language of the legislation as providing for the development of a skilled and diverse workforce in order to provide for the oral health of all Nebraska residents, especially at-risk populations. You have explained that both public and private institutions may apply for the contracts to be administered by the Coordinating Commission for Postsecondary Education. To the extent that a question has arisen regarding the eligible applicants for these contracts, it is our understanding that further amendments are being considered which would clarify that both public and private institutions may apply for the contracts. Applying the principles set forth in *Smith*, it appears to us that the Legislature has the right to contract with both public and private entities to achieve its public policy objectives and that, with this further clarification, the contract funds would not be considered “appropriations.” Therefore, since the legislation, on its face, would not authorize appropriations to nonpublic schools, it would not violate Neb. Const. art. VII, § 11.

¹ In our *Op. Att’y Gen. No. 03020* (July 30, 2003), we discussed Neb. Const. art. VII, § 11 and concluded that payments from a Nebraska Soil and Water Conservation Fund to eligible landowners, including nonpublic schools and churches, were grants to achieve environmental objectives, not “appropriations.” In an earlier opinion, *Op. Att’y Gen. No. 95018* (March 9, 1995), we discussed the same constitutional provision in connection with grants awarded from the Education Innovation Fund and determined that certain direct grants to nonpublic schools would be prohibited. Upon review, we consider the more recent 2003 opinion to be more consistent with Nebraska caselaw, including the *Smith* case.

Douglas J. Peterson
Attorney General
(Signed) Lynn A. Melson
Assistant Attorney General

pc. Patrick J. O'Donnell
Clerk of the Nebraska Legislature

09-521-29

RESOLUTION(S)**LEGISLATIVE RESOLUTION 249.** Introduced by Coash, 27.

PURPOSE: The purpose of this resolution is to examine the use of seclusion in public and private schools for children with behavioral issues or special needs. The issues examined in this study shall include, but not be limited to:

(1) A review of current state and local policies, procedures, rules, and regulations in public and private schools regarding the use of seclusion for students;

(2) A review of current state and local policies, procedures, rules, and regulations in public and private schools regarding the training and supervision of staff who use seclusion and work with students with behavioral issues or special needs;

(3) A review of best practices on the use of seclusion in public and private schools developed and adopted at the local, state, or national level; and

(4) Any data compiled by the State Department of Education on the use of seclusion.

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

1. That the Education 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.

AMENDMENT(S) - Print in Journal

Senator Schumacher filed the following amendment to LB285:

AM1474

(Amendments to Standing Committee amendments, AM1426)

1 1. Insert the following new sections:

2 Section 1. Section 13-2703, Revised Statutes Cumulative Supplement,

3 2014, is amended to read:

4 13-2703 For purposes of the Civic and Community Center Financing

5 Act:

6 (1) Civic center means a facility that is primarily used to host

7 conventions, meetings, and cultural events and a library;

8 (2) Community center means the traditional center of a community,

9 typically comprised of a cohesive core of residential, civic, religious,

10 and commercial buildings, arranged around a main street and intersecting

11 streets;

12 (3) Department means the Department of Economic Development;

13 (4) Fund means the Civic and Community Center Financing Fund;

14 (5) Historic building means a building eligible for listing on or

15 currently listed on the National Register of Historic Places; ~~and~~

16 (6) Public entity means (a) a city, (b) a village, or (c) a county
 17 agricultural society or county fair board in a county with a population
 18 of less than one hundred thousand inhabitants that operates a civic
 19 center, community center, or recreation center which is not within a city
 20 or village; and

21 (7) ~~6~~ Recreation center means a facility used for athletics,
 22 fitness, sport activities, or recreation that is owned by a public entity
 23 ~~municipality~~ and is available for use by the general public with or
 24 without charge. Recreation center does not include any facility that
 25 requires a person to purchase a membership to utilize such facility.
 26 Sec. 2. Section 13-2705, Revised Statutes Cumulative Supplement,
 1 2014, is amended to read:

2 13-2705 The department may conditionally approve grants of
 3 assistance from the fund to eligible and competitive applicants within
 4 the following limits:

5 (1) Except as provided in subdivision (2) of this section, a grant
 6 request shall be in an amount meeting the following requirements:

7 (a) For a grant of assistance under section 13-2704.01, at least ten
 8 thousand dollars but no more than:

9 (i) For a city of the primary class, one million five hundred
 10 thousand dollars;

11 (ii) For a public entity ~~municipality~~ with a population of forty
 12 thousand but less than one hundred thousand, seven hundred fifty thousand
 13 dollars;

14 (iii) For a public entity ~~municipality~~ with a population of twenty
 15 thousand but less than forty thousand, five hundred thousand dollars;

16 (iv) For a public entity ~~municipality~~ with a population of ten
 17 thousand but less than twenty thousand, four hundred thousand dollars;
 18 and

19 (v) For a public entity ~~municipality~~ with a population of less than
 20 ten thousand, two hundred fifty thousand dollars; and

21 (b) For a grant of assistance under section 13-2704.02, at least two
 22 thousand dollars but no more than ten thousand dollars;

23 (2) Upon the balance of the fund reaching two million five hundred
 24 thousand dollars, and until the balance of the fund falls below one
 25 million dollars, a grant request shall be in an amount meeting the
 26 following requirements:

27 (a) For a grant of assistance under section 13-2704.01, at least ten
 28 thousand dollars but no more than:

29 (i) For a city of the primary class, two million two hundred fifty
 30 thousand dollars;

31 (ii) For a public entity ~~municipality~~ with a population of forty
 1 thousand but less than one hundred thousand, one million one hundred
 2 twenty-five thousand dollars;

3 (iii) For a public entity ~~municipality~~ with a population of twenty
 4 thousand but less than forty thousand, seven hundred fifty thousand
 5 dollars;

6 (iv) For a public entity ~~municipality~~ with a population of ten
 7 thousand but less than twenty thousand, six hundred thousand dollars; and

8 (v) For a ~~public entity municipality~~ with a population of less than
9 ten thousand, three hundred seventy-five thousand dollars; and
10 (b) For a grant of assistance under section 13-2704.02, at least two
11 thousand dollars but no more than ten thousand dollars;
12 (3) Assistance from the fund shall not amount to more than fifty
13 percent of the cost of the project for which a grant is requested; and
14 (4) A ~~public entity municipality~~ shall not be awarded more than one
15 grant of assistance under section 13-2704.01 and one grant of assistance
16 under section 13-2704.02 in any five-year period.
17 For purposes of determining the population of public entities under
18 this section, the population of a county agricultural society or county
19 fair board shall be the population of the county in which such county
20 agricultural society or county fair board is located.
21 Sec. 3. Section 13-2706, Reissue Revised Statutes of Nebraska, is
22 amended to read:
23 13-2706 (1) Except as provided in subsection (2) of this section for
24 a city of the primary class, any ~~public entity municipality~~ that has
25 applied for and received a grant of assistance under the Sports Arena
26 Facility Financing Assistance Act shall not receive state assistance
27 under the Civic and Community Center Financing Act for the same project
28 for which the grant was awarded under the Sports Arena Facility Financing
29 Assistance Act.
30 (2) A city of the primary class shall not be eligible to receive a
31 grant of assistance from the Civic and Community Center Financing Act if
1 the city has applied for and received a grant of assistance under the
2 Sports Arena Facility Financing Assistance Act.
3 (3) Any city that has received funding under the Convention Center
4 Facility Financing Assistance Act shall not receive state assistance
5 under the Civic and Community Center Financing Act.
6 (4) Any ~~public entity municipality~~ eligible for a grant of
7 assistance as provided in this section may apply for a grant of
8 assistance from the fund. Application shall be made on forms developed by
9 the department.
10 Sec. 4. Section 13-2707, Revised Statutes Cumulative Supplement,
11 2014, is amended to read:
12 13-2707 (1) The department shall evaluate all applications for
13 grants of assistance under section 13-2704.01 based on the following
14 criteria, which are listed in no particular order of preference:
15 (a) Retention Impact. Funding decisions by the department shall be
16 based on the likelihood of the project retaining existing residents in
17 the community where the project is located, developing, sustaining, and
18 fostering community connections, and enhancing the potential for economic
19 growth in a manner that will sustain the quality of life and promote
20 long-term economic development;
21 (b) New Resident Impact. Funding decisions by the department shall
22 be based on the likelihood of the project attracting new residents to the
23 community where the project is located;
24 (c) Visitor Impact. Funding decisions by the department shall be
25 based on the likelihood of the project enhancing or creating an

26 attraction that would increase the potential of visitors to the community
 27 where the project is located from inside and outside the state;
 28 (d) Readiness. The applicant's fiscal and economic capacity to
 29 finance the local share and ability to proceed and implement its plan and
 30 operate the civic center, community center, or recreation center; and
 31 (e) Project Planning. Projects with completed technical assistance
 1 and feasibility studies shall be preferred to those with no prior
 2 planning.
 3 (2) Any grant of assistance under section 13-2704.01 shall be
 4 matched at least equally from local sources. At least fifty percent of
 5 the local match must be in cash.
 6 (3) To receive a grant of assistance under section 13-2704.01, the
 7 project for which the grant is requested shall be located in the city or
 8 village municipality that applies for the grant or, if the grant is
 9 requested by a county agricultural society or county fair board, the
 10 county in which the county agricultural society or county fair board is
 11 located.
 12 Sec. 5. Section 13-2707.01, Revised Statutes Cumulative Supplement,
 13 2014, is amended to read:
 14 13-2707.01 The department shall evaluate all applications for grants
 15 of assistance under section 13-2704.02 based on the following criteria:
 16 (1) Financial Support. Assistance from the fund shall be matched at
 17 least equally from local sources. At least fifty percent of the local
 18 match must be in cash. Projects with a higher level of local matching
 19 funds shall be preferred as compared to those with a lower level of
 20 matching funds; and
 21 (2) Project Location. Assistance from the fund shall be for
 22 engineering and technical studies related to projects that will be
 23 located in the city or village municipality that applies for the grant
 24 or, if the grant is requested by a county agricultural society or county
 25 fair board, the county in which the county agricultural society or county
 26 fair board is located.
 27 2. On page 1, lines 11 and 26, strike "municipality", show as
 28 stricken, and insert "public entity".
 29 3. Renumber the remaining sections and correct the repealer
 30 accordingly.

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of May 6, 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

Cunningham, Colleen
 Equal Justice USA
 Mahlman, Dale
 Nebraska Medical Association

Ragland, Jina
Nebraska Medical Association

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>

MOTION - Suspend Rules

Senator Chambers offered his motion, found on page 1422, to suspend the rules, Rule 5, Section 4(c), to permit the introduction of a bill (Req. 3103) after the tenth legislative day.

SPEAKER HADLEY PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Senator Chambers requested a record vote on the motion to suspend the rules.

Voting in the affirmative, 37:

Baker	Davis	Hilkemann	Mello	Seiler
Bolz	Ebke	Howard	Morfeld	Smith
Campbell	Garrett	Johnson	Nordquist	Sinner
Chambers	Gloor	Kolowski	Pansing Brooks	Sullivan
Coash	Haar, K.	Kolterman	Scheer	Williams
Cook	Hadley	Krist	Schilz	
Craighead	Hansen	Kuehn	Schnoor	
Crawford	Harr, B.	Lindstrom	Schumacher	

Voting in the negative, 6:

Brasch	McCollister	Murante
Larson	McCoy	Riepe

Present and not voting, 6:

Bloomfield	Groene	Kintner
Friesen	Hughes	Watermeier

The Chambers motion to suspend the rules prevailed with 37 ayes, 6 nays, and 6 present and not voting.

The Chair declared the call raised.

BILL ON FIRST READING

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

LEGISLATIVE BILL 664. Introduced by Chambers, 11; Baker, 30; Bolz, 29; Campbell, 25; Cook, 13; Craighead, 6; Crawford, 45; Davis, 43; Ebke, 32; Friesen, 34; Groene, 42; Haar, K., 21; Harr, B., 8; Hughes, 44; Johnson, 23; Kolowski, 31; Kolterman, 24; Krist, 10; Kuehn, 38; McCollister, 20; Mello, 5; Nordquist, 7; Pansing Brooks, 28; Riepe, 12; Schilz, 47; Schnoor, 15; Schumacher, 22; Seiler, 33; Smith, 14; Stinner, 48; Sullivan, 41; Williams, 36.

A BILL FOR AN ACT relating to the Nebraska Oil and Gas Conservation Commission; to amend sections 57-903 and 57-905, Reissue Revised Statutes of Nebraska; to provide duties for the commission regarding the disposal of wastewater; to define a term; to repeal the original sections; and to declare an emergency.

BILLS ON FINAL READING**Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB72 with 42 ayes, 1 nay, and 6 present and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 72.

A BILL FOR AN ACT relating to decedents' estates; to amend sections 30-3880, 30-3881, 30-3882, and 77-2018.02, Reissue Revised Statutes of Nebraska, and section 68-919, Revised Statutes Cumulative Supplement, 2014; to restrict transfers and distributions by trustees; to provide for waiver of restrictions; to provide for collection of debt due to medicaid reimbursement obligations as prescribed; to require notice of inheritance tax petitions as prescribed; to harmonize provisions; to provide severability; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Baker	Ebke	Harr, B.	Kuehn	Riepe
Bolz	Friesen	Hilkemann	Lindstrom	Schnoor
Campbell	Garrett	Howard	McCollister	Schumacher
Chambers	Gloor	Hughes	McCoy	Seiler
Coash	Groene	Kintner	Mello	Smith
Cook	Haar, K.	Kolowski	Morfeld	Stinner
Craighead	Hadley	Kolterman	Nordquist	Sullivan
Crawford	Hansen	Krist	Pansing Brooks	Williams

Voting in the negative, 8:

Bloomfield	Davis	Murante	Schilz
Brasch	Larson	Scheer	Watermeier

Present and not voting, 1:

Johnson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bill was read and put upon final passage:

LEGISLATIVE BILL 72A.

A BILL FOR AN ACT relating to appropriations; to reduce appropriations to aid in carrying out the provisions of Legislative Bill 72, One Hundred Fourth Legislature, First Session, 2015.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Baker	Crawford	Hansen	Kuehn	Riepe
Bloomfield	Ebke	Harr, B.	Lindstrom	Schnoor
Bolz	Friesen	Howard	McCollister	Schumacher
Campbell	Garrett	Hughes	McCoy	Seiler
Chambers	Gloor	Kintner	Mello	Smith
Coash	Groene	Kolowski	Morfeld	Stinner
Cook	Haar, K.	Kolterman	Nordquist	Sullivan
Craighead	Hadley	Krist	Pansing Brooks	Williams

Voting in the negative, 4:

Brasch	Davis	Larson	Scheer
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Present and not voting, 5:

Hilkemann Johnson Murante Schilz Watermeier

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB80 with 45 ayes, 1 nay, and 3 present and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 80.

A BILL FOR AN ACT relating to the Dentistry Practice Act; to amend sections 38-1101, 38-1102, 38-1108, 38-1112, 38-1113, 38-1137, 38-1138, 38-1139, 38-1140, 38-1141, 38-1142, 38-1143, 38-1144, 38-1145, 38-1146, 38-1147, and 38-1148, Reissue Revised Statutes of Nebraska; to provide, change, and eliminate requirements for permits for anesthesia, analgesia, and sedation as prescribed; to provide, change, and eliminate definitions; to provide requirements for sedation; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

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

Voting in the negative, 0.

Present and not voting, 2:

Bloomfield Schilz

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bills were read and put upon final passage:

LEGISLATIVE BILL 85.

A BILL FOR AN ACT relating to the Livestock Brand Act; to amend section 54-1,108, Revised Statutes Cumulative Supplement, 2014; to increase the maximum brand inspection fee amount that may be established by the Nebraska Brand Committee; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

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

Voting in the negative, 0.

Present and not voting, 5:

Groene	Harr, B.	Larson	Watermeier	Williams
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 132.

A BILL FOR AN ACT relating to the Joint Public Agency Act; to amend section 13-2507, Reissue Revised Statutes of Nebraska; to change the power of and procedures for joint public agencies to issue bonds and levy a property tax as prescribed; to provide for an election; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

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

Voting in the negative, 1:

Pansing Brooks

Present and not voting, 1:

Morfeld

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB141 with 46 ayes, 1 nay, and 2 present and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 141. With Emergency Clause.

A BILL FOR AN ACT relating to the Public Entities Mandated Project Charges Act; to amend sections 70-1801, 70-1802, 70-1803, 70-1806, 70-1812, and 70-1813, Reissue Revised Statutes of Nebraska; to define and redefine terms; to change provisions relating to authorizing resolutions and mandated project charges; to provide for creation of mandated project bond issuers and to provide powers and duties; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 49:

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

Voting in the negative, 0.

Not voting, 0.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bills were read and put upon final passage:

LEGISLATIVE BILL 240.

A BILL FOR AN ACT relating to behavioral health; to amend section 71-8512, Revised Statutes Cumulative Supplement, 2014; to change the termination date of the Behavioral Health Screening and Referral Pilot Program; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 36:

Baker	Davis	Hilkemann	Mello	Seiler
Bolz	Ebke	Howard	Morfeld	Smith
Campbell	Friesen	Hughes	Nordquist	Sullivan
Chambers	Gloor	Johnson	Pansing Brooks	Williams
Coash	Haar, K.	Kolowski	Scheer	
Cook	Hadley	Kolterman	Schilz	
Craighead	Hansen	Krist	Schnoor	
Crawford	Harr, B.	Kuehn	Schumacher	

Voting in the negative, 9:

Bloomfield	Groene	Lindstrom	McCoy	Riepe
Brasch	Kintner	McCollister	Murante	

Present and not voting, 4:

Garrett	Larson	Stinner	Watermeier
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 253.

A BILL FOR AN ACT relating to homesteads; to amend section 40-104, Reissue Revised Statutes of Nebraska; to provide when acknowledgment is not required; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 49:

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

Voting in the negative, 0.

Not voting, 0.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 264.

A BILL FOR AN ACT relating to the Uniform Credentialing Act; to amend section 38-126, Reissue Revised Statutes of Nebraska, and section 38-101, Revised Statutes Cumulative Supplement, 2014; to provide for issuance of credentials based on military education, training, or service; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

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

Voting in the negative, 0.

Present and not voting, 1:

Harr, B.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 317.

A BILL FOR AN ACT relating to railroads; to withdraw from and repeal the Midwest Interstate Passenger Rail Compact; to provide an operative date; and to outright repeal sections 74-1601, 74-1602, and 74-1603, Reissue Revised Statutes of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 39:

Baker	Ebke	Howard	McCollister	Schumacher
Bloomfield	Friesen	Hughes	McCoy	Seiler
Brasch	Garrett	Johnson	Morfeld	Smith
Campbell	Gloor	Kintner	Murante	Stinner
Coash	Groene	Kolterman	Riepe	Sullivan
Craighead	Hadley	Kuehn	Scheer	Watermeier
Crawford	Harr, B.	Larson	Schilz	Williams
Davis	Hilkemann	Lindstrom	Schnoor	

Voting in the negative, 6:

Bolz	Cook	Nordquist
Chambers	Kolowski	Pansing Brooks

Present and not voting, 4:

Haar, K.	Hansen	Krist	Mello
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB348 with 42 ayes, 1 nay, and 6 present and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 348. With Emergency Clause.

A BILL FOR AN ACT relating to financial institutions; to amend section 8-101, Reissue Revised Statutes of Nebraska, and sections 8-157.01 and 28-636, Revised Statutes Cumulative Supplement, 2014; to define and redefine terms; to change provisions relating to automatic teller machines and point-of-sale terminals; to change and eliminate provisions relating to branch banking; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 49:

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

Voting in the negative, 0.

Not voting, 0.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB449 with 44 ayes, 1 nay, and 4 present and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 449. With Emergency Clause.

A BILL FOR AN ACT relating to state government; to amend sections 81-12,153, 81-12,157, 81-12,158, 81-12,159, 81-12,160, 81-12,161, 81-12,162, 81-12,163, 81-12,166, 81-3701, 81-3703, 81-3711, and 81-3714, Reissue Revised Statutes of Nebraska; to change provisions of the Business Innovation Act; to redefine a term; to change limitations on and requirements for funding projects, financial assistance, and microloans; to restate intent regarding appropriations; to provide for confidentiality of certain records; to change provisions of the Nebraska Visitors Development Act; to provide powers and duties for the Nebraska Tourism Commission; to provide for highway tourism markers and marketing assistance grants; to create a fund; to state intent regarding tourism; to provide operative dates; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 48:

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

Voting in the negative, 0.

Present and not voting, 1:

Harr, B.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bill was read and put upon final passage:

LEGISLATIVE BILL 458.

A BILL FOR AN ACT relating to insurance; to amend sections 44-3903, 44-3910, 44-4047, and 44-4052, Reissue Revised Statutes of Nebraska; to authorize limited lines travel insurance producer licenses; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

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

Voting in the negative, 0.

Present and not voting, 1:

Craighead

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB519 with 45 ayes, 1 nay, and 3 present and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 519.

A BILL FOR AN ACT relating to education; to amend sections 79-8,134, 79-8,137, 79-8,137.01, 79-8,137.02, 79-8,137.03, 79-8,137.04, 79-8,137.05, 79-1001, 79-1003, 79-1007.11, 79-1017.01, 79-1337, 85-1412, and 85-1920, Reissue Revised Statutes of Nebraska, and section 9-812, Revised Statutes Cumulative Supplement, 2014; to change provisions relating to the Nebraska Education Improvement Fund, the Attracting Excellence to

Teaching Program, the Enhancing Excellence in Teaching Program, the Tax Equity and Educational Opportunities Support Act, distance education incentives, the Coordinating Commission for Postsecondary Education, and the Nebraska Opportunity Grant Fund; to provide for competitive innovation grants; to create funds; to provide for best practices aid; to adopt the Expanded Learning Opportunity Grant Program Act and the Community College Gap Assistance Program Act; to require a study of postsecondary education by the Education Committee of the Legislature; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to outright repeal section 79-2306, Reissue Revised Statutes of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

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

Voting in the negative, 0.

Present and not voting, 1:

Craighead

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bill was read and put upon final passage:

LEGISLATIVE BILL 519A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 519, One Hundred Fourth Legislature, First Session, 2015.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 49:

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

Voting in the negative, 0.

Not voting, 0.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB561 with 43 ayes, 1 nay, and 5 present and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 561.

A BILL FOR AN ACT relating to irrigation districts; to amend sections 46-101, 46-102, 46-109, 46-110, 46-111, 46-115, 46-116, 46-117, 46-151, 46-179, 46-185, 46-1,145, and 46-1,160, Reissue Revised Statutes of Nebraska; to name the Irrigation District Act; to define and redefine terms; to provide procedures for determining eligibility to vote and for conducting elections by mail; to change provisions relating to elections; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

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

Voting in the negative, 0.

Present and not voting, 1:

Craighead

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bills were read and put upon final passage:

LEGISLATIVE BILL 414.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 44-1095, Reissue Revised Statutes of Nebraska, and section 77-202, Revised Statutes Cumulative Supplement, 2014; to provide a property tax exemption for fraternal benefit societies; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 33:

Baker	Hadley	Krist	Murante	Smith
Bloomfield	Hansen	Kuehn	Nordquist	Stinner
Bolz	Harr, B.	Larson	Pansing Brooks	Sullivan
Coash	Hilkemann	Lindstrom	Riepe	Watermeier
Craighead	Johnson	McCollister	Scheer	Williams
Garrett	Kolowski	Mello	Schilz	
Haar, K.	Kolterman	Morfeld	Seiler	

Voting in the negative, 13:

Brasch	Crawford	Gloor	Kintner	Schumacher
Chambers	Davis	Groene	McCoy	
Cook	Ebke	Hughes	Schnoor	

Present and not voting, 3:

Campbell Friesen Howard

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 610.

A BILL FOR AN ACT relating to motor fuels; to amend sections 66-489, 66-4,105, 66-4,145, 66-4,146, 66-6,107, and 66-6,109, Reissue Revised Statutes of Nebraska; to change excise taxes as prescribed; to eliminate obsolete provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 26:

Baker	Haar, K.	Kolowski	Nordquist	Stinner
Campbell	Hadley	Kolterman	Pansing Brooks	Williams
Coash	Harr, B.	Kuehn	Scheer	
Crawford	Howard	Lindstrom	Schumacher	
Friesen	Hughes	McCollister	Seiler	
Gloor	Johnson	Morfeld	Smith	

Voting in the negative, 15:

Bloomfield	Chambers	Ebke	Kintner	Murante
Bolz	Craighead	Garrett	Larson	Sullivan
Brasch	Davis	Groene	McCoy	Watermeier

Present and not voting, 8:

Cook	Hilkemann	Mello	Schilz
Hansen	Krist	Riepe	Schnoor

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 610A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 610, One Hundred Fourth Legislature, First Session, 2015.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 27:

Baker	Haar, K.	Kolowski	Morfeld	Smith
Campbell	Hadley	Kolterman	Nordquist	Stinner
Coash	Harr, B.	Krist	Pansing Brooks	Williams
Crawford	Howard	Kuehn	Scheer	
Friesen	Hughes	Lindstrom	Schumacher	
Gloor	Johnson	McCollister	Seiler	

Voting in the negative, 12:

Bloomfield	Craighead	Groene	McCoy
Brasch	Ebke	Kintner	Murante
Chambers	Garrett	Larson	Sullivan

Present and not voting, 10:

Bolz	Davis	Hilkemann	Riepe	Schnoor
Cook	Hansen	Mello	Schilz	Watermeier

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 72, 72A, 80, 85, 132, 141, 240, 253, 264, 317, 348, 449, 458, 519, 519A, 561, 414, 610, and 610A.

RESOLUTION(S)

Pursuant to Rule 4, Sec. 5(b), LRs 209, 210, 219, 220, 221, 224, and 225 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 209, 210, 219, 220, 221, 224, and 225.

GENERAL FILE

LEGISLATIVE BILL 329. Title read. Considered.

Committee AM1042, found on page 1036, was offered.

SENATOR SCHEER PRESIDING

Senator Schilz withdrew his amendments, AM1264 and AM1533, found on pages 1196 and 1446.

Senator Schilz offered the following amendment to the committee amendment:

AM1580

(Amendments to Standing Committee amendments, AM1042)

1 1. Strike amendments 1 to 5 and all amendments thereto and insert

2 the following new amendment:

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

4 sections:

5 Section 1. Sections 1 to 7 of this act shall be known and may be

6 cited as the Nebraska Agritourism Promotion Act.

7 Sec. 2. The purposes of the Nebraska Agritourism Promotion Act are

8 to:

9 (1) Promote tourism and rural economic development by encouraging

10 owners of farms, ranches, and other rural land, including agricultural,

11 historical, ecological, cultural, and natural attractions, to allow

12 access to members of the public for educational, entertainment, and

13 recreational purposes;

14 (2) Promote a better understanding by visitors of agricultural

15 operations and features, including the production of livestock and

16 agricultural products, the land and other natural attributes, and

17 wildlife; and

18 (3) Encourage agritourism activities by limiting civil liability of

19 owners of farms, ranches, and other rural land.

20 Sec. 3. For purposes of the Nebraska Agritourism Promotion Act:

21 (1) Agritourism activities include any one or any combination of the

22 following: Hunting, fishing, swimming, boating, canoeing, kayaking,

23 tubing, water sports, camping, picnicking, hiking, backpacking,

24 bicycling, horseback riding, nature study, birding, farm, ranch, and

25 vineyard tours and activities, harvest-your-own activities, waterskiing,

26 snow-shoeing, cross-country skiing, visiting and viewing historical,

1 ecological, archaeological, scenic, or scientific sites, and similar

2 activities;

3 (2) Fee means the amount of money asked in return for an invitation

4 or permission to enter the premises;

5 (3) Inherent risks means those conditions, dangers, or hazards that

6 are an integral part of land or waters used for agritourism activities,

7 including the following:

8 (a) Surface and subsurface conditions and natural conditions of

9 land, vegetation, and waters;
10 (b) The behavior of wild or domestic animals;
11 (c) The ordinary dangers of structures or equipment ordinarily used
12 in farming or ranching operations when such structures or equipment are
13 used for farming or ranching purposes; and
14 (d) The potential of a participant to act in a negligent way that
15 may contribute to injury to the participant or others whether by failing
16 to follow safety procedures or failing to act with reasonable caution
17 while engaging in an agritourism activity.
18 Inherent risks does not include any act or omission occurring while
19 the actor was under the influence of alcohol or illegal drugs or any
20 action, activity, process, or condition that would otherwise be a
21 violation of any other statute or rule or regulation of the State of
22 Nebraska, a state regulatory body, or a political subdivision;
23 (4) Owner includes any person who is a tenant, lessee, occupant, or
24 person in control of the premises or any agent of such a person whose
25 gross annual income from agritourism activities does not exceed five
26 hundred thousand dollars;
27 (5) Participant means an individual who engages in agritourism
28 activities on premises owned by another but does not include an owner of
29 the premises or any agent, employee, or contractor of the owner;
30 (6) Person means an individual, corporation, limited liability
31 company, partnership, unincorporated association, or other legal or
1 commercial entity and does not include a governmental entity or political
2 subdivision; and
3 (7) Premises includes land, roads, pathways, trails, water,
4 watercourses, private ways, and buildings and structures attached to the
5 land outside of cities and villages and does not include land zoned
6 commercial, industrial, or residential.
7 Sec. 4. (1) Except as provided in section 5 of this act, an owner
8 who allows a participant on the owner's premises for agritourism
9 activities shall not be liable for injury to or death of the participant
10 or damage to the participant's property resulting solely from an inherent
11 risk on the owner's premises.
12 (2) Except as provided in section 5 of this act, no participant or
13 participant's representative shall maintain an action against or recover
14 for injury to or death of the participant or damage to the participant's
15 property resulting solely from an inherent risk on the owner's premises
16 when such owner allows the participant on the owner's premises for
17 agritourism activities.
18 Sec. 5. Nothing in the Nebraska Agritourism Promotion Act limits
19 any liability of an owner:
20 (1) Who has actual knowledge of a particular dangerous condition on
21 the owner's premises and does not make the particular danger known to the
22 participant if the particular danger is a proximate cause of injury to or
23 death of the participant or damage to the participant's property;
24 (2) Who reasonably should have known of a particular dangerous
25 condition of equipment used or kept on the owner's premises and does not
26 make the particular danger known to the participant if the particular

27 danger is a proximate cause of injury to or death of the participant or
 28 damage to the participant's property;
 29 (3) Who fails to properly train or supervise or improperly or
 30 inadequately trains or supervises employees who are actively involved in
 31 agritourism activities and an act or omission of the employee resulting
 1 from improper or inadequate training or supervision is a proximate cause
 2 of injury to or death of the participant or damage to the participant's
 3 property; or
 4 (4) Who commits an act or omission that is a proximate cause of
 5 injury to or the death of the participant or damage to the participant's
 6 property if the act or omission:
 7 (a) Constitutes willful or wanton disregard for the safety of the
 8 participant;
 9 (b) Constitutes gross negligence; or
 10 (c) Was intentional.
 11 Sec. 6. (1) Nothing in section 4 of this act limits any liability
 12 of an owner who receives a fee for allowing a participant on the premises
 13 if the owner fails to do at least one of the following:
 14 (a) Post and maintain signage containing the warning as described in
 15 subsection (2) of this section in a clearly visible and conspicuous
 16 location at or near the entrance to the property used for agritourism
 17 activities; or
 18 (b) Include the warning as described in subsection (2) of this
 19 section in any written contract between the owner of the property and
 20 each participant allowed on the premises for a fee. Such warning shall be
 21 in a conspicuous location within the contract and be written in not less
 22 than twelve-point boldface type.
 23 (2) The warning notice shall read as follows: WARNING - Under
 24 Nebraska law, an owner of property, including lands and waters, is not
 25 liable for the injury to or death of the participant in agritourism
 26 activities or damage to the participant's property resulting solely from
 27 the inherent risks of such activities. Inherent risks include, without
 28 limitation, the risk of animals and land and water conditions, the
 29 ordinary dangers of structures or equipment ordinarily used in farming or
 30 ranching operations, and the potential for you or another participant to
 31 act in a negligent manner that may contribute to your own injury or
 1 death. You are assuming the risk of participating in the agritourism
 2 activities for which you are entering the owner's premises.
 3 Sec. 7. Nothing in the Nebraska Agritourism Promotion Act limits
 4 the obligation of a participant entering upon or using premises of
 5 another for agritourism activities to exercise due care in his or her use
 6 of such premises and in his or her agritourism activities on the
 7 premises.

Senator Johnson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 1 nay, and 21 not voting.

The Schilz amendment was adopted with 34 ayes, 0 nays, 12 present and not

voting, and 3 excused and not voting.

The committee amendment, as amended, was adopted with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 1 nay, 12 present and not voting, and 3 excused and not voting.

NOTICE OF COMMITTEE HEARING(S)

General Affairs

Room 1510

Thursday, May 14, 2015 12:00 p.m.

Terry L. Scoville - Nebraska Commission on Problem Gambling
Paul Leckband - Nebraska Commission on Problem Gambling
James S. Brummer - State Electrical Board
Janelle Beveridge - State Racing Commission

(Signed) Tyson Larson, Chairperson

COMMUNICATION(S)

May 7, 2015

The Honorable John Gale
Secretary of State
2300 State Capitol
Lincoln, NE 68509

Dear Mr. Secretary:

Consistent with our rules, I am forwarding LB89 and LB89A for deposit in your office. Legislative rules require us to deliver the bills to your office following the receipt of a veto message when no motions, to override have been offered.

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

PJO:jk

AMENDMENT(S) - Print in Journal

Senator Sullivan filed the following amendment to LB525:
AM1487

(Amendments to E and R amendments, ER120)

1 1. On page 64, line 18, strike "plan" and insert "program"; and in

2 line 21 after "Education" insert "adopted and promulgated pursuant to
3 section 79-777".

NOTICE OF COMMITTEE HEARING(S)
Nebraska Retirement Systems

Room 1525

Monday, May 18, 2015 8:30 a.m.

J. Russell Derr - Public Employees Retirement Board

(Signed) Jeremy Nordquist, Chairperson

COMMITTEE REPORT(S)
Enrollment and Review

LEGISLATIVE BILL 195. Placed on Final Reading.
LEGISLATIVE BILL 287. Placed on Final Reading.
LEGISLATIVE BILL 291. Placed on Final Reading.
LEGISLATIVE BILL 296. Placed on Final Reading.
LEGISLATIVE BILL 310. Placed on Final Reading.
LEGISLATIVE BILL 375. Placed on Final Reading.
LEGISLATIVE BILL 408. Placed on Final Reading.
LEGISLATIVE BILL 412. Placed on Final Reading.
LEGISLATIVE BILL 422. Placed on Final Reading.
LEGISLATIVE BILL 424. Placed on Final Reading.
LEGISLATIVE BILL 479. Placed on Final Reading.
LEGISLATIVE BILL 511. Placed on Final Reading.
LEGISLATIVE BILL 513. Placed on Final Reading.
LEGISLATIVE BILL 515. Placed on Final Reading.
LEGISLATIVE BILL 541. Placed on Final Reading.
LEGISLATIVE BILL 640. Placed on Final Reading.

(Signed) Matt Hansen, Chairperson

PRESENTED TO THE GOVERNOR

Presented to the Governor on May 7, 2015, at 11:13 a.m. were the following: LBs 72, 72A, 80, 85, 132, 141e, 240, 253, 264, 317, 348e, 449e, 458, 519, 519A, 561, 414, 610, and 610A.

(Signed) Jamie Kruse
Clerk of the Legislature's Office

AMENDMENT(S) - Print in Journal

Senator Nordquist filed the following amendment to LB468:
AM1582

(Amendments to AM1172)

- 1 1. Strike sections 7 and 8 and all amendments thereto.
- 2 2. On page 8, line 30, strike "such date", show as stricken, and
- 3 insert "July 1, 2004".
- 4 3. On page 10, strike new language and reinstate the stricken
- 5 matter.
- 6 4. On page 13, line 16, after "system" insert "who became members
- 7 prior to July 1, 2015".
- 8 5. On page 16, line 27, after "system" insert "who became members on
- 9 or after July 1, 2015".
- 10 6. On page 20, lines 9 and 28; and page 21, lines 12 and 21, strike
- 11 "five" and insert "six".
- 12 7. On page 21, lines 10, 13, 19 and 21, strike "twenty" and insert
- 13 "twenty-two".
- 14 8. On page 23, line 26, strike "29-3602, 29-3606,".
- 15 9. Renumber the remaining sections accordingly.

RESOLUTION(S)

LEGISLATIVE RESOLUTION 250. Introduced by Campbell, 25.

PURPOSE: The purpose of this resolution is to examine any issues within the jurisdiction of the Health and Human Services Committee.

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

1. That the Health and Human Services 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.

GENERAL FILE

LEGISLATIVE BILL 643. Title read. Considered.

Committee AM1254, found on page 1217, was offered.

Senator Gloor offered his amendment, AM1564, found on page 1449, to the committee amendment.

Pending.

MESSAGE(S) FROM THE GOVERNOR

May 7, 2015

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

Dear Mr. President and Members of the Legislature:

I am returning LB 610 and LB 610A without my signature and with my objections.

The number one issue I hear about from hardworking Nebraskans is the need for tax relief. Whether they are farmers and home owners seeking relief from high property taxes or businesses being held back by our second-highest-in-the region income tax rates, the message is clear: Nebraskans want and deserve tax relief.

LB 610 would do the exact opposite by imposing a \$75 million per year tax increase. The new tax would be added to the 25.6 cents Nebraskans are already paying in state gas tax per gallon of gasoline. This is a 23 percent increase.

At this level, Nebraska's gas tax rate would be the 16th highest in the country – surpassing the national average and surpassing the gas tax rate of every state that borders our state. The increased gas tax rate would also be about two times our state's top income tax rate.

Since LB 610 was introduced, the average price per gallon of gasoline has increased nearly 50 cents. The volatility of per gallon prices demonstrates the structural flaw in this bill. No matter what the price at the pump – including the \$4.00 per gallon gasoline that Nebraskans were paying only two years ago – the tax increase proposed by the bill would be imposed. This only exacerbates the regressive nature of this tax.

Not only does a gas tax increase impact nearly every Nebraskan, it is one of the most regressive taxes, having the most severe impact on those who can least afford it. Tax increases, like the proposed gas tax hike, take away money that low and fixed-income Nebraskans count on to pay for food, utilities, and medication. They also adversely impact those who drive great distances, like many Nebraskans in our rural areas.

While proponents of a tax increase have raised important concerns about the state of Nebraska's roads and bridges, there has not been a compelling case made that a gas tax increase is the solution to construction project needs. There are alternatives our state should first explore. Raising taxes should

never be the first course of action.

Revenues for the Department of Roads are at a twenty-year high point even when adjusted for inflation. It is important to recognize that we have increased state tax collections even as vehicles have become more fuel efficient. The agency has received record increases due to receipts from motor vehicle registration fees, sales taxes received from the sale of motor vehicles, and sales taxes directed by LB 84.

I believe we can improve operations at the Department of Roads. That is why I conducted a national job search for a new Director. Last week, I appointed a new Director. I intentionally selected a forward-thinking leader who will take a fresh approach to our state's road construction needs. Other states have achieved success by using public/private partnerships, working to improve operations, lowering administrative overhead costs that cut into construction funds, and increasing flexibility within the agency's regulatory framework.

I remain committed to addressing our state and local infrastructure needs. This is an area that is vital to our continued economic growth. I cannot, however, support raising taxes as the first solution to this issue.

For each of these reasons, I respectfully urge you to sustain my veto of LB 610 and LB 610A.

Sincerely,
(Signed) Pete Ricketts
Governor

COMMITTEE REPORT(S)
Executive Board

LEGISLATIVE RESOLUTION 31CA. Placed on General File.

(Signed) Bob Krist, Chairperson

VISITORS

Visitors to the Chamber were 35 seventh- and eighth-grade students and teachers from Trinity Lutheran School, Fremont; 60 fourth-grade students and teachers from Gates Elementary, Grand Island; 9 eighth-grade students, teacher, and sponsors from St. Patrick Elementary, McCook; 34 fourth-grade students and teachers from Centennial Elementary, Utica; 5 second- through eighth-grade students and teacher from Sacred Heart Elementary, Lawrence; 40 fourth-grade students, teachers, and sponsors from Lewis and Clark Elementary, South Sioux City; 12 fourth-grade students and teacher from St. Joseph's Elementary, York; Senator Pansing Brooks' son, Taylor, from Lincoln and her sister and brother-in-law,

Ginny Pansing Plummer and Al Plummer from Atlanta, GA; 30 fourth-grade students and teachers from Lawrence Nelson Elementary; and 75 fourth-grade students and teachers from Prescott Elementary, Lincoln.

ADJOURNMENT

At 2:04 p.m., on a motion by Senator Baker, the Legislature adjourned until 10:00 a.m., Tuesday, May 12, 2015.

Patrick J. O'Donnell
Clerk of the Legislature