

ELEVENTH DAY - JANUARY 21, 2016
LEGISLATIVE JOURNAL
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

ELEVENTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, January 21, 2016

PRAYER

The prayer was offered by Pastor Jim Haack, Beautiful Savior Lutheran Church, La Vista.

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 Campbell, Coash, Larson, McCollister, Mello, and Murante who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the tenth day was approved.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

LB/LR	Committee
LB1011	Health and Human Services
LB1014	Revenue
LB1015	Revenue
LB1016	Executive Board
LB1017	Appropriations
LB1018	Appropriations
LB1019	Natural Resources
LB1020	Banking, Commerce and Insurance
LB1021	Revenue
LB1022	Executive Board
LB1023	Judiciary
LB1024	Government, Military and Veterans Affairs
LB1025	Banking, Commerce and Insurance
LB1026	Education

- LB1027 Judiciary
- LB1028 Appropriations
- LB1029 Business and Labor
- LB1030 Appropriations
- LB1031 Revenue
- LB1032 Health and Human Services
- LB1033 Health and Human Services
- LB1034 Health and Human Services
- LB1035 Banking, Commerce and Insurance
- LB1036 Banking, Commerce and Insurance
- LB1037 Revenue
- LB1038 Natural Resources

(Signed) Bob Krist, Chairperson
Executive Board

COMMITTEE REPORT(S)
Enrollment and Review

LEGISLATIVE BILL 136. Placed on Select File with amendment.
ER146

- 1 1. Strike original sections 1 and 3 and insert the following new
- 2 sections:
- 3 Section 1. Section 28-101, Revised Statutes Supplement, 2015, is
- 4 amended to read:
- 5 28-101 Sections 28-101 to 28-468, 28-470 to 28-1357, 28-1418.01, and
- 6 28-1429.03 and section 2 of this act shall be known and may be cited as
- 7 the Nebraska Criminal Code.
- 8 Sec. 3. Original section 28-101, Revised Statutes Supplement, 2015,
- 9 is repealed.
- 10 2. On page 1, line 2, strike "Cumulative Supplement, 2014" and
- 11 insert "Supplement, 2015".

(Signed) Matt Hansen, Chairperson

NOTICE OF COMMITTEE HEARING(S)
Natural Resources

Room 1525

Thursday, January 28, 2016 1:30 p.m.

- LB881
- LB914

Wednesday, February 3, 2016 1:30 p.m.

- LB745

(Signed) Ken Schilz, Chairperson

COMMITTEE REPORT(S)

Natural Resources

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

James W. Hawks - Environmental Quality Council

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

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

Richard R. Bell - Game and Parks Commission

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

(Signed) Ken Schilz, Chairperson

RESOLUTION(S)

Pursuant to Rule 4, Sec. 5(b), LRs 405, 407, 408, 409, 410, and 411 were adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 405, 407, 408, 409, 410, and 411.

SELECT FILE

LEGISLATIVE BILL 176. Considered.

Senator Davis asked unanimous consent to withdraw his amendment, AM1608, found on page 1898, First Session, 2015, and replace it with his substitute amendment, AM1848, found on page 364. No objections. So ordered.

Pending.

COMMITTEE REPORT(S)

Nebraska Retirement Systems

LEGISLATIVE BILL 790. Placed on General File.

(Signed) Mark Kolterman, Chairperson

MOTION - Escort Chief Justice

Senator Williams moved that a committee of five be appointed to escort the Chief Justice of the Supreme Court to the Legislative Chamber for the purpose of delivering the State of the Judiciary Address.

The motion prevailed.

The Chair appointed Senators Seiler, Lindstrom, K. Haar, Howard, and Murante to serve on said committee.

The committee escorted Chief Justice Michael G. Heavican to the rostrum where he delivered the following message:

Mr. President, Mr. Speaker, Members of the Legislature, fellow Justices of the Nebraska Supreme Court, and fellow Nebraskans. I would like to thank the members of this legislative body, and Speaker Galen Hadley, for inviting me to address you this morning.

It is an honor for me to report on the accomplishments of the judicial branch this past year, and to discuss the future of the courts. First, I will introduce my fellow Justices.

To my immediate right is Justice John Wright of Scottsbluff; to his right is Justice Bill Cassel of O'Neill.

To my immediate left is Justice Lindsey Miller-Lerman of Omaha; and to her left is Justice Stephanie Stacy of Lincoln.

Justice Bill Connolly of Hastings is unable to be here today.

This is not the same Court you saw last year. Ken Stephan of Lincoln and Mike McCormack of Omaha have both retired. I thank them for their years of service to the Supreme Court and to the State of Nebraska.

I would also like to again welcome to the Court Justice Stacy, who took Ken Stephan's place. And I note that the Governor is in the process of choosing Mike McCormack's successor.

Our State motto is "Equality Before the Law." It echoes the most basic principles upon which our State and our nation were founded. The motto is carved in stone on the entrance of this building and also appears above the bench in our Court, in the Governor's Office, and in the Warner Chamber.

The special mission of Nebraska's courts is to provide citizens with an open, fair, efficient, and independent forum for the resolution of disputes and with what our motto promises: Equality Before the Law.

Office of Public Guardian

Equality before the law means many things, including access, fairness, and dignity for vulnerable Nebraskans in need of guardianships or conservatorships. In 2014, Senator Colby Coash sponsored a bill creating the Office of Public Guardian. That bill was passed unanimously by this Legislature and it directs the Public Guardian to do four things.

First, the Office of Public Guardian is to serve as guardian for up to 480 incapacitated Nebraskans in cases where there is no one else available, or appropriate, to serve.

Second, the Public Guardian is directed to identify successor guardians and conservators.

Third, the Public Guardian is directed to provide education, information, and support to the 10,000 individuals who serve as guardians or conservators in Nebraska.

Associate Public Guardians are located in Gering, North Platte, Kearney, Hastings, Norfolk, Papillion, Lincoln, and Omaha. The twelve associate public guardians have met with over 600 local community stakeholders and providers. These meetings are meant to identify resources for all guardians and conservators in the State, newly-appointed guardians and conservators are given the tools needed to maximize the level of independence best suited to their individual wards.

The final directive from this body was to develop a Court Visitor Program. The Public Guardian has educated, and organized a system of volunteer court visitors. These community volunteers provide judges with essential information about potentially incapacitated persons, along with recommendations to judges concerning the need to appoint the Public Guardian.

Since last August, more than twenty individuals from across the State have volunteered to serve the courts and their fellow citizens through the Public Guardian Volunteer Court Visitor program. This alone has saved thousands of dollars in county property taxes. Efforts to recruit additional volunteers to serve as guardians, conservators, and court visitors are ongoing.

I am pleased to announce that in November, following months of planning and training, the Public Guardian began taking appointments to serve incapacitated individuals. These individuals have multiple medical, mental health, and societal challenges which are already stretching thin the resources available to the Public Guardian. Updates to the Public Guardianship Act will be necessary to address the challenges encountered during this first year of implementation.

We look forward to partnering with the Legislature to continue our progress in this important endeavor. A special thanks to County Court Judges Susan Bazis and Todd Hutton and numerous other concerned Nebraskans who have worked on this program.

Court Improvement

Equality before the law also means the fair and prompt handling of child abuse and neglect cases, as well as juvenile justice cases, in Nebraska courts. To further these goals, our Court Improvement Project, commonly referred to as the "Through the Eyes of the Child Initiative," has strongly emphasized education for judges, guardians ad litem, lawyers, Health and Human Services employees, and community volunteers.

In November 2015, over 300 Nebraskans participated in the Court Improvement Project's Regional Conferences held in Hastings, O'Neill, Kimball, and LaVista. The conferences spotlighted human trafficking in Nebraska. Attendees also received updates on recent Federal and State legislative changes and information regarding the status of children in the

child welfare and juvenile justice systems by judicial district. Participants then set team goals for improvement in each of those districts.

Our Fourth Children's Summit, which specifically focuses on children in the courts, will be held September 7-9, 2016, in Kearney. All of our judges handling juvenile matters and other Through the Eyes of the Child Initiative team members will attend. We invite every member of this Legislature to also attend.

In keeping with national best practice efforts, the Through the Eyes of the Child Initiative is sponsoring programs to serve abused and neglected children, as well as juvenile law violators, in their homes whenever possible. This effort was aided last session by the passage of LB500, which allows for broader use of in-home therapy. In-home therapy focuses on addressing an at-risk juvenile's total community environment -- their homes and families, schools and teachers, neighborhoods and friends.

The Through the Eyes of the Child Initiative is pleased to be coordinating a grant funded by the Sherwood and Omaha Community Foundations. This grant generously supports efforts to develop in-home family therapy services.

A special thank you to Senator Sara Howard for her foresight in paving the way for Nebraska to initiate and expand these in-home services. This public/private partnership is being implemented in close collaboration with the Administrative Office of the Courts and Probation and the Department of Health and Human Services.

Juvenile Justice

In regard to juvenile justice, last year I suggested that Nebraska's Juvenile Justice Reform efforts were based on four fundamental principles.

The first principle is that "fewer young people should become wards of the State, be incarcerated, or placed in group homes." With the passage of LB561 in 2014, promoted by Senator Bob Krist and Former-Senator Brad Ashford, children no longer have to become state wards to access services in Nebraska.

During this last transition year there has been a significant increase in the number of children placed on probation and receiving services to reduce recidivism. Additionally, with the support of the Juvenile Detention Alternatives Initiative, which we call JDAI, there has been an 11.5% reduction in juveniles detained in the past 6 months. Further, out-of-home placements have declined 7.6% in that same 6-month period.

The second principle is that "more young people be provided with treatment in their homes and local communities." As noted, there has been an increase in the use of in-home and community-based services over the past 6 months. Out-of-state placements have also decreased, which is a significant step toward keeping youth in Nebraska near their families and support groups.

The third principle is that "parents and guardians should always be involved in their children's rehabilitation." Probation officers are now trained to work with families to set up family support teams.

The final principle is that "local community providers of mental health, substance abuse treatment, and other services should be utilized whenever

possible." There is, especially in Greater Nebraska, a lack of service providers to work with juveniles. When I speak with trial court judges, many say that they would detain fewer children if there were alternative placement opportunities or in-home services available. Our focus in 2016 will be to continue to expand those alternatives.

Adult Probation – LB605

I turn now to adult probation. In the last legislative session this body passed LB605, which created significant criminal justice reform in Nebraska. The Administrative Office of the Courts and Probation has made major advancements in the implementation of the Justice Reinvestment goals outlined in LB605.

Court Rules.

With the help of District Court Judges John Colborn of Lancaster County, and Leo Dobrovolny of Scotts Bluff County, the Supreme Court Probation Services Committee formulated court rules which encompass the statutory requirements of post-release probation supervision. The rules were adopted by this Court after a period of public comment and are now in full force and effect.

Education.

The Office of Probation Administration and local chief probation officers have developed new policies, procedures, and forms to comply with LB605. Education for District and County Court Judges and Court and Probation staff, was placed on a fast track, as were changes to the Courts' and Probation's management information systems to accommodate the new laws.

Reporting Centers.

LB605 also provided for new day and evening reporting centers. The Administrative Office of Probation worked with local chief probation officers to determine where these new centers should be located. Hastings, North Platte, and Beatrice were selected, with additional centers planned in north Omaha and in north Lincoln. When these centers open their doors within the next few months, there will be 16 reporting centers operational throughout Nebraska. These centers average 6,000 visits from probation clients each month and provide services in every major community across the State.

SSAS.

Every Reporting Center has a supervised substance abuse supervision program, or SSAS. This program continues to be Probation's premier supervision program for those individuals at a high risk to reoffend. We are proud that 89% of the clients released from the program in 2015 have been drug-free for at least one year. Likewise, 91% of SSAS participants are gainfully employed.

SSAS will expand to include supervising individuals targeted by LB605 who have already served a period of time in a correctional institution and who require intense supervision upon release. There are currently 35 SSAS officers, including 5 new officers, who will provide both pre- and post-prison supervision.

Problem-Solving Courts.

As we expand the SSAS program, we also continue to expand the number -- and the reach -- of our Problem-Solving Courts. Through the good work of District Court Judges Rachel Daugherty of Hamilton County and James Stecker of Seward County, we have now achieved our goal of developing problem-solving courts within each judicial district.

We also want to thank Senators John McCollister and Matt Williams, and District Court Judge James Doyle of Dawson County, for their continued work on the potential expansion of the number of problem-solving courts in Nebraska.

Self-represented Litigants

Equality Before the Law also means that those who choose to represent themselves should have meaningful access to Nebraska's courts. Last year I told you about our efforts to provide access to the court system for self-represented litigants. This year, I am pleased to report that the Supreme Court has approved the Strategic Agenda created by our Committee on Self-Represented Litigation, headed by Chief Judge Frankie Moore of the Court of Appeals and District Court Judge Teresa Luther of Hall County.

However, as you know, the number of Nebraskans seeking to represent themselves when appearing before the courts is still on the rise. Today I would also like to thank the Nebraska State Bar Association for its support in providing attorneys in self-help centers across the State. I would also like to recognize those Nebraska lawyers who volunteer to assist unrepresented Nebraskans.

Technology

As a public service to all Nebraskans, including those citizens who represent themselves, the Court has developed a new online library for Nebraska appellate court opinions. I thank this Legislature, especially sponsoring Senator Ernie Chambers, as well as Judiciary Chair Senator Les Seiler, for the legislation last session which enabled the Court to expand public access by making published opinions permanently available on the Internet, free of charge.

Further technological advancement in the past year included an increase in eFiling. The volume of electronically-filed documents in the trial courts was up 30% in 2015. As we note in the annual report distributed to you today, every eFiling saves the courts between two and five minutes of staff time, and greatly increases the accuracy of data entry.

Our total eFilings were up by over 223,000 documents last year. All attorneys practicing in county and district courts now receive orders and notices from the courts by email at the rate of several thousand communications each day. Additionally, the Workers' Compensation Court began accepting electronic filings in 2015. Later this year, the Supreme Court and Court of Appeals will follow suit.

Summer Outreach

Expanded electronic access cannot, however, replace this Court's traditional relationship with local communities. Each year members of my

staff, Judges of this Court, and I tour trial courts and attend bar association meetings and court-related community meetings across the State.

This past summer I visited courts in south-central and southeast Nebraska. Justice Cassel accompanied me in southeast Nebraska and also visited southwest Nebraska. In addition, we were joined at certain events by Senators Dan Watermeier, Les Seiler, and Laura Ebke. We use these tours to get direct feedback on the workings of our justice system from judges, county commissioners, local lawyers, law enforcement, public defenders and others who work with the court system.

I am pleased to report that the citizens of many Nebraska communities are investing in their local justice systems in substantial ways. Among others, Both Seward and Custer Counties are building new judicial centers; Saline and Hall Counties are both in the middle of rehabilitation projects; and Furnas, Jefferson, and Douglas Counties are renovating or adding security measures. Communities that invest in their courts are communities that grow and prosper.

Conclusion

In conclusion, I am proud of the work the Judicial Branch does to ensure that our State motto has meaning. To repeat, the mission of Nebraska's Judicial Branch is to provide the citizens of this great State with an open, fair, efficient, and independent system for the advancement of justice under the law.

We work to provide access to justice for all Nebraskans and to be certain that in Nebraska there is "equality Before the Law." It is our honor to work with the Legislature to accomplish that goal.

Thank you for the opportunity to speak with you today.

The committee escorted the Chief Justice from the Chamber.

SELECT FILE

LEGISLATIVE BILL 176. The Davis amendment, AM1848, found on page 364 and considered in this day's Journal, was renewed.

SPEAKER HADLEY PRESIDING

SENATOR KRIST PRESIDING

Pending.

RESOLUTION(S)

LEGISLATIVE RESOLUTION 418. Introduced by Howard, 9; Craighead, 6; Crawford, 45; Hansen, 26; Krist, 10; McCollister, 20; Stinner, 48.

WHEREAS, in 2008, the Department of Health and Human Services (DHHS) began to develop the ACCESSNebraska system.

ACCESSNebraska is a system that is intended to efficiently determine public assistance eligibility and provide service delivery. Since the implementation of this system, the Legislature has twice formed a special investigative committee to explore the problems faced by clients navigating the ACCESSNebraska system. These problems included long call wait times, lost documentation, erroneous public assistance decisions, and a general difficulty for clients to get the assistance they needed in a timely manner; and

WHEREAS, the One Hundred Fourth Legislature, First Session, adopted Legislative Resolution 33, which continued the ACCESSNebraska Special Investigative Committee that was first created by Legislative Resolution 400 adopted in 2014 by the One Hundred Third Legislature, Second Session, to study the ACCESSNebraska system; and

WHEREAS, on December 15, 2015, the committee issued a report and recommendations related to ACCESSNebraska. The committee found that the ACCESSNebraska system has made significant progress since the initial identification of issues relating to customer service and delivery of client benefits but that it continues to face some challenges relating to the problems mentioned above; and

WHEREAS, the committee recommended among other things that it should be continued as an oversight committee to provide oversight and an ongoing dialogue between the Legislature and DHHS to ensure the continued improvement of the ACCESSNebraska system.

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

1. That the Legislature hereby calls for the Executive Board of the Legislative Council to meet forthwith and appoint a special committee of the Legislature to be known as the ACCESSNebraska Oversight Committee of the Legislature. The committee shall consist of seven members of the Legislature appointed by the Executive Board. The Executive Board shall select a chairperson and a vice-chairperson from the membership of the committee. The Executive Board is hereby authorized to provide the committee with a legal counsel, committee clerk, and other staff as required by the committee from existing legislative staff. The Executive Board is also authorized to hire outside legal counsel, consultants, and investigators as required by the committee. The committee shall be an oversight committee and is hereby authorized to hold hearings, request progress reports from DHHS regarding the ACCESSNebraska system, and issue subpoenas as is deemed necessary by the committee.

2. That the ACCESSNebraska Oversight Committee of the Legislature is hereby authorized to continue to monitor the adequacy of staffing and training of DHHS employees working within the ACCESSNebraska system. The scope of the committee's oversight shall include, but not be limited to, the adequacy of technology used within the ACCESSNebraska system, including telephone systems, computer software, case management, information technology, and the use of and access to data bases to allow for data matching. The committee shall also continue to observe the effectiveness of the processes and structures used by the ACCESSNebraska

system, including system design, management structure, and system goals. The committee shall monitor the ongoing experiences of clients and their family members, including customer service experience, access to benefits, and responses to changing family needs. The committee, if it deems necessary, may issue a report with its findings and recommendations to the Legislature no later than December 15, 2016. The report to the Legislature shall be submitted electronically.

Laid over.

SPEAKER'S ANNOUNCEMENT

Pursuant to Rule 4, Section 8, LR418 was referred to the Reference Committee.

COMMITTEE REPORT(S)

Government, Military and Veterans Affairs

LEGISLATIVE BILL 695. Placed on General File.

LEGISLATIVE BILL 702. Placed on General File.

(Signed) John Murante, Chairperson

AMENDMENT(S) - Print in Journal

Senator Schilz filed the following amendment to LB176:
AM1855

(Amendments to AM1755)

1 1. On page 2, after line 24 insert the following new subsection:
2 "(9) A swine production contract shall not contain any obligations
3 of confidentiality, or any other provisions, that limit a swine
4 production contract grower from sharing and reviewing the swine
5 production contract with anyone, including, but not limited to, his or
6 her business partners, employees, or agents, his or her financial and
7 legal advisors, and his or her spouse and family members."; in line 25
8 strike "(9)" and insert "(10)"; and in line 30 strike "(10)" and insert
9 "(11)".

Senator Davis filed the following amendment to LB176:
AM1886

(Amendments to E and R amendments, ER143)

1 1. On page 2, line 12, after "if" insert "(a)"; and in line 16 after
2 "packer" insert "and (b) the packer purchases at least seventy-five
3 percent of its swine from persons who are not a part of any contract
4 swine operation involving such packer".

UNANIMOUS CONSENT - Add Cointroducer(s)

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

Davis, Groene, Kolowski, Lindstrom - LB467

Mello - LB467

Howard - LB749

VISITORS

Visitors to the Chamber were Katie Bohlmeier from Cortland; and representatives of the Nebraska Bar Association, Tom Maul, Judge Joe Bataillon, Tim Engler, and Liz Neeley.

The Doctor of the Day was Dr. George Voigtlander from Pawnee City.

ADJOURNMENT

At 11:58 a.m., on a motion by Senator Hilkemann, the Legislature adjourned until 9:00 a.m., Friday, January 22, 2016.

Patrick J. O'Donnell
Clerk of the Legislature