

**FIFTY-FIFTH DAY - APRIL 5, 2016**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FOURTH LEGISLATURE  
SECOND SESSION**

**FIFTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, April 5, 2016

**PRAYER**

The prayer was offered by Pastor Rebecca Hjelle, First United Methodist Church, Blair.

**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 Senators Bolz, Craighead, Davis, Larson, Morfeld, Murante, and Schilz who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-fourth day was approved.

**COMMITTEE REPORT(S)**

Enrollment and Review

**LEGISLATIVE BILL 580.** Placed on Select File with amendment.  
ER247 is available in the Bill Room.

(Signed) Matt Hansen, Chairperson

**RESOLUTION(S)**

Pursuant to Rule 4, Sec. 5(b), LRs 515, 516, 524, 528, 531, and 585 were adopted.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 515, 516, 524, 528, 531, and 585.

**MOTION(S) - Confirmation Report(s)**

Senator Campbell moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 1369:

State Board of Health  
 Michael Hansen  
 Diane Jackson  
 Debra Parsow  
 Wayne Stuberg  
 Jim Trebbein  
 Douglas Vander Broek

Senator Chambers requested a division of the question on the confirmation report.

The Chair sustained the division of the question.

The first division is as follows:

Senator Campbell moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 1369:

State Board of Health  
 Michael Hansen

Voting in the affirmative, 29:

Baker	Ebke	Hansen	Kuehn	Schnoor
Bloomfield	Fox	Hilkemann	Lindstrom	Schumacher
Brasch	Garrett	Howard	McCollister	Stinner
Campbell	Gloor	Johnson	Pansing Brooks	Sullivan
Chambers	Haar, K.	Kolowski	Riepe	Watermeier
Crawford	Hadley	Kolterman	Scheer	

Voting in the negative, 0.

Present and not voting, 13:

Coash	Groene	Kintner	Mello	Williams
Cook	Harr, B.	Krist	Seiler	
Friesen	Hughes	McCoy	Smith	

Excused and not voting, 7:

Bolz	Davis	Morfeld	Schilz
Craighead	Larson	Murante	

The appointment was confirmed with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

The second division is as follows:

Senator Campbell moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 1369:

State Board of Health  
Diane Jackson

Voting in the affirmative, 29:

Baker	Crawford	Hilkemann	Lindstrom	Schnoor
Bolz	Garrett	Howard	McCollister	Schumacher
Brasch	Gloor	Johnson	Mello	Seiler
Campbell	Haar, K.	Kintner	Pansing Brooks	Sullivan
Chambers	Hadley	Kolowski	Riepe	Williams
Craighead	Hansen	Kolterman	Scheer	

Voting in the negative, 0.

Present and not voting, 15:

Bloomfield	Ebke	Groene	Krist	Smith
Coash	Fox	Harr, B.	Kuehn	Stinner
Cook	Friesen	Hughes	McCoy	Watermeier

Excused and not voting, 5:

Davis	Larson	Morfeld	Murante	Schilz
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The appointment was confirmed with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

The third division is as follows:

Senator Campbell moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 1369:

State Board of Health  
Debra Parsow

Voting in the affirmative, 26:

Baker	Crawford	Howard	Lindstrom	Seiler
Bolz	Ebke	Johnson	McCollister	Sullivan
Brasch	Garrett	Kintner	Mello	
Campbell	Gloor	Kolowski	Riepe	
Chambers	Haar, K.	Kolterman	Schnoor	
Craighead	Hansen	Krist	Schumacher	

Voting in the negative, 0.

Present and not voting, 17:

Bloomfield	Friesen	Hilkemann	Scheer	Williams
Coash	Groene	Hughes	Smith	
Cook	Hadley	Kuehn	Stinner	
Fox	Harr, B.	McCoy	Watermeier	

Excused and not voting, 6:

Davis	Morfeld	Pansing Brooks
Larson	Murante	Schilz

The appointment was confirmed with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

The fourth division is as follows:

Senator Campbell moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 1369:

State Board of Health  
Wayne Stuberg

Voting in the affirmative, 25:

Baker	Ebke	Haar, K.	Kintner	Mello
Bloomfield	Fox	Hansen	Kolowski	Riepe
Bolz	Garrett	Hilkemann	Kolterman	Schumacher
Campbell	Gloor	Howard	Krist	Sullivan
Chambers	Groene	Johnson	McCollister	Williams

Voting in the negative, 0.

Present and not voting, 18:

Brasch	Crawford	Hughes	Scheer	Stinner
Coash	Friesen	Kuehn	Schnoor	Watermeier
Cook	Hadley	Lindstrom	Seiler	
Craighead	Harr, B.	McCoy	Smith	

Excused and not voting, 6:

Davis	Morfeld	Pansing Brooks
Larson	Murante	Schilz

The appointment was confirmed with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

The fifth division is as follows:

Senator Campbell moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 1369:

State Board of Health  
Jim Trebbein

Voting in the affirmative, 25:

Baker	Crawford	Howard	Krist	Schumacher
Bloomfield	Ebke	Hughes	Lindstrom	Seiler
Bolz	Gloor	Kintner	McCollister	Smith
Campbell	Haar, K.	Kolowski	Mello	Sullivan
Chambers	Hilkemann	Kolterman	Riepe	Williams

Voting in the negative, 0.

Present and not voting, 17:

Brasch	Friesen	Hansen	McCoy	Watermeier
Coash	Garrett	Harr, B.	Scheer	
Cook	Groene	Johnson	Schnoor	
Fox	Hadley	Kuehn	Stinner	

Excused and not voting, 7:

Craighead	Larson	Murante	Schilz
Davis	Morfeld	Pansing Brooks	

The appointment was confirmed with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

The sixth division is as follows:

Senator Campbell moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 1369:

State Board of Health  
Douglas Vander Broek

Voting in the affirmative, 27:

Baker	Coash	Haar, K.	Kolterman	Smith
Bloomfield	Crawford	Howard	McCollister	Sullivan
Bolz	Ebke	Hughes	Murante	Williams
Brasch	Fox	Johnson	Riepe	
Campbell	Friesen	Kintner	Schumacher	
Chambers	Gloor	Kolowski	Seiler	

Voting in the negative, 0.

Present and not voting, 15:

Cook	Hansen	Krist	McCoy	Schnoor
Garrett	Harr, B.	Kuehn	Mello	Stinner
Hadley	Hilkemann	Lindstrom	Scheer	Watermeier

Excused and not voting, 7:

Craighead	Groene	Morfeld	Schilz
Davis	Larson	Pansing Brooks	

The appointment was confirmed with 27 ayes, 0 nays, 15 present and not voting, and 7 excused and not voting.

Senator Johnson moved the adoption of the Agriculture Committee report for the confirmation of the following appointment(s) found on page 1374:

Nebraska State Fair Board  
Harry Hoch

Voting in the affirmative, 27:

Baker	Ebke	Hansen	Krist	Schumacher
Bloomfield	Friesen	Hilkemann	McCoy	Sullivan
Brasch	Garrett	Hughes	Murante	Watermeier
Campbell	Gloor	Johnson	Pansing Brooks	
Chambers	Haar, K.	Kintner	Riepe	
Crawford	Hadley	Kolterman	Schnoor	

Voting in the negative, 0.

Present and not voting, 17:

Bolz	Groene	Larson	Scheer	Williams
Coash	Howard	Lindstrom	Seiler	
Cook	Kolowski	McCollister	Smith	
Fox	Kuehn	Mello	Stinner	

Excused and not voting, 5:

Craighead	Davis	Harr, B.	Morfeld	Schilz
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The appointment was confirmed with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

**MOTION - Adjourn Sine Die**

Senator Ebke moved that the One Hundred Fourth Legislature, Second Session, now at 11:14 a.m., adjourn sine die.

Senator Hadley moved for a call of the house. The motion prevailed with 23 ayes, 0 nays, 26 and not voting.

The Ebke motion to adjourn sine die failed with 0 ayes, 45 nays, 2 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

**AMENDMENT(S) - Print in Journal**

Senator Coash filed the following amendment to LB716:

AM2360

- 1 1. On page 4, line 24, after the stricken "(3)" insert "(4)";
- 2 reinstate the stricken matter beginning with "Except" in line 24 through 3 line 26; and in line 27 strike "(4)" and insert "(5)".
- 4 2. On page 5, line 3, strike "(5)" and insert "(6)".

**COMMITTEE REPORT(S)**

## Natural Resources

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

Brian Barels - Nebraska Natural Resources Commission  
Joel Christensen - Nebraska Natural Resources Commission  
Stan Clouse - Nebraska Natural Resources Commission  
Brad B. Dunbar - Nebraska Natural Resources Commission  
Thomas Knutson - Nebraska Natural Resources Commission  
Scott Smathers - Nebraska Natural Resources Commission  
Chad Wright - Nebraska Natural Resources Commission

Aye: 5 Friesen, Johnson, McCollister, Schilz, Schnoor. Nay: 0. Absent: 3 Hughes, Kolowski, Lindstrom. Present and not voting: 0.

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

Patrick Berggren - Nebraska Game and Parks Commission

Aye: 5 Friesen, Johnson, McCollister, Schilz, Schnoor. Nay: 0. Absent: 3 Hughes, Kolowski, Lindstrom. Present and not voting: 0.

(Signed) Ken Schilz, Chairperson

**COMMITTEE REPORT(S)**

Enrollment and Review

**LEGISLATIVE BILL 1106.** Placed on Select File with amendment.  
ER251

1 1. On page 1, strike beginning with "civil" in line 1 through line 6  
2 and insert "forfeiture of property; to amend sections 28-431, 28-1111,  
3 and 28-1463.01, Reissue Revised Statutes of Nebraska, and sections  
4 25-21,302, 28-101, 28-109, 28-416, and 28-813.01, Revised Statutes  
5 Supplement, 2015; to change and provide forfeiture provisions for certain  
6 offenses as prescribed; to provide for reports regarding forfeitures; to  
7 provide duties for a prosecuting attorney seeking forfeiture; to  
8 harmonize provisions; to provide severability; and to repeal the original  
9 sections."

**LEGISLATIVE BILL 721.** Placed on Select File with amendment.  
ER248

1 1. In the Standing Committee amendments, AM2057, on page 2, line 9,  
2 after "surgical" insert "first"; and in line 17 after "strike" insert  
3 "the first".  
4 2. On page 1, line 5, after the second semicolon insert "to provide  
5 an operative date;".

**LEGISLATIVE BILL 235.** Placed on Select File with amendment.  
ER245

1 1. Strike the original sections and all amendments thereto and  
2 insert the following new sections:  
3 Section 1. This act shall be known and may be cited as the Consumer  
4 Protection in Eye Care Act.  
5 Sec. 2. For purposes of the Consumer Protection in Eye Care Act:  
6 (1) Contact lens means any lens placed directly on the surface of  
7 the eye, regardless of whether or not it is intended to correct a visual  
8 defect. Contact lens includes, but is not limited to, any cosmetic,  
9 therapeutic, or corrective lens;  
10 (2) Department means the Department of Health and Human Services;  
11 (3) Dispense means the act of furnishing spectacles or contact  
12 lenses to a patient;  
13 (4) Eye examination means an assessment of the ocular health and  
14 visual status of a patient that does not consist solely of objective  
15 refractive data or information generated by an automated testing device,  
16 including an autorefractor, in order to establish a medical diagnosis or  
17 for the establishment of a refractive error;  
18 (5) Kiosk means automated equipment or application designed to be  
19 used on a telephone, a computer, or an Internet-based device that can be  
20 used either in person or remotely to conduct an eye examination;  
21 (6) Over-the-counter spectacles means eyeglasses or lenses in a  
22 frame for the correction of vision that may be sold by any person, firm,

23 or corporation at retail without a prescription;  
24 (7) Prescription means a provider's handwritten or electronic order  
25 based on an eye examination that corrects refractive error;  
26 (8) Provider means a physician, an osteopathic physician, or a  
27 physician assistant licensed under the Medicine and Surgery Practice Act  
1 or an optometrist licensed under the Optometry Practice Act;  
2 (9) Spectacles means an optical instrument or device worn or used by  
3 an individual that has one or more lenses designed to correct or enhance  
4 vision addressing the visual needs of the individual wearer, commonly  
5 known as glasses or eyeglasses, including spectacles that may be adjusted  
6 by the wearer to achieve different types or levels of visual correction  
7 or enhancement. Spectacles does not include an optical instrument or  
8 device that is not intended to correct or enhance vision or sold without  
9 consideration of the visual status of the individual who will use the  
10 optical instrument or device.  
11 Sec. 3. No person in this state may dispense contact lenses or  
12 spectacles, other than over-the-counter spectacles, to a patient without  
13 a valid prescription from a provider. A valid prescription for spectacles  
14 or contact lenses (1) shall contain an expiration date of not less than  
15 two years for spectacles or one year for contact lenses from the date of  
16 the eye examination by the provider or a statement by the provider of the  
17 reasons why a shorter time is appropriate based on the medical needs of  
18 the patient and (2) may not be made based solely on information about the  
19 human eye generated by a kiosk. The prescription shall take into  
20 consideration any medical findings and any refractive error discovered  
21 during the eye examination. A provider may not refuse to release a  
22 prescription for spectacles or contact lenses to a patient.  
23 Sec. 4. No person shall operate a kiosk in Nebraska unless:  
24 (1) The kiosk is registered or approved by the federal Food and Drug  
25 Administration for the intended use;  
26 (2) The kiosk is designed and operated in a manner that provides any  
27 accommodation required by the federal Americans with Disabilities Act of  
28 1990, 42 U.S.C. 12101 et seq., as such act existed on January 1, 2015;  
29 (3) The kiosk and accompanying technology used for the collection  
30 and transmission of information and data, including photographs and  
31 scans, gathers and transmits protected health information in compliance  
1 with the federal Health Insurance Portability and Accountability Act of  
2 1996, as such act existed on January 1, 2015;  
3 (4) The procedure for which the kiosk is used has a recognized  
4 Current Procedural Terminology code maintained by the American Medical  
5 Association;  
6 (5)(a) If the kiosk has a physical location, the name and state  
7 license number of the provider who will read and interpret the diagnostic  
8 information and data shall be prominently displayed on the kiosk; or  
9 (b) If the kiosk is an application, the name and state license  
10 number of the provider who will read and interpret the diagnostic  
11 information and data shall be displayed on the patient's prescription;  
12 (6) Diagnostic information and data, including photographs and  
13 scans, gathered by the kiosk is read and interpreted by a provider if

14 clinically appropriate; and  
15 (7) The owner or lessee of the kiosk maintains liability insurance  
16 in an amount adequate to cover claims made by individuals diagnosed or  
17 treated based on information and data, including photographs and scans,  
18 generated by the kiosk.  
19 Sec. 5. The lenses in over-the-counter spectacles shall be of  
20 uniform focus power in each eye and shall not exceed +3.25 diopters.  
21 Sec. 6. (1) The Uniform Credentialing Act shall apply to any person  
22 alleged or believed to have violated the Consumer Protection in Eye Care  
23 Act. The department shall investigate potential violations of the  
24 Consumer Protection in Eye Care Act according to the procedures of the  
25 Uniform Credentialing Act and shall take appropriate action as provided  
26 by the Uniform Credentialing Act.  
27 (2) In addition to the remedies, penalties, or relief available  
28 under the Uniform Credentialing Act, the department may impose a civil  
29 penalty against a person who does not hold a credential under the Uniform  
30 Credentialing Act who has violated or attempted to violate the Consumer  
31 Protection in Eye Care Act. The civil penalty shall not exceed ten  
1 thousand dollars for each violation, up to the maximum provided in  
2 section 38-198. If the department finds that a violation or attempted  
3 violation occurred and did not result in significant harm to human  
4 health, the department may issue a warning instead of imposing a civil  
5 penalty. Any civil penalty imposed pursuant to this section may be  
6 collected as provided in section 38-198.  
7 (3) At the request of the department, the Attorney General may file  
8 a civil action seeking an injunction or other appropriate relief to  
9 enforce the Consumer Protection in Eye Care Act and the rules and  
10 regulations adopted and promulgated under the Consumer Protection in Eye  
11 Care Act.  
12 Sec. 7. The department, in consultation with the Board of Optometry  
13 and the Board of Medicine and Surgery, may adopt and promulgate rules and  
14 regulations to carry out the Consumer Protection in Eye Care Act.

**LEGISLATIVE BILL 716.** Placed on Select File with amendment.  
ER250

1 1. Strike the original sections and all amendments thereto and  
2 insert the following new sections:  
3 Section 1. Section 60-6,153, Reissue Revised Statutes of Nebraska,  
4 is amended to read:  
5 60-6,153 (1) Except at a point where a pedestrian tunnel or overhead  
6 pedestrian crossing has been provided, when traffic control signals are  
7 not in place or not in operation, the driver of a vehicle shall yield the  
8 right-of-way to a pedestrian crossing the roadway within a crosswalk who  
9 is in the lane in which the driver is proceeding or is in the lane  
10 immediately adjacent thereto by bringing his or her vehicle to a complete  
11 stop.  
12 (2) No pedestrian shall suddenly leave a curb or other place of  
13 safety and walk or run into the path of a vehicle which is so close that  
14 it is impossible for the driver to stop.

15 (3) Whenever any vehicle is stopped at a marked crosswalk or at any  
16 unmarked crosswalk at an intersection to permit a pedestrian to cross the  
17 roadway, the driver of any other vehicle approaching from the rear shall  
18 not overtake and pass such stopped vehicle.

19 (4) At or adjacent to the intersection of two highways at which a  
20 path designated for bicycles and pedestrians is controlled by a traffic  
21 control signal, a pedestrian who lawfully enters a highway where the path  
22 crosses the highway shall have the right-of-way within the crossing with  
23 respect to vehicles and bicycles.

24 (5) The Department of Roads and local authorities in their  
25 respective jurisdictions may, after an engineering and traffic  
26 investigation, designate unmarked crosswalk locations where pedestrian  
27 crossing is prohibited or where pedestrians shall yield the right-of-way  
1 to vehicles. Such restrictions shall be effective only when traffic  
2 control devices indicating such restrictions are in place.

3 Sec. 2. Section 60-6,154, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5 60-6,154 (1) Every pedestrian who crosses a roadway at any point  
6 other than within a marked crosswalk, or within an unmarked crosswalk at  
7 an intersection, shall yield the right-of-way to all vehicles upon the  
8 roadway.

9 (2) Any pedestrian who crosses a roadway at a point where a  
10 pedestrian tunnel or overhead pedestrian crossing has been provided shall  
11 yield the right-of-way to all vehicles upon the roadway.

12 (3) Between adjacent intersections at which traffic control signals  
13 are in operation, pedestrians shall not cross at any place except in a  
14 marked crosswalk.

15 (4) Where a path designated for bicycles and pedestrians crosses a  
16 highway, a pedestrian who is in the crossing in accordance with the  
17 traffic control device shall have the right-of-way within the crossing  
18 with respect to vehicles and bicycles.

19 (5) No pedestrian shall cross a roadway intersection diagonally  
20 unless authorized by traffic control devices, and when authorized to  
21 cross diagonally, pedestrians shall cross only in accordance with the  
22 traffic control devices pertaining to such crossing movements.

23 (6) Local authorities and the Department of Roads, by erecting  
24 appropriate official traffic control devices, may, within their  
25 respective jurisdictions, prohibit pedestrians from crossing any roadway  
26 in a business district or any designated highway except in a crosswalk.

27 Sec. 3. Section 60-6,317, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29 60-6,317 (1)(a) Any person who operates a bicycle upon a roadway at  
30 less than the normal speed of traffic at the time and place and under  
31 conditions then existing shall ride as near to the right-hand curb or  
1 right-hand edge of the roadway as practicable except when:

2 (i) Overtaking and passing another bicycle or vehicle proceeding  
3 in the same direction;

4 (ii) Preparing for a left turn onto a private road or driveway or  
5 at an intersection;

6 (iii e) Reasonably necessary to avoid conditions that make it unsafe  
7 to continue along the right-hand curb or right-hand edge of the roadway,  
8 including fixed or moving objects, stopped or moving vehicles, bicycles,  
9 pedestrians, animals, or surface hazards;  
10 (iv d) Riding upon a lane of substandard width which is too narrow  
11 for a bicycle and a vehicle to travel safely side by side within the  
12 lane; or  
13 (v e) Lawfully operating a bicycle on the paved shoulders of a  
14 highway included in the state highway system as provided in section  
15 60-6,142.  
16 (b) Any person who operates a bicycle upon a roadway with a posted  
17 speed limit of thirty-five miles per hour or less on which traffic is  
18 restricted to one direction of movement and which has two or more marked  
19 traffic lanes may ride as near to the left-hand curb or left-hand edge of  
20 the roadway as practicable.  
21 (c) Whenever a person operating a bicycle leaves the roadway to ride  
22 on the paved shoulder or leaves the paved shoulder to enter the roadway,  
23 the person shall clearly signal his or her intention and yield the right-  
24 of-way to all other vehicles.  
25 (2) No bicyclist shall suddenly leave a curb or other place of  
26 safety and walk or ride into the path of a vehicle which is so close that  
27 it is impossible for the driver to stop.  
28 ~~(3 2) Any person who operates a bicycle upon a highway shall not~~  
29 ~~ride more than single file except on paths or parts of highways set aside~~  
30 ~~for the exclusive use of bicycles.~~  
31 ~~(3) Except as provided in section 60-6,142, whenever a usable path~~  
1 ~~for bicycles has been provided adjacent to a highway, a person operating~~  
2 ~~a bicycle shall use such path and shall not use such highway.~~  
3 (4) A person who is operating a bicycle on a path designated for  
4 bicycles and who lawfully enters a highway when indicated by a traffic  
5 control device where the path crosses the highway shall have the right-  
6 of-way within the crossing with respect to any vehicle. Nothing in this  
7 subsection relieves the bicyclist or the driver of a vehicle from the  
8 duty to exercise care.  
9 (5 4) A local authority may by ordinance further regulate the  
10 operation of bicycles and may provide for the registration and inspection  
11 of bicycles.  
12 Sec. 4. Original sections 60-6,153, 60-6,154, and 60-6,317, Reissue  
13 Revised Statutes of Nebraska, are repealed.

(Signed) Matt Hansen, Chairperson

**MOTION(S) - Confirmation Report(s)**

Senator Sullivan moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 1425:

Nebraska Educational Telecommunications Commission  
Lisa May

**SENATOR KRIST PRESIDING**

Senator Schnoor moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

Voting in the affirmative, 38:

Baker	Crawford	Hilkemann	Lindstrom	Schnoor
Bloomfield	Ebke	Howard	McCollister	Schumacher
Bolz	Fox	Hughes	McCoy	Smith
Brasch	Friesen	Johnson	Mello	Stinner
Campbell	Garrett	Kolowski	Murante	Sullivan
Chambers	Gloor	Kolterman	Pansing Brooks	Watermeier
Cook	Hadley	Krist	Riepe	
Craighead	Hansen	Kuehn	Scheer	

Voting in the negative, 0.

Present and not voting, 9:

Coash	Haar, K.	Larson	Schilz	Williams
Groene	Kintner	Morfeld	Seiler	

Excused and not voting, 2:

Davis	Harr, B.
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The appointment was confirmed with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

**MOTION - Withdraw LB884A**

Senator Scheer offered his motion, MO255, found on page 1428, to withdraw LB884A.

Senator Chambers offered the following motion:

MO264

Bracket until April 20, 2016.

Senator Chambers withdrew his motion to bracket.

The Scheer motion to withdraw the bill prevailed with 28 ayes, 0 nays, 18 present and not voting, and 3 excused and not voting.

**COMMITTEE REPORT(S)**  
Enrollment and Review**LEGISLATIVE BILL 10.** Placed on Final Reading.  
ST84

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

1. Sections 1 and 5 have been struck and the following new sections inserted:

Section 1. Section 32-710, Revised Statutes Supplement, 2015 is amended to read:

32-710 Each political party shall hold a state convention biennially on a date to be fixed by the state central committee but not later than September 1. Candidates for elective offices may be nominated at such conventions pursuant to section 32-627 or 32-721. Such nominations shall be certified to the Secretary of State by the chairperson and secretary of the convention. The certificates shall have the same force and effect as nominations in primary elections. A political party may not nominate a candidate at the convention for an office for which the party did not nominate a candidate at the primary election except as provided for new political parties in section 32-621. The convention shall ~~formulate and promulgate a state platform~~, select a state central committee, select electors for President and Vice President of the United States, and transact the business which is properly before it. ~~One presidential elector shall be chosen from each congressional district, and two presidential electors shall be chosen at large.~~ The officers of the convention shall certify the names of the electors to the Governor and Secretary of State.

Sec. 5. Original section 32-1038, Reissue Revised Statutes of Nebraska, sections 32-713 and 32-714, Revised Statutes Cumulative Supplement, 2014, and section 32-710, Revised Statutes Supplement, 2015, are repealed.

2. On page 1, the matter beginning with "presidential" in line 1 through line 5 and all amendments thereto have been struck and "elections; to amend section 32-1038, Reissue Revised Statutes of Nebraska, sections 32-713 and 32-714, Revised Statutes Cumulative Supplement, 2014, and section 32-710, Revised Statutes Supplement, 2015; to change provisions relating to state political party conventions and selection of and ballots cast by presidential electors; and to repeal the original sections." inserted.

(Signed) Matt Hansen, Chairperson

**EASE**

The Legislature was at ease from 11:59 a.m. until 12:20 p.m.

**SENATOR SCHEER PRESIDING****SELECT FILE****LEGISLATIVE BILL 889A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 745.** ER190, found on page 1013, was adopted.

Senator Chambers offered his amendment, AM2514, found on page 974.

Pending.

**MOTION - Recess**

Senator Chambers moved to recess until 7:30 p.m., April 5, 2016.

Senator Hadley moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

The Chambers motion to recess failed with 3 ayes, 37 nays, 7 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

**SELECT FILE**

**LEGISLATIVE BILL 745.** The Chambers amendment, AM2514, found on page 974 and considered in this day's Journal, was renewed.

Senator Chambers moved for a call of the house. The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 1:

Chambers

Voting in the negative, 37:

Bloomfield	Friesen	Johnson	Mello	Smith
Bolz	Garrett	Kintner	Morfeld	Stinner
Brasch	Gloor	Kolterman	Murante	Sullivan
Campbell	Groene	Kuehn	Riepe	Watermeier
Coash	Hadley	Larson	Scheer	Williams
Craighead	Hansen	Lindstrom	Schilz	
Crawford	Hilkemann	McCollister	Schnoor	
Ebke	Hughes	McCoy	Seiler	

Present and not voting, 8:

Baker	Haar, K.	Kolowski	Pansing Brooks
Cook	Howard	Krist	Schumacher

Excused and not voting, 3:

Davis            Fox            Harr, B.

The Chambers amendment lost with 1 aye, 37 nays, 8 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered his amendment, AM2501, found on page 974.

The Chambers amendment lost with 2 ayes, 24 nays, 15 present and not voting, and 8 excused and not voting.

Senator Chambers offered his amendment, AM2502, found on page 974.

Senator Chambers asked unanimous consent to withdraw his amendment, AM2502, found on page 974, and replace it with his reoffered substitute amendment, AM2499, found on page 965. No objections. So ordered.

### **SENATOR WATERMEIER PRESIDING**

Senator Chambers moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

Senator Chambers requested a roll call vote, in reverse order, on his amendment.

Voting in the affirmative, 9:

Bloomfield	Cook	Haar, K.	Krist	Schumacher
Chambers	Crawford	Hansen	Pansing Brooks	

Voting in the negative, 26:

Campbell	Hadley	Kuehn	Schilz	Watermeier
Coash	Hilkemann	Lindstrom	Schnoor	Williams
Craighead	Hughes	McCollister	Seiler	
Ebke	Johnson	McCoy	Smith	
Gloor	Kintner	Murante	Stinner	
Groene	Kolterman	Riepe	Sullivan	

Present and not voting, 6:

Baker	Brasch	Howard
Bolz	Harr, B.	Kolowski

Excused and not voting, 8:

Davis	Friesen	Larson	Morfeld
Fox	Garrett	Mello	Scheer

The Chambers amendment lost with 9 ayes, 26 nays, 6 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:

MO265

Bracket until April 20, 2016.

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

Senator Chambers requested a roll call vote on the motion to bracket.

Voting in the affirmative, 3:

Bloomfield	Cook	Krist
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Voting in the negative, 34:

Campbell	Groene	Hughes	McCoy	Seiler
Coash	Haar, K.	Johnson	Murante	Smith
Crawford	Hadley	Kintner	Pansing Brooks	Stinner
Ebke	Hansen	Kolterman	Riepe	Sullivan
Fox	Harr, B.	Kuehn	Scheer	Watermeier
Friesen	Hilkemann	Lindstrom	Schilz	Williams
Gloor	Howard	McCollister	Schnoor	

Present and not voting, 6:

Baker	Chambers	Kolowski
Brasch	Craighead	Schumacher

Excused and not voting, 6:

Bolz	Garrett	Mello
Davis	Larson	Morfeld

The Chambers motion to bracket failed with 3 ayes, 34 nays, 6 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:

M0267

Reconsider the vote taken to bracket.

Senator Chambers moved for a call of the house. The motion prevailed with 23 ayes, 0 nays, and 26 not voting.

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

Voting in the affirmative, 4:

Bloomfield    Chambers    Cook            Harr, B.

Voting in the negative, 30:

Baker	Gloor	Johnson	Mello	Schnoor
Coash	Haar, K.	Kolterman	Murante	Seiler
Crawford	Hadley	Kuehn	Pansing Brooks	Smith
Ebke	Hansen	Lindstrom	Riepe	Stinner
Fox	Howard	McCollister	Scheer	Watermeier
Garrett	Hughes	McCoy	Schilz	Williams

Present and not voting, 4:

Brasch            Friesen            Kolowski            Schumacher

Excused and not voting, 11:

Bolz	Davis	Kintner	Morfeld
Campbell	Groene	Krist	Sullivan
Craighead	Hilkemann	Larson	

The Chambers motion to reconsider failed with 4 ayes, 30 nays, 4 present and not voting, and 11 excused and not voting.

The Chair declared the call raised.

Pending.

### **COMMITTEE REPORT(S)**

#### Government, Military and Veterans Affairs

The Government, Military and Veterans Affairs 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.

Jeffery Davis - Nebraska Accountability and Disclosure Commission  
Douglas Hegarty - Nebraska Accountability and Disclosure Commission

James J. Ziebarth - Nebraska Accountability and Disclosure Commission

Aye: 8 Bloomfield, Craighead, Garrett, Groene, Hansen, Larson, McCoy, Murante. Nay: 0. Absent: 0. Present and not voting: 0.

The Government, Military and Veterans Affairs 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.

Kimberly Plouzek - State Emergency Response Commission

Aye: 8 Bloomfield, Craighead, Garrett, Groene, Hansen, Larson, McCoy, Murante. Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) John Murante, Chairperson

**COMMITTEE REPORT(S)**  
Enrollment and Review

**LEGISLATIVE BILL 889A.** Placed on Final Reading.

(Signed) Matt Hansen, Chairperson

**RESOLUTION(S)**

**LEGISLATIVE RESOLUTION 617.** Introduced by Seiler, 33.

WHEREAS, Hawthorne Elementary School in Hastings was selected as a National Model Professional Learning Community School at Work by All Things PLC; and

WHEREAS, Hawthorne Elementary joins Morton Elementary, Alcott Elementary, Lincoln Elementary, and Hastings Middle School, all located in Hastings, in receiving this national distinction; and

WHEREAS, Hawthorne Elementary is one of only six schools located in Nebraska to receive recognition by All Things PLC; and

WHEREAS, the students of Hawthorne Elementary have been recognized for their exceptional academic performance; and

WHEREAS, the administrators and teachers of Hawthorne Elementary have been acknowledged for their extraordinary effectiveness; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

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

1. That the Legislature congratulates the students and teachers at Hawthorne Elementary School for gaining prestigious recognition as a National Model Professional Learning Community School at Work.

2. That a copy of this resolution be sent to Principal Amy Kelly of Hawthorne Elementary School and Superintendent Craig Kautz of Hastings Public Schools.

Laid over.

**AMENDMENT(S) - Print in Journal**

Senator Coash filed the following amendment to LB716:  
AM2852

(Amendments to E&R amendments, ER250)

1 1. On page 3, line 31, after the stricken "(3)" insert "(4)" and  
2 reinstate the stricken matter beginning with "Except" through "path".  
3 2. On page 4, lines 1 and 2, reinstate the stricken matter; in line  
4 3 strike "(4)" and insert "(5)"; and in line 9 strike "(5)" and insert  
5 "(6)".

**SELECT FILE**

**LEGISLATIVE BILL 745.** Senator Chambers offered the following motion:

MO268

Recommit to the Natural Resources Committee.

Senator McCollister offered the following motion:

MO269

Invoke cloture pursuant to Rule 7, Sec. 10.

Senator McCollister moved for a call of the house. The motion prevailed with 39 ayes, 0 nays, and 10 not voting.

Senator Chambers requested a roll call vote on the motion to invoke cloture.

Voting in the affirmative, 44:

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

Voting in the negative, 4:

Bloomfield	Chambers	Cook	Krist
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Excused and not voting, 1:

Davis

The McCollister motion to invoke cloture prevailed with 44 ayes, 4 nays, and 1 excused and not voting.

Senator Chambers requested a roll call vote on the motion to recommit to committee.

Voting in the affirmative, 4:

Bloomfield    Chambers    Cook            Krist

Voting in the negative, 44:

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

Excused and not voting, 1:

Davis

The Chambers motion to recommit to committee failed with 4 ayes, 44 nays, and 1 excused and not voting.

Senator Chambers requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 43:

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

Voting in the negative, 3:

Bloomfield Chambers Krist

Present and not voting, 2:

Brasch Cook

Excused and not voting, 1:

Davis

Advanced to Enrollment and Review for Engrossment with 43 ayes, 3 nays, 2 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

**LEGISLATIVE BILL 643.** Senator B. Harr withdrew his amendment, AM1722, found on page 1734, First Session, 2015.

Senator McCoy withdrew his amendments, FA75 and AM1726, found on pages 1734 and 1735, First Session, 2015.

Senator Garrett withdrew his amendment, AM1724, found on page 1883, First Session, 2015.

Senator Howard offered her amendment, AM2599, found on page 1000.

Senator Mello offered the following amendment to the Howard amendment: AM2844

(Amendments to Howard amendments, AM2599)

1 1. Insert the following new section:

2 Sec. 57. Section 71-7611, Revised Statutes Supplement, 2015, is

3 amended to read:

4 71-7611 (1) The Nebraska Health Care Cash Fund is created. The State  
5 Treasurer shall transfer (a) sixty million three hundred thousand dollars  
6 on or before July 15, 2014, (b) sixty million three hundred fifty  
7 thousand dollars on or before July 15, 2015, (c) sixty million three  
8 hundred fifty thousand dollars on or before July 15, 2016, (d) an  
9 additional one million four hundred thousand dollars on or before August  
10 1, 2016, (e) sixty million three hundred fifty thousand dollars on or  
11 before July 15, 2017, (f) e an additional one million dollars on or  
12 before July 15, 2017, (g) sixty million three hundred fifty thousand  
13 dollars on or before July 15, 2018, and (h) f sixty million one hundred  
14 thousand dollars on or before every July 15 thereafter from the Nebraska  
15 Medicaid Intergovernmental Trust Fund and the Nebraska Tobacco Settlement  
16 Trust Fund to the Nebraska Health Care Cash Fund, except that such amount  
17 shall be reduced by the amount of the unobligated balance in the Nebraska  
18 Health Care Cash Fund at the time the transfer is made. The state  
19 investment officer upon consultation with the Nebraska Investment Council  
20 shall advise the State Treasurer on the amounts to be transferred from

21 the Nebraska Medicaid Intergovernmental Trust Fund and from the Nebraska  
22 Tobacco Settlement Trust Fund under this section in order to sustain such  
23 transfers in perpetuity. The state investment officer shall report  
24 electronically to the Legislature on or before October 1 of every even-  
25 numbered year on the sustainability of such transfers. The Nebraska  
26 Health Care Cash Fund shall also include money received pursuant to  
1 section 77-2602. Except as otherwise provided by law, no more than the  
2 amounts specified in this subsection may be appropriated or transferred  
3 from the Nebraska Health Care Cash Fund in any fiscal year.

4 It is the intent of the Legislature that no additional programs are  
5 funded through the Nebraska Health Care Cash Fund until funding for all  
6 programs with an appropriation from the fund during FY2012-13 are  
7 restored to their FY2012-13 levels.

8 (2) Any money in the Nebraska Health Care Cash Fund available for  
9 investment shall be invested by the state investment officer pursuant to  
10 the Nebraska Capital Expansion Act and the Nebraska State Funds  
11 Investment Act.

12 (3) The University of Nebraska and postsecondary educational  
13 institutions having colleges of medicine in Nebraska and their affiliated  
14 research hospitals in Nebraska, as a condition of receiving any funds  
15 appropriated or transferred from the Nebraska Health Care Cash Fund,  
16 shall not discriminate against any person on the basis of sexual  
17 orientation.

18 (4) The State Treasurer shall transfer fifty thousand dollars on or  
19 before July 15, 2016, from the Nebraska Health Care Cash Fund to the  
20 Board of Regents of the University of Nebraska for the University of  
21 Nebraska Medical Center. It is the intent of the Legislature that these  
22 funds be used by the College of Public Health for workforce training.

23 (5) For fiscal year 2016-17, one million four hundred thousand  
24 dollars is available from the Nebraska Health Care Cash Fund for  
25 implementation of the Medical Cannabis Act. For fiscal year 2017-18, one  
26 million dollars is available from the Nebraska Health Care Cash Fund for  
27 implementation of the Medical Cannabis Act. The amounts made available  
28 from the Nebraska Health Care Cash Fund for implementation of the Medical  
29 Cannabis Act shall be repaid with interest on or before June 30, 2023, to  
30 the fund from fees and taxes collected pursuant to the Medical Cannabis  
31 Act. Interest shall begin accruing on the outstanding balance remaining  
1 to be repaid on July 1, 2017. The interest rate shall be five percent  
2 simple interest per year on the outstanding balance.

3 2. Renumber the remaining sections accordingly.

4 3. Correct the operative date and repealer sections so that the  
5 section added by this amendment becomes operative three calendar months  
6 after the adjournment of this legislative session.

Senator Mello moved the previous question. The question is, "Shall the  
debate now close?"

Senator Garrett moved for a call of the house. The motion prevailed with 26  
ayes, 0 nays, and 23 not voting.

Senator Mello requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 41:

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

Voting in the negative, 1:

Kintner

Present and not voting, 3:

Riepe            Stinner            Williams

Excused and not voting, 4:

Davis            Gloor            Larson            Schnoor

The motion to cease debate prevailed with 41 ayes, 1 nay, 3 present and not voting, and 4 excused and not voting.

The Mello amendment was adopted with 26 ayes, 12 nays, 7 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Krist offered the following amendment to the Howard amendment:  
AM2869

(Amendments to Howard amendments, AM2599)

- 1 1. Strike original sections 48 to 54 and 56 to 64 and insert the
- 2 following new sections:
- 3 Sec. 48. (1) Each manufacturer shall pay a tax equal to thirty-
- 4 three percent of its net revenue for each calendar year on or before
- 5 February 1 of the following calendar year. The Tax Commissioner shall
- 6 collect the taxes imposed under this section and shall remit them to the
- 7 State Treasurer for credit to the Medical Cannabis Regulation Fund.
- 8 (2) For purposes of this section, net revenue means the revenue
- 9 obtained by a manufacturer from the production and sale of cannabis
- 10 pursuant to the Medical Cannabis Act less normal business expenses as
- 11 determined by the Tax Commissioner.
- 12 Sec. 50. Section 77-2701.16, Revised Statutes Cumulative Supplement,

13 2014, is amended to read:

14 77-2701.16 (1) Gross receipts means the total amount of the sale or  
15 lease or rental price, as the case may be, of the retail sales of  
16 retailers.

17 (2) Gross receipts of every person engaged as a public utility  
18 specified in this subsection, as a community antenna television service  
19 operator, or as a satellite service operator or any person involved in  
20 connecting and installing services defined in subdivision (2)(a), (b), or  
21 (d) of this section means:

22 (a)(i) In the furnishing of telephone communication service, other  
23 than mobile telecommunications service as described in section  
24 77-2703.04, the gross income received from furnishing ancillary services,  
25 except for conference bridging services, and intrastate  
26 telecommunications services, except for value-added, nonvoice data  
1 service.

2 (ii) In the furnishing of mobile telecommunications service as  
3 described in section 77-2703.04, the gross income received from  
4 furnishing mobile telecommunications service that originates and  
5 terminates in the same state to a customer with a place of primary use in  
6 Nebraska;

7 (b) In the furnishing of telegraph service, the gross income  
8 received from the furnishing of intrastate telegraph services;

9 (c)(i) In the furnishing of gas, sewer, water, and electricity  
10 service, other than electricity service to a customer-generator as  
11 defined in section 70-2002, the gross income received from the furnishing  
12 of such services upon billings or statements rendered to consumers for  
13 such utility services.

14 (ii) In the furnishing of electricity service to a customer-  
15 generator as defined in section 70-2002, the net energy use upon billings  
16 or statements rendered to customer-generators for such electricity  
17 service;

18 (d) In the furnishing of community antenna television service or  
19 satellite service, the gross income received from the furnishing of such  
20 community antenna television service as regulated under sections 18-2201  
21 to 18-2205 or 23-383 to 23-388 or satellite service; and

22 (e) The gross income received from the provision, installation,  
23 construction, servicing, or removal of property used in conjunction with  
24 the furnishing, installing, or connecting of any public utility services  
25 specified in subdivision (2)(a) or (b) of this section or community  
26 antenna television service or satellite service specified in subdivision  
27 (2)(d) of this section, except when acting as a subcontractor for a  
28 public utility, this subdivision does not apply to the gross income  
29 received by a contractor electing to be treated as a consumer of building  
30 materials under subdivision (2) or (3) of section 77-2701.10 for any such  
31 services performed on the customer's side of the utility demarcation  
1 point.

2 (3) Gross receipts of every person engaged in selling, leasing, or  
3 otherwise providing intellectual or entertainment property means:

4 (a) In the furnishing of computer software, the gross income

5 received, including the charges for coding, punching, or otherwise  
6 producing any computer software and the charges for the tapes, disks,  
7 punched cards, or other properties furnished by the seller; and  
8 (b) In the furnishing of videotapes, movie film, satellite  
9 programming, satellite programming service, and satellite television  
10 signal descrambling or decoding devices, the gross income received from  
11 the license, franchise, or other method establishing the charge.  
12 (4) Gross receipts for providing a service means:  
13 (a) The gross income received for building cleaning and maintenance,  
14 pest control, and security;  
15 (b) The gross income received for motor vehicle washing, waxing,  
16 towing, and painting;  
17 (c) The gross income received for computer software training;  
18 (d) The gross income received for installing and applying tangible  
19 personal property if the sale of the property is subject to tax. If any  
20 or all of the charge for installation is free to the customer and is paid  
21 by a third-party service provider to the installer, any tax due on that  
22 part of the activation commission, finder's fee, installation charge, or  
23 similar payment made by the third-party service provider shall be paid  
24 and remitted by the third-party service provider;  
25 (e) The gross income received for services of recreational vehicle  
26 parks;  
27 (f) The gross income received for labor for repair or maintenance  
28 services performed with regard to tangible personal property the sale of  
29 which would be subject to sales and use taxes, excluding motor vehicles,  
30 except as otherwise provided in section 77-2704.26 or 77-2704.50;  
31 (g) The gross income received for animal specialty services except  
1 (i) veterinary services, (ii) specialty services performed on livestock  
2 as defined in section 54-183, and (iii) animal grooming performed by a  
3 licensed veterinarian or a licensed veterinary technician in conjunction  
4 with medical treatment; and  
5 (h) The gross income received for detective services.  
6 (5) Gross receipts includes the sale of admissions. When an  
7 admission to an activity or a membership constituting an admission is  
8 combined with the solicitation of a contribution, the portion or the  
9 amount charged representing the fair market price of the admission shall  
10 be considered a retail sale subject to the tax imposed by section  
11 77-2703. The organization conducting the activity shall determine the  
12 amount properly attributable to the purchase of the privilege, benefit,  
13 or other consideration in advance, and such amount shall be clearly  
14 indicated on any ticket, receipt, or other evidence issued in connection  
15 with the payment.  
16 (6) Gross receipts includes the sale of live plants incorporated  
17 into real estate except when such incorporation is incidental to the  
18 transfer of an improvement upon real estate or the real estate.  
19 (7) Gross receipts includes the sale of any building materials  
20 annexed to real estate by a person electing to be taxed as a retailer  
21 pursuant to subdivision (1) of section 77-2701.10.  
22 (8) Gross receipts includes the sale of and recharge of prepaid

23 calling service and prepaid wireless calling service.

24 (9) Gross receipts includes the retail sale of digital audio works,  
25 digital audiovisual works, digital codes, and digital books delivered  
26 electronically if the products are taxable when delivered on tangible  
27 storage media. A sale includes the transfer of a permanent right of use,  
28 the transfer of a right of use that terminates on some condition, and the  
29 transfer of a right of use conditioned upon the receipt of continued  
30 payments.

31 (10) Gross receipts does not include:

1 (a) The amount of any rebate granted by a motor vehicle or motorboat  
2 manufacturer or dealer at the time of sale of the motor vehicle or  
3 motorboat, which rebate functions as a discount from the sales price of  
4 the motor vehicle or motorboat; or

5 (b) The price of property or services returned or rejected by  
6 customers when the full sales price is refunded either in cash or credit.

7 (11) Gross receipts includes the retail sale of cannabis obtained

8 pursuant to the Medical Cannabis Act.

9 Sec. 51. Section 77-2701.32, Reissue Revised Statutes of Nebraska,  
10 is amended to read:

11 77-2701.32 (1) Retailer means any seller.

12 (2) To facilitate the proper administration of the Nebraska Revenue  
13 Act of 1967, the following persons have the duties and responsibilities  
14 of sellers for the purposes of sales and use taxes:

15 (a) Any person in the business of making sales subject to tax under  
16 section 77-2703 at auction of property owned by the person or others;

17 (b) Any person collecting the proceeds of the auction, other than  
18 the owner of the property, together with his or her principal, if any,  
19 when the person collecting the proceeds of the auction is not the  
20 auctioneer or an agent or employee of the auctioneer. The seller does not  
21 include the auctioneer in such case;

22 (c) Every person who has elected to be considered a retailer  
23 pursuant to subdivision (1) of section 77-2701.10;

24 (d) Every person operating, organizing, or promoting a flea market,  
25 craft show, fair, or similar event; ~~and~~

26 (e) Every person engaged in the business of providing any service  
27 defined in subsection (4) of section 77-2701.16; ~~and -~~

28 (f) Every person doing business as a compassion center pursuant to  
29 the Medical Cannabis Act.

30 (3) For the proper administration of the Nebraska Revenue Act of  
31 1967, the following persons do not have the duties and responsibilities  
1 of a seller for purposes of sales and use taxes:

2 (a) Any person who leases or rents films when an admission tax is  
3 charged under the Nebraska Revenue Act of 1967;

4 (b) Any person who leases or rents railroad rolling stock  
5 interchanged pursuant to the provisions of the federal Interstate  
6 Commerce Act;

7 (c) Any person engaged in the business of furnishing rooms in a  
8 facility licensed under the Health Care Facility Licensure Act in which  
9 rooms, lodgings, or accommodations are regularly furnished for a

10 consideration or a facility operated by an educational institution  
11 established under Chapter 79 or Chapter 85 in which rooms are regularly  
12 used to house students for a consideration for periods in excess of  
13 thirty days; or

14 (d) Any person making sales at a flea market, craft show, fair, or  
15 similar event when such person does not have a sales tax permit and has  
16 arranged to pay sales taxes collected to the person operating,  
17 organizing, or promoting such event.

18 Sec. 52. Section 77-2704.09, Reissue Revised Statutes of Nebraska,  
19 is amended to read:

20 77-2704.09 (1) Sales and use taxes shall not be imposed on the gross  
21 receipts from the sale, lease, or rental of and the storage, use, or  
22 other consumption in this state of (a) insulin, (b) mobility enhancing  
23 equipment and drugs, not including cannabis obtained pursuant to the  
24 Medical Cannabis Act or over-the-counter drugs, when sold for a patient's  
25 use under a prescription, and (c) the following when sold for a patient's  
26 use under a prescription and which are of the type eligible for coverage  
27 under the medical assistance program established pursuant to the Medical  
28 Assistance Act: Durable medical equipment; home medical supplies;  
29 prosthetic devices; oxygen; and oxygen equipment.

30 (2) For purposes of this section:

31 (a) Drug means a compound, substance, preparation, and component of  
1 a compound, substance, or preparation, other than food and food  
2 ingredients, dietary supplements, or alcoholic beverages:

3 (i) Recognized in the official United States Pharmacopoeia, official  
4 Homeopathic Pharmacopoeia of the United States, or official National  
5 Formulary, and any supplement to any of them;

6 (ii) Intended for use in the diagnosis, cure, mitigation, treatment,  
7 or prevention of disease; or

8 (iii) Intended to affect the structure or any function of the body;

9 (b) Durable medical equipment means equipment which can withstand  
10 repeated use, is primarily and customarily used to serve a medical  
11 purpose, generally is not useful to a person in the absence of illness or  
12 injury, is appropriate for use in the home, and is not worn in or on the  
13 body. Durable medical equipment includes repair and replacement parts for  
14 such equipment;

15 (c) Home medical supplies means supplies primarily and customarily  
16 used to serve a medical purpose which are appropriate for use in the home  
17 and are generally not useful to a person in the absence of illness or  
18 injury;

19 (d) Mobility enhancing equipment means equipment which is primarily  
20 and customarily used to provide or increase the ability to move from one  
21 place to another, which is not generally used by persons with normal  
22 mobility, and which is appropriate for use either in a home or a motor  
23 vehicle. Mobility enhancing equipment includes repair and replacement  
24 parts for such equipment. Mobility enhancing equipment does not include  
25 any motor vehicle or equipment on a motor vehicle normally provided by a  
26 motor vehicle manufacturer;

27 (e) Over-the-counter drug means a drug that contains a label that

28 identifies the product as a drug as required by 21 C.F.R. 201.66, as such  
29 regulation existed on January 1, 2003. The over-the-counter drug label  
30 includes a drug facts panel or a statement of the active ingredients with  
31 a list of those ingredients contained in the compound, substance, or  
1 preparation;

2 (f) Oxygen equipment means oxygen cylinders, cylinder transport  
3 devices including sheaths and carts, cylinder studs and support devices,  
4 regulators, flowmeters, tank wrenches, oxygen concentrators, liquid  
5 oxygen base dispensers, liquid oxygen portable dispensers, oxygen tubing,  
6 nasal cannulas, face masks, oxygen humidifiers, and oxygen fittings and  
7 accessories;

8 (g) Prescription means an order, formula, or recipe issued in any  
9 form of oral, written, electronic, or other means of transmission by a  
10 duly licensed practitioner authorized under the Uniform Credentialing  
11 Act; and

12 (h) Prosthetic devices means a replacement, corrective, or  
13 supportive device worn on or in the body to artificially replace a  
14 missing portion of the body, prevent or correct physical deformity or  
15 malfunction, or support a weak or deformed portion of the body, and  
16 includes any supplies used with such device and repair and replacement  
17 parts.

18 Sec. 53. Section 77-4303, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 77-4303 (1) A tax is hereby imposed on marijuana and controlled  
21 substances at the following rates:

22 (a) On each ounce of marijuana or each portion of an ounce, one  
23 hundred dollars;

24 (b) On each gram or portion of a gram of a controlled substance that  
25 is customarily sold by weight or volume, one hundred fifty dollars; or

26 (c) On each fifty dosage units or portion thereof of a controlled  
27 substance that is not customarily sold by weight, five hundred dollars.

28 (2) For purposes of calculating the tax under this section,  
29 marijuana or any controlled substance that is customarily sold by weight  
30 or volume shall be measured by the weight of the substance in the  
31 dealer's possession. The weight shall be the actual weight, if known, or  
1 the estimated weight as determined by the Nebraska State Patrol or other  
2 law enforcement agency. Such determination shall be presumed to be the  
3 weight of such marijuana or controlled substances for purposes of  
4 sections 77-4301 to 77-4316.

5 (3) The tax shall not be imposed upon a person registered or  
6 otherwise lawfully in possession of marijuana or a controlled substance  
7 pursuant to Chapter 28, article 4, or a person lawfully in possession of  
8 cannabis under the Medical Cannabis Act.

9 2. On page 1, line 3, strike "54" and insert "48".

10 3. On page 13, line 17, strike "Medical Cannabis Board" and insert  
11 "Director of Public Health".

12 4. On page 14, lines 2 and 3; and page 16, line 1, strike "Medical  
13 Cannabis Board" and insert "Director of Public Health".

14 5. On page 17, line 10, strike "Medical Cannabis Board" and insert

15 "Director of Public Health"; and in lines 13, 17, and 18 strike "board"  
 16 and insert "director".  
 17 6. Renumber the remaining sections and correct the repealer  
 18 accordingly.

### SENATOR SCHEER PRESIDING

Pending.

#### AMENDMENT(S) - Print in Journal

Senator Seiler filed the following amendment to LB1094:  
 AM2845

(Amendments to E & R amendments, ER226)

- 1 1. Strike section 5.
- 2 2. On page 13, line 8, strike "Person", show as stricken, and insert  
 3 "Until January 1, 2017, person".
- 4 3. On page 17, line 26, strike the comma and after "or" insert  
 5 "except".
- 6 4. On page 25, line 19, after "arrest" insert "as provided in  
 7 sections 20 and 21 of this act" and after "or" insert "exercise the power  
 8 of"; and in lines 20 and 21 strike the new matter.
- 9 5. On page 30, line 7, after "and" insert "assuming"; and in line 12  
 10 strike "incarceration" and insert "imprisonment".
- 11 6. On page 32, line 20, strike the comma; in line 21 strike "by his  
 12 or her probation officer or the court"; in line 22 strike "violations of  
 13 conditions" and insert "a violation of a condition"; and strike beginning  
 14 with "A" in line 23 through "response" in line 26 and insert "A custodial  
 15 sanction may include up to thirty days in jail as the most severe  
 16 response and may include up to three days in jail as the second most  
 17 severe response".
- 18 7. On page 37, line 22, strike "(2)(b)" and insert "(1)(b)".
- 19 8. On page 38, line 9, strike "(1)" and insert "(2)"; and in line 16  
 20 after "probation" insert an underscored comma.
- 21 9. On page 40, line 4, after "sanction" insert "rests with the court  
 22 and"; and in line 13 strike "22" and insert "23".
- 23 10. On page 41, line 17, after "commitment" insert "order"; and in  
 24 line 23 strike "shall be" and insert "is".
- 25 11. On page 42, line 14, after "commitment" insert "order"; in line  
 26 16 after the last comma insert "and shall be made"; and in line 18 strike  
 1 "probation".
- 2 12. On page 43, strike beginning with "For" in line 30 through  
 3 "sanction" in line 31 and insert "A custodial sanction be imposed on a  
 4 probationer convicted of a felony".
- 5 13. On page 66, strike line 15 and insert "sections 28-105,  
 6 29-2204.02, 29-2260, 29-2262, 29-2263, 29-2266, 29-2267, 29-2268, 47-401,  
 7 47-502, 83-187, 83-1,119, 83-1,122, and 83-1,122.01 by"; and in line 16  
 8 strike "and 23" and insert "22, and 39".
- 9 14. Renumber the remaining sections and correct internal references  
 10 and the repealer accordingly.

Senator Scheer filed the following amendment to LB884:

FA117

Amend AM2828

On page 4, strike lines 8 through 13.

Senator Murante filed the following amendment to LB1067:

FA118

Add the emergency clause.

Senator Bloomfield filed the following amendment to LB716:

AM2841

(Amendments to E&R amendments, ER250)

- 1 1. On page 4, after line 8 insert the following new subsection:
- 2 "(5) Any person who is younger than sixteen years of age shall
- 3 dismount and walk his or her bicycle when crossing a highway by any
- 4 route, including, but not limited to, a bike path or a crosswalk."; and
- 5 in line 9 strike "(5)" and insert "(6)".

Senator Hilkemann filed the following amendment to LB804:

AM2848

- 1 1. On page 4, line 12, strike "No professional board" and insert
- 2 "Neither the Director of Public Health nor the chief medical officer
- 3 appointed pursuant to section 81-3115".

## RESOLUTION(S)

**LEGISLATIVE RESOLUTION 618.** Introduced by Bolz, 29.

WHEREAS, Marilyn Dongilli graduated magna cum laude from Wichita State University with a bachelor of science in physical therapy; and

WHEREAS, Ms. Dongilli has helped Nebraskans for over 35 years in a variety of settings, including Madonna Rehabilitation Hospital in Lincoln, skilled rehabilitation, long-term acute care, and home health; and

WHEREAS, over the past 19 years, Ms. Dongilli has been the inpatient clinical director of physical therapy at Madonna Rehabilitation Hospital; and

WHEREAS, in her capacity at Madonna, Ms. Dongilli has contributed to the healthcare of Nebraskans by overseeing staff hiring, orientation, staff competency assessment, and continuing improvement of the staff's clinical skills and professional development; and

WHEREAS, Ms. Dongilli has presented nationally at the American Physical Therapy Association's Combined Sections Meeting, the Annual Education Conference of the Association of Rehabilitation Nurses, and before the American Medical Rehabilitation Providers Association; and

WHEREAS, Ms. Dongilli has made contributions to the field of physical therapy through clinical instruction at the University of Nebraska's physical therapy program in the areas of documentation and neuro-developmental treatment; and

WHEREAS, Ms. Dongilli will be retiring this year.

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

1. That the Legislature congratulates Marilyn Dongilli and wishes her a happy retirement after her successful career at Madonna Rehabilitation Hospital.

2. That a copy of this resolution be sent to Ms. Dongilli and Madonna Rehabilitation Hospital.

Laid over.

#### SELECT FILE

**LEGISLATIVE BILL 643.** Senator Williams offered the following motion:

MO270

Recommit to the Judiciary Committee.

Senator Williams moved for a call of the house. The motion prevailed with 34 ayes, 0 nays, and 15 not voting.

Senator Williams requested a roll call vote on the motion to recommit to committee.

Voting in the affirmative, 12:

Brasch	Hilkemann	Kintner	Riepe
Fox	Hughes	Kolterman	Seiler
Friesen	Johnson	Kuehn	Watermeier

Voting in the negative, 24:

Baker	Coash	Garrett	Howard	Morfeld
Bloomfield	Cook	Groene	Kolowski	Pansing Brooks
Bolz	Craighead	Haar, K.	Krist	Schumacher
Campbell	Crawford	Hadley	Lindstrom	Sullivan
Chambers	Ebke	Hansen	Mello	

Present and not voting, 8:

Harr, B.	McCoy	Scheer	Stinner
McCollister	Murante	Smith	Williams

Excused and not voting, 5:

Davis	Gloor	Larson	Schilz	Schnoor
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The Williams motion to recommit to committee failed with 12 ayes, 24 nays, 8 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Williams offered the following motion:

MO271

Reconsider the vote taken to recommit to committee.

Senator Williams asked unanimous consent to withdraw his motion to reconsider.

No objections. So ordered.

Senator Krist withdrew his amendment, AM2869, found in this day's Journal.

The Howard amendment, AM2599, found on page 1000 and considered in this day's Journal, as amended, was renewed.

### **SPEAKER HADLEY PRESIDING**

Senator Murante moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

Senator Chambers moved for a call of the house. The motion prevailed with 40 ayes, 0 nays, and 9 not voting.

Senator Chambers requested a roll call vote on the Howard amendment, as amended.

Voting in the affirmative, 25:

Baker	Coash	Haar, K.	Kolowski	Morfeld
Bloomfield	Cook	Hadley	Krist	Pansing Brooks
Bolz	Craighead	Hansen	Lindstrom	Schilz
Campbell	Ebke	Harr, B.	McCollister	Schumacher
Chambers	Garrett	Howard	Mello	Sullivan

Voting in the negative, 12:

Brasch	Kintner	McCoy	Stinner
Hilkemann	Kolterman	Riepe	Watermeier
Hughes	Kuehn	Seiler	Williams

Present and not voting, 9:

Crawford	Fox	Groene	Murante	Smith
Davis	Friesen	Johnson	Scheer	

Excused and not voting, 3:

Gloor            Larson            Schnoor

The Howard amendment, as amended, was adopted with 25 ayes, 12 nays, 9 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Williams offered the following motion:

MO273

Bracket until April 20, 2016.

Senator Garrett offered the following motion:

MO274

Invoke cloture pursuant to Rule 7, Sec. 10.

Senator Garrett moved for a call of the house. The motion prevailed with 39 ayes, 0 nays, and 10 not voting.

Senator Garrett requested a roll call vote, in reverse order, on the motion to invoke cloture.

Voting in the affirmative, 30:

Baker	Cook	Hadley	Krist	Murante
Bloomfield	Craighead	Hansen	Larson	Pansing Brooks
Bolz	Crawford	Harr, B.	Lindstrom	Schilz
Campbell	Ebke	Hilkemann	McCollister	Schumacher
Chambers	Garrett	Howard	Mello	Smith
Coash	Haar, K.	Kolowski	Morfeld	Sullivan

Voting in the negative, 15:

Brasch	Groene	Kintner	McCoy	Stinner
Fox	Hughes	Kolterman	Riepe	Watermeier
Friesen	Johnson	Kuehn	Seiler	Williams

Present and not voting, 2:

Davis            Scheer

Excused and not voting, 2:

Gloor            Schnoor

The Garrett motion to invoke cloture failed with 30 ayes, 15 nays, 2 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

**VISITOR(S)**

Visitors to the Chamber were 37 fourth-grade students from Northwest Feeder Schools, Grand Island; 39 fourth-grade students from St. Michael's Elementary, Hastings; a group from District 30 and the state of Washington; 9 fourth-grade students and teachers from Allen; Senator Larson's grandmother, Carolyn Larson, from O'Neill; 3 fourth-grade students and sponsors from Chase County Elementary, Imperial; 76 fourth-grade students from West Dodge Station, Elkhorn; and Chris, Everett, and Evelyn Stiffler from Omaha.

The Doctor of the Day was Dr. Chelsea Williams from Bellevue.

**ADJOURNMENT**

At 8:42 p.m., on a motion by Senator Coash, the Legislature adjourned until 9:00 a.m., Wednesday, April 6, 2016.

Patrick J. O'Donnell  
Clerk of the Legislature

