

TWENTY-FOURTH DAY - FEBRUARY 7, 2017

LEGISLATIVE JOURNAL

**ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION**

TWENTY-FOURTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, February 7, 2017

PRAYER

The prayer was offered by Senator Watermeier.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Scheer presiding.

The roll was called and all members were present.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-third day was approved.

MESSAGE(S) FROM THE GOVERNOR

February 6, 2017

Robert Clements
221 South 5th Street
Elmwood, NE 68349

Dear Mr. Clements:

It is my pleasure to appoint you as a member of the Nebraska Legislature representing District 2 effective February 6, 2017. Your term will continue until January 1, 2019. Your knowledge and input are valuable and your willingness to serve in this important position is appreciated.

Congratulations and best wishes.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosure

COMMITTEE REPORT(S)

Revenue

LEGISLATIVE BILL 190. Indefinitely postponed.

(Signed) Jim Smith, Chairperson

NOTICE OF COMMITTEE HEARING(S)

Revenue

Room 1524

Wednesday, February 15, 2017 1:30 p.m.

LB380
LB452
LB468
LB461

Thursday, February 16, 2017 1:30 p.m.

LB251
LB266
LB640

Wednesday, February 22, 2017 1:30 p.m.

LB535
LB322
LB385
LB555

Thursday, February 23, 2017 1:30 p.m.

LB232
LB236
LB238
LB249

Friday, February 24, 2017 1:30 p.m.

LB602
LB498
LB253
LB288

(Signed) Jim Smith, Chairperson

Judiciary

Room 1113

Thursday, March 2, 2017 1:30 p.m.

LB589

Thursday, March 9, 2017 1:30 p.m.

LB226

Thursday, March 16, 2017 1:30 p.m.

LB145

LB395

LB615

Friday, March 17, 2017 2:00 p.m.

LB366

LB424

LB585

Wednesday, March 22, 2017 1:30 p.m.

LB446

LB560

LB562

LB593

LR26

Thursday, March 23, 2017 1:30 p.m.

LB397

LB502

LB606

LR27

(Signed) Laura Ebke, Chairperson

Education

Room 1525

Tuesday, February 14, 2017 1:30 p.m.

LB246

LB247

LB525
LB575

(Signed) Mike Groene, Chairperson

AMENDMENT(S) - Print in Journal

Senator Erdman filed the following amendment to LB568:

AM150

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

3 Section 1. Section 79-802, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 79-802 (1) Except as provided in subsection (2) of this section, no
6 person shall be employed to teach in any public, private, denominational,
7 or parochial school in this state who does not hold a valid Nebraska
8 certificate or permit issued by the Commissioner of Education legalizing
9 him or her to teach the grade or subjects to which elected.

10 (2) Any person who holds a valid certificate or permit to teach
11 issued by another state may be employed as a substitute teacher in any
12 public, private, denominational, or parochial school in this state for
13 not more than ten working days if he or she begins the application
14 process, on the first employment day, for a Nebraska substitute teacher's
15 certificate and the issuance of such certificate is pending. A person
16 employed as a substitute teacher pursuant to this subsection shall not be
17 required to hold a temporary certificate or a temporary substitute
18 teacher's certificate pursuant to subsection (2) or (3) of section 79-808
19 while subject to this subsection.

20 (3) Public, private, denominational, or parochial schools in the
21 state may employ persons who do not hold a valid Nebraska teaching
22 certificate or permit issued by the Commissioner of Education to serve as
23 aides to a teacher or teachers. Such teacher aides may not assume any
24 teaching responsibilities. A teacher aide may be assigned duties which
25 are nonteaching in nature if the employing school has assured itself that
26 the aide has been specifically prepared for such duties, including the
27 handling of emergency situations which might arise in the course of his
1 or her work.

2 Sec. 2. Section 79-808, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 79-808 (1) Except as otherwise provided in subsection (3) of this
5 section, the ~~The~~ board shall establish, adopt, and promulgate appropriate
6 rules, regulations, and procedures governing the issuance, renewal,
7 conversion, suspension, and revocation of certificates and permits to
8 teach, provide special services, and administer based upon (a) earned
9 college credit in humanities, social and natural sciences, mathematics,
10 or career and technical education, (b) earned college credit, or its
11 equivalent in professional education, for particular teaching, special
12 services, or administrative assignments, (c) criminal history record
13 information if the applicant has not been a continuous Nebraska resident

14 for five years immediately preceding application for the first issuance
 15 of a certificate, (d) human relations training, (e) successful teaching,
 16 administration, or provision of special services, and (f) moral, mental,
 17 and physical fitness for teaching, all in accordance with sound
 18 educational practices. Such rules, regulations, and procedures shall also
 19 provide for endorsement requirements to indicate areas of specialization
 20 on such certificates and permits.

21 (2) The board may issue a temporary certificate, valid for a period
 22 not to exceed two years, to any applicant for certification who has not
 23 completed the human relations training requirement.

24 (3) Beginning August 1, 2018, the board may issue a temporary
 25 substitute teacher's certificate, valid for a period of five years, to
 26 any qualified candidate. Any person who holds a temporary substitute
 27 teacher's certificate may be employed as a substitute teacher in any
 28 public, private, denominational, or parochial school in this state for
 29 not more than the equivalent of ninety full school days in the same
 30 school or school district during any school year. To be a qualified
 31 candidate for a temporary substitute teacher's certificate, an applicant
 1 shall:

2 (a) Be twenty-one years of age or older;

3 (b) Possess a valid high school diploma;

4 (c) Complete twenty-four hours of inservice training;

5 (d) Complete ten hours of classroom observation at each level for

6 (i) elementary school or early childhood education, (ii) middle school,
 7 and (iii) high school for a total of thirty hours;

8 (e) Successfully complete a course and pass an examination
 9 administered by the department with a score of at least eighty percent on
 10 the Constitution of the United States;

11 (f) Successfully complete a course and pass an examination
 12 administered by the department with a score of at least eighty percent on
 13 the Constitution of Nebraska;

14 (g) Submit fingerprints for purposes of a search for criminal
 15 history record information pursuant to section 79-814.01; and

16 (h) Complete an application for a temporary substitute teacher's
 17 certificate and submit an application fee pursuant to section 79-810.

18 ~~(4)~~ Members of any advisory committee established by the board
 19 to assist the board in teacher education and certification matters shall
 20 be reimbursed for their actual and necessary expenses as provided in
 21 sections 81-1174 to 81-1177. Each school district which has an employee
 22 who serves as a member of such committee and which is required to hire a
 23 person to replace such member during the member's attendance at meetings
 24 or activities of the committee or any subcommittee thereof shall be
 25 reimbursed from the Certification Fund for the expense it incurs from
 26 hiring a replacement. School districts may excuse employees who serve on
 27 such advisory committees from certain duties which conflict with any
 28 advisory committee duties.

29 Sec. 3. Section 79-810, Reissue Revised Statutes of Nebraska, is
 30 amended to read:

31 79-810 (1) Certificates and permits shall be issued by the

1 commissioner upon application on forms prescribed and provided by him or
2 her which shall include the applicant's social security number.

3 (2) Each certificate or permit issued by the commissioner shall
4 indicate the area of authorization to teach, provide special services, or
5 administer and any areas of endorsement for which the holder qualifies.

6 During the term of any certificate or permit issued by the commissioner,
7 additional endorsements may be made on the certificate or permit if the
8 holder submits an application, meets the requirements for issuance of the
9 additional endorsements, and pays a nonrefundable fee of forty dollars.

10 (3) The Certification Fund is created. Any fee received by the
11 department under sections 79-806 to 79-815 shall be remitted to the State
12 Treasurer for credit to the fund. The fund shall be used by the
13 department in paying the costs of certifying educators pursuant to such
14 sections and to carry out subsection (4) ~~(3)~~ of section 79-808.

15 (4) Except as provided in subsection (6) of this section, for ~~For~~
16 issuance of a certificate or permit valid in all schools, the
17 nonrefundable fee shall be fifty-five dollars, except that thirteen
18 dollars of the fifty-five-dollar fee shall be credited to the
19 Professional Practices Commission Fund which is created for use by the
20 department to pay for the provisions of sections 79-859 to 79-871, except
21 that transfers may be made from the fund to the General Fund at the
22 direction of the Legislature.

23 (5) Except as provided in subsection (6) of this section, for ~~For~~
24 issuance of a certificate or permit valid only in nonpublic schools, the
25 nonrefundable fee shall be forty dollars.

26 (6) For the issuance of a temporary substitute teacher's
27 certificate, the nonrefundable fee shall be determined by the board and
28 shall not exceed eighty dollars for a resident who has resided within the
29 state for the past two years or one hundred dollars for any other
30 applicant.

31 (7) Any money in the Certification Fund or the Professional
1 Practices Commission Fund available for investment shall be invested by
2 the state investment officer pursuant to the Nebraska Capital Expansion
3 Act and the Nebraska State Funds Investment Act.

4 Sec. 4. Section 79-814.01, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 79-814.01 (1) Upon request by the commissioner, the Nebraska State
7 Patrol shall undertake a search for criminal history record information
8 relating to an applicant for a certificate pursuant to subdivision (1)(c)
9 or subsection (3) of section 79-808, including transmittal of the
10 applicant's fingerprints to the Federal Bureau of Investigation for a
11 national criminal history record information check. The criminal history
12 record information check shall include information concerning the
13 applicant from federal repositories of such information and repositories
14 of such information in other states if authorized by federal law. The
15 Nebraska State Patrol shall issue a report to the commissioner that shall
16 include the criminal history record information concerning the applicant.

17 (2) The commissioner may deny issuance of a certificate or permit to
18 any applicant who has a felony conviction or who has any misdemeanor

19 conviction involving abuse, neglect, or sexual misconduct. In reviewing
 20 an applicant's criminal history record information, the commissioner
 21 shall take into consideration any information, including information
 22 submitted by the applicant, regarding (a) the facts and circumstances
 23 surrounding a conviction, (b) the type of offense and the sentence
 24 imposed, (c) whether the conduct resulting in a conviction would
 25 constitute a crime in Nebraska, (d) the date of the offense, (e) the age
 26 of the applicant at the time of the offense, and (f) the applicant's
 27 conduct and positive social contributions since the offense.
 28 (3) The board shall determine and set the costs for processing
 29 criminal history record information checks pursuant to this section and
 30 section 79-808 which shall be borne by the applicant for a certificate or
 31 permit. The costs shall be limited to the actual direct costs arising
 1 from the processing of the criminal history record information checks.
 2 (4) Criminal history record information subject to federal
 3 confidentiality requirements shall remain confidential and may be
 4 released only upon the written authorization by the applicant, except
 5 that if the applicant appeals the denial of a certificate or permit by
 6 the commissioner, the filing of an administrative appeal shall constitute
 7 a release of the information for the limited purpose of the appeal. If
 8 the applicant requests a closed hearing, such request shall be subject to
 9 the Open Meetings Act.
 10 Sec. 5. Original sections 79-802, 79-808, 79-810, and 79-814.01,
 11 Reissue Revised Statutes of Nebraska, are repealed.

MOTION - Adopt Permanent Rules

Senator Larson withdrew his motion, found on page 421, to withdraw his proposed rule change, found on page 419, and replace it with his substitute proposed rule change, found on page 420, to Rule 7, Sec. 10.

Senator Larson renewed his proposed rule change, found on page 419, to Rule 7, Sec. 10.

Senator Larson offered the following amendment to his proposed rule change to Rule 7, Sec. 10:

Strike the new language in the original Larson amendment to Rule 7, Sec. 10, and insert the following new language:

A vote on the cloture motion shall be taken immediately, which shall require a majority of the elected members, and shall not prevail if two-fifths of the elected members are voting in the negative. ~~A two-thirds majority of the elected members shall be required for the cloture motion to be successful.~~

SENATOR WATERMEIER PRESIDING

Senator Morfeld moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 31 ayes, 1 nay, and 17 not voting.

Senator Larson moved for a call of the house. The motion prevailed with 41 ayes, 0 nays, and 8 not voting.

Senator Harr requested a roll call vote, in reverse order, on the Larson amendment.

Voting in the affirmative, 22:

Albrecht	Clements	Groene	Lindstrom	Smith
Bostelman	Craighead	Halloran	Linehan	Watermeier
Brasch	Erdman	Hilgers	Lowe	
Brewer	Friesen	Hughes	Murante	
Briese	Geist	Kuehn	Riepe	

Voting in the negative, 23:

Baker	Harr	McCollister	Scheer	Wayne
Blood	Hilkemann	McDonnell	Schumacher	Williams
Bolz	Howard	Morfeld	Stinner	Wishart
Crawford	Kolowski	Pansing Brooks	Vargas	
Hansen	Krist	Quick	Walz	

Present and not voting, 4:

Chambers	Ebke	Kolterman	Larson
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The Larson amendment lost with 22 ayes, 23 nays, and 4 present and not voting.

The Chair declared the call raised.

Senator Larson offered the following motion:
Reconsider the vote just taken on his amendment.

SPEAKER SCHEER PRESIDING

Senator Larson asked unanimous consent to withdraw his motion to reconsider the vote just taken on his amendment. No objections. So ordered.

Senator Larson offered the following amendment to his proposed rule change to Rule 7, Sec. 10:

Strike the new language in the original Larson amendment to Rule 7, Sec. 10, reinstate the stricken language, and insert the following new language:
A vote on the cloture motion shall be taken immediately, which shall require a three-fifths majority of the elected members, and shall not prevail if one-third of the elected members are voting in the negative. ~~A two-thirds majority of the elected members shall be required for the cloture motion to be successful.~~

Pending.

MOTION - Adopt Temporary Rules

Senator Harr moved that the rules, as now in our possession, be adopted until such time as the permanent rules are adopted pursuant to Rule 2, Section 1; provided that the temporary rules shall not continue after the twenty-ninth legislative day.

Senator Larson offered the following amendment to the motion to adopt the temporary rules:

Amend Rule 7, Sec. 10.

Sec. 10. Cloture. At any stage of consideration the principal introducer of the bill under consideration, a cointroducer with the consent of the principal introducer, or the chairperson of the committee, if the bill is introduced by that committee, may move for cloture to the presiding officer; however, the presiding officer may rule such motion for cloture out of order if, in the presiding officer's opinion, a full and fair debate has not been afforded. Such ruling by the presiding officer shall not be subject to challenge. Whenever a motion for cloture is offered, the presiding officer shall immediately recognize such introducer or chairperson and shall then order debate on the pending amendment or motion to cease. A vote on the cloture motion shall be taken immediately. A two-thirds majority of the elected members shall be required for the cloture motion to be successful. A motion for cloture shall be in order except while a member is speaking, and a motion for cloture is not debatable. If the motion for cloture is successful, a vote on the pending matter shall be taken immediately, without debate. If the pending matter is an amendment to an amendment, following a vote on the amendment to the amendment, a vote shall be taken on the original amendment. If the original amendment has been divided, then the vote shall be on the original undivided amendment being considered. Finally, a vote on the advancement of the bill shall be taken.

A motion for cloture shall have precedence over all other motions except a motion to recess or adjourn.

A motion for cloture which fails for lack of sufficient votes shall result in the debate on the bill ending for the day. When the Speaker chooses to resume debate on the bill, successive motions for cloture shall not be in order until ~~two~~ three additional hours of debate on the bill has occurred. If the presiding officer rejects a motion for cloture on a bill due to lack of full and fair debate, successive motions for cloture on the bill may be offered at any time.

Senator Larson offered the following amendment to his amendment:

Amend Rule 2, Sec. 1.

Section 1. Rules, Matters Not Covered. (a) At the commencement of each regular session, a motion shall be offered to adopt the rules of the preceding session as temporary rules. The motion to adopt temporary rules shall require a majority vote of the members. The temporary rules shall be in effect until such time as the permanent rules are adopted and shall be subject

to cloture pursuant to Rule 7, Section 10, which shall require a majority of the elected members for adoption. The motion to adopt permanent rules and amendments to that motion shall require a majority vote of the elected members. In all matters not covered herein, the Legislature shall decide as to the procedure to be followed, the same to require the concurrence of a majority of the elected members.

(b) In the absence of a controlling rule to cover a specific situation and in the absence of controlling custom, usage, and/or precedent, the presiding officer may utilize Mason's Manual of Legislative Procedure as authority.

Senator Larson withdrew his amendments.

Senator Chambers offered the following amendment to the motion to adopt the temporary rules:
Strike Rule 1.

Senator Chambers withdrew his amendment.

The motion to adopt temporary rules prevailed with 41 ayes, 0 nays, 6 present and not voting, and 2 excused and not voting.

RESOLUTION(S)

LEGISLATIVE RESOLUTION 32. Introduced by Stinner, 48.

WHEREAS, the Nebraska Dry Bean Commission was created as a part of the Dry Bean Resources Act with the passage of Legislative Bill 145 in 1987; and

WHEREAS, Legislative Bill 145 was introduced by Senators John Weihing and Dennis Baack and was signed into law by Governor Kay Orr on March 30, 1987; and

WHEREAS, the Nebraska Dry Bean Commission was created to allow dry bean producers and processors the ability to adopt and devise a dry bean program consisting of research, education, advertising, publicity, and promotion to increase total consumption of dry beans on a state, national, and international basis; and

WHEREAS, the majority of Nebraska's dry bean production occurs along the North Platte River located in the panhandle, southwestern, north central, and central regions of Nebraska; and

WHEREAS, Nebraska has historically been the third largest producer of dry edible beans in the United States, producing an average of 2,270 pounds per acre on 122,000 acres for a total production of 2.766 million hundredweight bags; and

WHEREAS, Nebraska is the largest domestic producer of great northern beans, with approximately 85% of all national production occurring within 75 miles of Scottsbluff; and

WHEREAS, Nebraska is the second largest producer of pinto beans and light red kidney beans in this country; and

WHEREAS, the production of dry edible beans has a significant economic impact in this state; and

WHEREAS, dry edible beans are a low-cost, nutrient-dense food compatible with many current food trends, including high-protein, high-fiber, low-fat, plant-based protein, and low-cholesterol diets.

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

1. That the Legislature recognizes February 7, 2017, as the 30th anniversary of the Nebraska Dry Bean Commission.

Laid over.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Buhlke, Brian - Nebraska Rural Health Advisory Commission - Health and Human Services

Dexter, April - Nebraska Rural Health Advisory Commission - Health and Human Services

Fattig, Martin - Nebraska Rural Health Advisory Commission - Health and Human Services

Goertz, Jessye - Nebraska Rural Health Advisory Commission - Health and Human Services

Iske, Benjamin R. - Nebraska Rural Health Advisory Commission - Health and Human Services

(Signed) Dan Watermeier, Chairperson
Executive Board

COMMITTEE ON COMMITTEES REPORT

Committee on Committees reported the following committee assignment made due to the resignation of Senator Kintner:

Senator Clements has been appointed to the Appropriations Committee.

UNANIMOUS CONSENT - Add Cointroducer(s)

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

Senator Brewer name added to LB494.

Senator Ebke name added to LB503.

Senator Lowe name added to LB576.

Senator Erdman name added to LB645.

VISITOR(S)

Visitors to the Chamber were 43 fourth-grade students, teachers, and sponsors from Malcolm; 50 retired members of NSEA from across the state; and members of the Nebraska Bankers Association Leadership Program class from across the state.

The Doctor of the Day was Dr. Tina Kearney from Lincoln.

ADJOURNMENT

At 12:37 p.m., on a motion by Senator Brasch, the Legislature adjourned until 9:00 a.m., Wednesday, February 8, 2017.

Patrick J. O'Donnell
Clerk of the Legislature

