

TWENTY-SIXTH DAY - FEBRUARY 13, 2018

LEGISLATIVE JOURNAL

**ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION**

TWENTY-SIXTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, February 13, 2018

PRAYER

The prayer was offered by Father Mark McKercher, St. Stephen the Martyr Catholic Church, Omaha.

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 Groene, Hansen, Howard, Krist, Morfeld, Pansing Brooks, Smith, Watermeier, and Wayne who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-fifth day was approved.

ANNOUNCEMENT(S)

Senator Geist designates LB993 as her priority bill.

NOTICE OF COMMITTEE HEARING(S)

Revenue

Room 1524

Wednesday, February 21, 2018 1:30 p.m.

LB798
LB914
LB954
LB1022
LB1045

Thursday, February 22, 2018 1:30 p.m.

LB965
LB1016
LB1095
LB1097
LB1075
LB1076

Friday, February 23, 2018 1:30 p.m.

LB910
LB937
LB1006
LB1100
LB1104

Tuesday, February 27, 2018 1:30 p.m.

LB759
LB996
LB1023
LB1021
LB941
LB1026
LB1088

(Signed) Jim Smith, Chairperson

RESOLUTION(S)

Pursuant to Rule 4, Sec. 5(b), LRs 312 and 313 were adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 312 and 313.

MOTION(S) - Confirmation Report(s)

Senator Hughes moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 511:

Environmental Quality Council
Joseph Citta
Mohamed Dahab

Voting in the affirmative, 30:

Albrecht	Brewer	Halloran	Larson	Schumacher
Baker	Chambers	Hilgers	Lindstrom	Stinner
Blood	Ebke	Hilkemann	Linehan	Thibodeau
Bolz	Erdman	Hughes	Lowe	Vargas
Bostelman	Friesen	Kolterman	McDonnell	Walz
Brasch	Geist	Kuehn	Scheer	Wishart

Voting in the negative, 0.

Present and not voting, 10:

Briese	Crawford	Kolowski	Murante	Riepe
Clements	Harr	McCollister	Quick	Williams

Excused and not voting, 9:

Groene	Howard	Morfeld	Smith	Wayne
Hansen	Krist	Pansing Brooks	Watermeier	

The appointments were confirmed with 30 ayes, 0 nays, 10 present and not voting, and 9 excused and not voting.

Senator Larson moved the adoption of the General Affairs Committee report for the confirmation of the following appointment(s) found on page 518:

Nebraska Arts Council
 Steven F. Anderson
 Alec Gorynski
 Ellen Hornady
 Darrel J. Huenergardt
 Sue Roush
 Heather Schneider

Voting in the affirmative, 26:

Albrecht	Clements	Hilgers	McDonnell	Watermeier
Baker	Ebke	Hughes	Murante	Wishart
Blood	Erdman	Kolowski	Smith	
Bolz	Friesen	Larson	Stinner	
Brasch	Geist	Lindstrom	Thibodeau	
Chambers	Halloran	Linehan	Walz	

Voting in the negative, 0.

Present and not voting, 17:

Bostelman	Harr	Lowe	Scheer	Williams
Brewer	Hilkemann	McCollister	Schumacher	
Briese	Kolterman	Quick	Vargas	
Crawford	Kuehn	Riepe	Wayne	

Excused and not voting, 6:

Groene	Howard	Morfeld
Hansen	Krist	Pansing Brooks

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

Senator Larson moved the adoption of the General Affairs Committee report for the confirmation of the following appointment(s) found on page 518:

State Racing Commission
 Jeffrey Galyen
 Dennis Patrick Lee

Voting in the affirmative, 30:

Albrecht	Briese	Geist	Linehan	Smith
Baker	Chambers	Halloran	McCollister	Stinner
Blood	Clements	Hilgers	McDonnell	Thibodeau
Bolz	Ebke	Kolowski	Murante	Walz
Bostelman	Erdman	Larson	Pansing Brooks	Watermeier
Brasch	Friesen	Lindstrom	Schumacher	Wishart

Voting in the negative, 0.

Present and not voting, 14:

Brewer	Hilkemann	Kuehn	Riepe	Wayne
Crawford	Hughes	Lowe	Scheer	Williams
Harr	Kolterman	Quick	Vargas	

Excused and not voting, 5:

Groene	Hansen	Howard	Krist	Morfeld
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The appointments were confirmed with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

Senator Larson moved the adoption of the General Affairs Committee report for the confirmation of the following appointment(s) found on page 519:

State Electrical Board
 John Hiller

Voting in the affirmative, 34:

Albrecht	Chambers	Hilgers	McCollister	Stinner
Baker	Clements	Hilkemann	McDonnell	Thibodeau
Blood	Ebke	Kolowski	Pansing Brooks	Walz
Bolz	Erdman	Kuehn	Riepe	Watermeier
Bostelman	Friesen	Larson	Scheer	Williams
Brasch	Geist	Lindstrom	Schumacher	Wishart
Briese	Halloran	Linehan	Smith	

Voting in the negative, 0.

Present and not voting, 10:

Brewer	Harr	Kolterman	Murante	Vargas
Crawford	Hughes	Lowe	Quick	Wayne

Excused and not voting, 5:

Groene	Hansen	Howard	Krist	Morfeld
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The appointment was confirmed with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

Senator Lindstrom moved the adoption of the Banking, Commerce and Insurance Committee report for the confirmation of the following appointment(s) found on page 535:

Department of Economic Development
David J. Rippe, Director

Voting in the affirmative, 28:

Albrecht	Chambers	Hilkemann	McCollister	Thibodeau
Baker	Clements	Hughes	Murante	Walz
Bolz	Erdman	Kolowski	Pansing Brooks	Watermeier
Bostelman	Friesen	Lindstrom	Riepe	Williams
Brasch	Geist	Linehan	Scheer	
Briese	Hilgers	Lowe	Stinner	

Voting in the negative, 0.

Present and not voting, 15:

Blood	Ebke	Kolterman	Quick	Vargas
Brewer	Halloran	Kuehn	Schumacher	Wayne
Crawford	Harr	Larson	Smith	Wishart

Excused and not voting, 6:

Groene	Howard	McDonnell
Hansen	Krist	Morfeld

The appointment was confirmed with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

Senator Friesen moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointment(s) found on page 547:

Nebraska Highway Commission

David Copple
Mary K. Gerdes
James W. Hawks
James Kindig
Greg Wolford

Voting in the affirmative, 30:

Albrecht	Briese	Groene	Lowe	Stinner
Baker	Chambers	Hilgers	Murante	Thibodeau
Blood	Clements	Hilkemann	Pansing Brooks	Vargas
Bostelman	Erdman	Hughes	Riepe	Watermeier
Brasch	Friesen	Kolterman	Scheer	Williams
Brewer	Geist	Linehan	Smith	Wishart

Voting in the negative, 0.

Present and not voting, 14:

Bolz	Halloran	Kuehn	McCollister	Walz
Crawford	Harr	Larson	Quick	Wayne
Ebke	Kolowski	Lindstrom	Schumacher	

Excused and not voting, 5:

Hansen	Howard	Krist	McDonnell	Morfeld
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The appointments were confirmed with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

Senator Riepe moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 614:

Foster Care Advisory Committee
Michele R. Marsh

Voting in the affirmative, 32:

Albrecht	Chambers	Hilgers	Lowe	Vargas
Baker	Clements	Hilkemann	Murante	Watermeier
Blood	Ebke	Hughes	Pansing Brooks	Williams
Bostelman	Erdman	Kolterman	Riepe	Wishart
Brasch	Friesen	Kuehn	Schumacher	
Brewer	Geist	Lindstrom	Stinner	
Briese	Halloran	Linehan	Thibodeau	

Voting in the negative, 0.

Present and not voting, 11:

Bolz	Kolowski	Quick	Walz
Crawford	Larson	Scheer	Wayne
Harr	McCollister	Smith	

Excused and not voting, 6:

Groene	Howard	McDonnell
Hansen	Krist	Morfeld

The appointment was confirmed with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

AMENDMENT(S) - Print in Journal

Senator Lindstrom filed the following amendment to LB743:
AM1875

- 1 1. Insert the following new sections:
- 2 Sec. 20. Section 44-2607, Reissue Revised Statutes of Nebraska, is
- 3 amended to read:
- 4 44-2607 Insurance consultant shall mean any person who, for a fee,
- 5 engages in the business of offering to the public any advice, counsel,
- 6 opinion, or service with respect to insurable risks, or concerning the
- 7 benefits, coverages, or provisions under any policy of insurance that
- 8 could be issued in this state, or involving the advantages or
- 9 disadvantages of any such policy of insurance, or any formal plan of
- 10 managing pure risk. Insurance consultant does not include a public
- 11 adjuster licensed under the Public Adjusters Licensing Act.
- 12 Sec. 29. Section 44-8108, Revised Statutes Cumulative Supplement,
- 13 2016, is amended to read:
- 14 44-8108 (1) An insurance producer shall not solicit the sale of an
- 15 annuity product unless the insurance producer has adequate knowledge of
- 16 the product to recommend the annuity and the insurance producer is in
- 17 compliance with the insurer's standards for product training. An
- 18 insurance producer may rely on insurer-provided product-specific training
- 19 standards and materials to comply with this subsection.
- 20 (2)(a)(i) An insurance producer who engages in the sale of annuity
- 21 products shall complete a one-time four-credit training course approved

22 by the Department of Insurance and provided by a department-approved
23 education provider.

24 (ii) Insurance producers who hold a life insurance line of authority
25 on July 19, 2012, and who desire to sell annuities shall complete the
26 requirements of this subsection within six months after July 19, 2012.

27 Individuals who obtain a life insurance line of authority on or after
1 July 19, 2012, shall not engage in the sale of annuities until the
2 annuity training course required under this subsection has been
3 completed.

4 (b) The minimum length of the training required under this
5 subsection shall be sufficient to qualify for at least four continuing
6 education credits, but may be longer.

7 (c) The training required under this subsection shall include
8 information on the following topics:

9 (i) The types of annuities and various classifications of annuities;

10 (ii) Identification of the parties to an annuity;

11 (iii) How fixed, variable, and indexed annuity contract provisions
12 affect consumers;

13 (iv) The application of income taxation of qualified and
14 nonqualified annuities;

15 (v) The primary uses of annuities; and

16 (vi) Appropriate sales practices and replacement and disclosure
17 requirements.

18 (d) Providers of courses intended to comply with this subsection
19 shall cover all topics listed in the prescribed outline and shall not
20 present any marketing information or provide training on sales techniques
21 or specific information about a particular insurer's products. Additional
22 topics may be offered in conjunction with and in addition to the required
23 outline.

24 (e) A provider of an annuity training course intended to comply with
25 this subsection shall register as a continuing education provider in this
26 state and comply with the requirements applicable to insurance producer
27 continuing education activities ~~courses~~ as set forth in section 44-3905.

28 (f) Annuity training courses may be conducted and completed by
29 classroom or self-study methods in accordance with sections 44-3901 to
30 44-3908.

31 (g) Providers of annuity training shall comply with the reporting
1 requirements and shall issue certificates of completion in accordance
2 with sections 44-3901 to 44-3908.

3 (h) The satisfaction of training requirements of another state that
4 are substantially similar to the provisions of this subsection shall be
5 deemed to satisfy the training requirements of this subsection.

6 (i) An insurer shall verify that an insurance producer has completed
7 the annuity training course required under this subsection before
8 allowing the producer to sell an annuity product for that insurer. An
9 insurer may satisfy its responsibility under this subsection by obtaining
10 certificates of completion of the training course or obtaining reports
11 provided by National Association of Insurance Commissioners-sponsored
12 data base systems or vendors or from a reasonably reliable commercial

- 13 data base vendor that has a reporting arrangement with approved insurance
 14 education providers.
- 15 2. On page 2, line 31, strike "or any".
- 16 3. On page 3, line 1, strike beginning with "other" through "doing"
 17 and insert "does"; in line 3 strike "Acting" and insert "Acts" and
 18 strike "aiding" and insert "aids"; in line 6 strike "Advertising" and
 19 insert "Advertises"; in lines 7 and 10 strike "soliciting" and insert
 20 "solicits"; in line 7 strike "representing" and insert "represents"; in
 21 line 11 strike the comma; and in lines 26 and 31 strike "claimant" and
 22 insert "insured".
- 23 4. On page 7, line 21, strike "either"; and in line 22 strike
 24 beginning with "or" through "state".
- 25 5. On page 9, line 7; page 10, line 6; and page 19, line 2, strike
 26 "act" and insert "Public Adjusters Licensing Act".
- 27 6. On page 9, line 16, strike "of address".
- 28 7. On page 10, line 24, strike "insurance".
- 29 8. On page 11, line 1, strike the third comma; in line 3 after
 30 "elsewhere" insert "or failing to comply with section 17 of this act";
 31 and in line 4 after "insurance" insert "or public adjuster" and strike
 1 "its equivalent" and insert "the equivalent thereof".
- 2 9. On page 12, line 13, strike "act" and insert "Public Adjusters
 3 Licensing Act".
- 4 10. On page 13, line 14, strike "courses" and insert "activities".
- 5 11. On page 14, line 2, after "of" insert "compensation, including,
 6 but not limited to,"; and in line 3 strike "compensation".
- 7 12. On page 16, line 23, strike "cancellation" and insert
 8 "rescission".
- 9 13. On page 18, line 19, strike "Unless disclosed to the insured, a"
 10 and insert "A".
- 11 14. On page 19, line 24, strike the last comma; and in line 25
 12 strike the comma.
- 13 15. On page 21, line 22, strike "subdivision", show as stricken, and
 14 insert "subsection"; and in lines 27 and 31 strike "course", show as
 15 stricken, and insert "continuing education activity".
- 16 16. On page 22, line 4, strike "course", show as stricken, and
 17 insert "continuing education activity"; in line 12 strike "course" and
 18 insert "continuing education sponsor"; and in line 13 strike "provider".
- 19 17. On page 30, lines 2 and 12, strike "courses", show as stricken,
 20 and insert "activities"; in line 12 strike "subdivision", show as
 21 stricken, and insert "subsection"; and in line 13 strike "(1)(c)" and
 22 insert "(1)".
- 23 18. Renumber the remaining sections and amend the repealer
 24 accordingly.

COMMITTEE REPORT(S)

Natural Resources

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

Robert Hall - Environmental Quality Council
Lance Hedquist - Environmental Quality Council

Aye: 8 Albrecht, Bostelman, Geist, Hughes, Kolowski, McCollister, Quick, Walz. Nay: 0. Absent: 0. Present and not voting: 0.

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

Ryan McIntosh - Nebraska Environmental Trust Board

Aye: 8 Albrecht, Bostelman, Geist, Hughes, Kolowski, McCollister, Quick, Walz. Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Dan Hughes, Chairperson

NOTICE OF COMMITTEE HEARING(S)

Revenue

Room 1524

Thursday, February 22, 2018 1:30 p.m.

LB939

(Signed) Jim Smith, Chairperson

SELECT FILE

LEGISLATIVE BILL 710. Senator Chambers renewed his amendment, AM1867, found on page 606.

Senator Chambers withdrew his amendment.

Senator Baker offered the following amendment:

AM1889

1 1. On page 3, strike beginning with "provided" in line 2 through
2 "rate" in line 3.

The Baker amendment was adopted with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

GENERAL FILE

LEGISLATIVE BILL 775. Senator Chambers renewed his motion, MO207, found on page 561, to reconsider the vote taken on FA99.

SENATOR HUGHES PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with 13 ayes, 1 nay, and 35 not voting.

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

Voting in the affirmative, 2:

Chambers Wayne

Voting in the negative, 34:

Albrecht	Clements	Hilgers	Lowe	Thibodeau
Baker	Crawford	Hilkemann	McCollister	Vargas
Blood	Erdman	Howard	Pansing Brooks	Walz
Bolz	Geist	Hughes	Quick	Watermeier
Bostelman	Groene	Kolterman	Riepe	Williams
Brewer	Halloran	Kuehn	Schumacher	Wishart
Briese	Hansen	Linehan	Stinner	

Present and not voting, 2:

Kolowski Krist

Excused and not voting, 11:

Brasch	Harr	McDonnell	Scheer
Ebke	Larson	Morfeld	Smith
Friesen	Lindstrom	Murante	

The Chambers motion to reconsider failed with 2 ayes, 34 nays, 2 present and not voting, and 11 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:

MO213

Bracket until April 18, 2018.

Senator Chambers moved for a call of the house. The motion prevailed with 14 ayes, 2 nays, and 33 not voting.

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

Voting in the affirmative, 0.

Voting in the negative, 28:

Albrecht	Briese	Hansen	Linehan	Walz
Baker	Clements	Hilkemann	Lowe	Watermeier
Blood	Crawford	Howard	McDonnell	Williams
Bolz	Ebke	Hughes	Quick	Wishart
Bostelman	Geist	Kolterman	Stinner	
Brewer	Halloran	Kuehn	Vargas	

Present and not voting, 5:

Chambers	Erdman	Kolowski	Pansing Brooks	Wayne
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Excused and not voting, 16:

Brasch	Hilgers	McCollister	Scheer
Friesen	Krist	Morfeld	Schumacher
Groene	Larson	Murante	Smith
Harr	Lindstrom	Riepe	Thibodeau

The Chambers motion to bracket failed with 0 ayes, 28 nays, 5 present and not voting, and 16 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:

MO214

Reconsider the vote taken to bracket.

Senator Chambers moved for a call of the house. The motion prevailed with 19 ayes, 3 nays, and 27 not voting.

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

Voting in the affirmative, 3:

Brewer	Chambers	Wayne
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Voting in the negative, 34:

Albrecht	Clements	Hansen	Lowe	Smith
Baker	Crawford	Hilkemann	McCollister	Stinner
Blood	Ebke	Hughes	McDonnell	Vargas
Bolz	Friesen	Kolterman	Morfeld	Walz
Bostelman	Geist	Kuehn	Murante	Williams
Brasch	Groene	Lindstrom	Quick	Wishart
Briese	Halloran	Linehan	Schumacher	

Present and not voting, 3:

Erdman	Kolowski	Pansing Brooks
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Excused and not voting, 9:

Harr	Howard	Larson	Scheer	Watermeier
Hilgers	Krist	Riepe	Thibodeau	

The Chambers motion to reconsider failed with 3 ayes, 34 nays, 3 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:

MO215

Recommit to the Appropriations Committee.

SPEAKER SCHEER PRESIDING

Senator Stinner offered the following motion:

MO212

Invoke cloture pursuant to Rule 7, Sec. 10.

Senator Stinner moved for a call of the house. The motion prevailed with 29 ayes, 2 nays, and 18 not voting.

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

Voting in the affirmative, 46:

Albrecht	Ebke	Howard	Morfeld	Vargas
Baker	Erdman	Hughes	Murante	Walz
Blood	Friesen	Kolowski	Pansing Brooks	Watermeier
Bolz	Geist	Kolterman	Quick	Wayne
Bostelman	Groene	Kuehn	Riepe	Williams
Brasch	Halloran	Larson	Scheer	Wishart
Brewer	Hansen	Lindstrom	Schumacher	
Briese	Harr	Linehan	Smith	
Clements	Hilgers	Lowe	Stinner	
Crawford	Hilkemann	McDonnell	Thibodeau	

Voting in the negative, 1:

Chambers

Present and not voting, 1:

McCollister

Excused and not voting, 1:

Krist

The Stinner motion to invoke cloture prevailed with 46 ayes, 1 nay, 1 present and not voting, and 1 excused and not voting.

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

Voting in the affirmative, 1:

Chambers

Voting in the negative, 47:

Albrecht	Ebke	Howard	McDonnell	Thibodeau
Baker	Erdman	Hughes	Morfeld	Vargas
Blood	Friesen	Kolowski	Murante	Walz
Bolz	Geist	Kolterman	Pansing Brooks	Watermeier
Bostelman	Groene	Kuehn	Quick	Wayne
Brasch	Halloran	Larson	Riepe	Williams
Brewer	Hansen	Lindstrom	Scheer	Wishart
Briese	Harr	Linehan	Schumacher	
Clements	Hilgers	Lowe	Smith	
Crawford	Hilkemann	McCollister	Stinner	

Excused and not voting, 1:

Krist

The Chamber motion to recommit to committee failed with 1 aye, 47 nays, and 1 excused and not voting.

Senator Chambers requested a roll call vote on the committee amendment, AM1723, as amended.

Voting in the affirmative, 48:

Albrecht	Crawford	Hilkemann	McCollister	Stinner
Baker	Ebke	Howard	McDonnell	Thibodeau
Blood	Erdman	Hughes	Morfeld	Vargas
Bolz	Friesen	Kolowski	Murante	Walz
Bostelman	Geist	Kolterman	Pansing Brooks	Watermeier
Brasch	Groene	Kuehn	Quick	Wayne
Brewer	Halloran	Larson	Riepe	Williams
Briese	Hansen	Lindstrom	Scheer	Wishart
Chambers	Harr	Linehan	Schumacher	
Clements	Hilgers	Lowe	Smith	

Voting in the negative, 0.

Excused and not voting, 1:

Krist

The committee amendment, as amended, was adopted with 48 ayes, 0 nays, and 1 excused and not voting.

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

Voting in the affirmative, 47:

Albrecht	Ebke	Howard	McDonnell	Thibodeau
Baker	Erdman	Hughes	Morfeld	Vargas
Blood	Friesen	Kolowski	Murante	Walz
Bolz	Geist	Kolterman	Pansing Brooks	Watermeier
Bostelman	Groene	Kuehn	Quick	Wayne
Brasch	Halloran	Larson	Riepe	Williams
Brewer	Hansen	Lindstrom	Scheer	Wishart
Briese	Harr	Linehan	Schumacher	
Clements	Hilgers	Lowe	Smith	
Crawford	Hilkemann	McCollister	Stinner	

Voting in the negative, 1:

Chambers

Excused and not voting, 1:

Krist

Advanced to Enrollment and Review Initial with 47 ayes, 1 nay, and 1 excused and not voting.

The Chair declared the call raised.

COMMITTEE REPORT(S)

Executive Board

LEGISLATIVE BILL 1078. Placed on General File.**LEGISLATIVE BILL 935.** Placed on General File with amendment.

AM1888

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

2 sections:

3 Section 1. (1) Notwithstanding sections 77-2711 and 77-27,119, the
4 Tax Commissioner may permit the Director of Economic Development or his
5 or her designee to inspect identification information derived from tax
6 returns of taxpayers participating in economic development tax incentive
7 programs. Return information shall be inspected only on the premises of
8 the Department of Revenue. Such inspection shall be only for the purpose
9 of identifying taxpayers participating in programs under audit pursuant
10 to section 50-1209. The information inspected shall be limited to the
11 names, addresses, and identification numbers of participating taxpayers.
12 (2) Any tax return information received by the Director of Economic
13 Development or his or her designee pursuant to this section shall be
14 considered confidential, and any person who discloses such information
15 other than as specifically allowed by this section or other laws of this
16 state shall be guilty of a Class I misdemeanor.

17 Sec. 2. Section 77-5701, Revised Statutes Cumulative Supplement,
18 2016, is amended to read:

19 77-5701 Sections 77-5701 to 77-5735 and sections 4 and 5 of this act
20 shall be known and may be cited as the Nebraska Advantage Act.

21 Sec. 3. Section 77-5723, Revised Statutes Cumulative Supplement,
22 2016, is amended to read:

23 77-5723 (1) In order to utilize the incentives set forth in the
24 Nebraska Advantage Act, the taxpayer shall file an application, on a form
25 developed by the Tax Commissioner, requesting an agreement with the Tax
26 Commissioner.

27 (2) The application shall contain:

1 (a) A written statement describing the plan of employment and
2 investment for a qualified business in this state. For applications filed
3 on and after the effective date of this act, the written statement shall
4 include the following information with respect to the applicant's
5 business operations in Nebraska: :

6 (i) All federal employer identification numbers associated with the
7 taxpayer and with the members of the taxpayer's unitary group, if any;

8 (ii) An identification of which federal employer identification
9 numbers will include new employees;

10 (iii) All unemployment insurance identification numbers associated
11 with the taxpayer and with the members of the taxpayer's unitary group,
12 if any; and

13 (iv) An identification of which unemployment insurance
14 identification numbers will include new employees;

15 (b) Sufficient documents, plans, and specifications as required by

16 the Tax Commissioner to support the plan and to define a project;
17 (c) If more than one location within this state is involved,
18 sufficient documentation to show that the employment and investment at
19 different locations are interdependent parts of the plan. A headquarters
20 shall be presumed to be interdependent with each other location directly
21 controlled by such headquarters. A showing that the parts of the plan
22 would be considered parts of a unitary business for corporate income tax
23 purposes shall not be sufficient to show interdependence for the purposes
24 of this subdivision;

25 (d) A nonrefundable application fee of one thousand dollars for a
26 tier 1 project, two thousand five hundred dollars for a tier 2, tier 3,
27 or tier 5 project, five thousand dollars for a tier 4 project, and ten
28 thousand dollars for a tier 6 project. The fee shall be credited to the
29 Nebraska Incentives Fund; and

30 (e) A timetable showing the expected sales tax refunds and what year
31 they are expected to be claimed. The timetable shall include both direct
1 refunds due to investment and credits taken as sales tax refunds as
2 accurately as possible.

3 The application and all supporting information shall be confidential
4 except for the name of the taxpayer, the location of the project, the
5 amounts of increased employment and investment, and the information
6 required to be reported by sections 77-5731 and 77-5734.

7 (3) An application must be complete to establish the date of the
8 application. An application shall be considered complete once it contains
9 the items listed in subsection (2) of this section, regardless of the Tax
10 Commissioner's additional needs pertaining to information or
11 clarification in order to approve or not approve the application.

12 (4) Once satisfied that the plan in the application defines a
13 project consistent with the purposes stated in the Nebraska Advantage Act
14 in one or more qualified business activities within this state, that the
15 taxpayer and the plan will qualify for benefits under the act, and that
16 the required levels of employment and investment for the project will be
17 met prior to the end of the fourth year after the year in which the
18 application was submitted for a tier 1, tier 3, or tier 6 project or the
19 end of the sixth year after the year in which the application was
20 submitted for a tier 2, tier 4, or tier 5 project, the Tax Commissioner
21 shall approve the application. For a tier 5 project that is sequential to
22 a tier 2 large data center project, the required level of investment
23 shall be met prior to the end of the fourth year after the expiration of
24 the tier 2 large data center project entitlement period relating to
25 direct sales tax refunds.

26 (5) The Tax Commissioner shall make his or her determination to
27 approve or not approve an application within one hundred eighty days
28 after the date of the application. If the Tax Commissioner requests, by
29 mail or by electronic means, additional information or clarification from
30 the taxpayer in order to make his or her determination, such one-hundred-
31 eighty-day period shall be tolled from the time the Tax Commissioner
1 makes the request to the time he or she receives the requested
2 information or clarification from the taxpayer. The taxpayer and the Tax

3 Commissioner may also agree to extend the one-hundred-eighty-day period.
4 If the Tax Commissioner fails to make his or her determination within the
5 prescribed one-hundred-eighty-day period, the application shall be deemed
6 approved.

7 (6) Within one hundred eighty days after approval of the
8 application, the Tax Commissioner shall prepare and mail a written
9 agreement to the taxpayer for the taxpayer's signature. The taxpayer and
10 the Tax Commissioner shall enter into a written agreement. The taxpayer
11 shall agree to complete the project, and the Tax Commissioner, on behalf
12 of the State of Nebraska, shall designate the approved plan of the
13 taxpayer as a project and, in consideration of the taxpayer's agreement,
14 agree to allow the taxpayer to use the incentives contained in the
15 Nebraska Advantage Act. The application, and all supporting
16 documentation, to the extent approved, shall be considered a part of the
17 agreement. The agreement shall state:

18 (a) The levels of employment and investment required by the act for
19 the project;

20 (b) The time period under the act in which the required levels must
21 be met;

22 (c) The documentation the taxpayer will need to supply when claiming
23 an incentive under the act;

24 (d) The date the application was filed; ~~and~~

25 (e) A requirement that the company update the Department of Revenue
26 annually on any changes in plans or circumstances which affect the
27 timetable of sales tax refunds as set out in the application. If the
28 company fails to comply with this requirement, the Tax Commissioner may
29 defer any pending sales tax refunds until the company does comply; ~~and -~~

30 (f) For agreements entered into on or after the effective date of
31 this act, a requirement that the company create and maintain a separate
1 unemployment insurance account with the Department of Labor for each
2 location that will have new employees. Such unemployment insurance
3 account shall:

4 (i) Be maintained for the duration of the taxpayer's participation
5 in the Nebraska Advantage Act;

6 (ii) Be used only for the new employees who work at the relevant
7 location and earn the rate of pay necessary to be included in the
8 calculation of credits under the Nebraska Advantage Act; and

9 (iii) Be used to report the wages paid, hours paid, and job titles
10 for the new employees who work at the relevant location and earn the rate
11 of pay necessary to be included in the calculation of credits under the
12 act.

13 (7) The incentives contained in section 77-5725 shall be in lieu of
14 the tax credits allowed by the Nebraska Advantage Rural Development Act
15 for any project. In computing credits under the act, any investment or
16 employment which is eligible for benefits or used in determining benefits
17 under the Nebraska Advantage Act shall be subtracted from the increases
18 computed for determining the credits under section 77-27,188. New
19 investment or employment at a project location that results in the
20 meeting or maintenance of the employment or investment requirements, the

21 creation of credits, or refunds of taxes under the Employment and
22 Investment Growth Act shall not be considered new investment or
23 employment for purposes of the Nebraska Advantage Act. The use of
24 carryover credits under the Employment and Investment Growth Act, the
25 Invest Nebraska Act, the Nebraska Advantage Rural Development Act, or the
26 Quality Jobs Act shall not preclude investment and employment from being
27 considered new investment or employment under the Nebraska Advantage Act.
28 The use of property tax exemptions at the project under the Employment
29 and Investment Growth Act shall not preclude investment not eligible for
30 the property tax exemption from being considered new investment under the
31 Nebraska Advantage Act.

1 (8) A taxpayer and the Tax Commissioner may enter into agreements
2 for more than one project and may include more than one project in a
3 single agreement. The projects may be either sequential or concurrent. A
4 project may involve the same location as another project. No new
5 employment or new investment shall be included in more than one project
6 for either the meeting of the employment or investment requirements or
7 the creation of credits. When projects overlap and the plans do not
8 clearly specify, then the taxpayer shall specify in which project the
9 employment or investment belongs.

10 (9) The taxpayer may request that an agreement be modified if the
11 modification is consistent with the purposes of the act and does not
12 require a change in the description of the project. An agreement may not
13 be modified to a tier that would grant a higher level of benefits to the
14 taxpayer or to a tier 1 project. Once satisfied that the modification to
15 the agreement is consistent with the purposes stated in the act, the Tax
16 Commissioner and taxpayer may amend the agreement. For a tier 6 project,
17 the taxpayer must agree to limit the project to qualified activities
18 allowable under tier 2 and tier 4.

19 Sec. 4. (1) To facilitate accurate and thorough tax incentive
20 performance audits under section 50-1209, each taxpayer that has an
21 active agreement with the Department of Revenue to receive incentives
22 under the Nebraska Advantage Act shall:

23 (a) Beginning in 2019, submit a report to the Department of Revenue
24 by October 31 of each year. The report shall include the following
25 information with respect to the taxpayer's business operations in
26 Nebraska:

27 (i) All federal employer identification numbers associated with the
28 taxpayer and with the members of the taxpayer's unitary group, if any;

29 (ii) An identification of which federal employer identification
30 numbers include new employees;

31 (iii) All unemployment insurance identification numbers associated
1 with the taxpayer and with the members of the taxpayer's unitary group,
2 if any;

3 (iv) An identification of which unemployment insurance
4 identification numbers include new employees;

5 (v) The amount of investment that was approved for credits in the
6 previous taxable year, identified by asset class as described in Internal
7 Revenue Service Publication 946, Tables B-1 and B-2;

8 (vi) The number of employees for each quarter in the previous
9 calendar year who were offered employer-provided medical, vision, dental,
10 and retirement benefits; and
11 (vii) The number of employees for each quarter in the previous
12 calendar year who received employer-provided medical, vision, dental, and
13 retirement benefits; and
14 (b) Create and maintain a separate unemployment insurance account
15 with the Department of Labor for each location that has new employees.
16 Such unemployment insurance account shall:
17 (i) Be maintained for the duration of the taxpayer's participation
18 in the Nebraska Advantage Act;
19 (ii) Be used only for the new employees who work at the relevant
20 location and earn the rate of pay necessary to be included in the
21 calculation of credits under the Nebraska Advantage Act; and
22 (iii) Be used to report the wages paid, hours paid, and job titles
23 for the new employees who work at the relevant location and earn the rate
24 of pay necessary to be included in the calculation of credits under the
25 act.
26 (2) Taxpayers shall continue to submit the report required in
27 subdivision (1)(a) of this section until three years have passed after
28 the end of the last taxable year in which credits may be claimed under
29 the Nebraska Advantage Act, except that such reporting requirement shall
30 no longer apply if:
31 (a) The taxpayer withdraws from participation in the Nebraska
1 Advantage Act; or
2 (b) The Department of Revenue terminates the taxpayer's
3 participation in the Nebraska Advantage Act.
4 Sec. 5. To facilitate accurate and thorough tax incentive
5 performance audits under section 50-1209, the Department of Revenue shall
6 retain all relevant administrative records and data relating to the
7 Nebraska Advantage Act for at least twenty years. For purposes of this
8 section, administrative records and data include, but are not limited to:
9 (1) Tax returns;
10 (2) Administrative data bases and spreadsheets;
11 (3) Audits; and
12 (4) Contracts and agreements.
13 Sec. 6. Original sections 77-5701 and 77-5723, Revised Statutes
14 Cumulative Supplement, 2016, are repealed.

(Signed) Dan Watermeier, Chairperson

Health and Human Services

LEGISLATIVE BILL 701. Placed on General File with amendment.
AM1880

1 1. On page 4, line 16, strike "shall" and insert "may".

(Signed) Merv Riepe, Chairperson

ANNOUNCEMENT(S)

Senator Howard designates LB931 as her priority bill.

The Executive Board designates LB1078 as its priority bill.

AMENDMENT(S) - Print in Journal

Senator Brewer filed the following amendment to LB755:

AM1901

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

2 sections:

3 Section 1. Section 60-6,356, Revised Statutes Cumulative Supplement,
4 2016, is amended to read:

5 60-6,356 (1) An all-terrain vehicle or a utility-type vehicle shall
6 not be operated on any controlled-access highway with more than two
7 marked traffic lanes. The crossing of any controlled-access highway with
8 more than two marked traffic lanes shall not be permitted except as
9 provided in subsection (9) of this section. Subsections (2), (3), and (5)
10 through (8) of this section authorize and apply to operation of an all-
11 terrain vehicle or a utility-type vehicle only on a highway other than a
12 controlled-access highway with more than two marked traffic lanes.

13 (2) An all-terrain vehicle or a utility-type vehicle may be operated
14 in accordance with the operating requirements of subsection (3) of this
15 section:

16 (a) Outside the corporate limits of a city, village, or
17 unincorporated village if incidental to the vehicle's use for
18 agricultural purposes;

19 (b) Within the corporate limits of a city or village if authorized
20 by the city or village by ordinance adopted in accordance with this
21 section; or

22 (c) Within an unincorporated village if authorized by the county
23 board of the county in which the unincorporated village is located by
24 resolution in accordance with this section.

25 ~~(3)(a) (3) An all-terrain vehicle or a utility-type vehicle may be~~
26 ~~operated as authorized in subsection (2) of this section when such~~
27 ~~operation occurs only between the hours of sunrise and sunset.~~ Any person
1 operating an all-terrain vehicle or a utility-type vehicle as authorized
2 in subsection (2) of this section shall have a valid Class O operator's
3 license or a farm permit as provided in section 60-4,126, shall have
4 liability insurance coverage for the all-terrain vehicle or a utility-
5 type vehicle while operating the all-terrain vehicle or a utility-type
6 vehicle on a highway, and shall not operate such vehicle at a speed in
7 excess of thirty miles per hour. The person operating the all-terrain
8 vehicle or a utility-type vehicle shall provide proof of such insurance
9 coverage to any peace officer requesting such proof within five days of
10 such a request.

11 (b) When operating an all-terrain vehicle or a utility-type vehicle
12 as authorized in subsection (2) of this section, whether at day or night,

13 the headlight and taillight of the vehicle shall be on and the vehicle
14 shall be equipped with a bicycle safety flag which extends not less than
15 five feet above ground attached to the rear of such vehicle. The bicycle
16 safety flag shall be triangular in shape with an area of not less than
17 thirty square inches and shall be day-glow in color.

18 (c) When operating an all-terrain vehicle or a utility-type vehicle
19 as authorized in subsection (2) of this section between the hours of
20 sunrise and sunset, such vehicle shall be equipped with brake and
21 turnsignal lights in good working order.

22 (4) All-terrain vehicles and utility-type vehicles may be operated
23 without complying with subsection (3) of this section on highways in
24 parades which have been authorized by the State of Nebraska or any
25 department, board, commission, or political subdivision of the state.

26 (5) The crossing of a highway other than a controlled-access highway
27 with more than two marked traffic lanes shall be permitted by an all-
28 terrain vehicle or a utility-type vehicle without complying with
29 subsection (3) of this section only if:

30 (a) The crossing is made at an angle of approximately ninety degrees
31 to the direction of the highway and at a place where no obstruction
1 prevents a quick and safe crossing;

2 (b) The vehicle is brought to a complete stop before crossing the
3 shoulder or roadway of the highway;

4 (c) The operator yields the right-of-way to all oncoming traffic
5 that constitutes an immediate potential hazard;

6 (d) In crossing a divided highway, the crossing is made only at an
7 intersection of such highway with another highway; and

8 (e) Both the headlight and taillight of the vehicle are on when the
9 crossing is made.

10 (6) All-terrain vehicles and utility-type vehicles may be operated
11 outside the corporate limits of any municipality by electric utility
12 personnel within the course of their employment in accordance with the
13 operation requirements of subsection (3) of this section, ~~except that the~~
14 ~~operation of the vehicle pursuant to this subsection need not be limited~~
15 ~~to the hours between sunrise and sunset.~~

16 (7) A city or village may adopt an ordinance authorizing the
17 operation of all-terrain vehicles and utility-type vehicles within the
18 corporate limits of the city or village if the operation is in accordance
19 with subsection (3) of this section. The city or village may place other
20 restrictions on the operation of all-terrain vehicles and utility-type
21 vehicles within its corporate limits.

22 (8) A county board may adopt a resolution authorizing the operation
23 of all-terrain vehicles and utility-type vehicles within any
24 unincorporated village within the county if the operation is in
25 accordance with subsection (3) of this section. The county may place
26 other restrictions on the operation of all-terrain vehicles and utility-
27 type vehicles within the unincorporated village.

28 (9) The crossing of a controlled-access highway with more than two
29 marked traffic lanes shall be permitted by a utility-type vehicle if the
30 operation is in accordance with the operation requirements of subsection

31 (3) of this section and if the following requirements are met:
1 (a) The crossing is made at an intersection that:
2 (i) Is controlled by a traffic control signal; or
3 (ii) For any intersection located outside the corporate limits of a
4 city or village, is controlled by stop signs;
5 (b) The crossing at such intersection is made in compliance with the
6 traffic control signal or stop signs; and
7 (c) The crossing at such intersection is specifically authorized as
8 follows:
9 (i) If such intersection is located within the corporate limits of a
10 city or village, by ordinance of such city or village;
11 (ii) If such intersection is located within an unincorporated
12 village, by resolution of the county board of the county in which such
13 unincorporated village is located; or
14 (iii) If such intersection is located outside the corporate limits
15 of a city or village and outside any unincorporated village, by
16 resolution of the county board of the county in which such intersection
17 is located.
18 Sec. 2. Original section 60-6,356, Revised Statutes Cumulative
19 Supplement, 2016, is repealed.

UNANIMOUS CONSENT - Add Cointroducer(s)

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

Senator Lowe name added to LB651.
Senator Riepe name added to LB702.
Senator Geist name added to LB1069.
Senator Watermeier name added to LB1069.
Senator Hilgers name added to LB1069.
Senator Clements name added to LB1069.
Senator Williams name added to LB1069.
Senator Halloran name added to LB1069.
Senator Hilgers name added to LR6.

VISITORS

Visitors to the Chamber were Quitin Hartig from Beatrice High School; 6 Seward High School students representing the Fine Arts program; Aaron and Beth Baack from Lincoln, and Susan Baack from Billings, MT; retired members of the Nebraska State Education Association from across the state; and 13 members of the Young Bankers of Nebraska.

The Doctor of the Day was Dr. Josue Gutierrez from Lincoln.

ADJOURNMENT

At 11:45 a.m., on a motion by Senator McDonnell, the Legislature adjourned until 9:00 a.m., Wednesday, February 14, 2018.

Patrick J. O'Donnell
Clerk of the Legislature