TWENTY-NINTH DAY - FEBRUARY 15, 2023

LEGISLATIVE JOURNAL

ONE HUNDRED EIGHTH LEGISLATURE FIRST SESSION

TWENTY-NINTH DAY

Legislative Chamber, Lincoln, Nebraska Wednesday, February 15, 2023

PRAYER

The prayer was offered by Tom Starkjohn, Louisville Evangelical Free Church, Louisville.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was offered by Senator Wayne.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Kelly presiding.

The roll was called and all members were present except Senators Fredrickson and Wishart who were excused; and Senators Bostar, Day, DeBoer, B. Hansen, Hunt, Raybould, Vargas, and Walz who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-eighth day was approved.

COMMITTEE REPORTS

Executive Board

LEGISLATIVE BILL 90. Placed on General File with amendment.

AM327

- 11. On page 5, strike beginning with "111110" in line 17 through 2 "541712" in line 21 and insert "111110, 111150, 111199, 111930, 111991,

- 11110, 11110, 11110, 11117, 11170, 11

- 7 or 541715".

LEGISLATIVE BILL 552. Placed on General File with amendment.

- 1 1. Insert the following new section:
- 2 Sec. 3. Since an emergency exists, this act takes effect when passed
- 3 and approved according to law.
- 4 2. On page 2, line 15, after the period insert "The contract shall
- 5 be awarded based on competitive bids and be subject to the approval of 6 the Executive Board of the Legislative Council upon a recommendation of a
- 7 majority of the committee.".

(Signed) Tom Briese, Chairperson

NOTICE OF COMMITTEE HEARINGS

Revenue Room 1524 1:30 PM

Wednesday, February 22, 2023

LB584

LB706

LB97

LB126

(Signed) Lou Ann Linehan, Chairperson

General Affairs Room 1510 1:30 PM

Monday, March 6, 2023

Trent Loos - State Racing and Gaming Commission (cancel)

Room 1510 1:30 PM

Monday, March 13, 2023

Trent Loos - State Racing and Gaming Commission

(Signed) John Lowe, Chairperson

RESOLUTION

Pursuant to Rule 4, Sec. 5(b), LR38 was adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LR38.

MOTIONS - Confirmation Reports

Senator Halloran moved the adoption of the Agriculture Committee report for the confirmation of the following appointment found on page 400:

Department of Agriculture Sherry Vinton, Director

Senator M. Cavanaugh requested a roll call vote on the motion to adopt the confirmation report.

Voting in the affirmative, 37:

Aguilar Brewer Erdman Kauth Riepe Albrecht Linehan Sanders Briese Geist Arch Cavanaugh, J. Halloran Lippincott Slama von Gillern Armendariz Cavanaugh, M. Hardin Lowe Ballard Clements Holdcroft McDonnell Wayne Blood Conrad Hughes McKinney Bostelman Dorn Ibach Moser Brandt Murman Dungan Jacobson

Voting in the negative, 0.

Absent and not voting, 2:

DeKay Dover

Excused and not voting, 10:

Bostar DeBoer Hansen Raybould Walz Day Fredrickson Hunt Vargas Wishart

The appointment was confirmed with 37 ayes, 0 nays, 2 absent and not voting, and 10 excused and not voting.

Senator Lowe moved the adoption of the General Affairs Committee report for the confirmation of the following appointments found on page 444:

Nebraska Arts Council Brenda M. Davis

Ann Michelle Dudley

Crystal Dunning

Karen A. Harris

Sharon R. Hofschire

Mark Laughlin

Senator M. Cavanaugh 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 Lowe moved the adoption of the General Affairs Committee report for the confirmation of the following appointment found on page 444:

Nebraska Arts Council Brenda M. Davis

Senator M. Cavanaugh requested a roll call vote on the motion to adopt the confirmation report.

Voting in the affirmative, 38:

Aguilar Brewer Dungan Kauth Riepe Albrecht Geist Linehan Sanders Briese Arch Cavanaugh, J. Halloran Lippincott Slama von Gillern Armendariz Cavanaugh, M. Hardin Lowe Holdcroft Ballard Clements McDonnell Walz Blood McKinney Conrad Hughes Wayne Bostelman DeKay Ibach Moser Brandt Jacobson Murman Dover

Voting in the negative, 0.

Absent and not voting, 2:

Dorn Erdman

Excused and not voting, 9:

Bostar DeBoer Hansen Raybould Wishart Day Fredrickson Hunt Vargas

The appointment was confirmed with 38 ayes, 0 nays, 2 absent and not voting, and 9 excused and not voting.

The second division is as follows:

Senator Lowe moved the adoption of the General Affairs Committee report for the confirmation of the following appointment found on page 444:

Nebraska Arts Council

Crystal Dunning

Senator M. Cavanaugh requested a roll call vote, in reverse order, on the motion to adopt the confirmation report.

Voting in the affirmative, 37:

Albrecht Cavanaugh, J. Halloran Kauth Sanders Arch Cavanaugh, M. Hansen Linehan Slama Ballard von Gillern Clements Hardin Lippincott Blood Conrad Holdcroft Lowe Walz Bostelman Dorn Hughes McDonnell Wayne Brandt Dover Hunt McKinney Brewer Dungan Ibach Murman Briese Geist Jacobson Riepe

Voting in the negative, 0.

Absent and not voting, 6:

Aguilar Bostar Erdman Armendariz DeKay Moser

Excused and not voting, 6:

Day Fredrickson Vargas DeBoer Raybould Wishart

The appointment was confirmed with 37 ayes, 0 nays, 6 absent and not voting, and 6 excused and not voting.

The third division is as follows:

Senator Lowe moved the adoption of the General Affairs Committee report for the confirmation of the following appointment found on page 444:

Nebraska Arts Council

Karen A. Harris

Senator M. Cavanaugh requested a roll call vote on the motion to adopt the confirmation report.

Voting in the affirmative, 34:

Aguilar Brewer Dover Ibach Murman Albrecht Briese Dungan Jacobson Riepe Arch Cavanaugh, J. Geist Lippincott Slama Ballard Cavanaugh, M. Halloran Lowe von Gillern Blood Clements Hansen McDonnell Walz Holdcroft Bostelman Conrad McKinney Wayne Brandt Dorn Hunt Moser

Voting in the negative, 0.

Absent and not voting, 9:

Armendariz DeKay Hardin Kauth Sanders

Bostar Erdman Hughes Linehan

Excused and not voting, 6:

Day Fredrickson Vargas DeBoer Raybould Wishart

The appointment was confirmed with 34 ayes, 0 nays, 9 absent and not voting, and 6 excused and not voting.

The fourth division is as follows:

Senator Lowe moved the adoption of the General Affairs Committee report for the confirmation of the following appointment found on page 444:

Nebraska Arts Council Sharon R. Hofschire

Senator M. Cavanaugh requested a roll call vote, in reverse order, on the motion to adopt the confirmation report.

Voting in the affirmative, 36:

Linehan Sanders Aguilar Cavanaugh, J. Geist Albrecht Cavanaugh, M. Halloran Lippincott Slama Ballard Clements Lowe von Gillern Hardin Blood Conrad Holdcroft McDonnell Wayne Bostar DeKay Hunt McKinney Bostelman Ibach Moser Dorn Brandt Dover Jacobson Murman Brewer Dungan Kauth Riepe

Voting in the negative, 0.

Absent and not voting, 6:

Arch Briese Hughes Armendariz Erdman Walz

Excused and not voting, 7:

Day Fredrickson Raybould Wishart DeBoer Hansen Vargas

The appointment was confirmed with 36 ayes, 0 nays, 6 absent and not voting, and 7 excused and not voting.

The fifth division is as follows:

Senator Lowe moved the adoption of the General Affairs Committee report

for the confirmation of the following appointment found on page 444: Nebraska Arts Council

Mark Laughlin

Senator M. Cavanaugh requested a roll call vote on the motion to adopt the confirmation report.

Voting in the affirmative, 37:

Albrecht Cavanaugh, J. Linehan Sanders Geist Arch Cavanaugh, M. Halloran Lippincott Slama Ballard Lowe von Gillern Clements Hardin Holdcroft McDonnell Blood Conrad Walz Bostar DeBoer Hunt McKinney Wayne Bostelman DeKay Ibach Moser Jacobson Murman Brewer Dorn Kauth Riepe Briese Dungan

Voting in the negative, 0.

Absent and not voting, 6:

Aguilar Brandt Erdman Armendariz Dover Hughes

Excused and not voting, 6:

Day Hansen Vargas Fredrickson Raybould Wishart

The appointment was confirmed with 37 ayes, 0 nays, 6 absent and not voting, and 6 excused and not voting.

The sixth division is as follows:

Senator Lowe moved the adoption of the General Affairs Committee report for the confirmation of the following appointment found on page 444:

Nebraska Arts Council Ann Michelle Dudley

Senator M. Cavanaugh requested a roll call vote on the motion to adopt the confirmation report.

Voting in the affirmative, 33:

Aguilar Briese Kauth Riepe Dorn Albrecht Sanders Cavanaugh, J. Erdman Lippincott Arch Cavanaugh, M. Geist Lowe Slama von Gillern Ballard Clements Halloran McDonnell Blood McKinney Wayne Conrad Hardin Bostelman DeBoer Hunt Moser Brewer DeKay Jacobson Murman

Voting in the negative, 0.

Absent and not voting, 10:

Armendariz Brandt Dungan Hughes Linehan Bostar Dover Holdcroft Ibach Walz

Excused and not voting, 6:

Day Hansen Vargas Fredrickson Raybould Wishart

The appointment was confirmed with 33 ayes, 0 nays, 10 absent and not voting, and 6 excused and not voting.

COMMITTEE REPORT

Transportation and Telecommunications

LEGISLATIVE BILL 465. Placed on General File.

(Signed) Suzanne Geist, Chairperson

NOTICE OF COMMITTEE HEARINGS

Judiciary Room 1113 1:30 PM

Wednesday, February 22, 2023

LB42

LB14

LB174

LB271

LB87

(Signed) Justin Wayne, Chairperson

Nebraska Retirement Systems Room 1525 12:00 PM

Thursday, February 23, 2023

Thomas E. Henning - Nebraska Investment Council LB198 LB197

(Signed) Mike McDonnell, Chairperson

Banking, Commerce and Insurance Room 1507 1:30 PM

Monday, March 13, 2023 LB418 (cancel)

(Signed) Julie Slama, Chairperson

AMENDMENTS - Print in Journal

Senator Riepe filed the following amendment to <u>LB572</u>: AM390

- 1 1. On page 10, line 1, after "Provide" insert "individualized".
- 2 2. On page 11, line 15, after "Perform" insert "individualized".
- 3 3. On page 18, line 24, strike "dietician".

Senator Riepe filed the following amendment to <u>LB282</u>: <u>AM89</u> is available in the Bill Room.

Senator Riepe filed the following amendment to <u>LB611</u>: AM310

- 1 1. Strike the original sections and insert the following new 2 sections:
- 3 Section 1. Section 71-475, Reissue Revised Statutes of Nebraska, is 4 amended to read:
- 5 71-475 (1)(a) When administration of a drug occurs in a hospital
- 6 pursuant to a chart order, hospital personnel may provide the unused 7 portion of the drug to the patient upon discharge from the hospital for
- 8 continued use in treatment of the patient if:
- 9 (i) The drug has been opened and used for treatment of the patient
- 10 at the hospital and is necessary for the continued treatment of the
- 11 patient and would be wasted if not used by the patient; and
- 12 (ii) The drug is:
- 13 (A) In a multidose device or a multidose container; or
- 14 (B) In the form of a liquid reconstituted from a dry stable state to
- 15 a liquid resulting in a limited stability.
- 16 (b) A drug provided to a patient in accordance with this subsection
- 17 shall be labeled with the name of the patient, the name of the drug
- 18 including the quantity if appropriate, the date the drug was provided,
- 19 and the directions for use.
- 20 (2)(a) A licensed health care practitioner authorized to prescribe
- 21 controlled substances may provide to his or her patients being discharged
- 22 from a hospital a sufficient quantity of drugs adequate, in the judgment
- 23 of the practitioner, to continue treatment, which began in the hospital,
- 24 until the patient is reasonably able to access a pharmacy.
- 25 (b) The pharmacist-in-charge at the hospital shall maintain records
- 26 of the drugs provided to patients in accordance with this subsection
- 27 which shall include the name of the patient, the name of the drug
- 1 including the quantity if appropriate, the date the drug was provided,

- 2 and the directions for use.
- 3 (3) If a drug is provided to a patient in accordance with subsection
- 4 (1) or (2) of this section:
- 5 (a) The drug shall be kept in a locked cabinet or automated
- 6 medication system with access only by a licensed health care practitioner
- 7 authorized to prescribe, dispense, or administer controlled substances;
- 8 (b) Prior to providing the drug to the patient, a written or
- 9 electronic order shall be in the patient's record;
- 10 (c) The process at the hospital shall be under the direct
- 11 supervision of the prescriber;
- 12 (d) If the label is prepared by a nurse, the prescriber shall verify
- 13 the drug and the directions for the patient;
- 14 (e) When possible, the directions for the patient shall be
- 15 preprinted on the label by the pharmacist;
- 16 (f) The label shall include the name of the patient, the name of the
- 17 drug including the quantity if appropriate, the date the drug was
- 18 provided, and the directions for use;
- 19 (g) A written information sheet shall be given to the patient for
- 20 each drug provided; and
- 21 (h) Documentation in a readily retrievable format shall be
- 22 maintained each time a drug is provided to a patient from the hospital
- 23 pharmacy's inventory which shall include the date, the patient, the drug,
- 24 and the prescriber.
- 25 (4)(a) When a hospital, an ambulatory surgical center, or a health
- 26 care practitioner facility provides medication that is ordered at least
- 27 twenty-four hours in advance for surgical procedures and is administered
- 28 to a patient at the hospital, ambulatory surgical center, or health care
- 29 practitioner facility, any unused portion of the medication shall be
- 30 offered to the patient upon discharge when it is required for continuing
- 31 treatment. The unused portion of any such medication accepted by the
- 1 patient upon discharge shall be labeled by the prescriber or a pharmacist
- 2 consistent with labeling requirements in section 71-2479.
- 3 (b) For purposes of this subsection, medication means any topical
- 4 antibiotic, anti-inflammatory, dilation, or glaucoma drop or ointment
- 5 that a hospital, ambulatory surgical center, or health care practitioner
- 6 facility has on stand-by or is retrieved from a dispensing system for a
- 7 specified patient for use during a procedure or visit.
- 8 (c) If the medication is used in an operating room or emergency
- 9 department setting, the prescriber is responsible for counseling the
- 10 patient on its proper use and administration and no other patient
- 11 counseling is required under section 38-2869. 12 Sec. 2. Original section 71-475, Reissue Revised Statutes of
- 13 Nebraska, is repealed.

Senator Raybould filed the following amendment to <u>LB77</u>: AM384 is available in the Bill Room.

COMMITTEE REPORT

Transportation and Telecommunications

The Transportation and Telecommunications Committee desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Kirk Langer - Nebraska Information Technology Commission

Aye: 8. Bostelman, Brandt, Cavanaugh, M., DeBoer, DeKay, Fredrickson, Geist, Moser. Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Suzanne Geist, Chairperson

ANNOUNCEMENTS

Priority designation received:

Erdman - LB79

Pursuant to Rule 8, Sec. 3, the Appropriations Committee presented its preliminary report on February 15, 2023, summarizing the recommended appropriations for the following biennium.

RESOLUTION

LEGISLATIVE RESOLUTION 40. Introduced by Cavanaugh, J., 9; Aguilar, 35; Albrecht, 17; Arch, 14; Armendariz, 18; Ballard, 21; Blood, 3; Bostar, 29; Bostelman, 23; Brandt, 32; Brewer, 43; Briese, 41; Cavanaugh, M., 6; Clements, 2; Day, 49; DeBoer, 10; DeKay, 40; Dorn, 30; Dover, 19; Dungan, 26; Erdman, 47; Fredrickson, 20; Geist, 25; Halloran, 33; Hansen, B., 16; Hardin, 48; Holdcroft, 36; Hughes, 24; Hunt, 8; Ibach, 44; Jacobson, 42; Kauth, 31; Linehan, 39; Lowe, 37; McDonnell, 5; McKinney, 11; Moser, 22; Murman, 38; Riepe, 12; Sanders, 45; Slama, 1; Vargas, 7; von Gillern, 4; Walz, 15; Wayne, 13.

WHEREAS, the 2022 Creighton University Bluejays men's soccer team reached the College Cup semifinals in the National Collegiate Athletic Association Division I Men's Soccer Tournament for the sixth time in program history and the first time since 2012; and

WHEREAS, the Bluejays won their first Big East Conference Tournament Championship in men's soccer, defeating Georgetown in the final by a 3-0 score; and

WHEREAS, junior Duncan McGuire won the Missouri Athletic Club Hermann Trophy, given annually to the top NCAA Division I soccer player in the nation, after leading the nation in goals and setting a single-season Creighton record with twenty-three goals scored; and

WHEREAS, junior Duncan McGuire was drafted sixth overall by Orlando City and sophomore Owen O'Malley was drafted ninth overall by St. Louis in the first round of the Major League Soccer SuperDraft; and

WHEREAS, Johnny Torres, in his fourth season as head coach of the Bluejays, led the team to a record of thirteen wins, five losses, and six draws, including seven straight wins in the postseason before ultimately falling in the College Cup semifinal to eventual national champion Syracuse by a 3-2 score; and

WHEREAS, Creighton's stretch of seven postseason wins sent them from the last team to qualify for the Big East Conference Tournament to one of the final four teams competing in the College Cup. NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

- 1. That the Legislature congratulates the Creighton University Bluejays men's soccer team on reaching the 2022 College Cup semifinals.
- 2. That copies of this resolution be sent to Head Coach Johnny Torres and the Creighton University Bluejays men's soccer team.

Laid over.

MOTION- Confirmation Reports

Senator Lowe moved the adoption of the General Affairs Committee report for the confirmation of the following appointments found on page 444:

State Racing and Gaming Commission

Jeffrey Galyen

Dennis Lee

Senator M. Cavanaugh 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 Lowe moved the adoption of the General Affairs Committee report for the confirmation of the following appointment found on page 444:

State Racing and Gaming Commission

Jeffrey Galyen

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

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

Voting in the affirmative, 27:

Aguilar	DeKay	Hardin	Linehan	Sanders
Arch	Dorn	Holdcroft	Lippincott	Slama
Ballard	Dover	Hughes	Lowe	von Gillern
Blood	Erdman	Ibach	McDonnell	
Bostelman	Halloran	Jacobson	Moser	
Brandt	Hansen	Kauth	Raybould	

Voting in the negative, 7:

Cavanaugh, J. Conrad Hunt Wayne Cavanaugh, M. Dungan McKinney

Present and not voting, 2:

Geist Walz

Absent and not voting, 9:

Albrecht Bostar Briese DeBoer Riepe

Armendariz Brewer Clements Murman

Excused and not voting, 4:

Day Fredrickson Vargas Wishart

The motion to cease debate prevailed with 27 ayes, 7 nays, 2 present and not voting, 9 absent and not voting, and 4 excused and not voting.

Senator M. Cavanaugh requested a roll call vote on the motion to adopt the confirmation report.

Voting in the affirmative, 36:

Aguilar Clements Hansen Lippincott Slama Arch Lowe von Gillern Conrad Hardin Ballard Holdcroft McDonnell Walz DeKay Blood Dover Hughes McKinney Wayne Bostelman Dungan Hunt Moser Murman Brandt Erdman Ibach Jacobson Raybould Cavanaugh, J. Geist Cavanaugh, M. Halloran Kauth Sanders

Voting in the negative, 0.

Absent and not voting, 9:

Albrecht Bostar Briese Dorn Riepe

Armendariz Brewer DeBoer Linehan

Excused and not voting, 4:

Day Fredrickson Vargas Wishart

The appointment was confirmed with 36 ayes, 0 nays, 9 absent and not voting, and 4 excused and not voting.

The second division is as follows:

Senator Lowe moved the adoption of the General Affairs Committee report for the confirmation of the following appointment found on page 444:

State Racing and Gaming Commission

Dennis Lee

Senator M. Cavanaugh requested a point of order regarding the speaking queue not being cleared between gubernatorial appointments.

The Chair sustained the point of order. The President cleared the speaking queue.

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

The Chair ruled there had not been a full and fair debate, pursuant to Rule 7, Sec. 4, on the Erdman motion.

Senator Slama challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?"

Senator M. Cavanaugh moved for a call of the house. The motion prevailed with 20 ayes, 11 nays, and 18 not voting.

The Slama motion to overrule the Chair prevailed with 31 ayes, 11 nays, 2 present and not voting, and 5 excused and not voting.

The Chair was overruled.

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

Voting in the affirmative, 33:

lern

Voting in the negative, 10:

Blood Cavanaugh, J. DeBoer Hunt Raybould Bostar Conrad Dungan McKinney Walz

Present and not voting, 1:

Cavanaugh, M.

Excused and not voting, 5:

Day Fredrickson Vargas Wayne Wishart

The motion to cease debate prevailed with 33 ayes, 10 nays, 1 present and not voting, and 5 excused and not voting.

Voting in the affirmative, 42:

Aguilar Brewer Erdman Jacobson Raybould Albrecht Kauth Briese Geist Riepe Arch Cavanaugh, J. Halloran Linehan Sanders Lippincott Slama Armendariz Clements Hansen Lowe von Gillern Ballard Conrad Hardin Holdcroft Blood McDonnell Walz DeKay **Bostar** Hughes McKinney Dorn Bostelman Hunt Moser Dover Ibach Murman Brandt Dungan

Voting in the negative, 0.

Present and not voting, 2:

Cavanaugh, M. DeBoer

Excused and not voting, 5:

Day Fredrickson Vargas Wayne Wishart

The appointment was confirmed with 42 ayes, 0 nays, 2 present and not voting, and 5 excused and not voting.

MOTION - Print in Journal

Senator M. Cavanaugh filed the following motion:

Reconsider the vote to confirm the appointment of Dennis Lee to the State Racing and Gaming Commission

UNANIMOUS CONSENT - Add Cointroducers

Unanimous consent to add Senators as cointroducers. No objections. So ordered.

Senator Briese name added to LB52.

Senator M. Cavanaugh name added to LB199.

Senator Murman name added to LB274.

Senator Wayne name added to LB389.

Senator Dungan name added to LB610.

VISITORS

Visitors to the Chamber were Leadership Beatrice; Beatrice Area Chamber of Commerce; Nebraska Christian Home Educators Association; students and alumni from the Boys Town High School Futures Program; Michael Blue from United Way of the Midlands; and Enoch Starkjohn, Louisville.

The Doctor of the Day was Dr. Theresa Hatcher of Omaha.

ADJOURNMENT

At 12:05 p.m., on a motion by Senator Lowe, the Legislature adjourned until 9:00 a.m., Thursday, February 16, 2023.

Brandon Metzler Clerk of the Legislature