

TWENTY-NINTH DAY - FEBRUARY 20, 2014

LEGISLATIVE JOURNAL

**ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION**

TWENTY-NINTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, February 20, 2014

PRAYER

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

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Coash presiding.

The roll was called and all members were present except Senator Kolowski who was excused; and Senators Ashford, Conrad, Davis, Karpisek, and Lautenbaugh who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 547, line 17, strike "Maria" and insert "Marla".
The Journal for the twenty-seventh day was approved as corrected.

The Journal for the twenty-eighth day was approved.

COMMITTEE REPORTS

Executive Board

LEGISLATIVE BILL 720. Placed on General File with amendment.
AM1874

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 84-907.10, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 84-907.10 ~~(1) After an agency submits a copy of each~~
- 6 ~~amendment or rule or regulation pursuant to section 84-907.06, or~~
- 7 ~~any time thereafter, (1) If any member of the Legislature who feels~~
- 8 ~~aggrieved by a rule or regulation or by the proposed adoption,~~
- 9 ~~amendment, or repeal of a rule; or regulation pursuant to section~~
- 10 ~~84-907.06 or believes that the (a) a rule or regulation or the~~
- 11 ~~adoption, amendment, rule, or regulation or repeal of a rule or~~

12 regulation is in excess of the statutory authority or jurisdiction
13 of the agency, is unconstitutional, ~~or~~ is inconsistent with the
14 legislative intent of the authorizing statute, or creates an undue
15 burden in a manner that significantly outweighs its benefit to
16 the public. (b) circumstances have changed since the passage of
17 the statute which a rule or regulation implements, or (c) a rule
18 or regulation or an amendment or repeal overlaps, duplicates, or
19 conflicts with federal, state, or local laws, rules, regulations,
20 or ordinances, the member may file a complaint with the Chairperson
21 of the Executive Board of the Legislative Council. The complaint
22 shall explain in detail the member's contentions.

23 (2) The chairperson of the executive board or a committee
1 staff member of the executive board shall refer the complaint
2 to the chairperson of the standing committee of the Legislature
3 which has subject matter jurisdiction over the issue involved in
4 the rule or regulation or which has traditionally handled the
5 issue and, if practicable, to the member of the Legislature who
6 was the primary sponsor of the legislative bill that granted
7 the agency the rulemaking authority if the member is still
8 serving or, if the legislative bill was amended to include the
9 rulemaking authority, to the primary sponsor of the amendment
10 granting rulemaking authority if the member is still serving.

11 (3) The standing committee and primary sponsor of the
12 legislative bill or amendment granting rulemaking authority may
13 consider the complaint and, if such committee or primary sponsor
14 concludes that the complaint has merit, then such committee or
15 primary sponsor may request a written response from the agency
16 which shall include, but not be limited to (a) a description of the
17 amendment or rule or regulation, (b) when applicable, a description
18 of the legislative intent of the statute granting the agency
19 rulemaking authority and a statement explaining how the rule or
20 regulation or the adoption, amendment, or repeal of the ~~or~~ rule or
21 regulation is within the authority or jurisdiction of the agency,
22 is constitutional, is consistent with legislative intent, or is not
23 an undue burden, (c) if the description required in subdivision (b)
24 of this subsection is inapplicable, an explanation as to why the
25 rule or regulation or the adoption, amendment, or repeal ~~or rule or~~
26 regulation is necessary, and (d) an explanation of the extent to
27 which and how any public comment was taken into consideration by
1 the agency with respect to the rule or regulation or the adoption,
2 amendment, or repeal. ~~or rule or regulation.~~ The agency shall
3 respond within sixty days of a request, and such response shall be
4 a public record.

5 (4) Nothing in this section shall be construed to
6 prohibit the adoption or promulgation of the rule or regulation
7 in accordance with other sections provisions of the Administrative
8 Procedure Act.

9 Sec. 2. Original section 84-907.10, Reissue Revised
10 Statutes of Nebraska, is repealed.

LEGISLATIVE BILL 996. Placed on General File with amendment.
AM1881

1 1. On page 2, line 24, after the period insert "A state
2 agency may respond pursuant to subdivision (b) of this subsection
3 that access to the information requested under this section is
4 being denied because it is information which may be withheld from
5 the public under section 84-712.05 or otherwise specify the legal
6 basis, including the appropriate state or federal law, rule, or
7 regulation.".

(Signed) John Wightman, Chairperson

Banking, Commerce and Insurance

LEGISLATIVE BILL 883. Placed on General File.

LEGISLATIVE BILL 926. Placed on General File.

(Signed) Mike Gloor, Chairperson

Natural Resources

LEGISLATIVE BILL 1115. Placed on General File with amendment.
AM1999

1 1. Strike the original sections and insert the following
2 new sections:
3 Section 1. It is the intent of the Legislature to
4 appropriate an additional \$200,000 for FY2014-15 to the Nebraska
5 Power Review Board from the General Fund to provide funds to
6 conduct or cause to be conducted a study of state, regional,
7 and national transmission infrastructure and policy and future
8 needs for transmission infrastructure and policy to serve Nebraska
9 electric consumers and utilities and generation facilities in
10 Nebraska seeking to export electricity outside of the state.
11 Sec. 2. It is the policy of the state to encourage
12 and allow opportunities for development and operation of renewable
13 energy facilities intended primarily for export from the state in
14 a manner that protects the ratepayers of consumer-owned utility
15 systems operating in the state from subsidizing the costs of
16 such export facilities through their rates and that results in
17 economic development and employment opportunities for residents and
18 communities of the state.
19 Sec. 3. The purposes of the study provided for under
20 sections 1 to 5 of this act shall include, but not be limited
21 to, identification of electric transmission and generation
22 constraints and opportunities, federal and state legal and
23 regulatory requirements and practices, national and regional
1 transmission operation, national and regional transmission plans
2 and policies, national and regional markets for electricity export

3 and opportunities for and barriers to exporting electricity to
4 such markets, and economic development benefits of expanded state,
5 regional, and national transmission connections.

6 Sec. 4. The scope of the study provided for under
7 sections 1 to 5 of this act shall receive input from a working
8 group that may include, but not be limited to, members of
9 the Legislature, the State Energy Office, the Department of
10 Economic Development, public power districts and other Nebraska
11 electric providers, renewable energy development companies,
12 municipalities, the Southwest Power Pool, the Western Area Power
13 Administration, other transmission system owners, transmission
14 operators, transmission developers, environmental interests, and
15 other interested parties.

16 Sec. 5. (1) The Nebraska Power Review Board shall issue
17 a request for proposals to conduct the study provided for under
18 sections 1 to 5 of this act after consultation with the working
19 group as provided for in section 4 of this act.

20 (2) Any contracts or agreements entered into under this
21 subsection shall not be subject to the Nebraska Consultants'
22 Competitive Negotiation Act or sections 73-301 to 73-306 or 73-501
23 to 73-510.20.

24 (3) The Nebraska Power Review Board shall present the
25 results of the study to the Executive Board of the Legislative
26 Council with a copy to the Clerk of the Legislature and the
27 Governor on or before December 15, 2014. The report shall be
1 submitted electronically.

2 Sec. 6. Since an emergency exists, this act takes effect
3 when passed and approved according to law.

(Signed) Tom Carlson, Chairperson

NOTICE OF COMMITTEE HEARINGS

Judiciary

Room 1113

Friday, February 28, 2014 1:30 p.m.

LB963
LB724
LB694
LB879
LB1030

(Signed) Brad Ashford, Chairperson

Health and Human Services

Room 1510

Thursday, February 27, 2014 1:30 p.m.

Jessye Goertz - Nebraska Rural Health Advisory Commission
Martin Fattig - Nebraska Rural Health Advisory Commission
Robert L. Newman - Commission for the Blind and Visually Impaired
Carol Lomicky - Commission for the Deaf and Hard of Hearing
Regina "Gina" Frerichs - Commission for the Deaf and Hard of Hearing
John Hogue - Commission for the Deaf and Hard of Hearing
Paul L. Salansky Jr. - State Board of Health
Shane M. Fleming - State Board of Health

(Signed) Kathy Campbell, Chairperson

COMMITTEE REPORT

Banking, Commerce and Insurance

The Banking, Commerce and Insurance 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.

Patrick Booth - Nebraska Exchange Stakeholder Commission
Craig D. Buescher - Nebraska Exchange Stakeholder Commission
Shari Flowers - Nebraska Exchange Stakeholder Commission
James "JJ" Green - Nebraska Exchange Stakeholder Commission
Michael Groene - Nebraska Exchange Stakeholder Commission
Laura S. Gyhra - Nebraska Exchange Stakeholder Commission
Kyle Kollmorgen - Nebraska Exchange Stakeholder Commission
Britt A. Thedinger - Nebraska Exchange Stakeholder Commission
Sherry Wupper - Nebraska Exchange Stakeholder Commission

Aye: 8 Campbell, Carlson, Christensen, Garrett, Gloor, Howard, Pirsch, Schumacher. Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Mike Gloor, Chairperson

MESSAGE FROM THE GOVERNOR

February 18, 2014

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 56e and 588 were received in my office on February 13, 2014.

These bills were signed and delivered to the Secretary of State on February 18, 2014.

Sincerely,
(Signed) Dave Heineman
Governor

ANNOUNCEMENTS

Senator Kintner designates LB1032 as his priority bill.

Senator Krist designates LB474 as his priority bill.

The Agriculture Committee designates LB768 and LB941 as its priority bills.

The Health and Human Services Committee designates LB853 and LB854 as its priority bills.

Senator Bolz designates LB690 as her priority bill.

MOTIONS - Approve Appointments

Senator Carlson moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 538:

Game and Parks Commission
Richard R. Bell

Voting in the affirmative, 32:

Adams	Coash	Harms	McCoy	Sullivan
Avery	Cook	Howard	McGill	Wallman
Bloomfield	Crawford	Janssen	Mello	Watermeier
Bolz	Garrett	Johnson	Nelson	Wightman
Brasch	Gloor	Kintner	Nordquist	
Campbell	Haar, K.	Krist	Pirsch	
Carlson	Hadley	Larson	Smith	

Voting in the negative, 0.

Present and not voting, 11:

Chambers	Hansen	Murante	Schumacher
Christensen	Harr, B.	Scheer	Seiler
Dubas	Lathrop	Schilz	

Excused and not voting, 6:

Ashford	Davis	Kolowski
Conrad	Karpisek	Lautenbaugh

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

Senator Campbell moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 557:

Board of Emergency Medical Services
Donald L. Harmon

Voting in the affirmative, 32:

Adams	Coash	Harms	McCoy	Sullivan
Avery	Cook	Howard	Mello	Wallman
Bloomfield	Crawford	Janssen	Nelson	Watermeier
Bolz	Garrett	Johnson	Nordquist	Wightman
Brasch	Haar, K.	Kintner	Pirsch	
Campbell	Hadley	Krist	Schumacher	
Christensen	Hansen	Lathrop	Seiler	

Voting in the negative, 0.

Present and not voting, 11:

Carlson	Gloor	McGill	Schilz
Chambers	Harr, B.	Murante	Smith
Dubas	Larson	Scheer	

Excused and not voting, 6:

Ashford	Davis	Kolowski
Conrad	Karpisek	Lautenbaugh

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

Senator Campbell moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 557:

Commission for the Blind and Visually Impaired
Becky Rieken

Voting in the affirmative, 29:

Adams	Chambers	Hadley	McCoy	Schumacher
Avery	Coash	Hansen	Nelson	Sullivan
Bloomfield	Cook	Harms	Nordquist	Wallman
Bolz	Garrett	Johnson	Pirsch	Watermeier
Brasch	Gloor	Kintner	Scheer	Wightman
Campbell	Haar, K.	Krist	Schilz	

Voting in the negative, 0.

Present and not voting, 14:

Carlson	Dubas	Janssen	McGill	Seiler
Christensen	Harr, B.	Larson	Mello	Smith
Crawford	Howard	Lathrop	Murante	

Excused and not voting, 6:

Ashford	Davis	Kolowski
Conrad	Karpisek	Lautenbaugh

The appointment was confirmed with 29 ayes, 0 nays, 14 present and not voting, and 6 excused and not voting.

Senator Campbell moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 557:

Nebraska Child Abuse Prevention Fund Board
Trisha Crandall
Lisa L. Knoche
Brandon Verzal

Voting in the affirmative, 31:

Adams	Christensen	Hadley	McGill	Sullivan
Bloomfield	Coash	Hansen	Mello	Wallman
Bolz	Cook	Harms	Nelson	Watermeier
Brasch	Crawford	Howard	Nordquist	
Campbell	Garrett	Johnson	Pirsch	
Carlson	Gloor	Krist	Scheer	
Chambers	Haar, K.	McCoy	Schumacher	

Voting in the negative, 0.

Present and not voting, 13:

Ashford	Harr, B.	Larson	Schilz	Wightman
Avery	Janssen	Lathrop	Seiler	
Dubas	Kintner	Murante	Smith	

Excused and not voting, 5:

Conrad	Davis	Karpisek	Kolowski	Lautenbaugh
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The appointments were confirmed with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

Senator Campbell moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 557:

State Board of Health
Jeromy Warner

Voting in the affirmative, 31:

Adams	Christensen	Hadley	McCoy	Seiler
Bloomfield	Coash	Harms	Mello	Wallman
Bolz	Cook	Howard	Nelson	Watermeier
Brasch	Crawford	Janssen	Nordquist	
Campbell	Garrett	Johnson	Pirsch	
Carlson	Gloor	Krist	Scheer	
Chambers	Haar, K.	Lathrop	Schumacher	

Voting in the negative, 0.

Present and not voting, 13:

Ashford	Hansen	Larson	Schilz	Wightman
Avery	Harr, B.	McGill	Smith	
Dubas	Kintner	Murante	Sullivan	

Excused and not voting, 5:

Conrad Davis Karpisek Kolowski Lautenbaugh

The appointment was confirmed with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

ANNOUNCEMENTS

The Business and Labor Committee designates LB961 and LB560 as its priority bills.

Senator Lathrop designates LB1074 as his priority bill.

Senator Wallman designates LB1001 as his priority bill.

Senator Nordquist designates LB943 as his priority bill.

The Urban Affairs Committee designates LB1012 and LB1014 as its priority bills.

The Appropriations Committee designates LB1114 as its priority bill.

RESOLUTIONS

LEGISLATIVE RESOLUTION 446. Introduced by Wallman, 30.

WHEREAS, the Lincoln Southwest High School girls' cross country team won the 2013 Class A Girls' State Cross Country Championship; and

WHEREAS, the Lincoln Southwest Silver Hawks defeated defending state champion Lincoln East High School to win the school's first ever girls' cross country state championship; 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 THIRD LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature congratulates the Lincoln Southwest High School Silver Hawks on winning the 2013 Class A Girls' State Cross Country Championship.

2. That a copy of this resolution be sent to the Lincoln Southwest High School girls' cross country team.

Laid over.

LEGISLATIVE RESOLUTION 447. Introduced by Wallman, 30.

WHEREAS, the Lincoln Southwest High School boys' tennis team won the 2013 Class A Boys' State Tennis Championship; and

WHEREAS, the Lincoln Southwest Silver Hawks defeated defending state champion Creighton Preparatory School to win the school's first ever boys' tennis state championship; 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 THIRD LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature congratulates the Lincoln Southwest High School Silver Hawks on winning the 2013 Class A Boys' State Tennis Championship.

2. That a copy of this resolution be sent to the Lincoln Southwest High School boys' tennis team.

Laid over.

REFERENCE COMMITTEE REPORTS

The Legislative Council Executive Board submits the following report:

LB/LR **Committee**
LR444 Executive Board

Hoffman, Edward F. - Nebraska Commission on Problem Gambling -
General Affairs

(Signed) John Wightman, Chairperson
Executive Board

GENERAL FILE

LEGISLATIVE BILL 191. Senator Nordquist renewed his amendment, AM1935, found on page 541 and considered on page 558.

Senator Schumacher renewed his amendment, AM1971, found on page 558, to the Nordquist amendment.

Senator Schumacher withdrew his amendment, AM1971.

Senator Nordquist withdrew his amendment, AM1935.

Senator Schumacher withdrew his amendment, FA200, found on page 560.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 755. Title read. Considered.

Advanced to Enrollment and Review Initial with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 749. Title read. Considered.

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 983. Title read. Considered.

Committee AM1820, found on page 527, was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 983A. Introduced by Dubas, 34.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 983, One Hundred Third Legislature, Second Session, 2014; and to declare an emergency.

ANNOUNCEMENTS

The Natural Resources Committee designates LB699 as its priority bill.

Senator McGill designates LB901 as her priority bill.

Senator Hadley designates LB867 as his priority bill.

Senator Watermeier designates LB916 as his priority bill.

Senator Schumacher designates LR423CA as his priority resolution.

Senator Coash designates LB920 as his priority bill.

GENERAL FILE

LEGISLATIVE BILL 661. Title read. Considered.

SENATOR GLOOR PRESIDING

Committee AM1778, found on page 517, was adopted with 30 ayes, 0 nays,

16 present and not voting, and 3 excused and not voting.

Senator Murante offered his motion, MO137, found on page 486, to indefinitely postpone.

SENATOR COASH PRESIDING

Senator Murante withdrew his motion to indefinitely postpone.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 661A. Title read. Considered.

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

COMMITTEE REPORTS

Agriculture

LEGISLATIVE BILL 768. Placed on General File with amendment. AM1945 is available in the Bill Room.

LEGISLATIVE BILL 60. Indefinitely postponed.

LEGISLATIVE BILL 654. Indefinitely postponed.

(Signed) Ken Schilz, Chairperson

ANNOUNCEMENTS

Senator Seiler designates LB999 as his priority bill.

Senator K. Haar designates LB965 as his priority bill.

Senator Howard designates LB526 as her priority bill.

Senator Dubas designates LB1092 as her priority bill.

The Transportation and Telecommunications Committee designates LB776 as its priority bill.

Senator Nelson designates LB565 as his priority bill.

Senator Mello designates LB559 as his priority bill.

The General Affairs Committee designates LB863 as its priority bill.

The Revenue Committee designates LB986 and LB987 as its priority bills.

Senator Janssen designates LB383 as his priority bill.

Senator Karpisek designates LB998 as his priority bill.

The Judiciary Committee designates LB1028 as its priority bill.

Senator Murante designates LB946 as his priority bill.

COMMITTEE REPORTS

Education

LEGISLATIVE BILL 143. Indefinitely postponed.

LEGISLATIVE BILL 1059. Indefinitely postponed.

LEGISLATIVE BILL 1061. Indefinitely postponed.

LEGISLATIVE RESOLUTION 421CA. Indefinitely postponed.

(Signed) Kate Sullivan, Chairperson

EASE

The Legislature was at ease from 10:50 a.m. until 11:17 a.m.

COMMITTEE REPORTS

General Affairs

LEGISLATIVE BILL 1052. Placed on General File.

LEGISLATIVE BILL 444. Placed on General File with amendment.

AM1864

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 53-101, Revised Statutes Cumulative
- 4 Supplement, 2012, is amended to read:
- 5 53-101 Sections 53-101 to 53-1,122 and section 4 of this
- 6 act shall be known and may be cited as the Nebraska Liquor Control
- 7 Act.
- 8 Sec. 2. Section 53-117.03, Revised Statutes Supplement,
- 9 2013, is amended to read:
- 10 53-117.03 (1) ~~On or before January 1, 2007, the~~ The
- 11 commission shall adopt and promulgate rules and regulations
- 12 governing programs which provide training for persons employed in
- 13 the sale and service of alcoholic liquor and management of licensed
- 14 premises. Such rules and regulations may include, but need not be
- 15 limited to:
- 16 (a) Minimum standards governing training of beverage
- 17 servers, including standards and requirements governing curriculum,
- 18 program trainers, and certification requirements;
- 19 (b) Minimum standards governing training in management of

20 licensed premises, including standards and requirements governing
21 curriculum, program trainers, and certification requirements;

22 (c) Minimum standards governing the methods allowed for
23 training programs which may include the Internet, interactive
1 video, live training in various locations across the state, and
2 other means deemed appropriate by the commission;

3 (d) Methods for approving beverage-server training
4 organizations and programs. All beverage-server training programs
5 approved by the commission shall issue a certificate of completion
6 to all persons who successfully complete the program and shall
7 provide the names of all persons completing the program to the
8 commission;

9 (e) Enrollment fees in an amount determined by the
10 commission to be necessary to cover the administrative costs,
11 including salary and benefits, of enrolling in a training program
12 offered by the commission pursuant to subsection (2) of this
13 section, but not to exceed thirty dollars; and

14 (f) Procedures and fees for certification, which fees
15 shall be in an amount determined by the commission to be sufficient
16 to defray the administrative costs, including salary and benefits,
17 associated with maintaining a list of persons certified under this
18 section and issuing proof of certification to eligible individuals
19 but shall not exceed twenty dollars.

20 (2) The commission may create a program to provide
21 training for persons employed in the sale and service of alcoholic
22 liquor and management of licensed premises. The program shall
23 include training on the issues of sales and service of alcoholic
24 liquor to minors and to visibly inebriated purchasers. The
25 commission may charge each person enrolling in the program an
26 enrollment fee as provided in the rules and regulations, but
27 such fee shall not exceed thirty dollars. All such fees shall be
1 collected by the commission and remitted to the State Treasurer
2 for credit to the Nebraska Liquor Control Commission Rule and
3 Regulation Cash Fund.

4 (3) A person who has completed a training program which
5 complies with the rules and regulations, whether such program is
6 offered by the commission or by another organization, may become
7 certified by the commission upon the commission receiving evidence
8 that he or she has completed such program and the person seeking
9 certification paying the certification fee established under this
10 section.

11 (4) In order to receive certification from the
12 commission, a person shall file an application on a form
13 prescribed by the commission and pay a certification application
14 fee of fifteen dollars. The applicant shall include evidence of
15 successful completion of a course as provided for in this section
16 and successful completion of the examination prescribed by the
17 commission. Upon successful completion of the application process,
18 the commission shall provide the applicant with a certified seller

19 document which shall be valid for three years.

20 Sec. 3. Section 53-117.06, Revised Statutes Supplement,
21 2013, is amended to read:

22 53-117.06 Any money collected by the commission pursuant
23 to section 53-117.03, 53-117.05, or 53-167.02 shall be credited
24 to the Nebraska Liquor Control Commission Rule and Regulation
25 Cash Fund, which fund is hereby created. The purpose of the fund
26 shall be to cover any administrative costs, including salary and
27 benefits, incurred by the commission in producing or distributing
1 the material referred to in ~~such~~ sections 53-117.05 and 53-167.02
2 and to defray the costs associated with electronic regulatory
3 transactions, industry education events, enforcement training, ~~and~~
4 equipment for regulatory work, and administering section 53-117.03
5 and section 4 of this act. Transfers may be made from the fund
6 to the General Fund at the direction of the Legislature. Any
7 money in the Nebraska Liquor Control Commission Rule and Regulation
8 Cash Fund available for investment shall be invested by the state
9 investment officer pursuant to the Nebraska Capital Expansion Act
10 and the Nebraska State Funds Investment Act.

11 Sec. 4. (1) Beginning November 1, 2015, a retail licensee
12 shall only employ a person to be a manager as defined in section
13 53-103.18 if such person has successfully completed a course and
14 received a certification as provided for in section 53-117.03. The
15 person shall show proof of certification to the retail licensee by
16 presenting the certification issued by the commission. The retail
17 licensee shall maintain on its licensed premises a copy of each
18 such manager's required certificate.

19 (2) Any retail licensee who employs a person in violation
20 of this section may have its license suspended, canceled, or
21 revoked by the commission.

22 Sec. 5. Original section 53-101, Revised Statutes
23 Cumulative Supplement, 2012, and sections 53-117.03 and 53-117.06,
24 Revised Statutes Supplement, 2013, are repealed.

LEGISLATIVE BILL 855. Placed on General File with amendment.
AM1909

1 1. Strike original sections 1, 6, and 7 and insert the
2 following new sections:

3 Section 1. (1) A cemetery association which takes over
4 the management and operation of a cemetery pursuant to section 12
5 of this act shall, within one year after taking over, prepare a
6 map of the cemetery and make a good faith effort to identify the
7 remains buried in the cemetery according to the headstones and the
8 owner of all lots. The cemetery association shall file the map and
9 identifying information and a record of all business conducted by
10 the cemetery association in the prior calendar year with the county
11 clerk at the time it files the audit, compilation, or statement of
12 accounts under subsection (2) of this section.

13 (2)(a) On June 30 of each year, the individual trustees

14 or corporate trustee, as the case may be, of a perpetual care trust
 15 fund for a cemetery association described in subsection (1) of this
 16 section which has a balance of one hundred thousand dollars or more
 17 on such date shall have an audit of the perpetual care trust fund
 18 made by a certified public accountant. The report of such audit by
 19 the auditor shall be filed within thirty days after June 30 of such
 20 year with the county clerk of the county in which the cemetery is
 21 located. The expense of the audit and the filing fee of the report
 22 shall be paid by the cemetery association.

23 (b) On June 30 of each year, the individual trustees or
 1 corporate trustee, as the case may be, of a perpetual care trust
 2 fund for a cemetery association described in subsection (1) of this
 3 section which has a balance of more than ten thousand dollars and
 4 less than one hundred thousand dollars on such date shall have a
 5 compilation of the perpetual care trust fund made by a certified
 6 public accountant. The report of such compilation by the certified
 7 public accountant shall be filed within thirty days after June 30
 8 of such year with the county clerk of the county in which the
 9 cemetery is located. The expense of the compilation and the filing
 10 fee of the report shall be paid by the cemetery association.

11 (c) On June 30 of each year, the individual trustees or
 12 corporate trustee, as the case may be, of a perpetual care trust
 13 fund for a cemetery association described in subsection (1) of this
 14 section which has a balance of ten thousand dollars or less on such
 15 date shall file a statement of accounts of the perpetual care trust
 16 fund within thirty days after June 30 of such year with the county
 17 clerk of the county in which the cemetery is located. There shall
 18 be no filing fee for filing the statement of accounts.

19 Sec. 6. Section 12-512.02, Reissue Revised Statutes of
 20 Nebraska, is amended to read:

21 12-512.02 The cemetery association shall place at least
 22 ~~the following sums~~ one hundred dollars for each cemetery lot sold
 23 into the perpetual care trust fund.-(1) Monument plan cemeteries,
 24 fifty cents per square foot of each cemetery lot sold; (2) park
 25 plan or memorial plan cemeteries, twenty five cents per square foot
 26 of each cemetery lot sold; and (3) combined monument and park
 27 plan cemeteries, fifty cents per square foot of each cemetery lot
 1 sold. Such funds shall be paid by the cemetery association to the
 2 trustees of the perpetual care trust fund, who shall invest the
 3 funds under the same conditions and restrictions as trust funds are
 4 invested under the provisions of section 30-3201. If ; Provided,
 5 that when any lots are sold on contract, thirty percent of all
 6 payments received on the contract shall be paid to the trustee or
 7 trustees of the perpetual care trust fund until the entire payments
 8 required by this section are made.

9 Sec. 7. Section 12-512.04, Reissue Revised Statutes of
 10 Nebraska, is amended to read:

11 12-512.04 On June 30 of each year, the individual
 12 trustees or corporate trustee, as the case may be, of ~~such a~~

13 perpetual care trust fund shall have an audit of the perpetual
 14 care trust fund made by a certified public accountant ~~except as~~
 15 ~~otherwise provided in section 1 of this act. The and the~~ report of
 16 such audit by the auditor shall be filed within thirty days after
 17 June 30 of such year with the county clerk of the county in which
 18 the cemetery is located. The expense of the audit and the filing
 19 fee of the report shall be paid by the cemetery association.

LEGISLATIVE BILL 861. Placed on General File with amendment.
 AM1697

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

3 Section 1. Section 28-101, Revised Statutes Supplement,
 4 2013, is amended to read:
 5 28-101 Sections 28-101 to 28-1356 and sections 3 and 8 of
 6 this act shall be known and may be cited as the Nebraska Criminal
 7 Code.

8 Sec. 2. Section 28-1418, Reissue Revised Statutes of
 9 Nebraska, is amended to read:

10 28-1418 Whoever, being a minor under the age of eighteen
 11 years, shall smoke cigarettes or cigars, use vapor products or
 12 alternative nicotine products, or use tobacco in any form whatever,
 13 in this state, shall be guilty of a Class V misdemeanor. Any
 14 minor ~~so~~ charged with ~~the a~~ violation of this section may be free
 15 from prosecution ~~when if he shall have furnished or she furnishes~~
 16 evidence for the conviction of the person or persons selling
 17 or giving him or her the cigarettes, cigars, vapor products,
 18 alternative nicotine products, or tobacco.

19 Sec. 3. For purposes of sections 28-1418 to 28-1429.02
 20 and sections 3 and 8 of this act:

21 (1) Alternative nicotine product means any noncombustable
 22 product containing nicotine that is intended for human consumption,
 23 whether chewed, absorbed, dissolved, or ingested by any other
 1 means. Alternative nicotine product does not include any vapor
 2 product, cigarette, cigar, or other tobacco product, or any product
 3 regulated as a drug or device by the United States Food and Drug
 4 Administration under Chapter V of the federal Food, Drug, and
 5 Cosmetic Act;

6 (2) Self-service display means a retail display that
 7 contains a tobacco product, a tobacco derived product, a vapor
 8 product, or an alternative nicotine product and is located in
 9 an area openly accessible to a retailer's customers and from
 10 which such customers can readily access the product without the
 11 assistance of a salesperson. Self-service display does not include
 12 a display case that holds tobacco products, vapor products, or
 13 alternative nicotine products behind locked doors;

14 (3) Tobacco specialty store means a retail store that (a)
 15 derives at least seventy-five percent of its revenue from tobacco
 16 products, tobacco derived products, vapor products, or alternative

17 nicotine products and (b) does not permit minors under the age of
 18 eighteen years to enter the premises unless accompanied by a parent
 19 or legal guardian; and

20 (4) Vapor product means any noncombustible product
 21 containing nicotine that employs a heating element, power source,
 22 electronic circuit, or other electronic, chemical, or mechanical
 23 means, regardless of shape or size, that can be used to produce
 24 vapor from nicotine in a solution or other form. Vapor product
 25 includes any electronic cigarette, electronic cigar, electronic
 26 cigarillo, electronic pipe, or similar product or device and any
 27 vapor cartridge or other container of nicotine in a solution or
 1 other form that is intended to be used with or in an electronic
 2 cigarette, electronic cigar, electronic cigarillo, electronic pipe,
 3 or similar product or device. Vapor product does not include an
 4 alternative nicotine product, cigarette, cigar, or other tobacco
 5 product, or any product regulated as a drug or device by the United
 6 States Food and Drug Administration under Chapter V of the federal
 7 Food, Drug, and Cosmetic Act.

8 Sec. 4. Section 28-1419, Reissue Revised Statutes of
 9 Nebraska, is amended to read:

10 28-1419 Whoever shall sell, give, or furnish, in any way,
 11 any tobacco in any form whatever, or any cigarettes, ~~or~~ cigarette
 12 paper, vapor products, or alternative nicotine products, to any
 13 minor under eighteen years of age, ~~shall be~~ is guilty of a Class
 14 III misdemeanor for each offense.

15 Sec. 5. Section 28-1425, Reissue Revised Statutes of
 16 Nebraska, is amended to read:

17 28-1425 Any licensee who shall sell, give, or furnish
 18 in any way to any person under the age of eighteen years, or
 19 who shall willingly allow to be taken from his or her place
 20 of business by any person under the age of eighteen years, any
 21 cigars, tobacco, cigarettes, ~~or~~ cigarette material, vapor products,
 22 or alternative nicotine products shall be guilty of a Class III
 23 misdemeanor. Any officer, director, or manager having charge or
 24 control, either separately or jointly with others, of the business
 25 of any corporation which violates ~~the provisions of sections~~
 26 28-1420 to 28-1429, and sections 3 and 8 of this act, if he
 27 ~~have or she has knowledge of the same, such violation,~~ shall be
 1 subject to the penalties provided in this section. In addition
 2 to the penalties provided in this section, such licensee shall be
 3 subject to the additional penalty of a revocation and forfeiture
 4 of his, her, their, or its license, at the discretion of the court
 5 before whom the complaint for violation of ~~said~~ such sections may
 6 be heard. If such license ~~be~~ is revoked and forfeited, all rights
 7 under such license shall at once cease and terminate.

8 Sec. 6. Section 28-1427, Reissue Revised Statutes of
 9 Nebraska, is amended to read:

10 28-1427 Any person under the age of eighteen years who
 11 shall obtain cigars, tobacco, cigarettes, ~~or~~ cigarette material,

12 vapor products, or alternative nicotine products from a licensee
 13 ~~hereunder~~ by representing that he or she is of the age of eighteen
 14 years or over, ~~shall be~~ is guilty of a Class V misdemeanor.

15 Sec. 7. Section 28-1429.02, Reissue Revised Statutes of
 16 Nebraska, is amended to read:

17 28-1429.02 (1) Except as provided in subsection (2) of
 18 this section, it shall be unlawful to dispense cigarettes, ~~or~~ other
 19 tobacco products, vapor products, or alternative nicotine products
 20 from a vending machine or similar device. Any person violating this
 21 section ~~shall be~~ is guilty of a Class III misdemeanor. In addition,
 22 upon conviction for a second offense, the court shall order a
 23 six-month suspension of the offender's license to sell tobacco,
 24 if any, and, upon conviction for a third or subsequent offense,
 25 the court shall order the permanent revocation of the offender's
 26 license to sell tobacco, if any.

27 (2) Cigarettes, ~~or~~ other tobacco products, vapor
 1 products, or alternative nicotine products may be dispensed from
 2 a vending machine or similar device when such machine or device
 3 is located in an area, office, business, plant, or factory which
 4 is not open to the general public or on the licensed premises of
 5 any establishment having a license issued under the Nebraska Liquor
 6 Control Act for the sale of alcoholic liquor for consumption on the
 7 premises when such machine or device is located in the same room in
 8 which the alcoholic liquor is dispensed.

9 (3) Nothing in this section shall be construed to
 10 restrict or prohibit a governing body of a city or village
 11 from establishing and enforcing ordinances at least as stringent as
 12 or more stringent than the provisions of this section.

13 Sec. 8. (1) Except as provided in subsection (2) of this
 14 section and section 28-1429.02, it shall be unlawful to sell or
 15 distribute cigarettes, cigars, vapor products, alternative nicotine
 16 products, or tobacco in any form whatever through a self-service
 17 display. Any person violating this section is guilty of a Class
 18 III misdemeanor. In addition, upon conviction for a second or
 19 subsequent offense within a twelve-month period, the court shall
 20 order a six-month suspension of the license issued under section
 21 28-1421.

22 (2) Cigarettes, cigars, vapor products, alternative
 23 nicotine products, or tobacco in any form whatever may be sold or
 24 distributed in a self-service display that is located in a tobacco
 25 specialty store or cigar bar as defined in section 53-103.08.

26 Sec. 9. Section 59-1523, Revised Statutes Cumulative
 27 Supplement, 2012, is amended to read:

1 59-1523 (1) The cigarette tax division of the Tax
 2 Commissioner may, after notice and hearing, revoke or suspend
 3 for any violation of section 59-1520 the license or licenses of any
 4 person licensed under sections 28-1418 to ~~28-1429~~ 28-1429.02 and
 5 sections 3 and 8 of this act or sections 77-2601 to 77-2622.

6 (2) Cigarettes that are acquired, held, owned, possessed,

7 transported, sold, or distributed in or imported into this state in
8 violation of section 59-1520 are declared to be contraband goods
9 and are subject to seizure and forfeiture. Any cigarettes so seized
10 and forfeited shall be destroyed. Such cigarettes shall be declared
11 to be contraband goods whether the violation of section 59-1520 is
12 knowing or otherwise.

13 Sec. 10. Original sections 28-1418, 28-1419, 28-1425,
14 28-1427, and 28-1429.02, Reissue Revised Statutes of Nebraska,
15 section 59-1523, Revised Statutes Cumulative Supplement, 2012, and
16 section 28-101, Revised Statutes Supplement, 2013, are repealed.

(Signed) Russ Karpisek, Chairperson

Transportation and Telecommunications

LEGISLATIVE BILL 1039. Placed on General File.

LEGISLATIVE BILL 701. Placed on General File with amendment.
AM1905

- 1 1. On page 3, line 2, strike "oral or"; and in line 8
- 2 strike "an oral or" and insert "a".

(Signed) Annette Dubas, Chairperson

UNANIMOUS CONSENT - Add Cointroducers

Senator Larson asked unanimous consent to add his name as cointroducer to LB1058. No objections. So ordered.

Senator Gloor asked unanimous consent to add his name as cointroducer to LB942. No objections. So ordered.

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB1032. No objections. So ordered.

WITHDRAW - Cointroducer

Senator Murante withdrew his name as cointroducer to LB1058.

ANNOUNCEMENTS

Senator Pirsch designates LB1087 as his priority bill.

Senator Larson designates LB1058 as his priority bill.

Senator Lautenbaugh designates LB972 as his priority bill.

Senator Schilz designates LB942 as his priority bill.

The Natural Resources Committee designates LB844 as its priority bill.

VISITORS

Visitors to the Chamber were 25 ninth-grade students and teachers from Lincoln Southwest High School.

ADJOURNMENT

At 11:18 a.m., on a motion by Speaker Adams, the Legislature adjourned until 9:00 a.m., Friday, February 21, 2014.

Patrick J. O'Donnell
Clerk of the Legislature