

**TWENTIETH DAY - FEBRUARY 4, 2015**  
**LEGISLATIVE JOURNAL**  
**ONE HUNDRED FOURTH LEGISLATURE**  
**FIRST SESSION**

**TWENTIETH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, February 4, 2015

**PRAYER**

The prayer was offered by Senator Williams.

**ROLL CALL**

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

The roll was called and all members were present except Senators Chambers and K. Haar who were excused; and Senators Cook, Craighead, Hilkemann, Howard, Kolowski, Murante, Schilz, and Watermeier who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the nineteenth day was approved.

**ATTORNEY GENERAL'S OPINION**

Opinion 15-001

**SUBJECT:** Authority Of A City To Amend An Economic  
Development Program Under The Local Option  
Economic Development Act

**REQUESTED BY:** Senator Colby Coash  
Nebraska State Legislature

**WRITTEN BY:** Doug Peterson, Attorney General  
Lynn A. Melson, Assistant Attorney General

You are considering introducing legislation to clarify the authority of a city council or village board to amend an economic development program under the Local Option Municipal Economic Development Act. Neb. Rev. Stat. §§ 18-2701 to 18-2739 (2012). The Act, in general, authorizes a city or village to propose an economic development program and to use such

funds as may be necessary for economic development activities if the program is approved by a majority of the registered voters of the city or village voting upon the question. The Act constitutes the enabling legislation to permit cities and villages to exercise the authority granted by Neb. Const. art. XIII, § 2.

You state that if the Legislature amends the Act to add a qualifying business or eligible activity after the voters have approved a particular economic development plan, this results in confusion about what action a city must then take to include the new business or activity in the plan. You have requested our opinion on two questions concerning amendment of an economic development plan. First, you ask whether, in such a circumstance (if the Legislature amends the Act to add a qualifying business or eligible activity), a city council may amend the plan to include the new business or activity as provided under § 18-2714(2) or whether the change must first be approved by the voters as provided in § 18-2714(3). Second, you ask whether Neb. Const. art. XIII, § 2 would prohibit amendment of the Act so as to instead authorize the city council to amend the plan without voter approval.

### Discussion

Reviewing the relevant statutes of the Act, Neb. Rev. Stat. § 18-2705 defines “economic development program” to mean a “project or program utilizing funds derived from local sources of revenue for the purpose of providing direct or indirect financial assistance to a qualifying business . . . .” Section 18-2709 then defines “qualifying business” as a business which derives its principal source of income from that statute’s list of eligible sources. There are several steps in the adoption of an economic development program. Section 18-2710 requires the city’s governing body to prepare a proposed plan which includes the “description of the types of businesses and economic activities that will be eligible under the program for the city’s assistance.” Section 18-2712 provides that the city must present the plan at a public hearing and then adopt the proposed plan and any amendments by resolution. The city must also submit the question of the adoption of the proposed economic development plan to the registered voters at an election and, if a majority of those voting on the issue vote in favor of the question, the city then establishes the program by ordinance. §§ 18-2713 and 18-2714.

**Question 1. If the Legislature amends the Act to add a qualifying business or eligible activity, can a city amend the plan to include the new business or activity or does the change have to be approved by the voters?**

In our view, it appears from the language of the Act that it was the intent of the Legislature to require voter approval of a specific, detailed economic development plan. Here, pursuant to Neb. Rev. Stat. § 18-2710, the city’s proposed plan must describe “the types of businesses and economic

activities that will be eligible under the program for the city's assistance." As discussed above, the city must propose those types of qualifying businesses and economic development activities which are within the statutory definitions found at §§ 18-2705 and 18-2709. The governing body's resolution adopting the proposed plan must include either the full text of the proposed plan or it may be incorporated by reference and both the resolution and the proposed plan must be filed with the city clerk's office where it is available for public review. § 18-2712. The question of the adoption of the economic development program is then submitted to the registered voters at an election and, if a majority of those voting vote in favor of the question, the governing body then implements the program "upon the terms set out in the resolution." §18-2713. Further, the economic development program is adopted by ordinance "in conformity with the terms of such program as set out in the original enabling resolution." § 18-2714(1). Thus, these statutes indicate the Legislature's overall intent that the voters approve a specific program containing a description of eligible businesses and activities and the city then adopts the program approved by the voters.

As to amendment of the approved plan, § 18-2714(3) provides:

The governing body of a city shall not amend the economic development program so as to fundamentally alter its basic structure or goals, either with regard to the qualifying businesses that are eligible to participate, the local sources of revenue used to fund the program, the uses of the funds collected, or the basic terms set out in the original enabling resolution, without submitting the proposed changes to a new vote of the registered voters of the city in the manner provided for in section 18-2713.

When construing a statute, courts should attempt to discover legislative intent from the language of the act and give effect to that intent. *Tracfone Wireless, Inc. v. Nebraska Public Service Comm'n*, 279 Neb. 426, 433, 778 N.W.2d 452, 459 (2010); *Peterson v. Minden Beef Co.*, 231 Neb. 18, 434 N.W.2d 681 (1989). Statutory language should generally be given its plain and ordinary meaning and where the words of the statute are plain, direct and unambiguous, no interpretation is necessary to ascertain their meaning. *State v. Mena-Rivera*, 280 Neb. 948, 791 N.W.2d 613 (2010); *Sorensen v. Meyer*, 220 Neb. 457, 370 N.W.2d 173 (1985). And, a court will "construe statutes relating to the same subject matter together to maintain a sensible and consistent scheme, so that effect is given to every provision. *Tracfone Wireless, Inc.* at 433, 778 N.W.2d at 459.

With these rules of statutory construction in mind, it seems to us that the language of § 18-2714(3) is plain, direct and unambiguous and requires voter approval before the city may amend the plan to include a new qualifying business or activity. You point out that § 18-2714(2) allows a city to amend its ordinance "to conform to the provisions of any existing or future state or federal law." You suggest that this provision might allow the city to act without voter approval if the Legislature later amends the Act to

add a qualifying business or eligible activity. However, it appears to us that subsection (3) is the more specific provision with regard to changing the qualifying businesses that are eligible to participate. Furthermore, even if the language of § 18-2714 requires construction, requiring voter approval is consistent with the overall intent of the Legislature that the voters approve a specific plan and that the city then adopt that plan approved by the voters. Therefore, while the language of subsection (2) may result in some confusion, we conclude that the better answer to your first question is that, under the current statutory scheme, the voters must approve a change in the eligible businesses and activities of an economic development plan. If you wish to clarify that the city may amend the plan without voter approval, you may then wish to consider introducing legislation to that effect.

**Question 2. Does Neb. Const. art. XIII, art. 2 prohibit amendment of the Act to clearly authorize the city to amend the economic development plan with regard to the description of eligible businesses and activities without first obtaining voter approval?**

Neb.Const. art. XIII, § 2 provides, in pertinent part, that “the Legislature may also authorize any incorporated city or village, including cities operating under home rule charters, to appropriate such funds as may be deemed necessary for an economic or industrial development project or program subject to approval by a vote of a majority of the registered voters of such city or village voting upon the question.” “Constitutional provisions are not open to construction as a matter of course; construction is appropriate only when it has been demonstrated that the meaning of the provision is not clear and that construction is necessary.” *Conroy v. Keith County Board of Equalization*, 288 Neb. 196, 204, 846 N.W.2d 634, 641 (2014).

While the constitutional provision does provide that the Legislature may enact enabling legislation to authorize cities to appropriate funds for a project or program “subject to approval by a vote of a majority of the registered voters,” there is no language in art. XIII, § 2 with regard to amendment of an economic development plan. The details of the enabling legislation are left to the Legislature and the current requirements for the content of the plan, the eligibility of businesses, and the amendment of the plan are found in the statutes enacted by the Legislature. An argument could thus be made that the general language of art. XIII, § 2 does not preclude the Legislature from changing the current statutory requirements for amendment of an economic development plan. On the other hand, the one constitutional limitation on a city’s authority to appropriate funds for an economic development plan is the approval of the voters. As it is not clear whether this pertains to amendment of a plan as well as the original adoption of a plan, an argument could be made that legislation allowing the city to amend the plan without voter approval is contrary to the constitutional grant of authority to the Legislature.

### Conclusion

In our opinion, for the reasons stated above, the current statutes require voter approval before a city may amend its economic development plan to include a new qualifying business or activity. You may wish to consider introducing legislation to clarify that a city may amend its plan without voter approval. However, while a plausible argument can be made that Neb. Const. art. XIII, § 2 does not preclude such legislation, it is unclear whether such legislation would be found constitutional.

Sincerely,  
DOUG PETERSON  
Attorney General  
(Signed) Lynn A. Melson  
Assistant Attorney General

pc. Patrick J. O'Donnell  
Clerk of the Nebraska Legislature  
09-508-29

### COMMITTEE REPORT(S) Urban Affairs

**LEGISLATIVE BILL 116.** Placed on General File with amendment.  
AM192

1 1. Strike original section 1 and insert the following new section:  
2 Section 1. Section 31-735, Revised Statutes Cumulative Supplement,  
3 2014, is amended to read:  
4 31-735 (1) On the first Tuesday after the second Monday in September  
5 which is at least fifteen months after the judgment of the district court  
6 creating a sanitary and improvement district and on the first Tuesday  
7 after the second Monday in September each two years thereafter, the board  
8 of trustees shall cause a special election to be held, at which election  
9 a board of trustees ~~of five in number~~ shall be elected. The board of  
10 trustees shall have five members except as provided in subsection (2) of  
11 this section. Each member elected to the board of trustees shall be  
12 elected to a term of two years and shall hold office until such member's  
13 successor is elected and qualified. Any person desiring to file for the  
14 office of trustee may file for such office with the election  
15 commissioner, or county clerk in counties having no election  
16 commissioner, of the county in which the greater proportion in area of  
17 the district is located not later than fifty days before the election. If  
18 such person will serve on the board of trustees as a designated  
19 representative of a limited partnership, general partnership, limited  
20 liability company, public, private, or municipal corporation, estate, or  
21 trust which owns real estate in the district, the filing shall indicate  
22 that fact and shall include appropriate documentation evidencing such  
23 fact. No filing fee shall be required. A person filing for the office of  
24 trustee to be elected at the election held four years after the first

25 election of trustees and each election thereafter shall designate whether  
26 he or she is a candidate for election by the resident owners of such  
27 district or whether he or she is a candidate for election by all of the  
1 owners of real estate located in the district. If a person filing for the  
2 office of trustee is a designated representative of a limited  
3 partnership, a general partnership, a limited liability company, a  
4 public, private, or municipal corporation, an estate, or a trust which  
5 owns real estate in the district, the name of such entity shall accompany  
6 the name of the candidate on the ballot in the following form: (Name of  
7 candidate) to represent (name of entity) as a member of the board. The  
8 name of each candidate shall appear on only one ballot.

9 The name of a person may be written in and voted for as a candidate  
10 for the office of trustee, and such write-in candidate may be elected to  
11 the office of trustee. A write-in candidate for the office of trustee who  
12 will serve as a designated representative of a limited partnership, a  
13 general partnership, a limited liability company, a public, private, or  
14 municipal corporation, an estate, or a trust which owns real estate in  
15 the district shall not be elected to the office of trustee unless (a)  
16 each vote is accompanied by the name of the entity which the candidate  
17 will represent and (b) within ten days after the date of the election the  
18 candidate provides the county clerk or election commissioner with  
19 appropriate documentation evidencing his or her representation of the  
20 entity. Votes cast which do not carry such accompanying designation shall  
21 not be counted.

22 A trustee shall be an owner of real estate located in the district  
23 or shall be a person designated to serve as a representative on the board  
24 of trustees if the real estate is owned by a limited partnership, a  
25 general partnership, a limited liability company, a public, private, or  
26 municipal corporation, an estate, or a trust. Notice of the date of the  
27 election shall be mailed by the clerk of the district not later than  
28 sixty-five days prior to the election to each person who is entitled to  
29 vote at the election for trustees whose property ownership or lease  
30 giving a right to vote is of record on the records of the register of  
31 deeds as of a date designated by the election commissioner or county  
1 clerk, which date shall be not more than seventy-five days prior to the  
2 election.

3 (2)(a) For any sanitary and improvement district, a person ~~persons~~  
4 whose ownership or right to vote becomes of record or is received after  
5 the date specified pursuant to subsection (1) of this section may vote  
6 when such person establishes his or her ~~their~~ right to vote to the  
7 satisfaction of the election board. At the first election and at the  
8 election held two years after the first election, any person may cast one  
9 vote for each trustee for each acre of unplatted land or fraction thereof  
10 and one vote for each platted lot which he or she may own in the  
11 district.

12 (b) This subdivision applies to a district until the board of  
13 trustees amends its articles of association pursuant to subdivision (2)  
14 (d) of this section. At the election held four years after the first  
15 election of trustees, two members of the board of trustees shall be

16 elected by the legal property owners resident within such sanitary and  
17 improvement district and three members shall be elected by all of the  
18 owners of real estate located in the district pursuant to this section.  
19 Every resident property owner may cast one vote for a candidate for each  
20 office of trustee to be filled by election of resident property owners  
21 only. Such resident property owners may also each cast one vote for each  
22 acre of unplatted land or fraction thereof and for each platted lot owned  
23 within the district for a candidate for each office of trustee to be  
24 filled by election of all property owners. For each office of trustee to  
25 be filled by election of all property owners of the district, every legal  
26 property owner not resident within such sanitary and improvement district  
27 may cast one vote for each acre of unplatted land or fraction thereof and  
28 one vote for each platted lot which he or she owns in the district. At  
29 the election held eight years after the first election of trustees and at  
30 each election thereafter, three members of the board of trustees shall be  
31 elected by the legal property owners resident within such sanitary and  
1 improvement district and two members shall be elected by all of the  
2 owners of real estate located in the district pursuant to this section,  
3 ~~except that if more than fifty percent of the homes in any sanitary and~~  
4 ~~improvement district are used as a second, seasonal, or recreational~~  
5 ~~residence, the owners of such property shall be considered legal property~~  
6 ~~owners resident within such district for purposes of electing trustees,~~  
7 and at the election held six years after the first election of trustees  
8 and at each election thereafter, three members of the board of trustees  
9 shall be elected by the legal property owners resident within such  
10 sanitary and improvement district and two members shall be elected by all  
11 of the owners of real estate located in the district pursuant to this  
12 section. If there are not any legal property owners resident within such  
13 district or if not less than ninety percent of the area of the district  
14 is owned for other than residential uses, the five members shall be  
15 elected by the legal property owners of all property within such district  
16 as provided in this section.

17 (c) Any public, private, or municipal corporation owning any land or  
18 lot in the district may vote at ~~an such~~ election the same as an  
19 individual. If more than fifty percent of the homes in any sanitary and  
20 improvement district are used as a second, seasonal, or recreational  
21 residence, the owners of such property shall be considered legal property  
22 owners resident within such district for purposes of electing trustees.  
23 For purposes of voting for trustees, each condominium apartment under a  
24 condominium property regime established prior to January 1, 1984, under  
25 the Condominium Property Act or established after January 1, 1984, under  
26 the Nebraska Condominium Act shall be deemed to be a platted lot and the  
27 lessee or the owner of the lessee's interest, under any lease for an  
28 initial term of not less than twenty years which requires the lessee to  
29 pay taxes and special assessments levied on the leased property, shall be  
30 deemed to be the owner of the property so leased and entitled to cast the  
31 vote of such property. When ownership of a platted lot or unplatted land  
1 is held jointly by two or more persons, whether as joint tenants, tenants  
2 in common, limited partners, members of a limited liability company, or

3 any other form of joint ownership, only one person shall be entitled to  
4 cast the vote of such property. The executor, administrator, guardian, or  
5 trustee of any person or estate interested shall have the right to vote.

6 No corporation, estate, or irrevocable trust shall be deemed to be a  
7 resident owner for purposes of voting for trustees. Should two or more  
8 persons or officials claim the right to vote on the same tract, the  
9 election board shall determine the party entitled to vote. Such board  
10 shall select one of their number chairperson and one of their number  
11 clerk. In case of a vacancy on such board, the remaining trustees shall  
12 fill the vacancy on such board until the next election.

13 (d) For any sanitary and improvement district which has been in  
14 existence for at least ten years, which has less than seventy property  
15 owners entitled to vote for trustees, which has at least two resident  
16 property owners, and in which less than ten percent of the area of the  
17 district is owned for other than residential uses, the board of trustees  
18 may amend its articles of association as provided in section 31-740.01 to  
19 provide for a reduction in the number of trustees on the board from five  
20 members to three members to be effective at the beginning of the term of  
21 office for the board of trustees elected at the next election. At the  
22 next election and at each election thereafter, two members of the board  
23 of trustees shall be elected by the legal property owners resident within  
24 such sanitary and improvement district and one member shall be elected by  
25 all of the owners of real estate located in the district pursuant to this  
26 section. Every resident property owner may cast one vote for a candidate  
27 for each office of trustee to be filled by election of resident property  
28 owners only. Such resident property owners may also each cast one vote  
29 for each acre of unplatted land or fraction thereof and for each platted  
30 lot owned within the district for a candidate for the office of trustee  
31 to be filled by election of all property owners. For the office of  
1 trustee to be filled by election of all property owners of the district,  
2 every legal property owner not resident within such sanitary and  
3 improvement district may cast one vote for each acre of unplatted land or  
4 fraction thereof and one vote for each platted lot which he or she owns  
5 in the district.

6 (3) The election commissioner or county clerk shall hold any  
7 election required by subsection (1) of this section by sealed mail ballot  
8 by notifying the board of trustees on or before July 1 of a given year.  
9 The election commissioner or county clerk shall, at least twenty days  
10 prior to the election, mail a ballot and return envelope to each person  
11 who is entitled to vote at the election and whose property ownership or  
12 lease giving a right to vote is of record with the register of deeds as  
13 of the date designated by the election commissioner or county clerk,  
14 which date shall not be more than seventy-five days prior to the  
15 election. The ballot and return envelope shall include: (a) The names and  
16 addresses of the candidates; (b) room for write-in candidates; and (c)  
17 instructions on how to vote and return the ballot. Such ballots shall be  
18 returned to the election commissioner or county clerk no later than 5  
19 p.m. on the date set for the election.



**LEGISLATIVE BILL 266.** Placed on General File with amendment.

AM122

1 1. On page 17, line 27, strike "two-mile" and insert "one-mile".

(Signed) Sue Crawford, Chairperson

**NOTICE OF COMMITTEE HEARING(S)**

Government, Military and Veterans Affairs

Room 1507

Wednesday, February 11, 2015 1:30 p.m.

LB282

LB283

LB365

LB403

Thursday, February 12, 2015 1:30 p.m.

LB105

LB106

LB492

LB561

(Signed) John Murante, Chairperson

**COMMITTEE REPORT(S)**

Government, Military and Veterans Affairs

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Tim Hofbauer - State Emergency Response Commission

Dana Miller - State Emergency Response Commission

Aye: 6 Bloomfield, Garrett, Groene, Hansen, Larson, Murante. Nay: 0.  
Absent: 2 Craighead, McCoy. Present and not voting: 0.

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Carol E. Schlegel - Nebraska Tourism Commission

Aye: 6 Bloomfield, Garrett, Groene, Hansen, Larson, Murante. Nay: 0.  
Absent: 2 Craighead, McCoy. Present and not voting: 0.

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Daryl L. Bohac, Adjutant General - Military Department

Aye: 6 Bloomfield, Garrett, Groene, Hansen, Larson, Murante. Nay: 0.  
Absent: 2 Craighead, McCoy. Present and not voting: 0.

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

John Hilgert, Director - Department of Veterans Affairs

Aye: 6 Bloomfield, Garrett, Groene, Hansen, Larson, Murante. Nay: 0.  
Absent: 2 Craighead, McCoy. Present and not voting: 0.

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Jim Heine - State Fire Marshal

Aye: 6 Bloomfield, Garrett, Groene, Hansen, Larson, Murante. Nay: 0.  
Absent: 2 Craighead, McCoy. Present and not voting: 0.

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Samuel Seever - State Personnel Board  
Christopher Waddle - State Personnel Board

Aye: 6 Bloomfield, Garrett, Groene, Hansen, Larson, Murante. Nay: 0.  
Absent: 2 Craighead, McCoy. Present and not voting: 0.

(Signed) John Murante, Chairperson

**RESOLUTION(S)**

Pursuant to Rule 4, Sec. 5(b), LR43 was adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR43.

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

Senator B. Harr moved the adoption of the Business and Labor Committee report for the confirmation of the following appointment(s) found on page 339:

Department of Labor  
John Albin, Commissioner

Voting in the affirmative, 35:

Baker	Ebke	Harr, B.	Lindstrom	Schnoor
Bloomfield	Friesen	Johnson	McCollister	Schumacher
Bolz	Garrett	Kintner	McCoy	Seiler
Brasch	Gloor	Kolterman	Mello	Smith
Campbell	Groene	Krist	Nordquist	Stinner
Crawford	Hadley	Kuehn	Pansing Brooks	Sullivan
Davis	Hansen	Larson	Riepe	Williams

Voting in the negative, 0.

Present and not voting, 4:

Coash	Hughes	Morfeld	Scheer
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Excused and not voting, 10:

Chambers	Craighead	Hilkemann	Kolowski	Schilz
Cook	Haar, K.	Howard	Murante	Watermeier

The appointment was confirmed with 35 ayes, 0 nays, 4 present and not voting, and 10 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 364:

Nebraska Child Abuse Prevention Fund Board  
Todd Bartee  
Mary Fran Flood

Voting in the affirmative, 33:

Baker	Davis	Harr, B.	McCoy	Schumacher
Bloomfield	Ebke	Johnson	Mello	Seiler
Bolz	Friesen	Kolterman	Nordquist	Stinner
Brasch	Garrett	Krist	Pansing Brooks	Sullivan
Campbell	Gloor	Kuehn	Riepe	Williams
Cook	Hadley	Lindstrom	Schilz	
Crawford	Hansen	McCollister	Schnoor	

Voting in the negative, 0.

Present and not voting, 8:

Coash	Hughes	Larson	Scheer
Groene	Kintner	Morfeld	Smith

Excused and not voting, 8:

Chambers	Haar, K.	Howard	Murante
Craighead	Hilkemann	Kolowski	Watermeier

The appointments were confirmed with 33 ayes, 0 nays, 8 present and not voting, and 8 excused and not voting.

Senator Schilz moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 364:

Nebraska Natural Resources Commission

Brian Barels  
 Stan Clouse  
 Steven Huggenberger  
 Thomas Knutson  
 Don Kraus  
 Tom Palmertree  
 Scott Smathers  
 Lindsey Smith  
 Walter Dennis Strauch  
 Loren Taylor

Voting in the affirmative, 35:

Baker	Friesen	Hughes	McCollister	Schnoor
Bloomfield	Garrett	Johnson	McCoy	Schumacher
Bolz	Gloor	Kintner	Mello	Seiler
Brasch	Groene	Kolterman	Nordquist	Smith
Campbell	Hadley	Krist	Pansing Brooks	Stinner
Crawford	Hansen	Kuehn	Scheer	Sullivan
Ebke	Harr, B.	Lindstrom	Schilz	Williams

Voting in the negative, 0.

Present and not voting, 6:

Coash	Davis	Morfeld
Cook	Larson	Riepe

Excused and not voting, 8:

Chambers	Haar, K.	Howard	Murante
Craighead	Hilkemann	Kolowski	Watermeier

The appointments were confirmed with 35 ayes, 0 nays, 6 present and not voting, and 8 excused and not voting.

### **GENERAL FILE**

**LEGISLATIVE BILL 430.** Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 4 present and not voting, and 8 excused and not voting.

**LEGISLATIVE BILL 247.** Title read. Considered.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 5 present and not voting, and 8 excused and not voting.

**LEGISLATIVE BILL 219.** Title read. Considered.

Committee AM43, found on page 324, was adopted with 38 ayes, 0 nays, 3 present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 4 present and not voting, and 8 excused and not voting.

**LEGISLATIVE BILL 18.** Title read. Considered.

Senator Groene offered his amendment, AM169, found on page 373.

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

Senator Groene requested a roll call vote on his amendment.

Voting in the affirmative, 19:

Bloomfield	Friesen	Hughes	Lindstrom	Schilz
Brasch	Garrett	Kintner	McCoy	Schnoor
Craighead	Groene	Kolterman	Murante	Watermeier
Ebke	Hilkemann	Larson	Scheer	

Voting in the negative, 27:

Baker	Davis	Kolowski	Nordquist	Stinner
Bolz	Gloor	Krist	Pansing Brooks	Sullivan
Campbell	Hadley	Kuehn	Riepe	Williams
Coash	Hansen	McCollister	Schumacher	
Cook	Harr, B.	Mello	Seiler	
Crawford	Johnson	Morfeld	Smith	

Excused and not voting, 3:

Chambers      Haar, K.      Howard

The Groene amendment lost with 19 ayes, 27 nays, and 3 excused and not voting.

The Chair declared the call raised.

Advanced to Enrollment and Review Initial with 28 ayes, 13 nays, 5 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 18A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 30 ayes, 7 nays, 9 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 109.** Title read. Considered.

Committee AM66, found on page 329, was adopted with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

#### **NOTICE OF COMMITTEE HEARING(S)**

Appropriations

Room 1524

Monday, February 23, 2015 1:30 p.m.

LB656  
LB657  
LB658

LB659  
 LB660  
 LB661  
 LB662  
 LB169  
 LB32  
 LB33

(Signed) Heath Mello, Chairperson

**COMMITTEE REPORT(S)**  
 Agriculture

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

William Marshall III - Nebraska State Fair Board

Aye: 7 Chambers, Harr, B., Johnson, Kolterman, Larson, Riepe, Schilz.  
 Nay: 0. Absent: 0. Present and not voting: 1 Bloomfield.

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

Greg Ibach, Director - Department of Agriculture

Aye: 6 Harr, B., Johnson, Kolterman, Larson, Riepe, Schilz. Nay: 1.  
 Chambers. Absent: 0. Present and not voting: 1 Bloomfield.

(Signed) Jerry Johnson, Chairperson

**RESOLUTION(S)**

**LEGISLATIVE RESOLUTION 49.** Introduced by Cook, 13.

WHEREAS, Zaiid Sharif Zakir Ibn El Gaines Liwaru died on January 24, 2015, in a car accident in Omaha; and

WHEREAS, Zaiid was the son of Sharif Zakir Liwaru and Gabrielle Gaines-Liwaru; and

WHEREAS, Zaiid was born in Omaha and attended Omaha Public Schools, graduating from Omaha North High School in 2013; and

WHEREAS, Zaiid was involved in the National Honor Society, the National Society of Black Engineers, and held various leadership positions in high school; and

WHEREAS, Zaiid initially studied at the University of Nebraska Omaha and then studied at Metropolitan Community College; and

WHEREAS, at his memorial service, Zaiid was remembered for his love of art and for his optimism, humor, and generosity; and

WHEREAS, Zaiid was also remembered as being smart, involved, outgoing, and open to different people, different places, and offbeat ways of doing things. Zaiid was described by his mother as "a connector and a lover of all souls".

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

1. That the Legislature extends its sympathy to the family of Zaiid Sharif Zakir Ibn El Gaines Liwaru.
2. That a copy of this resolution be sent to the family of Zaiid Sharif Zakir Ibn El Gaines Liwaru.

Laid over.

**LEGISLATIVE RESOLUTION 50.** Introduced by Cook, 13.

WHEREAS, Gene Haynes has been named a 2015 Distinguished NEBRASKAlander by the NEBRASKAland Foundation; and

WHEREAS, Gene has spent over 48 years in the Omaha Public School system including as a teacher, coach, and principal; and

WHEREAS, Gene began his teaching career at Omaha Technical High School in 1967 and coached the school's basketball team for 13 years; and

WHEREAS, Gene became the first African-American head basketball coach in the State of Nebraska in 1971; and

WHEREAS, Gene moved to Omaha North High School in 1987 to serve as the school's assistant principal and athletic director; and

WHEREAS, Gene has been the principal of Omaha North High School since 2001; and

WHEREAS, on October 24, 2014, Gene R. Haynes Street was named in his honor near Omaha North High School.

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

1. That the Legislature congratulates Gene Haynes for being named a 2015 Distinguished NEBRASKAlander by the NEBRASKAland Foundation.
2. That a copy of this resolution be sent to Gene Haynes.

Laid over.

**LEGISLATIVE RESOLUTION 51.** Introduced by Johnson, 23.

WHEREAS, Ryan Mueller, a history and government teacher at Wahoo Public High School, has won the Veterans of Foreign Wars (VFW) Nebraska Citizenship Education Teacher of the Year Award for grades nine through twelve; and



WHEREAS, each year, the Nebraska VFW recognizes three exceptional teachers for their outstanding commitment to teach Americanism and patriotism to their students; and

WHEREAS, Ryan was nominated by the principal of Wahoo Public High School for his service to the Close-Up Foundation, County Government Day, Nebraska Student Vote, the Veteran's Day Assembly, and his work in the classroom promoting patriotism and citizenship; and

WHEREAS, Ryan will be presented with the award at the VFW State Convention in Norfolk on June 6, 2015.

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

1. That the Legislature congratulates Ryan Mueller for winning the Veterans of Foreign Wars Nebraska Citizenship Education Teacher of the Year Award.

2. That a copy of this resolution be sent to Ryan Mueller.

Laid over.

### GENERAL FILE

**LEGISLATIVE BILL 198.** Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 118.** Title read. Considered.

Committee AM97, found on page 330, was offered.

Senator Larson withdrew his amendments, AM77 and AM98, found on pages 318 and 326.

Senator Larson offered the following amendment to the committee amendment:

AM221

(Amendments to Standing Committee amendments, AM97)

- 1 1. On page 1, lines 6 and 7, strike "public accommodations" and
- 2 insert "guestrooms and suites"; and in line 9 after "guestrooms" and
- 3 insert "and suites".
- 4 2. On page 2, line 9, after the period insert "The products that
- 5 tobacco retail outlets sell are legal for customers who meet the age
- 6 requirement. Customers should be able to try them within the tobacco
- 7 retail outlet, especially given the way that tobacco customization may
- 8 occur in how tobacco is blended and cigars are produced.".
- 9 3. Insert the following new amendment:
- 10 4. On page 4, line 25; and page 6, line 2, after the period insert "
- 11 Cigar shops are a variation of a tobacco retail outlet, which has a
- 12 liquor license. The issue of whether a liquor license shall be granted to

13 a cigar shop is an entirely separate issue that deals with an entire  
14 separate chapter of state law. Whether a liquor license is granted is at  
15 the recommendation of the local governing body and the discretion of the  
16 Nebraska Liquor Control Commission.".

The Larson amendment was adopted with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

The committee amendment, as amended, was adopted with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 2 nays, 8 present and not voting, and 5 excused and not voting.

### **VISITORS**

Visitors to the Chamber were members of the AFL-CIO from across the state; and members from Scottsbluff/Gering Chamber, Scotts Bluff Leadership Class, Sidney Area Chamber, Cheyenne County Leadership Class, and Dawes County Entrepreneur Leadership Training Academy.

The Doctor of the Day was Dr. Michelle Sell from Central City.

### **ADJOURNMENT**

At 12:04 p.m., on a motion by Senator Johnson, the Legislature adjourned until 9:00 a.m., Thursday, February 5, 2015.

Patrick J. O'Donnell  
Clerk of the Legislature