TWENTY-SEVENTH DAY - FEBRUARY 19, 2019

LEGISLATIVE JOURNAL

ONE HUNDRED SIXTH LEGISLATURE FIRST SESSION

TWENTY-SEVENTH DAY

Legislative Chamber, Lincoln, Nebraska Tuesday, February 19, 2019

PRAYER

The prayer was offered by Pastor Lori Robinson, Faith Presbyterian Church, La Vista.

ROLL CALL

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

The roll was called and all members were present except Senators Cavanaugh, Linehan, McCollister, Morfeld, Pansing Brooks, and Vargas who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-sixth day was approved.

AMENDMENT(S) - Print in Journal

Senator Gragert filed the following amendment to $\underline{LB406}$: AM315

- 1 1. Insert the following new section:
- 2 Sec. 7. Since an emergency exists, this act takes effect when
- 3 passed and approved according to law.

RESOLUTION(S)

Pursuant to Rule 4, Sec. 5(b), LRs 20, 21, 22, 23, and 24 were adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 20, 21, 22, 23, and 24.

MOTION(S) - Confirmation Report(s)

Senator Hughes moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 522:

Nebraska Ethanol Board Bradley B. Bird

Voting in the affirmative, 37:

Albrecht	DeBoer	Hansen, B.	Lathrop	Stinner
Arch	Dorn	Hansen, M.	Lindstrom	Walz
Bolz	Erdman	Hilgers	Lowe	Wayne
Bostelman	Friesen	Howard	McDonnell	Williams
Brandt	Geist	Hughes	Moser	Wishart
Brewer	Gragert	Hunt	Murman	
Clements	Groene	Kolowski	Quick	
Crawford	Halloran	Kolterman	Slama	

Voting in the negative, 0.

Present and not voting, 6:

Blood Chambers La Grone Briese Hilkemann Scheer

Excused and not voting, 6:

Cavanaugh McCollister Pansing Brooks Linehan Morfeld Vargas

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

Senator Hughes moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 522:

Nebraska Natural Resources Commission John Heaston Walter Dennis Strauch

Voting in the affirmative, 38:

Albrecht	DeBoer	Hansen, B.	Lindstrom	Slama
Arch	Dorn	Hilgers	Lowe	Stinner
Bolz	Erdman	Howard	McDonnell	Walz
Bostelman	Friesen	Hughes	Moser	Wayne
Brandt	Geist	Hunt	Murman	Williams
Brewer	Gragert	Kolterman	Pansing Brooks	Wishart
Clements	Groene	La Grone	Quick	
Crawford	Halloran	Lathrop	Scheer	

Voting in the negative, 0.

Present and not voting, 6:

Blood Chambers Hilkemann Briese Hansen, M. Kolowski

Excused and not voting, 5:

Cavanaugh Linehan McCollister Morfeld Vargas

The appointments were confirmed with 38 ayes, 0 nays, 6 present and not voting, and 5 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 116. Title read. Considered.

Committee AM266, found on page 505, was adopted with 40 ayes, 0 nays, 6 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 6 present and not voting, and 3 excused and not voting.

UNANIMOUS CONSENT - Expedite LB430

Senator Scheer asked unanimous consent to expedite LB430. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 145. Title read. Considered.

Committee AM282, found on page 505, was adopted with 41 ayes, 0 nays, 6 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 42 ayes, 0 nays, 5 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 384. Title read. Considered.

Committee AM272, found on page 506, was adopted with 31 ayes, 1 nay, 15 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 1 nay, 13 present and not voting, and 2 excused and not voting.

COMMITTEE REPORT(S)

Enrollment and Review

LEGISLATIVE BILL 11. Placed on Final Reading. **LEGISLATIVE BILL 32.** Placed on Final Reading.

LEGISLATIVE BILL 42. Placed on Final Reading.

ST5

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, line 6, "executive board" was struck and "association" was inserted.

LEGISLATIVE BILL 56. Placed on Final Reading. **LEGISLATIVE BILL 57.** Placed on Final Reading. **LEGISLATIVE BILL 61.** Placed on Final Reading.

LEGISLATIVE BILL 63. Placed on Final Reading. ST3

The following changes, required to be reported for publication in the Journal, have been made:

- 1. On page 1, line 2, "35-1207," has been inserted after the last comma; and in line 4 "and" has been struck and a comma inserted and ", and filings with the State Treasurer" has been inserted after "levies".
 - 2. On page 14, line 14, "35-1207," has been inserted after the last comma.

LEGISLATIVE BILL 70. Placed on Final Reading. LEGISLATIVE BILL 75. Placed on Final Reading. LEGISLATIVE BILL 78. Placed on Final Reading. LEGISLATIVE BILL 102. Placed on Final Reading. LEGISLATIVE BILL 115. Placed on Final Reading. LEGISLATIVE BILL 121. Placed on Final Reading.

LEGISLATIVE BILL 193. Placed on Final Reading.

The following changes, required to be reported for publication in the Journal, have been made:

- 1. In the Wayne amendment, AM87, on page 5, line 21, "and all amendments thereto" has been inserted after "23".
- 2. In the E & R amendments, ER3, amendment 5 has been struck and the remaining amendments renumbered accordingly.

- 3. On page 2, lines 6 and 7; and page 183, lines 7 and 8, "and 19-5001" has been struck and "19-5001, and 77-2602" inserted.
- 4. On page 90, line 16, "plan" has been struck and "form" inserted.

 5. On page 125, line 5, "(a)" has been inserted after "that"; and in line 6 "(a)" has been struck and shown as stricken.

LEGISLATIVE BILL 194. Placed on Final Reading. LEGISLATIVE BILL 196. Placed on Final Reading. LEGISLATIVE BILL 221. Placed on Final Reading. LEGISLATIVE BILL 258. Placed on Final Reading. LEGISLATIVE BILL 259. Placed on Final Reading. LEGISLATIVE BILL 355. Placed on Final Reading.

(Signed) Julie Slama, Chairperson

COMMITTEE REPORT(S)

Enrollment and Review

LEGISLATIVE BILL 223. Placed on Select File with amendment. **ER26**

- 1 1. On page 1, strike beginning with the second "to" in line 1
- 2 through the first "and" in line 3; and in line 3 after "General" insert
- 3 "relating to a state-sponsored insurance program for guard members; and 4 to define a term".

LEGISLATIVE BILL 442. Placed on Select File with amendment.

1 1. On page 3, line 10, strike "medication" and insert "medications".

LEGISLATIVE BILL 536. Placed on Select File.

LEGISLATIVE BILL 622. Placed on Select File with amendment. ER24 is available in the Bill Room.

LEGISLATIVE BILL 4. Placed on Select File. LEGISLATIVE BILL 185. Placed on Select File. LEGISLATIVE BILL 372. Placed on Select File.

LEGISLATIVE BILL 103. Placed on Select File with amendment. **ER27**

1 1. On page 1, line 3, strike "provisions relating to property tax

2 requests" and insert "the procedure for setting a political subdivision's 3 property tax request".

LEGISLATIVE BILL 450. Placed on Select File. **LEGISLATIVE BILL 450A.** Placed on Select File.

(Signed) Julie Slama, Chairperson

COMMITTEE REPORT(S)

Education

LEGISLATIVE BILL 575. Placed on General File with amendment.

- 1 1. Strike the original sections and insert the following new
- 2 sections:
- 3 Section 1. (1) The school board of each school district shall adopt
- 4 a policy to provide, except as provided in subdivision (2)(a) of this
- 5 section, access to routine directory information for each student in a
- 6 high school grade upon a request made by a military recruiter.
- 7 (2)(a) Except as provided in subsection (5) of this section, a
- 8 parent or guardian of a student in a high school grade may submit a
- 9 written request to the school district that routine directory information
- 10 for such student shall not be released for purposes of subsection (1) of
- 11 this section without prior written consent of the parent or guardian.
- 12 Upon receiving such request, a school district shall not release the
- 13 routine directory information of such student for such purposes without
- 14 the prior written consent of the parent or guardian.
- 15 (b) Within thirty days prior to or following the commencement of
- 16 each school year and, for a new student who enrolls after the
- 17 commencement of a school year, within thirty days following such
- 18 enrollment, each school district shall notify the parents and guardians
- 19 of each student in a high school grade enrolled in the school district of
- 20 the option, except as provided in subsection (5) of this section, to make
- 21 a request pursuant to subdivision (2)(a) of this section.
- 22 (3) The school board of each school district shall adopt a policy to
- 23 provide military recruiters the same access to a student in a high school
- 24 grade as is provided to postsecondary educational institutions or to
- 25 prospective employers of such students.
- 26 (4) Nothing in this section shall be construed to allow a school
- 27 board to adopt a policy to withhold access to routine directory
- 1 information from a military recruiter by implementing any process that
- 2 differs from the written consent request process under subdivision (2)(a)
- 3 of this section.
- 4 (5) For purposes of this section, when a student reaches eighteen
- 5 years of age, the permission or consent required of and the rights
- 6 accorded to the parents or guardians of such student under this section
- 7 shall only be required of and accorded to such student. Within thirty
- 8 days prior to or following the commencement of each school year and, for
- 9 a new student who enrolls after the commencement of a school year, within
- 10 thirty days following such enrollment, each school district shall notify
- 11 each student who is at least eighteen years of age or who will reach
- 12 eighteen years of age during such school year of the option to make a
- 13 request pursuant to subdivision (2)(a) of this section and that any such
- 14 request made previously by a parent or guardian for such student expires
- 15 upon the student reaching eighteen years of age.
- 16 (6) For purposes of this section, routine directory information
- 17 means a student's name, address, and telephone number.

- 18 (7) Except as otherwise provided by federal law, nothing in this
- 19 section shall be construed to limit the applicability of the federal
- 20 Family Educational Rights and Privacy Act of 1974, as amended, 20 U.S.C.
- 21 1232g, as such act existed on January 1, 2019.

(Signed) Mike Groene, Chairperson

NOTICE OF COMMITTEE HEARING(S)

Government, Military and Veterans Affairs

Room 1507

Wednesday, February 27, 2019 1:30 p.m.

Richard Grauerholz - State Emergency Response Commission Tim Hofbauer - State Emergency Response Commission Trent D. Kleinow - State Emergency Response Commission LB626 LB144

Thursday, February 28, 2019 1:30 p.m.

LB522

LB524

LB525

LB736

Friday, March 1, 2019 1:30 p.m.

LB637

LB583

LB414

LB633

(Signed) Tom Brewer, Chairperson

GENERAL FILE

LEGISLATIVE BILL 399. Title read. Considered.

Committee AM286, found on page 507, was offered.

Senator Chambers offered the following amendment to the committee amendment:

FA9

Amend AM286

Page 1, lines 9 and 10 strike and show as stricken "fully <u>literate about</u>" and insert "<u>knowledgeable of</u>".

SPEAKER SCHEER PRESIDING

PRESIDENT FOLEY PRESIDING

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

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 43:

Albrecht Crawford Hansen, M. Linehan Scheer Arch DeBoer Hilgers Lowe Slama Bolz Hilkemann McCollister Stinner Dorn Bostelman Friesen Hughes McDonnell Vargas Brandt Hunt Morfeld Walz Geist Brewer Gragert Kolowski Moser Williams Briese Groene La Grone Murman Wishart Cavanaugh Halloran Lathrop Pansing Brooks Clements Hansen, B. Lindstrom Quick

Voting in the negative, 0.

Present and not voting, 2:

Chambers Erdman

Excused and not voting, 4:

Blood Howard Kolterman Wayne

The Chambers amendment was adopted with 43 ayes, 0 nays, 2 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Bolz offered the following amendment to the committee amendment:

FA10

Amend AM286

On page 3, strike lines 21 through 23

Senator Chambers requested a roll call vote on the Bolz amendment.

The Bolz amendment was adopted with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

Senator Chambers offered the following amendment to the committee amendment:

FA11

Amend AM286

Page 1, line 6 strike "patriotic"

Pending.

COMMITTEE REPORT(S)

Enrollment and Review

LEGISLATIVE BILL 430. Placed on Select File with amendment. FR 30

1 1. On page 1, line 7, after the first semicolon insert "to eliminate 2 obsolete provisions;".

(Signed) Julie Slama, Chairperson

COMMITTEE REPORT(S)

Judiciary

LEGISLATIVE BILL 125. Placed on General File. LEGISLATIVE BILL 309. Placed on General File. LEGISLATIVE BILL 318. Placed on General File. LEGISLATIVE BILL 339. Placed on General File. LEGISLATIVE BILL 340. Placed on General File. LEGISLATIVE BILL 443. Placed on General File. LEGISLATIVE BILL 627. Placed on General File.

LEGISLATIVE BILL 141. Placed on General File with amendment. AM145

- 1 1. Strike the original sections and insert the following new 2 sections:
- 3 Section 1. Section 28-115, Reissue Revised Statutes of Nebraska, is 4 amended to read:
- 5 28-115 (1) Except as provided in subsection (2) of this section, any
- 6 person who commits any of the following criminal offenses against a
- 7 pregnant woman shall be punished by the imposition of the next higher
- 8 penalty classification than the penalty classification prescribed for the 9 criminal offense:
- 10 (a) Assault in the first degree, section 28-308;
- 11 (b) Assault in the second degree, section 28-309;
- 12 (c) Assault in the third degree, section 28-310;
- 13 (d) Assault by strangulation or suffocation, section 28-310.01;
- 14 (e) (d) Sexual assault in the first degree, section 28-319;
- 15 (f) (e) Sexual assault in the second or third degree, section
- 17 (g) (f) Sexual assault of a child in the first degree, section 18 28-319.01;

- 19 (h) (g) Sexual assault of a child in the second or third degree, 20 section 28-320.01;
- 21 (i) (h) Sexual abuse of an inmate or parolee in the first degree,
- 22 section 28-322.02;
- 23 (i) (i) Sexual abuse of an inmate or parolee in the second degree,
- 24 section 28-322.03;
- 25 (k) (j) Sexual abuse of a protected individual in the first or
- 26 second degree, section 28-322.04;
- 27 (<u>I)</u> (<u>k</u>) Domestic assault in the first, second, or third degree, 1 section 28-323;
- 2 (m) (H) Assault on an officer, an emergency responder, a state
- 3 correctional employee, a Department of Health and Human Services
- 4 employee, or a health care professional in the first degree, section 5 28-929;
- 6 (n) (m) Assault on an officer, an emergency responder, a state
- 7 correctional employee, a Department of Health and Human Services
- 8 employee, or a health care professional in the second degree, section 9 28-930;
- 10 (o) (n) Assault on an officer, an emergency responder, a state
- 11 correctional employee, a Department of Health and Human Services
- 12 employee, or a health care professional in the third degree, section 13 28-931;
- 14 (p) (o) Assault on an officer, an emergency responder, a state
- 15 correctional employee, a Department of Health and Human Services
- 16 employee, or a health care professional using a motor vehicle, section 17 28-931.01;
- 18 (q) (p) Assault by a confined person, section 28-932;
- 19 (r) (q) Confined person committing offenses against another person, 20 section 28-933; and
- 21 (s) (r) Proximately causing serious bodily injury while operating a
- 22 motor vehicle, section 60-6,198.
- 23 (2) The enhancement in subsection (1) of this section does not apply
- 24 to any criminal offense listed in subsection (1) of this section that is
- 25 already punishable as a Class I, IA, or IB felony. If any criminal
- 26 offense listed in subsection (1) of this section is punishable as a Class
- 27 I misdemeanor, the penalty under this section is a Class IIIA felony.
- 28 (3) The prosecution shall allege and prove beyond a reasonable doubt
- 29 that the victim was pregnant at the time of the offense.
- 30 Sec. 2. Section 28-310.01, Reissue Revised Statutes of Nebraska, is 31 amended to read:
- 1 28-310.01 (1) A person commits the offense of assault by
- 2 strangulation or suffocation if the person knowingly or intentionally:
- 3 (a) Impedes intentionally impedes the normal breathing or
- 4 circulation of the blood of another person by applying pressure on the
- 5 throat or neck of the other person; or -
- 6 (b) Impedes the normal breathing of another person by covering the
- 7 mouth and nose of the person.
- 8 (2) An offense is committed under this section regardless of whether
- 9 <u>a visible injury resulted.</u>

- 10 (3) (2) Except as provided in subsection (4) (3) of this section, a
- 11 <u>violation of this section</u> strangulation is a Class IIIA felony.
- 12 (4) A violation of this section (3) Strangulation is a Class IIA
- 13 felony if:
- 14 (a) The person used or attempted to use a dangerous instrument while
- 15 committing the offense;
- 16 (b) The person caused serious bodily injury to the other person
- 17 while committing the offense; or
- 18 (c) The person has been previously convicted of a violation of this
- 19 section strangulation.
- $20\overline{(5)}$ It is an affirmative defense that an act constituting
- 21 strangulation or suffocation was the result of a legitimate medical
- 22 procedure.
- 23 Sec. 3. Original sections 28-115 and 28-310.01, Reissue Revised
- 24 Statutes of Nebraska, are repealed.

LEGISLATIVE BILL 354. Placed on General File with amendment. AM112

- 1 1. Strike original section 2.
- 2 2. On page 3, strike beginning with "Seal" in line 5 through
- 3 "record" in line 7 and insert
- 4 "(a) Respond to a public inquiry in the same manner as if there were
- 5 no information or records concerning participation in the diversion
- 6 program. Information or records pertaining to participation in the
- 7 diversion program shall not be disseminated to any person other than:
- 8 (i) A criminal justice agency as defined in section 29-3509;
- 9 (ii) The individual who is the subject of the record or any persons
- 10 authorized by such individual; or
- 11 (iii) Other persons or agencies authorized by law.
- 12 (b) An individual, a person, or an agency requesting information
- 13 subject to subdivision (9) of this section shall provide the diversion
- 14 program with satisfactory verification of his, her, or its identity.".
- 15 3. On page 7, strike beginning with "The" in line 13 through "act"
- 16 in line 16 and insert "The changes made by this legislative bill to the
- 17 relief set forth in sections 43-2,108.03 to 43-2,108.05 shall apply to
- 18 all persons described in this section, as amended by this legislative
- 19 bill, for offenses occurring prior to, on, or after the effective date of this act".
- 21 4. On page 16, line 4 after "individual" insert ". The individual
- 22 shall provide satisfactory verification of his or her identity".
- 23 5. On page 17, strike beginning with "negligently" in line 5 through
- 24 "intentionally" in line 6 and insert "knowingly".
- 25 6. Renumber the remaining sections and correct the repealer
- 26 accordingly.

(Signed) Steve Lathrop, Chairperson

NOTICE OF COMMITTEE HEARING(S)

Appropriations

Room 1003

Wednesday, February 27, 2019 1:30 p.m.

Agency 45 - Barber Examiners, Board of

Agency 30 - Electrical Board, State

Agency 74 - Power Review Board, Nebraska

Agency 41 - State Real Estate Commission

Agency 53 - Real Property Appraiser Board

Agency 63 - Public Accountancy, Nebraska Board of

Agency 58 - Board of Engineers and Architects

Agency 59 - Board of Geologists

Agency 62 - Land Surveyors, State Board of Examiners for

Agency 66 - Abstracters Board of Examiners

Agency 73 - Landscape Architects, State Board of

Thursday, February 28, 2019 1:30 p.m.

Agency 52 - State Fair Board

Agency 39 - Brand Committee, Nebraska

Agency 56 - Wheat Board, Nebraska

Agency 61 - Dairy Industry Development Board, Nebraska

Agency 86 - Dry Bean Commission

Agency 88 - Corn Development, Utilization and Marketing Board

Agency 92 - Grain Sorghum Board, Nebraska

Friday, March 1, 2019 1:30 p.m.

LB100

LB225

Agency 54 - Historical Society, Nebraska State

Agency 23 - Labor, Department of

Agency 37 - Workers' Compensation Court

Agency 77 - Industrial Relations, Commission of

Agency 85 - Public Employees Retirement Board, Nebraska

(Signed) John Stinner, Chairperson

COMMITTEE REPORT(S)

Natural Resources

The Natural Resources 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.

Don Kraus - Nebraska Natural Resources Commission

Ave: 8 Albrecht, Bostelman, Geist, Gragert, Halloran, Hughes, Moser, Quick. Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Dan Hughes, Chairperson

AMENDMENT(S) - Print in Journal

Senator Linehan filed the following amendment to <u>LB103</u>: AM296

(Amendments to Standing Committee amendments, AM116)

- 1 1. Insert the following new section:
- 2 Sec. 3. Since an emergency exists, this act takes effect when
- 3 passed and approved according to law.

Senator Williams filed the following amendment to <u>LB622</u>: AM340

(Amendments to E&R amendments, ER24)

- 1 1. On page 5, strike beginning with "which" in line 15 through line
- 2 30, show the old matter as stricken, and insert "utilizing the dedicated
- 3 method as provided in subdivision (2)(a) of section 77-2398, and which
- 4 has furnished securities pursuant to the Public Funds Deposit Security
- 5 Act, may, at any time and without prior approval, substitute, exchange,
- 6 or release securities deposited with a qualified trustee if such
- substitution, exchange, or release does not reduce the market value of
- 8 the securities to an amount that is less than one hundred two percent of
- 9 the total amount of public money or public funds less the portion of such
- 10 public money or public funds insured or guaranteed by the Federal Deposit
- 11 Insurance Corporation."
- 12 2. On page 12, line 15, after "77-2398" insert an underscored comma;
- 13 and in line 16 after "director" insert "acting for the benefit of the
- 14 governmental units having public money or public funds on deposit with
- 15 such bank, capital stock financial institution, or qualifying mutual
- 16 financial institution".
- 17 3. On page 13, line 7, strike "custodial officials", show as
- 18 stricken, and insert "the governmental units having public money or
- 19 public funds on deposit with such bank, capital stock financial
- 20 institution, or qualifying mutual financial institution".

ANNOUNCEMENT

Senator Linehan announced the Revenue Committee will hold an executive session Thursday, February 21, 2019, at 9:30 a.m., in Room 2022.

UNANIMOUS CONSENT - Add Cointroducer(s)

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

Senator Howard name added to LB611. Senator Lathrop name added to LB611.

VISITOR(S)

Visitors to the Chamber were McLean Witte, Bekka Hitz, Alex Timm, Madeline Wittstruck, Mili Samal, Gracie Davis, and other leaders of Nebraska's career and technical student organizations from across the state; students and teachers from Omaha Public Schools career academy; members of the Nebraska Pork Producers leadership group from across the state; members from the League of Women Voters from across the state; and students and teachers from Lincoln High School and UNL.

ADJOURNMENT

At 11:56 a.m., on a motion by Senator Wishart, the Legislature adjourned until 10:00 a.m., Wednesday, February 20, 2019.

Patrick J. O'Donnell Clerk of the Legislature