

TWENTY-FIFTH DAY - FEBRUARY 14, 2008**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
SECOND SESSION****TWENTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, February 14, 2008

PRAYER

The prayer was offered by Pastor Paul Coen, Luther Memorial Lutheran Church, Syracuse.

ROLL CALL

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

The roll was called and all members were present except Senator Hansen who was excused; and Senators Cornett and White who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-fourth day was approved.

MESSAGES FROM THE GOVERNOR

February 13, 2008

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 157, 196, 465, 480e, and 621 were received in my office on February 7, 2008.

I signed these bills and delivered them to the Secretary of State on February 13, 2008.

Sincerely,
(Signed) Dave Heineman
Governor

February 4, 2008

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individual is being appointed to the Nebraska Railway Council:

Patrick Meuret, 106 N. Franklin, Brunswick, NE 68720

The aforementioned appointee is respectfully submitted for your consideration. Copies of the appointment certificate and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of February 13, 2008, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Brandt, Horan, Hallstrom and Stilmock
Lancaster County Agricultural Society
Cutshall & Nowka
Eastern Nebraska Human Services Agency
Lincoln Medical Education Partnership (Withdrawn 02/08/2008)
Jarecke, David A.
Cooperative Council, Nebraska
Kissel/Erickson & Sederstrom Associates, LLC
Lancaster Event Center (Withdrawn 02/08/2008)

REPORTS

The following reports were received by the Legislature:

Auditor of Public Accounts

Audit reports

Retirement Systems, Public Employees Retirement Systems - School Employees, Judges, and State Patrol Retirement Plans

Attestation report

Revenue, Department of, Charitable Gaming Investigation Petty Cash Fund

Energy Office, Nebraska

Nebraska Energy Statistics

Rural Development Commission

2007 Annual Report

ANNOUNCEMENT

The Transportation and Telecommunications Committee designates LB756 and LB755 as its priority bills.

SELECT FILE

LEGISLATIVE BILL 395. Senator Johnson renewed his specific amendment, AM1736, found on page 567 and considered on page 585.

PRESIDENT SHEEHY PRESIDING

Senator Aguilar moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 33 ayes, 14 nays, and 2 not voting.

The Johnson specific amendment was adopted with 33 ayes, 13 nays, 2 present and not voting, and 1 excused and not voting.

Senator Erdman requested a machine vote on the advancement of the bill.

Advanced to Enrollment and Review for Reengrossment with 33 ayes, 14 nays, 1 present and not voting, and 1 excused and not voting.

ANNOUNCEMENT

Senator Kopplin designates LB880 as his priority bill.

COMMITTEE REPORTS
Nebraska Retirement Systems

The Nebraska Retirement Systems 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.

Norm Riffel - Nebraska Investment Council

Aye: 6 Senators Erdman, Heidemann, Karpisek, Loudon, Synowiecki, White. Nay: 0. Absent: 0.

(Signed) John Synowiecki, Chairperson

Natural Resources

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

Douglas Anderson - Environmental Quality Council

Aye: 8 Senators Carlson, Christensen, Dubas, Fischer, Hudkins, Kopplin, Loudon, Wallman. Nay: 0. Absent: 0.

(Signed) LeRoy Loudon, Chairperson

Agriculture

The Agriculture 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.

Mike Hayes - Climate Assessment Response Committee

Aye: 5 Senators Dierks, Erdman, Karpisek, McDonald, Wallman. Nay: 0. Absent: 2 Senators Chambers, Preister. Present and not voting: 1 Senator Dubas.

(Signed) Philip Erdman, Chairperson

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Meuret, Patrick - Nebraska Railway Council - Transportation and Telecommunications

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

WITHDRAW - Amendment to LB395

Senator Erdman withdrew his amendment, AM1840, found on page 571, to LB395.

MOTION - Return LB LB395 to Select File

Senator Synowiecki moved to return LB LB395 to Select File for the following specific amendment:

AM1872

(Amendments to Final Reading copy)

- 1 1. On page 5, line 25, strike "and".
- 2 2. On page 6, line 1, strike the underscored period and
- 3 insert "; and
- 4 (4) Licensed racetrack enclosures located within twelve
- 5 miles of a teleracing facility outside of this state which conducts
- 6 interstate simulcasting if smoking is permitted at such teleracing
- 7 facility."

Senator Synowiecki requested a roll call vote on his motion to return.

Voting in the affirmative, 27:

Ashford	Erdman	Hudkins	Nantkes	Schimek
Avery	Fischer	Janssen	Nelson	Synowiecki
Burling	Flood	Karpisek	Pahls	Wallman
Christensen	Friend	Kopplin	Pedersen	
Dubas	Harms	Langemeier	Pirsch	
Engel	Heidemann	Lautenbaugh	Rogert	

Voting in the negative, 6:

Adams	Dierks	Pankonin
Chambers	Kruse	Raikes

Present and not voting, 13:

Aguilar	Fulton	Lathrop	Preister	Wightman
Carlson	Gay	McDonald	Stuthman	
Cornett	Johnson	McGill	White	

Excused and not voting, 3:

Hansen	Howard	Louden
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The Synowiecki motion to return prevailed with 27 ayes, 6 nays, 13 present and not voting, and 3 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 395. The Synowiecki specific amendment, AM1872, found in this day's Journal, was renewed.

Senator Chambers requested a roll call vote on the Synowiecki specific amendment.

Voting in the affirmative, 14:

Ashford	Janssen	Langemeier	Pahls	Schimek
Burling	Karpisek	Nantkes	Pedersen	Synowiecki
Cornett	Kopplin	Nelson	Rogert	

Voting in the negative, 22:

Adams	Dierks	Fulton	Kruse	Stuthman
Avery	Dubas	Gay	McGill	Wightman
Carlson	Erdman	Harms	Pankonin	
Chambers	Fischer	Hudkins	Pirsch	
Christensen	Flood	Johnson	Raikes	

Present and not voting, 10:

Aguilar	Friend	Lathrop	McDonald	Wallman
Engel	Heidemann	Lautenbaugh	Preister	White

Excused and not voting, 3:

Hansen	Howard	Louden
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The Synowiecki specific amendment lost with 14 ayes, 22 nays, 10 present and not voting, and 3 excused and not voting.

Senator Erdman requested a machine vote to readvance the bill.

Readvanced to Enrollment and Review for Reengrossment with 32 ayes, 11 nays, 3 present and not voting, and 3 excused and not voting.

MOTION - Return LB395 to Select File

Senator Erdman moved to return LB395 to Select File for the following specific amendment:

AM1901

(Amendments to AM1736)

- 1 1. On page 1, strike beginning with "twelve" in line 3
- 2 through line 4 and insert "June 1, 2009."; and strike lines 5 and
- 3 6.

The Erdman motion to return prevailed with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 395. The Erdman specific amendment, AM1901, found in this day's Journal, was adopted with 42 ayes, 0 nays, 4 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Reengrossment.

MOTION - Return LB395 to Select File

Senator Erdman moved to return LB395 to Select File for the following specific amendment:

AM1903

(Amendments to Final Reading copy)

- 1 1. Insert the following new sections:
- 2 Sec. 16. (1) On and after the operative date of this
- 3 section, the governing body of any city, village, or county, or
- 4 the voters of any city, village, or unincorporated area of any
- 5 county as provided in subsection (2) of this section, may adopt
- 6 a nonsmoking ordinance or resolution that is less stringent than
- 7 or more stringent than the Nebraska Clean Indoor Air Act enacted
- 8 by this legislative bill, except that such ordinance or resolution
- 9 shall not be less stringent than sections 71-5707 to 71-5709 as
- 10 such sections existed prior to the operative date of this section.
- 11 (2) A proposed nonsmoking ordinance or resolution or
- 12 proposed repeal of an enacted ordinance or resolution may be
- 13 placed on the ballot for the voters of the city, village, or
- 14 unincorporated area of the county (a) by a majority vote of the
- 15 governing body of such city, village, or county, (b) by initiative
- 16 under sections 18-2501 to 18-2538, or (c) by petition meeting the
- 17 requirements of and subject to sections 32-628 to 32-630 and signed
- 18 by at least thirty-five percent of the registered voters residing
- 19 in the unincorporated area of such county on the day such petitions
- 20 are filed for verification. The election shall be conducted as
- 21 provided in sections 32-556 to 32-559.
- 22 (3) Any ordinance or resolution adopted by the governing
- 1 body of any city, village, or county under subsection (1) of this
- 2 section without being submitted to the voters under subsection (2)
- 3 of this section shall take effect ninety days after its adoption
- 4 unless, within such ninety-day period, such governing body receives
- 5 a petition signed by at least thirty-five percent of the registered
- 6 voters residing in such city, village, or unincorporated area of
- 7 such county on the date the ordinance or resolution was adopted
- 8 requesting that such ordinance or resolution be repealed. Upon
- 9 verification of the signatures on such petition, the ordinance or
- 10 resolution shall be placed on the ballot.

11 (4) A copy of any ordinance or resolution adopted or
 12 repealed by a city, village, or county under this section shall
 13 be provided to the Department of Health and Human Services and to
 14 the local public health department as defined in section 71-1626 of
 15 such city, village, or county.

16 Sec. 19. Sections 16 and 19 of this act become operative
 17 on their effective date. The other sections of this act become
 18 operative on June 1, 2009.

19 2. On page 5, line 9, strike beginning with "sections"
 20 in line 9 through "17" in line 10 and all amendments thereto and
 21 insert "sections 15 and 16".

22 3. In AM1736, strike sections 20 and 23.

23 4. Renumber the remaining sections accordingly.

Senator Erdman withdrew his motion to return.

COMMITTEE REPORTS

Education

LEGISLATIVE BILL 903. Indefinitely postponed.

(Signed) Ron Raikes, Chairperson

Transportation and Telecommunications

LEGISLATIVE BILL 845. Placed on General File.

LEGISLATIVE BILL 867. Placed on General File.

The Transportation and Telecommunications 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.

Ronald Books - State Highway Commission

Aye: 7 Senators Aguilar, Fischer, Hudkins, Lautenbaugh, Pedersen, Schimek, Stuthman. Nay: 0. Absent: 0. Present and not voting: 1 Senator Loudon.

The Transportation and Telecommunications 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.

Jerome Fagerland - State Highway Commission

Aye: 8 Senators Aguilar, Fischer, Hudkins, Lautenbaugh, Loudon, Pedersen, Schimek, Stuthman. Nay: 0. Absent: 0.

The Transportation and Telecommunications 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.

Richard Reiser - State Highway Commission

Aye: 7 Senators Aguilar, Fischer, Hudkins, Lautenbaugh, Pedersen, Schimek, Stuthman. Nay: 1 Senator Louden. Absent: 0.

The Transportation and Telecommunications 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.

Gary Rasmussen - Nebraska Railway Council
John Rebensdorf - Nebraska Railway Council
Frank Landis - Nebraska Railway Council

Aye: 7 Senators Aguilar, Fischer, Hudkins, Lautenbaugh, Louden, Pedersen, Stuthman. Nay: 0. Absent: 0. Present and not voting: 1 Senator Schimek.

(Signed) Deb Fischer, Chairperson

AMENDMENT - Print in Journal

Senator Erdman filed the following amendment to LB395:
AM1907

(Amendments to Final Reading copy)

- 1 1. Insert the following new sections:
- 2 Sec. 16. (1) On and after the operative date of this
- 3 section, the governing body of any county, or the voters of any
- 4 county, as provided in subsection (2) of this section, may adopt a
- 5 nonsmoking resolution that is less stringent than or more stringent
- 6 than the Nebraska Clean Indoor Air Act enacted by this legislative
- 7 bill, except that such resolution shall not be less stringent than
- 8 sections 71-5707 to 71-5709 as such sections existed prior to the
- 9 operative date of this section.
- 10 (2) A proposed nonsmoking resolution or proposed repeal
- 11 of an enacted nonsmoking resolution may be placed on the ballot for
- 12 the voters of the county (a) by a majority vote of the governing
- 13 body of such county, (b) by initiative under sections 18-2501 to
- 14 18-2538, or (c) by petition meeting the requirements of and subject
- 15 to sections 32-628 to 32-630 and signed by at least thirty-five
- 16 percent of the registered voters residing in such county on the day
- 17 such petitions are filed for verification. The election shall be
- 18 conducted as provided in sections 32-556 to 32-559.
- 19 (3) A resolution adopted by the governing body of
- 20 any county under subsection (1) of this section without being

21 submitted to the voters under subsection (2) of this section
 22 shall take effect ninety days after its adoption unless, within
 1 such ninety-day period, such governing body receives a petition
 2 signed by at least thirty-five percent of the registered voters
 3 residing in such county on the date the resolution was adopted
 4 requesting that such resolution be repealed. Upon verification of
 5 the signatures on such petition, the resolution shall be placed on
 6 the ballot.

7 (4) A copy of a resolution adopted or repealed by a
 8 county under this section shall be provided to the Department of
 9 Health and Human Services and to the local public health department
 10 as defined in section 71-1626 of such county.

11 Sec. 19. Sections 16 and 19 of this act become operative
 12 on their effective date. The other sections of this act become
 13 operative on June 1, 2009.

14 2. On page 5, line 9, strike beginning with "sections"
 15 in line 9 through "17" in line 10 and all amendments thereto and
 16 insert "sections 15 and 16".

17 3. In AM1736, strike sections 20 and 23.

18 4. Renumber the remaining sections accordingly.

UNANIMOUS CONSENT - Add Cointroducer

Senator Howard asked unanimous consent to add her name as cointroducer to LB1092. No objections. So ordered.

VISITORS

Visitors to the Chamber were Bill Pearson from Ceresco and his granddaughter, Bethany Krull, from Kearney; Lonnie, Maris, Jessica, Sawyer, Grant, and Derek Buller from Ashland; and Dennis Sweeney and Roger Dising from Omaha.

The Doctor of the Day was Dr. Abigail Ihrke from Omaha.

ADJOURNMENT

At 11:58 a.m., on a motion by Speaker Flood, the Legislature adjourned until 10:00 a.m., Tuesday, February 19, 2008.

Patrick J. O'Donnell
 Clerk of the Legislature