

TWENTY-FIRST DAY - FEBRUARY 10, 2020

LEGISLATIVE JOURNAL

**ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION**

TWENTY-FIRST DAY

Legislative Chamber, Lincoln, Nebraska
Monday, February 10, 2020

PRAYER

The prayer was offered by Pastor Paul Warneke, Zion Lutheran Church, Hastings.

ROLL CALL

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

The roll was called and all members were present except Senators Geist, Pansing Brooks, and Wishart who were excused; and Senators Chambers, Friesen, Groene, M. Hansen, Hunt, McCollister, Morfeld, Scheer, and Slama who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twentieth day was approved.

COMMITTEE REPORT(S)
Judiciary

LEGISLATIVE BILL 28. Placed on General File with amendment.

[AM2281](#)

I I. On page 2, line 28, strike "2020" and insert "2021".

LEGISLATIVE BILL 247. Placed on General File with amendment.

[AM2206](#) is available in the Bill Room.

(Signed) Steve Lathrop, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 790. Placed on General File.

LEGISLATIVE BILL 890. Placed on General File with amendment.[AM2274](#)

1 1. Strike original section 2 and insert the following new sections:
 2 Section 1. Section 13-2904, Reissue Revised Statutes of Nebraska, is
 3 amended to read:
 4 13-2904 (1) Notwithstanding the procedures for public lettings in
 5 sections 73-101 to 73-106 or any other statute relating to the letting of
 6 bids by a political subdivision, a political subdivision which follows
 7 the Political Subdivisions Construction Alternatives Act may solicit and
 8 execute a design-build contract or a construction management at risk
 9 contract.
 10 (2) The governing body of the political subdivision shall adopt a
 11 resolution selecting the design-build contract or construction management
 12 at risk contract delivery system provided under the act prior to
 13 proceeding with the provisions of sections 13-2905 to 13-2914. The
 14 resolution shall require the affirmative vote of at least two-thirds of
 15 the governing body of the political subdivision. The resolution shall
 16 include a statement that the political subdivision has made a
 17 determination that the design-build contract or construction management
 18 at risk contract delivery system is in the public interest based, at a
 19 minimum, on one of the following criteria: (a) Savings in cost or time;
 20 or (b) requirement of specialized or complex construction methods
 21 suitable for the design-build contract or construction management at risk
 22 contract delivery system.
 23 Sec. 3. Original section 13-2904, Reissue Revised Statutes of
 24 Nebraska, and section 13-2914, Revised Statutes Supplement, 2019, are
 25 repealed.
 26 2. Renumber the remaining section accordingly.

(Signed) Tom Brewer, Chairperson

AMENDMENT(S) - Print in Journal

Senator Bolz filed the following amendment to [LB949](#):

[AM2292](#)

1 1. On page 2, line 19, strike "three" and insert "one".

COMMUNICATION

Received communication to Senator Howard and the Health and Human Services Committee, from Gary J. Anthone, M.D., Chief Medical Officer, Director, Division of Public Health, Department of Health and Human Services, regarding the reappointment of the following to the Nebraska Stem Cell Research Advisory Committee:

Dr. Rui Yi

GENERAL FILE

LEGISLATIVE BILL 242. Committee [AM434](#), found on page 487 and considered on page 525, was renewed.

Senator Lindstrom renewed his amendment, [AM2279](#), found on page 516 and considered on page 525, to the committee amendment.

Senator Lindstrom moved for a call of the house. The motion prevailed with 24 ayes, 4 nays, and 21 not voting.

Senator Lindstrom requested a roll call vote, in reverse order, on his amendment.

Voting in the affirmative, 25:

Arch	DeBoer	Kolowski	McCollister	Stinner
Blood	Hilgers	Kolterman	McDonnell	Vargas
Bolz	Hilkemann	La Grone	Morfeld	Walz
Cavanaugh	Howard	Lathrop	Quick	Wayne
Crawford	Hughes	Lindstrom	Scheer	Williams

Voting in the negative, 2:

Albrecht Murman

Present and not voting, 11:

Bostelman	Briese	Erdman	Hansen, B.
Brandt	Clements	Gragert	Moser
Brewer	Dorn	Halloran	

Excused and not voting, 11:

Chambers	Groene	Linehan	Slama
Friesen	Hansen, M.	Lowe	Wishart
Geist	Hunt	Pansing Brooks	

The Lindstrom amendment was adopted with 25 ayes, 2 nays, 11 present and not voting, and 11 excused and not voting.

The Chair declared the call raised.

Senator Wayne offered the following amendment to the committee amendment:

[AM2358](#)

(Amendments to Standing Committee amendments, AM434)

1 1. Strike the original sections and all amendments thereto and

2 insert the following new sections:

3 Section 1. Sections 1 to 6 of this act shall be known and may be

4 cited as the Infrastructure Improvement and Replacement Assistance Act.

5 Sec. 2. (1) The Legislature finds that municipalities and sewer

6 utilities of this state face a need to construct, upgrade, redevelop, and

7 replace sewer infrastructure facilities and to redevelop and replace

8 obsolete sewer facilities. By providing sewer facilities, municipalities

9 and sewer utilities provide the building blocks for economic development.

10 Not only does the investment in infrastructure generate an immediate

11 stream of economic activity, it also lays the groundwork for private

12 investment that will use the facilities so provided. Municipalities and
13 sewer utilities in this state currently are in critical need of
14 assistance in providing these facilities. Political subdivisions are
15 limited in their ability to finance major infrastructure projects.
16 Political subdivisions are able to use property taxes, local option sales
17 taxes, bond funding, fees for services, or a combination thereof.
18 However, many of these financing options contain statutory budget and tax
19 levy restrictions. In order to minimize the burden on property taxpayers
20 in Nebraska, the Legislature finds that it is fair and equitable to
21 encourage the use of fees for services to finance major infrastructure
22 projects.
23 (2) The Legislature further finds that it is in the public interest
24 to assist municipalities and sewer utilities by establishing a turnback
25 of state sales tax revenue to provide funds to municipalities and sewer
26 utilities to be used to replace and redevelop sewer infrastructure
1 facilities and to redevelop and replace obsolete sewer facilities. In
2 order that this state and its residents may receive long-term economic
3 and fiscal benefits from such facilities, a need exists to provide state
4 assistance to municipalities and sewer utilities endeavoring to
5 construct, acquire, substantially reconstruct, expand, operate, improve,
6 or equip such facilities. It is in the best interest of the state, its
7 municipalities, and its sewer utilities that the state assist
8 municipalities and sewer utilities in financing the construction,
9 acquisition, substantial reconstruction, expansion, operation,
10 improvement, or equipping of sewer infrastructure facilities and to
11 permit municipalities and sewer utilities to reissue bonds secured by
12 amounts received under the Infrastructure Improvement and Replacement
13 Assistance Act and from other sources.
14 Sec. 3. For purposes of the Infrastructure Improvement and
15 Replacement Assistance Act:
16 (1) Political subdivision means any local governmental body formed
17 and organized under state law and any joint entity or joint public agency
18 created under the Interlocal Cooperation Act or the Joint Public Agency
19 Act which has statutory authority to issue general obligation bonds; and
20 (2) Sewer utility means any sewer utility operated by a political
21 subdivision.
22 Sec. 4. (1) The state shall assist political subdivisions and sewer
23 utilities by turning back a percentage of certain state sales tax revenue
24 to political subdivisions and sewer utilities as provided in this
25 section.
26 (2) The state shall pay to each political subdivision or sewer
27 utility a percentage of the state sales tax imposed on sewer fees and
28 collected by such political subdivision or sewer utility as follows:
29 (a) For sales taxes imposed from July 1, 2020, through June 30,
30 2021: 36.36 percent;
31 (b) For sales taxes imposed from July 1, 2021, through June 30,
1 2023: 54.54 percent; and
2 (c) For sales taxes imposed on and after July 1, 2023: 72.72
3 percent.
4 (3) Funds received under this section shall be used exclusively to
5 assist in:
6 (a) Paying for infrastructure improvements relating to constructing,
7 upgrading, redeveloping, or replacing sewer infrastructure facilities;
8 (b) Paying for the redevelopment and replacement of obsolete sewer
9 facilities; or
10 (c) Repaying bonds issued and pledged for such work.
11 Sec. 5. (1) The Tax Commissioner shall certify to the State
12 Treasurer, on a quarterly basis, the amount of state sales tax revenue
13 collected by any political subdivision or sewer utility fees and the
14 applicable percentage which the state shall pay pursuant to section 4 of

15 this act.

16 (2) Upon receipt of the quarterly certification, the State Treasurer
17 shall transfer the amount certified from the General Fund to the
18 Infrastructure Improvement and Replacement Assistance Cash Fund. The
19 Infrastructure Improvement and Replacement Assistance Cash Fund is
20 created. Transfers may be made from the fund to the General Fund at the
21 direction of the Legislature. Any money in the Infrastructure Improvement
22 and Replacement Assistance Cash Fund available for investment shall be
23 invested by the state investment officer pursuant to the Nebraska Capital
24 Expansion Act and the Nebraska State Funds Investment Act.

25 (3) It is the intent of the Legislature to appropriate from the
26 Infrastructure Improvement and Replacement Assistance Cash Fund to any
27 political subdivision or sewer utility an amount equal to the percentage
28 of state sales taxes collected as provided in section 4 of this act.
29 (4) Distributions from the Infrastructure Improvement and
30 Replacement Assistance Cash Fund shall be made based on the certification
31 from the Tax Commissioner under subsection (1) of this section and shall
1 occur within fifteen days after receipt by the State Treasurer of such
2 certification.

3 (5) All payments to political subdivisions or sewer utilities under
4 the Infrastructure Improvement and Replacement Assistance Act are made
5 subject to specific appropriation for such purpose.

6 Sec. 6. The Department of Revenue may adopt and promulgate rules
7 and regulations as necessary to carry out the Infrastructure Improvement
8 and Replacement Assistance Act.

9 Sec. 7. Section 77-2701.16, Revised Statutes Supplement, 2019, is
10 amended to read:

11 77-2701.16 (1) Gross receipts means the total amount of the sale or
12 lease or rental price, as the case may be, of the retail sales of
13 retailers.

14 (2) Gross receipts of every person engaged as a public utility
15 specified in this subsection, as a community antenna television service
16 operator, or as a satellite service operator or any person involved in
17 connecting and installing services defined in subdivision (2)(a), (b), or
18 (d) of this section means:

19 (a)(i) In the furnishing of telephone communication service, other
20 than mobile telecommunications service as described in section
21 77-2703.04, the gross income received from furnishing ancillary services,
22 except for conference bridging services, and intrastate
23 telecommunications services, except for value-added, nonvoice data
24 service.

25 (ii) In the furnishing of mobile telecommunications service as
26 described in section 77-2703.04, the gross income received from
27 furnishing mobile telecommunications service that originates and
28 terminates in the same state to a customer with a place of primary use in
29 Nebraska;

30 (b) In the furnishing of telegraph service, the gross income
31 received from the furnishing of intrastate telegraph services;

1 (c)(i) In the furnishing of gas, sewer, ~~water~~, and electricity
2 service, other than electricity service to a customer-generator as
3 defined in section 70-2002, the gross income received from the furnishing
4 of such services upon billings or statements rendered to consumers for
5 such utility services. This subdivision shall not apply to the furnishing
6 of water service, which shall be exempt from sales and use taxes.

7 (ii) In the furnishing of electricity service to a customer-
8 generator as defined in section 70-2002, the net energy use upon billings
9 or statements rendered to customer-generators for such electricity
10 service;

11 (d) In the furnishing of community antenna television service or
12 satellite service, the gross income received from the furnishing of such

13 community antenna television service as regulated under sections 18-2201
14 to 18-2205 or 23-383 to 23-388 or satellite service; and
15 (e) The gross income received from the provision, installation,
16 construction, servicing, or removal of property used in conjunction with
17 the furnishing, installing, or connecting of any public utility services
18 specified in subdivision (2)(a) or (b) of this section or community
19 antenna television service or satellite service specified in subdivision
20 (2)(d) of this section, except when acting as a subcontractor for a
21 public utility, this subdivision does not apply to the gross income
22 received by a contractor electing to be treated as a consumer of building
23 materials under subdivision (2) or (3) of section 77-2701.10 for any such
24 services performed on the customer's side of the utility demarcation
25 point. This subdivision also does not apply to the gross income received
26 by a political subdivision of the state for the lease or use of electric
27 generation, transmission, distribution, or street lighting structures or
28 facilities owned by a political subdivision of the state.
29 (3) Gross receipts of every person engaged in selling, leasing, or
30 otherwise providing intellectual or entertainment property means:
31 (a) In the furnishing of computer software, the gross income
1 received, including the charges for coding, punching, or otherwise
2 producing any computer software and the charges for the tapes, disks,
3 punched cards, or other properties furnished by the seller; and
4 (b) In the furnishing of videotapes, movie film, satellite
5 programming, satellite programming service, and satellite television
6 signal descrambling or decoding devices, the gross income received from
7 the license, franchise, or other method establishing the charge.
8 (4) Gross receipts for providing a service means:
9 (a) The gross income received for building cleaning and maintenance,
10 pest control, and security;
11 (b) The gross income received for motor vehicle washing, waxing,
12 towing, and painting;
13 (c) The gross income received for computer software training;
14 (d) The gross income received for installing and applying tangible
15 personal property if the sale of the property is subject to tax. If any
16 or all of the charge for installation is free to the customer and is paid
17 by a third-party service provider to the installer, any tax due on that
18 part of the activation commission, finder's fee, installation charge, or
19 similar payment made by the third-party service provider shall be paid
20 and remitted by the third-party service provider;
21 (e) The gross income received for services of recreational vehicle
22 parks;
23 (f) The gross income received for labor for repair or maintenance
24 services performed with regard to tangible personal property the sale of
25 which would be subject to sales and use taxes, excluding motor vehicles,
26 except as otherwise provided in section 77-2704.26 or 77-2704.50;
27 (g) The gross income received for animal specialty services except
28 (i) veterinary services, (ii) specialty services performed on livestock
29 as defined in section 54-183, and (iii) animal grooming performed by a
30 licensed veterinarian or a licensed veterinary technician in conjunction
31 with medical treatment; and
1 (h) The gross income received for detective services.
2 (5) Gross receipts includes the sale of admissions. When an
3 admission to an activity or a membership constituting an admission is
4 combined with the solicitation of a contribution, the portion or the
5 amount charged representing the fair market price of the admission shall
6 be considered a retail sale subject to the tax imposed by section
7 77-2703. The organization conducting the activity shall determine the
8 amount properly attributable to the purchase of the privilege, benefit,
9 or other consideration in advance, and such amount shall be clearly
10 indicated on any ticket, receipt, or other evidence issued in connection
11 with the payment.

12 (6) Gross receipts includes the sale of live plants incorporated
 13 into real estate except when such incorporation is incidental to the
 14 transfer of an improvement upon real estate or the real estate.
 15 (7) Gross receipts includes the sale of any building materials
 16 annexed to real estate by a person electing to be taxed as a retailer
 17 pursuant to subdivision (1) of section 77-2701.10.
 18 (8) Gross receipts includes the sale of and recharge of prepaid
 19 calling service and prepaid wireless calling service.
 20 (9) Gross receipts includes the retail sale of digital audio works,
 21 digital audiovisual works, digital codes, and digital books delivered
 22 electronically if the products are taxable when delivered on tangible
 23 storage media. A sale includes the transfer of a permanent right of use,
 24 the transfer of a right of use that terminates on some condition, and the
 25 transfer of a right of use conditioned upon the receipt of continued
 26 payments.
 27 (10) Gross receipts includes any receipts from sales of tangible
 28 personal property made over a multivendor marketplace platform that acts
 29 as the intermediary by facilitating sales between a seller and the
 30 purchaser and that, either directly or indirectly through agreements or
 31 arrangements with third parties, collects payment from the purchaser and
 1 transmits payment to the seller.
 2 (11) Gross receipts does not include:
 3 (a) The amount of any rebate granted by a motor vehicle or motorboat
 4 manufacturer or dealer at the time of sale of the motor vehicle or
 5 motorboat, which rebate functions as a discount from the sales price of
 6 the motor vehicle or motorboat; or
 7 (b) The price of property or services returned or rejected by
 8 customers when the full sales price is refunded either in cash or credit.
 9 Sec. 8. This act becomes operative on July 1, 2020.
 10 Sec. 9. Original section 77-2701.16, Revised Statutes Supplement,
 11 2019, is repealed.
 12 Sec. 10. Since an emergency exists, this act takes effect when
 13 passed and approved according to law.

SENATOR HILGERS PRESIDING

SENATOR WILLIAMS PRESIDING

Pending.

COMMITTEE REPORT(S)
 Enrollment and Review

LEGISLATIVE BILL 310. Placed on Final Reading.
LEGISLATIVE BILL 310A. Placed on Final Reading.

LEGISLATIVE BILL 734. Placed on Final Reading.
[ST42](#)

The following changes, required to be reported for publication in the Journal, have been made:
 1. On page 1, line 2, "53-116.01," has been inserted after the first comma; and line 4 and all amendments thereto have been struck and "provide for the regulation of charter bus services and the licensure of special party buses; to provide for" inserted.

LEGISLATIVE BILL 734A. Placed on Final Reading.

(Signed) Julie Slama, Chairperson

ANNOUNCEMENT(S)

Priority designation(s) received:

Gragert - LB770

NOTICE OF COMMITTEE HEARING(S)

Executive Board

Room 1507

Tuesday, February 18, 2020 12:00 p.m.

LB1035

LR280CA

(Signed) Mike Hilgers, Chairperson

GENERAL FILE

LEGISLATIVE BILL 1054. Title read. Considered.

SENATOR HILGERS PRESIDING

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 267. Committee [AM1245](#), found on page 1258, First Session, 2019, and considered on pages 491 and 501, was renewed.

Senator La Grone renewed his amendment, [AM2265](#), found on page 502, to the committee amendment.

Pending.

COMMITTEE REPORT(S)

Transportation and Telecommunications

LEGISLATIVE BILL 944. Placed on General File with amendment. [AM2307](#) is available in the Bill Room.

(Signed) Curt Friesen, Chairperson

Natural Resources

LEGISLATIVE BILL 770. Placed on General File.

LEGISLATIVE RESOLUTION 288. Reported to the Legislature for further consideration.

(Signed) Dan Hughes, Chairperson

COMMITTEE REPORT(S)

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

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.

Sherry Vinton - Nebraska Environmental Trust Board

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

(Signed) Dan Hughes, Chairperson

NOTICE OF COMMITTEE HEARING(S)

Executive Board

Room 1507

Thursday, February 20, 2020 12:00 p.m.

LB1085

LB1191

Tuesday, February 25, 2020 12:00 p.m.

LB937

LB1197

Thursday, February 27, 2020 12:00 p.m.

LR282

LR297

(Signed) Mike Hilgers, Chairperson

Transportation and Telecommunications
Room 1113

Tuesday, February 18, 2020 1:30 p.m.

Stephan Budke - Nebraska Motor Vehicle Industry Licensing Board
Dennis Cloninger - Nebraska Motor Vehicle Industry Licensing Board
Brad Jacobs - Nebraska Motor Vehicle Industry Licensing Board
Clint Jones - Nebraska Motor Vehicle Industry Licensing Board
Joseph Kosiski - Nebraska Motor Vehicle Industry Licensing Board
Thomas R. McCaslin - Nebraska Motor Vehicle Industry Licensing Board
Matthew O'Daniel - Nebraska Motor Vehicle Industry Licensing Board
Curt Prohaska - Nebraska Motor Vehicle Industry Licensing Board
Dennis R. Schworer - Nebraska Motor Vehicle Industry Licensing Board

(Signed) Curt Friesen, Chairperson

UNANIMOUS CONSENT - Add Cointroducer(s)

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

Senator Walz name added to LB153.
Senator Blood name added to LB518.
Senator Hunt name added to LB770.
Senator Kolowski name added to LB840.
Senator Quick name added to LB962.
Senator Blood name added to LB963.

VISITOR(S)

Visitors to the Chamber were a group of Presidents and Student Organization Officers of Nebraska Career and Technical Organizations from across the state.

The Doctor of the Day was Dr. Carol LaCroix from Omaha.

ADJOURNMENT

At 11:53 a.m., on a motion by Senator Friesen, the Legislature adjourned until 9:00 a.m., Tuesday, February 11, 2020.

Patrick J. O'Donnell
Clerk of the Legislature