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
1. 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
investment that will use the facilities so provided. Municipalities and
sewer utilities in this state currently are in critical need of
assistance in providing these facilities. Political subdivisions are
limited in their ability to finance major infrastructure projects,
and political subdivisions are able to use property taxes, local option sales
taxes, bond funding, fees for services, or a combination thereof;
However, many of these financing options contain statutory budget and tax
levy restrictions. In order to minimize the burden on property taxpayers
in Nebraska, the Legislature finds that it is fair and equitable to
courage the use of fees for services to finance major infrastructure
projects.

(2) The Legislature further finds that it is in the public interest
to assist municipalities and sewer utilities by establishing a turnback
of state sales tax revenue to provide funds to municipalities and sewer
utilties to be used to replace and redevelop sewer infrastructure
facilities and to redevelop and replace obsolete sewer facilities. In
order that this state and its residents may receive long-term economic
and fiscal benefits from such facilities, a need exists to provide state
assistance to municipalities and sewer utilities endeavoring to
contract, acquire, substantially reconstruct, expand, operate, improve,
or equip such facilities. It is in the best interest of the state, its
municipalities, and its sewer utilities that the state assist
municipalities and sewer utilities in financing the construction,
acquisition, substantial reconstruction, expansion, operation,
and improvement, or equipping of sewer infrastructure facilities and to
permit municipalities and sewer utilities to reissue bonds secured by
amounts received under the Infrastructure Improvement and Replacement
Assistance Act and from other sources.

Sec. 3. For purposes of the Infrastructure Improvement and
Replacement Assistance Act:

(1) Political subdivision means any local governmental body formed
and organized under state law and any joint entity or joint public agency
created under the Intergovernmental Cooperation Act or the Joint Public Agency
Act, which has statutory authority to issue general obligation bonds; and

(2) Sewer utility means any sewer utility operated by a political
subdivision.

Sec. 4. (1) The state shall assist political subdivisions and sewer
utilities by turning back a percentage of certain state sales tax revenue
to political subdivisions and sewer utilities as provided in this
section.

(2) The state shall pay to each political subdivision or sewer
utility a percentage of the state sales tax imposed on sewer fees and
collected by such political subdivision or sewer utility as follows:

(a) For sales taxes imposed from July 1, 2020, through June 30,
2021: 36.36 percent;
(b) For sales taxes imposed from July 1, 2021, through June 30,
2023: 54.54 percent; and
(c) For sales taxes imposed on and after July 1, 2023: 72.72
percent.

(3) Funds received under this section shall be used exclusively to
assist in:

(a) Paying for infrastructure improvements relating to constructing,
upgrading, redeveloping, or replacing sewer infrastructure facilities;
(b) Paying for the redevelopment and replacement of obsolete sewer
facilities; or
(c) Repaying bonds issued and pledged for such work.

Sec. 5. (1) The Tax Commissioner shall certify to the State
Treasurer, on a quarterly basis, the amount of state sales tax revenue
collected by any political subdivision or sewer utility fees and the
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
32 occur within fifteen days after receipt by the State Treasurer of such
33 certification.
34 (5) All payments to political subdivisions or sewer utilities under
35 the Infrastructure Improvement and Replacement Assistance Act are made
36 subject to specific appropriation for such purpose.
37 Sec. 6. The Department of Revenue may adopt and promulgate rules
38 and regulations as necessary to carry out the Infrastructure Improvement
39 and Replacement Assistance Act.
40 Sec. 7. Section 77-2701.16, Revised Statutes Supplement, 2019, is
41 amended to read:
42 77-2701.16 (1) Gross receipts means the total amount of the sale or
43 lease or rental price, as the case may be, of the retail sales of
44 13 retailers.
45 (2) Gross receipts of every person engaged as a public utility
46 specified in this subsection, as a community antenna television service
47 operator, or as a satellite service operator or any person involved in
48 connecting and installing services defined in subdivision (2)(a), (b), or
49 (d) of this section means:
50 (a)(i) In the furnishing of telephone communication service, other
51 than mobile telecommunications service as described in section
52 77-2703.04, the gross income received from furnishing ancillary services,
53 except for conference bridging services, and intrastate
54 telecommunications services, except for value-added, nonvoice data
55 24 service.
56 (ii) In the furnishing of mobile telecommunications services as
57 described in section 77-2703.04, the gross income received from
58 furnishing mobile telecommunications service that originates and
59 terminates in the same state to a customer with a place of primary use in
60 Nebraska;
61 (b) In the furnishing of telegraph service, the gross income
62 received from the furnishing of intrastate telegraph services;
63 (c)(i) In the furnishing of gas, sewer, and electricity
64 service, other than electricity service to a customer-generator as
65 defined in section 70-2002, the gross income received from the furnishing
66 of such services upon billings or statements rendered to consumers for
67 such utility services. This subdivision shall not apply to the furnishing
68 of water service, which shall be exempt from sales and use taxes.
69 (ii) In the furnishing of electricity service to a customer-
70 generator as defined in section 70-2002, the net energy use upon billings
71 or statements rendered to customer-generators for such electricity
72 service;
73 (d) In the furnishing of community antenna television service or
74 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
32 received, including the charges for coding, punching, or otherwise
33 producing any computer software and the charges for the tapes, disks,
34 punched cards, or other properties furnished by the seller; and
35 (b) In the furnishing of videotapes, movie film, satellite
36 programming, satellite programming service, and satellite television
37 services performed on the customer's side of the utility demarcation
38 point.
39 (4) Gross receipts for providing a service means:
40 (a) The gross income received for building cleaning and maintenance,
41 pest control, and security;
42 (b) The gross income received for motor vehicle washing, waxing,
43 towing, and painting;
44 (c) The gross income received for computer software training;
45 (d) The gross income received for installing and applying tangible
46 personal property if the sale of the property is subject to tax. If any
47 or all of the charge for installation is free to the customer and is paid
48 by a third-party service provider to the installer, any tax due on that
49 part of the activation commission, finder's fee, installation charge, or
50 similar payment made by the third-party service provider shall be paid
51 and remitted by the third-party service provider;
52 (e) The gross income received for services of recreational vehicle
53 parks;
54 (f) The gross income received for labor for repair or maintenance
55 services performed with regard to tangible personal property the sale of
56 which would be subject to sales and use taxes, excluding motor vehicles,
57 except as otherwise provided in section 77-2704.26 or 77-2704.50;
58 (g) The gross income received for animal specialty services except
59 veterinary services, (ii) specialty services performed on livestock
60 as defined in section 54-183, and (iii) animal grooming performed by a
61 licensed veterinarian or a licensed veterinary technician in conjunction
62 with medical treatment; and
63 (h) The gross income received for detective services.
64 (5) Gross receipts includes the sale of admissions. When an
65 admission to an activity or a membership constituting an admission is
66 combined with the solicitation of a contribution, the portion or the
67 amount charged representing the fair market price of the admission shall
68 be considered a retail sale subject to the tax imposed by section
69 77-2703. The organization conducting the activity shall determine the
70 amount properly attributable to the purchase of the privilege, benefit,
71 or other consideration in advance, and such amount shall be clearly
72 indicated on any ticket, receipt, or other evidence issued in connection
73 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
32 transmits payment to the seller.
33 (11) Gross receipts does not include:
34 (a) The amount of any rebate granted by a motor vehicle or motorboat
35 manufacturer or dealer at the time of sale of the motor vehicle or
36 motorboat, which rebate functions as a discount from the sales price of
37 the motor vehicle or motorboat; or
38 (b) The price of property or services returned or rejected by
39 customers when the full sales price is refunded either in cash or credit.
40 Sec. 8. This act becomes operative on July 1, 2020.
41 Sec. 9. Original section 77-2701.16, Revised Statutes Supplement,
42 2019, is repealed.
43 Sec. 10. Since an emergency exists, this act takes effect when
44 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
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