

**FIFTY-FIFTH DAY - APRIL 6, 2021**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED SEVENTH LEGISLATURE**  
**FIRST SESSION**

**FIFTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, April 6, 2021

**PRAYER**

The prayer was offered by Senator Hughes.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was offered by Senator Hilkemann.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., President Foley presiding.

The roll was called and all members were present except Senators Bostar, M. Cavanaugh, Kolterman, Linehan, Pansing Brooks, Stinner, and Wayne who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-fourth day was approved.

**COMMITTEE REPORT(S)**  
Enrollment and Review

**LEGISLATIVE BILL 400.** Placed on Final Reading.  
**LEGISLATIVE BILL 503.** Placed on Final Reading Second.

(Signed) Terrell McKinney, Chairperson

**AMENDMENT(S) - Print in Journal**

Senator Briese filed the following amendment to [LB561](#):  
[AM863](#)

(Amendments to E & R amendments, ER25)

- 1 1. Strike sections 27 to 31.
- 2 2. On page 5, strike lines 22 through 24.

3 3. On page 34, strike beginning with "any" in line 5 through  
 4 "participant" in line 7 and insert "a sporting event at the high school  
 5 level or below regardless of the age of any individual participant, or  
 6 any sporting event excluded by the commission".  
 7 4. On page 35, after line 4 insert the following new subsection:  
 8 "(12) Prohibited participant means any individual whose  
 9 participation may undermine the integrity of the wagering or the sporting  
 10 event or any person who is prohibited from sports wagering for other good  
 11 cause shown as determined by the commission, including, but not limited  
 12 to: (a) Any individual placing a wager as an agent or proxy; (b) any  
 13 person who is an athlete, coach, referee, or player in any sporting event  
 14 overseen by the sports governing body of such person based on publicly  
 15 available information; (c) a person who holds a paid position of  
 16 authority or influence sufficient to exert influence over the  
 17 participants in a sporting event, including, but not limited to, any  
 18 coach, manager, handler, or athletic trainer, or a person with access to  
 19 certain types of exclusive information, on any sporting event overseen by  
 20 the sports governing body of such person based on publicly available  
 21 information; or (d) a person identified as prohibited from sports  
 22 wagering by any list provided by a sports governing body to the  
 23 commission;" in line 5, strike "(12)" and insert "(13)"; in line 7  
 24 strike "(13)" and insert "(14)"; and strike starting with "or" in line 12  
 25 through line 15 and insert ", (b) placing an in-game wager on any game or  
 26 match of a collegiate sporting event in which a collegiate team from this  
 1 state is participating. (c) placing a wager on the performance or  
 2 nonperformance of any individual athlete under eighteen years of age  
 3 participating in a professional or international sporting event, or (d)  
 4 placing a wager on the performance of athletes in an individual sporting  
 5 event excluded by the commission."  
 6 5. On page 38, strike lines 26 through 28; in line 29 strike "(24)"  
 7 and insert "(23)".  
 8 6. On page 39, line 1, strike "(25)" and insert "(24)"; and in line  
 9 27 after the period insert "The commission shall require an authorized  
 10 gaming operator or applicant for an authorized gaming operator license to  
 11 demonstrate in the license application and internal controls application  
 12 the ability to restrict credit card transactions."  
 13 7. On page 40, after line 25 insert the following new subsection:  
 14 "(4) The commission shall develop policies and procedures to ensure  
 15 a prohibited participant is unable to place a sports wager."  
 16 8. On page 42, line 21, strike the comma and insert "or"; and in  
 17 line 22 strike "or a directive issued by the commission."  
 18 9. Renumber the remaining sections, correct internal references, and  
 19 correct the repealer accordingly.

## RESOLUTION(S)

**LEGISLATIVE RESOLUTION 82.** Introduced by Gragert, 40.

WHEREAS, the Stuart Public School speech team won the 2021 Nebraska School Activities Association Class D-2 State Speech Championship; and

WHEREAS, under the direction of Coach Brenda Larabee, the Stuart Broncos outscored runner-up Chambers Public School 140 to 134; and

WHEREAS, individuals on the team placed in seven different categories; and

WHEREAS, two members of the Broncos team earned individual state champion honors: Alyssa King in Oral Interpretation of Poetry and Taya Schmaderer in Persuasive Speaking; and

WHEREAS, such team and individual achievements are made possible through the support of teachers, administrators, parents, and the community; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

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

1. That the Legislature recognizes and congratulates the Stuart Public School speech team for winning the 2021 Nebraska School Activities Association Class D-2 State Speech Championship.

2. That copies of this resolution be sent to the Stuart Public School speech team, Coach Brenda Larabee, Alyssa King, and Taya Schmaderer.

Laid over.

### **RESOLUTION(S)**

Pursuant to Rule 4, Sec. 5(b), LR 78 and 79 were adopted.

### **PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LR 78 and 79.

### **GENERAL FILE**

**LEGISLATIVE BILL 65.** Title read. Considered.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 1 present and not voting, and 7 excused and not voting.

**LEGISLATIVE BILL 105.** Title read. Considered.

Advanced to Enrollment and Review Initial with 42 ayes, 0 nays, 1 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 224.** Title read. Considered.

Advanced to Enrollment and Review Initial with 42 ayes, 0 nays, 1 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 414.** Title read. Considered.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 3 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 265.** Title read. Considered.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 5 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 312.** Title read. Considered.

Committee [AM227](#), found on page 466, was adopted with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 180.** Title read. Considered.

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

#### SELECT FILE

**LEGISLATIVE BILL 41.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 461.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 78.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 405.** [ER35](#), found on page 812, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 252.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 70.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 70A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 5.** [ER36](#), found on page 812, was adopted.

Advanced to Enrollment and Review for Engrossment.

**GENERAL FILE**

**LEGISLATIVE BILL 497.** Title read. Considered.

Committee [AM132](#), found on page 414, was adopted with 42 ayes, 0 nays, 4 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 44 ayes, 0 nays, 2 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 527.** Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 664.** Title read. Considered.

Committee [AM303](#), found on page 488, was adopted with 39 ayes, 1 nay, 6 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 42 ayes, 0 nays, 4 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 423.** Title read. Considered.

Committee [AM433](#), found on page 515, was adopted with 43 ayes, 0 nays, 3 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 5 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 81.** Title read. Considered.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

**AMENDMENT(S) - Print in Journal**

Senator Hughes filed the following amendment to [LB507](#):  
[AM859](#)

(Amendments to E&R amendments, ER32)

- 1 1. Strike sections 9 to 11 and insert the following new section:
- 2 Sec. 9. Original sections 37-448, 37-456, and 66-1330, Reissue
- 3 Revised Statutes of Nebraska, and sections 37-201, 46-102, and 61-222,
- 4 Revised Statutes Cumulative Supplement, 2020, are repealed.
- 5 2. Renumber the remaining section accordingly.

Senator Briese filed the following amendment to LB2:

AM868

(Amendments to Standing Committee amendments, AM638)

- 1 1. On page 3, line 5, strike "through 2023" and insert "and 2021";
- 2 and in line 7 strike "2024" and insert "2022, the minimum amount of
- 3 relief granted under the act shall be three hundred thirteen million
- 4 dollars. For tax year 2023".

Senator Flood filed the following amendment to LB51:

AM872

(Amendments to Standing Committee amendments, AM745)

- 1 1. On page 35, strike line 24; and in line 25, strike "(d)" and
- 2 insert "(c)".
- 3 2. On page 36, line 7, strike "(e)" and insert "(d)"; in line 9
- 4 strike "(6)(d)" and insert "(6)(c)"; in line 11 strike "(f)" and insert
- 5 "(e)"; in line 15 strike "(g)" and insert "(f)"; and in line 21 strike
- 6 "(h)" and insert "(g)".
- 7 3. On page 37, line 9, strike "(i)" and insert "(h)"; and in line 12
- 8 strike "(j)" and insert "(i)".

Senator Flood filed the following amendment to LB466:

AM873

- 1 1. On page 2, line 6, after "taxes" insert "or the sale involves
- 2 agricultural land and horticultural land as defined in section 77-1359".

Senator Friesen filed the following amendment to LB247:

AM857

- 1 1. On page 3, line 14, strike "and"; and in line 16 after "district"
- 2 insert ", and (vii) telecommunications providers".

Senator Morfeld filed the following amendment to LB271:

AM853

(Amendments to Standing Committee amendments, AM490)

- 1 1. Strike amendments 1 through 3 and insert the following new
- 2 amendments:
- 3 1. Strike original sections 8, 9, 16, 17, 18, and 19 and insert the
- 4 following new sections:
- 5 Sec. 14. Section 60-1513, Revised Statutes Cumulative Supplement,
- 6 2020, is amended to read:
- 7 60-1513 The Department of Motor Vehicles Cash Fund is hereby
- 8 created. The fund shall be administered by the Director of Motor
- 9 Vehicles. In addition to money credited or remitted to the fund, the fund
- 10 may also receive reimbursement from counties. The fund shall be used by
- 11 the Department of Motor Vehicles to carry out its duties as deemed
- 12 necessary by the Director of Motor Vehicles, except that transfers from
- 13 the fund to the General Fund or the Vehicle Title and Registration System
- 14 Replacement and Maintenance Cash Fund may be made at the direction of the
- 15 Legislature. Any money in the Department of Motor Vehicles Cash Fund
- 16 available for investment shall be invested by the state investment
- 17 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
- 18 State Funds Investment Act.
- 19 The State Treasurer shall transfer five million three hundred
- 20 twenty-five thousand dollars from the Department of Motor Vehicles Cash
- 21 Fund to the Vehicle Title and Registration System Replacement and
- 22 Maintenance Cash Fund on or before June 30, 2017, as directed by the
- 23 budget administrator of the budget division of the Department of
- 24 Administrative Services.

25 Sec. 15. This act becomes operative on July 1, 2022.  
 26 Sec. 16. Original sections 29-901, 60-480, 60-498.01, 60-4,115,  
 1 60-6,197.05, 60-6,197.06, 60-6,211.11, and 60-1513, Revised Statutes  
 2 Cumulative Supplement, 2020, are repealed.  
 3 2. On page 2, line 28, strike "or" and insert "and"; in line 29  
 4 strike "and"; in line 30 strike "and drugs"; and in line 31 after the  
 5 semicolon insert "and  
 6 (c) Be subject to drug testing if indicated by best practices;".  
 7 3. On page 3, line 4, strike "through a form of evidence-based  
 8 technology"; strike lines 27 through 30; and in line 31 strike "(5)" and  
 9 insert "(4)".  
 10 4. On page 4, line 9, strike "(6)" and insert "(5)".  
 11 5. On page 4, line 16, after the underscored period insert "A 24/7  
 12 sobriety program permit shall only be issued if the individual's  
 13 operator's license has been revoked pursuant to section 60-498.01 for the  
 14 pending offense."; and after line 28 insert the following new subsection:  
 15 "(5) A person shall be eligible to be issued a 24/7 sobriety program  
 16 permit allowing operation of a motor vehicle if he or she is not subject  
 17 to any other suspension, cancellation, required no-driving period, or  
 18 period of revocation and has successfully completed the application for a  
 19 24/7 sobriety program permit."  
 20 6. On page 18, after line 16, insert the following new subdivision:  
 21 "(d) A person subject to administrative license revocation under  
 22 sections 60-498.01 to 60-498.04 shall be eligible for a 24/7 sobriety  
 23 program permit."  
 24 7. Renumber the remaining sections accordingly.

### UNANIMOUS CONSENT - Add Cointroducer(s)

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

Senator McCollister name added to LB428.

### RECESS

At 11:52 a.m., on a motion by Senator Hunt, the Legislature recessed until 1:30 p.m.

### AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Hilgers presiding.

### ROLL CALL

The roll was called and all members were present except Senators Day, Lindstrom, Morfeld, Pansing Brooks, and Stinner who were excused until they arrive.

### SELECT FILE

**LEGISLATIVE BILL 274.** Senator Hilkemann withdrew his amendment, [AM646](#), found on page 648, and considered on page 847.

Senator Groene offered the following amendment:

[AM870](#)

(Amendments to Standing Committee amendments, AM427)

- 1 1. Insert the following new section:
- 2 Sec. 5. Section 53-103.22, Reissue Revised Statutes of Nebraska, is
- 3 amended to read:
- 4 53-103.22 Microdistillery means a distillery located in Nebraska
- 5 that is licensed to distill liquor on the premises of the distillery
- 6 licensee and produces one hundred ~~ten~~ thousand or fewer gallons of liquor
- 7 annually.
- 8 2. On page 7, line 29, strike "ten", show as stricken, and insert
- 9 "one hundred".
- 10 3. Renumber the remaining sections, correct internal references, and
- 11 correct the repealer accordingly.

The Groene amendment was adopted with 40 ayes, 0 nays, 5 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 274A.** Senator Lowe offered his amendment, [AM818](#), found on page 847.

The Lowe amendment was adopted with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 322.** [ER22](#), found on page 667, was adopted.

Senator Williams offered his amendment, [AM718](#), found on page 707.

The Williams amendment was adopted with 41 ayes, 0 nays, 6 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 487.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 83.** [ER23](#), found on page 688, was adopted.

Senator Flood offered his amendment, [AM750](#), found on page 732.

The Flood amendment was adopted with 41 ayes, 0 nays, 5 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 371.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 324.** [ER24](#), found on page 702, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 324A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 40.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 40A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 544.** [ER30](#), found on page 769, was adopted.

Senator Wayne offered his amendment, [AM747](#), found on page 777.

The Wayne amendment was adopted with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 544A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 92.** Senator Clements offered his amendment, [AM835](#), found on page 864.

The Clements amendment was adopted with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 390.** [ER27](#), found on page 770, was adopted.

Senator Hilkemann offered his amendment, [AM753](#), found on page 777.

The Hilkemann amendment was adopted with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 197.** [ER28](#), found on page 773, was adopted.

Advanced to Enrollment and Review for Engrossment.

**GENERAL FILE**

**LEGISLATIVE BILL 260.** Title read. Considered.

Senator Hunt moved for a call of the house. The motion prevailed with 27 ayes, 4 nays, and 18 not voting.

Senator Hunt requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 27:

Blood	DeBoer	Hilkemann	McCollister	Walz
Bostar	Dorn	Hunt	McDonnell	Williams
Brandt	Flood	Kolterman	McKinney	Wishart
Cavanaugh, J.	Gragert	Lathrop	Morfeld	
Cavanaugh, M.	Hansen, M.	Lindstrom	Pansing Brooks	
Day	Hilgers	Linehan	Vargas	

Voting in the negative, 11:

Albrecht	Friesen	Hughes	Murman
Clements	Groene	Lowe	Slama
Erdman	Halloran	Moser	

Present and not voting, 7:

Aguilar	Bostelman	Briese	Sanders
Arch	Brewer	Hansen, B.	

Absent and not voting, 1:

Pahls

Excused and not voting, 3:

Geist	Stinner	Wayne
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Advanced to Enrollment and Review Initial with 27 ayes, 11 nays, 7 present and not voting, 1 absent and not voting, and 3 excused and not voting.

**BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 131A.** Introduced by Wayne, 13.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 131, One Hundred

Seventh Legislature, First Session, 2021; and to declare an emergency.

### RESOLUTION(S)

**LEGISLATIVE RESOLUTION 83.** Introduced by Hansen, M., 26; Cavanaugh, J., 9; Cavanaugh, M., 6; Hunt, 8; Wayne, 13.

**PURPOSE:** The purpose of this resolution is to examine the appointment process by which members of boards, commissions, and similar entities created by law are filled. Nebraska has more than two hundred such entities which provide oversight of governmental programs, regulate licensed professionals, carry out studies, oversee implementation of new programs, advocate for certain constituencies, and advise state agencies.

The Legislature plays a pivotal role in the establishment, administration, and operation of boards, commissions, and similar entities created by law, including the responsibility to conduct hearings and determine whether to approve or disapprove of certain gubernatorial appointments as part of the appointment process.

This study shall include, but not be limited to:

1. An examination of the process by which individuals are appointed by the Governor, including the recruitment process, how the public learns of opportunities to serve, the application process, and the review and vetting process by the executive branch;
2. An examination of the process by which appointments are confirmed by the Legislature;
3. Identification of any potential barriers that may exist to the process of filling vacancies;
4. An analysis of potential changes that could be made to the process to more efficiently fill vacancies; and
5. An exploration of procedural changes that could result in more diversity within such entities.

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

1. That the Executive Board of the Legislative Council shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the Executive Board of the Legislative Council shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

## ATTORNEY GENERAL'S OPINION

Opinion 21-004

SUBJECT:               Constitutionality of Authorizing Electronic Keno  
                              Tickets – LB 561 (AM639).

REQUESTED BY:       Senator John Lowe  
                              Nebraska Legislature

WRITTEN BY:          Douglas J. Peterson, Attorney General  
                              L. Jay Bartel, Assistant Attorney General

## INTRODUCTION

A pending amendment to LB 561 (AM639) would allow keno to be played using an electronic ticket in addition to play on a paper ticket. AM639, § 28. Purchase of a ticket, whether paper or electronic, could only be made by a person present at the location of the lottery operator or a licensed sales location. AM639, § 31. Reasonable safeguards must be approved by the Department of Revenue to ensure that electronic tickets are only accessible to individuals nineteen years of age or older, and only within the confines of the location detection procedures which establish permitted boundaries for play. AM639, § 31. Payment for ticket purchases would be expanded from cash only to allow the use of debit cards or a direct link to an account with a financial institution in the name of the player. AM639, § 29. Credit card payments are prohibited. *Id.*

Noting a prior opinion from this office addressing proposed legislation to authorize "electronic keno" (Op. Att'y Gen. No. 97013 (Feb. 13, 1997)), you ask if allowing electronic keno tickets and expanding the methods to pay for tickets converts keno from a permissible "lottery" to a "game of chance" under Neb. Const. art. III, § 24. You also ask whether, if these changes make keno a "game of chance," it would be allowed only within a licensed casino, and, if so, how this would affect the age requirement to play keno, which is currently nineteen years of age. Finally, you ask if a licensed casino operator could conduct keno within a casino and, if so, whether the current statutory requirement that keno games be conducted five minutes apart would apply to the play of keno at a licensed casino.

For the reasons explained below, we conclude that allowing use of an electronic ticket in the play of keno would not change the game's status as a permissible form of lottery for community betterment purposes. Our prior opinion addressing a proposal to permit "electronic keno" involved authorization of player-activated games which utilized stand-alone mechanical, computer, electronic, or video gaming devices. We have not addressed the mere authorization of an electronic ticket as an alternative to use of a paper ticket to play the game of keno currently described in Neb.

Rev. Stat. § 9-607(2)(c)(ii) (2012). Unlike the previous proposal which we determined would allow the use of gambling devices constituting "games of chance," authorizing electronic tickets would merely permit players present at a keno location an alternative means to purchase a ticket utilizing new technology. This would not fundamentally alter the nature of the game of keno currently permitted in statute as a ticket is still required which satisfies the requirement for a permissible lottery. As to expanding the method of payment for keno tickets, this has no bearing on the determination of the game's status as a lottery. Finally, conduct of keno by authorized gaming operators at licensed racetracks would not involve a lottery conducted by a county, city, or village for community betterment purposes under the Nebraska County and City Lottery Act. Thus, the five-minute time limit between keno games required by Neb. Rev. Stat. § 9-607(2)(c)(ii) would not apply to keno conducted by authorized gaming operators at licensed racetracks.

### ANALYSIS

In November, Nebraska voters approved three initiative measures related to expanded gambling. Initiative Measure 429 amended Neb. Const. art. III, § 24, by adding a new subsection (5) permitting legislative authorization "of all forms of games of chance when such games of chance are conducted by authorized gaming operators within a licensed racetrack enclosure." Initiative Measure 430 enacted a statute (known as the "Nebraska Racetrack Gaming Act" or "NRGA") permitting the operation of games of chance by authorized gaming operators within licensed racetrack enclosures. Initiative Measure 431 enacted a statute providing for the taxation of revenue generated by authorized gaming operators conducting games of chance at licensed racetrack locations, and the distribution of those tax revenues.

LB 561, as amended by AM641, proposes changes to the NRGA, including combining the Nebraska Gaming Commission created by the NRGA with the State Racing Commission to establish a State Racing and Gaming Commission to regulate both horseracing and the new gaming authorized by the NRGA. AM641, §§ 1, 2, 4, 33, 34. AM641 also adds "sports wagering" to the definition of "game of chance" in the NRGA. AM641, § 33. AM640 to LB 561 provides requirements for the conduct of sports wagering. AM639 would allow keno players to purchase electronic tickets in addition to paper tickets. Your initial question is whether allowing electronic keno tickets would convert keno from a permissible "lottery" to a "game of chance" under Neb. Const. art. III, § 24.

Recently, in Op. Att'y Gen. No. 21001 (February 5, 2021), we addressed whether Initiative Measure 430, which permits the operation of "games of chance" only by authorized gaming operators within licensed racetrack enclosures "[n]otwithstanding any other provision of law," removed the authorization to conduct other forms of gaming which had been previously permitted. We noted that the Constitution distinguishes "games of chance" from other forms of gaming, including "lotteries":

Subsection (1) of art. III, § 24, prohibits "any game of chance or any lottery or gift enterprise" unless an exception is allowed in that section of the Constitution. As noted, exceptions have been carved out for parimutuel wagering on horse races, bingo conducted by qualified nonprofit associations, the state lottery, and lotteries, raffles and gift enterprises conducted for specified purposes. Initiative 429 added a new exception allowing games of chance when conducted by authorized gaming operators at licensed racetracks.

In Op. Att'y Gen. No. 95085 (Nov. 17, 1995), this office considered whether slot machines or other electronic gaming devices could be authorized as "lotteries" if operated for community betterment purposes. Recognizing that "games of chance" and "lotteries" both share the common elements of prize, chance, and consideration, we concluded that, if the term "lottery" in the Constitution was "construed to authorize any scheme involving the elements of prize, chance, and consideration, the prohibition against 'games of chance' would be rendered meaningless." *Id.* at 22. Thus, we concluded that, "in order to give effect to the separate recognition of 'games of chance' and 'lotteries' under art. III, § 24, the term 'games of chance' must be interpreted as a broad prohibition against gambling activities, and the term 'lotteries,' under the exception allowing such for community betterment purposes, must be interpreted in a narrower sense, as involving schemes in which tickets or tokens are distributed or sold and prize winners are either secretly predetermined or ultimately selected by some form of random drawing." *Id.* at 23.

Op. Att'y Gen. No. 21001 at 4-5.

We concluded that the forms of gaming previously authorized under the specific exceptions in art. III, § 24, including the State Lottery and "other lotteries, raffles, and gift enterprises which are intended solely as business promotions or the proceeds of which are to be used solely for charitable or community betterment purposes," were distinct from the broad "games of chance" permitted by Initiative Measure 429, and were thus still authorized gaming activities:

[T]he forms of gaming the Legislature has authorized under exceptions in art. III, § 24, include parimutuel wagering on horse races, bingo, lotteries (including a state lottery), raffles, and gift enterprises. There was no exception permitting legislative authorization of any "game of chance" prior to adoption of Initiative Measure 429.

The statutes authorizing these forms of gaming reflect their distinction from the broad term "games of chance." In particular, the various statutes pertaining to permissible "lotteries" are limited to schemes involving some form of tickets where winners are either predetermined or selected by random drawing. *See, e.g.*, Neb. Rev. Stat. §§ 9-312 and 315 (2012); Neb. Rev. Stat. § 9-411(1) (2012); Neb. Rev. Stat. § 9-507(1) (2012); Neb. Rev. Stat. § 9-607(1)(c)(i) (2012); Neb. Rev. Stat. § 9-803(4) (2012).

\* \* \*

The Nebraska Supreme Court has recognized the distinction drawn by the Constitution between keno, a form of lottery authorized under the Nebraska County and City Lottery Act, and "games of chance." In *Stewart v. Advanced Gaming Technologies, Inc.*, 272 Neb. 471, 723 N.W.2d 65 (2006), the Court held a video keno initiative did not violate the resubmission clause in Neb. Const. art. III, § 2, because it proposed to amend statutes authorizing a lottery and was thus different from a prior measure proposing to allow games of chance at casinos.

\* \* \*

The initiative did not alter or amend any of the language in art. III, § 24, permitting the Legislature to allow gaming in the form of parimutuel wagering on horse races, bingo, lotteries, raffles, and gift enterprises. As these are distinct forms of gaming for purposes of art. III, § 24, the authorization of "games of chance" at licensed racetracks under Initiative Measure 429 did not affect the constitutional authorization for these other forms of gaming or limit their conduct to racetracks.

Op. Att'y Gen. No. 21001 at 5-6 (footnote omitted).

The Nebraska County and City Lottery Act, in addition to permitting lotteries involving random ticket drawings, also permits a keno lottery "in which a player selects up to twenty numbers from a total of eighty numbers on a paper ticket and a computer, other electronic selection device, or electrically operated blower machine which is not player-activated randomly selects up to twenty numbers from the same pool of eighty numbers and the winning players are determined by the correct matching of the numbers on the paper ticket selected by the players with the numbers randomly selected by the computer, other electronic selection device, or electrically operated blower machine." Neb. Rev. Stat. § 9-607(1)(c)(ii) (2012) (emphasis added). AM639 would add the option for players to participate in a keno game via an "electronic" ticket. "Any electronic ticket shall be clearly associated with the county, city, or village conducting the lottery during the purchase of the ticket, or if an electronic ticket is represented by a printable image, the name of the county, city, or village conducting the lottery shall be clearly visible on the printable image." AM639, § 30.

Your request mentions a previous opinion from this office addressing the constitutionality of legislation to authorize "electronic" keno. Op. Att'y Gen. No. 97013 (Feb. 13, 1997). The bill (LB 522) proposed to "amend the provisions of the Nebraska County and City Lottery Act to eliminate the 'paper ticket' requirement currently contained in the act, as well as the prohibitions against 'player activation' and the use of 'mechanical',

'computer', 'electronic', or 'video' gaming devices, to permit 'electronic keno.'" *Id.* at 1. Discussing this issue, we referenced an earlier opinion concluding that the term "lottery" in the constitutional provision authorizing lotteries for community betterment purposes should be interpreted to mean "schemes in which tickets or tokens are distributed or sold and prize winners are either secretly predetermined or ultimately selected by some form of random drawing." *Id.* at 12 (*quoting* Op. Att'y Gen. No. 95085 at 23). Applying this definition, we concluded "that the 'electronic' keno proposed . . . [did] not constitute a form of 'lottery' which the Legislature may authorize under art. III, § 24." *Id.* at 12. In reaching this conclusion we noted the bill would "eliminate the current 'paper ticket' requirement" which was "one part of the definition" of lottery noted in our previous opinion. We went on to state:

Of greater significance, however, is the elimination of the "player-activation" restriction. You state that these "provisions are not intended to change the essential nature" of the authorized lottery. . . . We cannot accept the premise that elimination of the "player-activation" prohibition does not "change the essential nature" of the activity. While it is true that a computer or electronic device may be used to select winning numbers under current law, we believe it is significant that these devices are not activated by the players, but, rather, are used by the keno operator. The concept of individual players activating gambling devices utilizing random-generation of numbers to determine winners at each device is, in our view, inconsistent with what we believe is the narrow manner in which the people, through their Constitution, intended to grant the Legislature power to permit "lotteries" for community betterment purposes. *Id.* at 12-13.

While our 1997 opinion does identify a "paper ticket" as "one part of the definition" of lottery, the actual definition from our 1995 opinion referred only to "tickets" or "tokens." In the twenty-four years that have passed since issuance of our 1997 opinion, technology has advanced to the point where it is now possible for players to purchase a ticket in an electronic format in addition to the traditional paper ticket. The Supreme Court has recognized that the terms and provisions of the Constitution must be read in a manner which reflects changed circumstances:

A Constitution is intended to meet and be applied to any conditions and circumstances as they arise in the course of the progress of the community. The terms and provisions are constantly expanded and enlarged by construction to meet the advancing affairs of men. While the powers granted thereby do not change, they do apply in different periods to all things to which they are in their nature applicable. *State ex rel. State Railway Comm'n v. Ramsey*, 151 Neb. 333, 338, 37 N.W.2d 502, 506 (1949).

Unlike our earlier opinion, which addressed the authorization of a totally new form of keno using stand-alone machines activated by players in which

no ticket was involved, AM639 would only permit an additional means to play a traditional keno game by purchasing an electronic ticket rather than a paper one. Providing an additional means to purchase a ticket in this manner does not fundamentally alter the nature of the game. Accordingly, we conclude that the addition of an option to play keno using an electronic ticket does not place the game outside a permissible lottery under art. III, § 24.<sup>1</sup>

Your second question is premised on finding that use of an electronic ticket makes keno a game of chance and not a lottery. As we have concluded it does not, there is no need to address this question.

Finally, you ask whether a licensed casino operator could conduct keno within a casino and, if so, whether the current statutory requirement that keno games be conducted five minutes apart would apply to the play of keno at a licensed casino.

Initiative Measure 429 amended Neb. Const. art. III, § 24, by adding a new subsection (5) permitting legislative authorization "of all forms of games of chance when such games of chance are conducted by authorized gaming operators within a licensed racetrack enclosure." AM641 would define "[g]ame of chance" as "any game which has the elements of chance, prize, and consideration," including specified games. AM641, § 33. As noted above, we have distinguished "games of chance" from "lotteries" in art. III, § 24, by interpreting "game of chance" as a broad term referencing "all gambling activities" and "lottery" in a narrower sense where tickets are sold and prize winners are either secretly predetermined or selected by some form of random drawing. Op. Att'y Gen. No. 95085 at 23. The new constitutional amendment permits "all forms of games of chance" when conducted by authorized gaming operators at licensed racetracks, and the implementing statute would define "game of chance" to broadly include "any game which has the elements of prize, chance, and consideration."

While keno conducted pursuant to the County and City Lottery Act is a "lottery" permitted by separate constitutional exception, the broad authorization of "all games of chance" in new subsection (5) of art. III, § 24, and the broad definition of "game of chance" as "any" game with the elements of prize, chance, and consideration, should allow authorized gaming operators to conduct keno within licensed racetrack enclosures. If allowed, we presume this would be subject to regulation by the proposed State Racing and Gaming Commission as it would not be a lottery conducted by a county, city, or village for community betterment purposes under the Nebraska County and City Lottery Act. Thus, the five-minute time limit between keno games required by Neb. Rev. Stat. § 9-607(2)(c)(ii) would not apply to keno conducted by authorized gaming operators at licensed racetracks.

**CONCLUSION**

We conclude that allowing use of an electronic ticket in the play of keno would not change the game's status as a permissible form of lottery for community betterment purposes. Allowing this option in lieu of purchasing a paper ticket would not fundamentally alter the nature of the game of keno currently permitted in statute as a ticket is still required which satisfies the requirement for a permissible lottery. As to expanding the method of payment for keno tickets, this has no bearing on the determination of the game's status as a lottery. Finally, the five minute time limit between keno games required by Neb. Rev. Stat. § 9-607(2)(c)(ii) would not apply to keno conducted by an authorized gaming operator at a licensed racetrack because it would not involve a lottery conducted by a county, city, or village for community betterment purposes under the Nebraska County and City Lottery Act.

Very truly yours,  
DOUGLAS J. PETERSON  
Attorney General  
(Signed) L. Jay Bartel  
Assistant Attorney General

pc Patrick J. O'Donnell  
Clerk of the Nebraska Legislature

07-1396-29

<sup>1</sup>In connection with the allowance of electronic keno tickets, you also ask whether allowing payment for keno ticket purchases to be expanded from cash only to authorize the use of debit cards or a direct link to an account with a financial institution in the name of the player violates art. III, § 24. The means used to purchase tickets does not impact the nature of the game and has no constitutional significance.

**GENERAL FILE**

**LEGISLATIVE BILL 451.** Title read. Considered.

Committee [AM550](#), found on page 694, was adopted with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 6 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 644.** Title read. Considered.

Committee [AM755](#), found on page 750, was offered.

Senator Halloran offered the following amendment to the committee amendment:

[AM854](#)

(Amendments to Standing Committee amendments, AM755)

1 1. Insert the following new section:

2 Sec. 20. Section 77-1736.06, Revised Statutes Cumulative Supplement,  
3 2020, is amended to read:

4 77-1736.06 The following procedure shall apply when making a  
5 property tax refund:

6 (1) Within thirty days of the entry of a final nonappealable order,  
7 an unprotested determination of a county assessor, an unappealed decision  
8 of a county board of equalization, or other final action requiring a  
9 refund of real or personal property taxes paid or, for property valued by  
10 the state, within thirty days of a recertification of value by the  
11 Property Tax Administrator pursuant to section 77-1775 or 77-1775.01, the  
12 county assessor shall determine the amount of refund due the person  
13 entitled to the refund, certify that amount to the county treasurer, and  
14 send a copy of such certification to the person entitled to the refund.

15 Within thirty days from the date the county assessor certifies the amount  
16 of the refund, the county treasurer shall notify each political  
17 subdivision, including any school district receiving a distribution  
18 pursuant to section 79-1073 and any land bank receiving real property  
19 taxes pursuant to subdivision (3)(a) of section 18-3411, of its  
20 respective share of the refund, except that for any political subdivision  
21 whose share of the refund is two hundred dollars or less, the county  
22 board may waive this notice requirement. Notification shall be by first-  
23 class mail, postage prepaid, to the last-known address of record of the  
24 political subdivision. The county treasurer shall pay the refund from  
25 funds in his or her possession belonging to any political subdivision,  
26 including any school district receiving a distribution pursuant to

1 section 79-1073 and any land bank receiving real property taxes pursuant  
2 to subdivision (3)(a) of section 18-3411, which received any part of the  
3 tax or penalty being refunded. If sufficient funds are not available ~~or~~  
4 ~~the political subdivision, within thirty days of the mailing of the~~  
5 ~~notice by the county treasurer if applicable, certifies to the county~~  
6 ~~treasurer that a hardship would result and create a serious interference~~  
7 ~~with its governmental functions if the refund of the tax or penalty is~~  
8 ~~paid, the county treasurer shall register the refund or portion thereof~~  
9 which remains unpaid as a claim against such political subdivision and  
10 shall issue the person entitled to the refund a receipt for the  
11 registration of the claim. ~~The certification by a political subdivision~~  
12 ~~declaring a hardship shall be binding upon the county treasurer;~~

13 (2) The refund of a tax or penalty or the receipt for the  
14 registration of a claim made or issued pursuant to this section shall be  
15 satisfied in full as soon as practicable ~~and in no event later than five~~  
16 ~~years from the date the final order or other action approving a refund is~~  
17 ~~entered. If a receipt for the registration of a claim is given:~~

18 (a) The governing body of the political subdivision shall make  
19 provisions in its next budget for the amount of such ~~any refund or claim;~~  
20 ~~or to be satisfied pursuant to this section. If a receipt for the~~  
21 ~~registration of a claim is given:~~

22 (b) ~~If mutually agreed to by the governing body of the political~~  
23 ~~subdivision and the person holding the receipt, such (a) Such receipt~~  
24 shall be applied to satisfy any tax levied or assessed by that political  
25 subdivision which becomes next falling due from the person holding the  
26 receipt ~~until the claim is satisfied in full; after the sixth next~~  
27 ~~succeeding levy is made on behalf of the political subdivision following~~  
28 ~~the final order or other action approving the refund; and~~

29 (b) ~~To the extent the amount of such receipt exceeds the amount of~~  
30 ~~such tax liability, the unsatisfied balance of the receipt shall be paid~~

31 and satisfied within the five-year period prescribed in this subdivision  
 1 from a combination of a credit against taxes anticipated to be due to the  
 2 political subdivision during such period and cash payment from any funds  
 3 expected to accrue to the political subdivision pursuant to a written  
 4 plan to be filed by the political subdivision with the county treasurer  
 5 no later than thirty days after the claim against the political  
 6 subdivision is first reduced by operation of a credit against taxes due  
 7 to such political subdivision.

8 If a political subdivision fails to fully satisfy the refund or  
 9 claim prior to the sixth next succeeding levy following the entry of a  
 10 final nonappealable order or other action approving a refund, interest  
 11 shall accrue on the unpaid balance commencing on the sixth next  
 12 succeeding levy following such entry or action at the rate set forth in  
 13 section 45-103;

14 (3) The county treasurer shall mail the refund or the receipt by  
 15 first-class mail, postage prepaid, to the last-known address of the  
 16 person entitled thereto. Multiple refunds to the same person may be  
 17 combined into one refund or credit. If a refund is not claimed by June 1  
 18 of the year following the year of mailing, the refund shall be canceled  
 19 and the resultant amount credited to the various funds originally  
 20 charged;

21 (4) When the refund involves property valued by the state, the Tax  
 22 Commissioner shall be authorized to negotiate a settlement of the amount  
 23 of the refund or claim due pursuant to this section on behalf of the  
 24 political subdivision from which such refund or claim is due. Any  
 25 political subdivision which does not agree with the settlement terms as  
 26 negotiated may reject such terms, and the refund or claim due from the  
 27 political subdivision then shall be satisfied as set forth in this  
 28 section as if no such negotiation had occurred;

29 (5) In the event that the Legislature appropriates state funds to be  
 30 disbursed for the purposes of satisfying all or any portion of any refund  
 31 or claim, the Tax Commissioner shall order the county treasurer to  
 1 disburse such refund amounts directly to the persons entitled to the  
 2 refund in partial or total satisfaction of such persons' claims. The  
 3 county treasurer shall disburse such amounts within forty-five days after  
 4 receipt thereof; and

5 (6) If all or any portion of the refund is reduced by way of  
 6 settlement or forgiveness by the person entitled to the refund, the  
 7 proportionate amount of the refund that was paid by an appropriation of  
 8 state funds shall be reimbursed by the county treasurer to the State  
 9 Treasurer within forty-five days after receipt of the settlement  
 10 agreement or receipt of the forgiven refund. The amount so reimbursed  
 11 shall be credited to the General Fund; and -

12 (7) For any refund or claim due under this section, interest shall  
 13 accrue on the unpaid balance at the rate of nine percent beginning thirty  
 14 days after the date of entry of the final nonappealable order or other  
 15 action approving the refund.

16 2. Renumber the remaining sections and correct the repealer  
 17 accordingly.

**SENATOR WILLIAMS PRESIDING**

**SPEAKER HILGERS PRESIDING**

Pending.

**AMENDMENT(S) - Print in Journal**

Senator Flood filed the following amendment to LB307:

AM882

(Amendments to Standing Committee amendments, AM273)

1 1. Insert the following new sections:

2 Section 1. Section 43-251.01, Revised Statutes Cumulative

3 Supplement, 2020, is amended to read:

4 43-251.01 All placements and commitments of juveniles for  
5 evaluations or as temporary or final dispositions are subject to the  
6 following:

7 (1) No juvenile shall be confined in an adult correctional facility  
8 as a disposition of the court;

9 (2) A juvenile who is found to be a juvenile as described in  
10 subdivision (3) of section 43-247 shall not be placed in an adult  
11 correctional facility, the secure youth confinement facility operated by  
12 the Department of Correctional Services, or a youth rehabilitation and  
13 treatment center or committed to the Office of Juvenile Services;

14 (3) A juvenile who is found to be a juvenile as described in  
15 subdivision (1), (2), or (4) of section 43-247 shall not be assigned or  
16 transferred to an adult correctional facility or the secure youth  
17 confinement facility operated by the Department of Correctional Services;  
18 (4) A juvenile under the age of fourteen years shall not be placed  
19 with or committed to a youth rehabilitation and treatment center unless  
20 the juvenile poses a significant risk to the physical safety of other  
21 persons;

22 (5)(a) A court of competent jurisdiction may detain a juvenile at  
23 any hearing pursuant to this subsection. When a juvenile has been taken  
24 into temporary custody and must appear before a court of competent  
25 jurisdiction pursuant to section 43-253 for a hearing to determine if  
26 continued detention, services, or supervision is necessary, the following  
1 shall apply before such hearing:

2 (i) The juvenile shall be detained if the juvenile was arrested for  
3 or charged with:

4 (A) An offense involving a firearm or an offense that is a Class IA,  
5 IB, IC, ID, II, or IIA felony; or

6 (B) Any felony when such juvenile's whereabouts were unknown by the  
7 juvenile's probation officer or the juvenile is currently missing or  
8 currently has an active capias; and

9 (ii) The juvenile may be detained if:

10 (A) The physical safety of persons in the community would be  
11 threatened;

12 (B) Necessary to secure the presence of the juvenile at the next  
13 hearing as evidenced by the fact that the juvenile has failed to appear,  
14 has run away from the parental or custodial home, has fled from a court-  
15 ordered placement, or has been unsuccessfully discharged from a court-  
16 ordered placement within the last year;

17 (C) The juvenile has been arrested for or charged with any offense  
18 other than a felony and such juvenile's whereabouts are unknown by the  
19 juvenile's probation officer or the juvenile is currently missing or  
20 currently has an active capias; or

21 (D) The juvenile poses a serious threat to himself or herself or to  
22 the property of others;

23 (5)(a) ~~Before July 1, 2019, a juvenile shall not be detained in~~  
24 ~~secure detention or placed at a youth rehabilitation and treatment center~~  
25 ~~unless detention or placement of such juvenile is a matter of immediate~~  
26 ~~and urgent necessity for the protection of such juvenile or the person or~~  
27 ~~property of another or if it appears that such juvenile is likely to flee~~  
28 ~~the jurisdiction of the court; and~~

29 (b) On and after July 1, 2019:

30 (i) ~~A juvenile shall not be detained unless the physical safety of~~  
31 ~~persons in the community would be seriously threatened or detention is~~  
1 ~~necessary to secure the presence of the juvenile at the next hearing, as~~  
2 ~~evidenced by a demonstrable record of willful failure to appear at a~~  
3 ~~scheduled court hearing within the last twelve months;~~

4 (b) (ii) A child twelve years of age or younger shall not be placed  
5 in detention ~~unless the child poses a severe threat to the physical~~  
6 ~~safety of other persons, the community, or himself or herself under any~~  
7 ~~circumstances; and~~

8 (c) (iii) A juvenile shall not be placed into detention:

9 (i) (A) To allow a parent or guardian to avoid his or her legal  
10 responsibility;

11 (ii) (B) To punish, treat, or rehabilitate such juvenile;

12 (iii) (C) To permit more convenient administrative access to such  
13 juvenile;

14 (iv) (D) To facilitate further interrogation or investigation; or

15 (v) (E) Due to a lack of more appropriate facilities except in case  
16 of an emergency as provided in section 43-430;

17 (6) A juvenile alleged to be a juvenile as described in subdivision  
18 (3) of section 43-247 shall not be placed in a juvenile detention  
19 facility, including a wing labeled as staff secure at such facility,  
20 unless the designated staff secure portion of the facility fully complies  
21 with subdivision (5) of section 83-4,125 and the ingress and egress to  
22 the facility are restricted solely through staff supervision; and

23 (7) A juvenile alleged to be a juvenile as described in subdivision  
24 (1), (2), (3)(b), or (4) of section 43-247 shall not be placed out of his  
25 or her home as a dispositional order of the court unless:

26 (a) All available community-based resources have been exhausted to  
27 assist the juvenile and his or her family; and

28 (b) Maintaining the juvenile in the home presents a significant risk  
29 of harm to the juvenile or community.

30 Sec. 2. Section 43-253, Revised Statutes Cumulative Supplement,  
31 2020, is amended to read:

1 43-253 (1) Upon delivery to the probation officer of a juvenile who  
2 has been taken into temporary custody under section 29-401, 43-248, or  
3 43-250, the probation officer shall immediately investigate the situation  
4 of the juvenile and the nature and circumstances of the events  
5 surrounding his or her being taken into custody. Such investigation may  
6 be by informal means when appropriate.

7 (2) The probation officer's decision to release the juvenile from  
8 custody or place the juvenile in detention or an alternative to detention  
9 shall be based upon the results of the standardized juvenile detention  
10 screening instrument described in section 43-260.01.

11 (3) No juvenile who has been taken into temporary custody under  
12 subdivision (1)(c) of section 43-250 or subsection (6) of section  
13 43-286.01 or pursuant to an alleged violation of an order for conditional  
14 release shall be detained in any detention facility or be subject to an  
15 alternative to detention infringing upon the juvenile's liberty interest  
16 for longer than twenty-four hours, excluding nonjudicial days, after  
17 having been taken into custody unless such juvenile has appeared  
18 personally before a court of competent jurisdiction for a hearing to  
19 determine if continued detention, services, or supervision is necessary.  
20 The juvenile shall be represented by counsel at the hearing. Whether such  
21 counsel shall be provided at the cost of the county shall be determined  
22 as provided in subsection (1) of section 43-272. If continued secure  
23 detention is ordered, such detention shall be in a juvenile detention  
24 facility, except that a juvenile charged with a felony as an adult in  
25 county or district court may be held in an adult jail as set forth in  
26 subdivision (1)(c)(v) of section 43-250. A juvenile who must appear

27 before a court of competent jurisdiction need not have formal service of  
 28 the hearing but the Office of Probation Administration shall ensure the  
 29 juvenile has notice of such hearing A juvenile placed in an alternative  
 30 to detention, but not in detention, may waive this hearing through  
 31 counsel.

1 (4) When the probation officer deems it to be in the best interests  
 2 of the juvenile, the probation officer shall immediately release such  
 3 juvenile to the custody of his or her parent. If the juvenile has both a  
 4 custodial and a noncustodial parent and the probation officer deems that  
 5 release of the juvenile to the custodial parent is not in the best  
 6 interests of the juvenile, the probation officer shall, if it is deemed  
 7 to be in the best interests of the juvenile, attempt to contact the  
 8 noncustodial parent, if any, of the juvenile and to release the juvenile  
 9 to such noncustodial parent. If such release is not possible or not  
 10 deemed to be in the best interests of the juvenile, the probation officer  
 11 may release the juvenile to the custody of a legal guardian, a  
 12 responsible relative, or another responsible person.

13 (5) The court may admit such juvenile to bail by bond in such amount  
 14 and on such conditions and security as the court, in its sole discretion,  
 15 shall determine, or the court may proceed as provided in section 43-254.

16 In no case shall the court or probation officer release such juvenile if  
 17 it appears that:

18 (a) Before July 1, 2019, further detention or placement of such  
 19 juvenile is a matter of immediate and urgent necessity for the protection  
 20 of such juvenile or the person or property of another or if it appears  
 21 that such juvenile is likely to flee the jurisdiction of the court; and

22 (b) On or after July 1, 2019, the physical safety of persons in the  
 23 community would be seriously threatened or that detention is necessary to  
 24 secure the presence of the juvenile at the next hearing, as evidenced by  
 25 a demonstrable record of willful failure to appear at a scheduled court  
 26 hearing within the last twelve months.

27 2. Renumber the remaining sections and correct the repealer  
 28 accordingly.

#### ANNOUNCEMENT

Senator B. Hansen announced the Business and Labor Committee will hold an executive session Wednesday, April 7, 2021, upon morning Recess, in Room 1524.

#### UNANIMOUS CONSENT - Add Cointroducer(s)

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

Senator DeBoer name added to LB501.

#### VISITOR(S)

The Doctor of the Day was Dr. Rachel Blake of Lincoln.

**ADJOURNMENT**

At 4:58 p.m., on a motion by Senator Lindstrom, the Legislature adjourned until 9:00 a.m., Wednesday, April 7, 2021.

Patrick J. O'Donnell  
Clerk of the Legislature