

THIRTY-SEVENTH DAY - MARCH 2, 2023

LEGISLATIVE JOURNAL

**ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION**

THIRTY-SEVENTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, March 2, 2023

PRAYER

The prayer was offered by Pastor Stephen Griffith, Kountze Memorial Lutheran Church, Omaha.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was offered by Senator Clements.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Arch presiding.

The roll was called and all members were present except Senators Bostar, J. Cavanaugh, Conrad, Day, Dover, B. Hansen, Hunt, Walz, and Wayne who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-sixth day was approved.

NOTICE OF COMMITTEE HEARINGS

Revenue
Room 1524 1:30 PM

Thursday, March 9, 2023

LB322
LB192
LB398
LB529
LB344

(Signed) Lou Ann Linehan, Chairperson

General Affairs
Room 1510 1:30 PM

Monday, March 13, 2023

LB148

LB150

LB375

LB403

LB404

LB493

Trent Loos - State Racing and Gaming Commission

Brian Botsford - Nebraska Arts Council

(Signed) John Lowe, Chairperson

ANNOUNCEMENT

Priority designation received:

Moser - LB706

AMENDMENT - Print in Journal

Senator Brewer filed the following amendment to [LB451](#):

[AM659](#)

1 1. On page 2, line 1, strike "Health and Human Services" and insert

2 "Economic Development".

MOTION - Suspend Rules

Senator Riepe offered [MO49](#), found on page 655, to suspend Rule 3, Section 14 to permit cancellation of the public hearing for LB 464.

Senator Erdman moved the previous question. The question is, "Shall the debate now close?"

Senator M. Cavanaugh moved for a call of the house. The motion prevailed with 16 ayes, 7 nays, and 26 not voting.

Senator M. Cavanaugh requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 34:

| | | | | |
|------------|----------|-----------|------------|-------------|
| Aguilar | Brewer | Geist | Kauth | Riepe |
| Albrecht | Briese | Halloran | Linehan | Sanders |
| Arch | Clements | Hardin | Lippincott | Slama |
| Armendariz | DeBoer | Holdcroft | McDonnell | Vargas |
| Ballard | DeKay | Hughes | Moser | von Gillern |
| Bostelman | Dorn | Ibach | Murman | Wishart |
| Brandt | Erdman | Jacobson | Raybould | |

Voting in the negative, 5:

| | | | | |
|-------|---------------|--------|-----|-------|
| Blood | Cavanaugh, J. | Conrad | Day | Wayne |
|-------|---------------|--------|-----|-------|

Present and not voting, 4:

| | | | |
|---------------|--------|-------------|----------|
| Cavanaugh, M. | Dungan | Fredrickson | McKinney |
|---------------|--------|-------------|----------|

Excused and not voting, 6:

| | | |
|--------|--------|------|
| Bostar | Hansen | Lowe |
| Dover | Hunt | Walz |

The motion to cease debate prevailed with 34 ayes, 5 nays, 4 present and not voting, and 6 excused and not voting.

Senator M. Cavanaugh requested a roll call vote, in reverse order, on the motion to suspend the rules.

Voting in the affirmative, 43:

| | | | | |
|------------|---------------|-------------|------------|-------------|
| Aguilar | Briese | Dungan | Jacobson | Riepe |
| Albrecht | Cavanaugh, J. | Erdman | Kauth | Sanders |
| Arch | Clements | Fredrickson | Linehan | Slama |
| Armendariz | Conrad | Geist | Lippincott | Vargas |
| Ballard | Day | Halloran | McDonnell | von Gillern |
| Blood | DeBoer | Hardin | McKinney | Wayne |
| Bostelman | DeKay | Holdcroft | Moser | Wishart |
| Brandt | Dorn | Hughes | Murman | |
| Brewer | Dover | Ibach | Raybould | |

Voting in the negative, 0.

Present and not voting, 1:

Cavanaugh, M.

Excused and not voting, 5:

Bostar Hansen Hunt Lowe Walz

The Riepe motion to suspend the rules prevailed with 43 ayes, 0 nays, 1 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator M. Cavanaugh offered the following motion:

[MO52](#)

Reconsider the vote on MO49.

Senator Erdman moved the previous question. The question is, "Shall the debate now close?"

Senator M. Cavanaugh requested a roll call vote on the motion to cease debate.

The motion to cease debate prevailed with 29 ayes, 7 nays, 9 present and not voting, and 4 excused and not voting.

SENATOR DORN PRESIDING

Senator M. Cavanaugh requested a roll call vote, in reverse order, on the motion to reconsider.

The M. Cavanaugh motion to reconsider failed with 6 ayes, 31 nays, 7 present and not voting, and 5 excused and not voting.

MOTION - Withdraw LB464

Speaker Arch requested to pass over the motion to withdraw LB464.

MOTION - Withdraw LB751

Speaker Arch requested to pass over the motion to withdraw LB751.

GENERAL FILE

LEGISLATIVE BILL 77. Senator Brewer renewed [MO46](#), found on page 651, and considered on pages 651 and 652, to withdraw and substitute with AM640.

Senator M. Cavanaugh renewed [MO48](#), found and considered on page 652, to bracket until March 02, 2023.

SPEAKER ARCH PRESIDING

Senator M. Cavanaugh withdrew her motion to bracket.

Senator M. Cavanaugh offered the following motion:

[MO53](#)

Bracket until March 03, 2023.

Pending.

NOTICE OF COMMITTEE HEARINGS

Business and Labor
Room 1524 1:30 PM

Monday, March 6, 2023
LB464 (cancel)

(Signed) Merv Riepe, Chairperson

Urban Affairs
Room 1510 1:30 PM

Tuesday, March 21, 2023
LB481
LB533

(Signed) Terrell McKinney, Chairperson

COMMITTEE REPORT

Agriculture

LEGISLATIVE BILL 218. Placed on General File.

LEGISLATIVE BILL 263. Placed on General File.

LEGISLATIVE BILL 264. Placed on General File.

LEGISLATIVE BILL 305. Placed on General File with amendment.

[AM526](#)

1 1. Strike the original sections and insert the following new
2 sections:
3 Section 1. Section 88-541, Reissue Revised Statutes of Nebraska, is
4 amended to read:
5 88-541 (1) Each warehouse licensee shall file with the commission a
6 schedule of the licensee's storage rates and charges existing as of the
7 date of filing, and each applicant for a warehouse license shall file
8 with the commission a schedule of the applicant's storage rates and
9 charges existing on the date the application is filed. A warehouse
10 licensee shall post the filed schedule of rates and charges on signage
11 issued by the commission in a conspicuous place at the licensee's
12 warehouse location. Such rates and charges shall be full compensation for
13 receiving, handling, storing, delivering, and insuring grain.
14 (2) A warehouse licensee may increase or decrease such rates and
15 charges by (a) filing notice of such change of rates and charges with the
16 commission and also sending such notice to all grain owners of record not
17 less than thirty days prior to such change of rates and charges and (b)
18 posting notice of such change of rates and charges on signage issued by

19 ~~the commission in a conspicuous place at the warehouse licensee's~~
 20 ~~warehouse. The new rates and charges shall be charged on all grain in~~
 21 ~~storage at the time of, and all grain received for storage after, the~~
 22 ~~effective date of the change of rates and charges. Not less than once~~
 23 ~~each year, the commission shall by order fix reasonable storage rates,~~
 24 ~~and no warehouse licensee shall charge a lesser or greater rate, except~~
 25 ~~upon application to and a hearing before the commission. If, after a~~
 26 ~~hearing, the commission finds that a lesser or greater rate should be~~
 27 ~~ordered, it shall enter a supplemental order fixing a different rate for~~
 1 ~~such applicant. Such charges shall be full compensation for the~~
 2 ~~receiving, handling, storing, delivering, and insuring of grain.~~
 3 (3) No discrimination shall be made between different customers by
 4 any state-licensed grain warehouse either in facilities, rates, charges,
 5 or handling of any grain, except that members of a cooperative may be
 6 given preference in storage facilities in warehouses of the cooperative.
 7 The rates charged to any governmental agency shall be exempt from
 8 commission regulation.
 9 Sec. 2. Section 88-549, Reissue Revised Statutes of Nebraska, is
 10 amended to read:
 11 88-549 (1) At least once each calendar year and not later than one
 12 year from the date of receipt of the previous written notice, each
 13 warehouse licensee shall send written notice to each person who stores
 14 grain in such warehouse at such person's last-known address specifying
 15 the type and amount of grain in storage, the location at which the grain
 16 is being stored, and the current rate of storage.
 17 (2) A warehouse licensee shall not charge any storage rates and
 18 charges other than or in addition to the schedule of storage rates and
 19 charges duly filed and posted pursuant to section 88-541.
 20 (3) Any warehouse licensee who violates subsection (1) or (2) of
 21 this section shall be guilty of a Class V misdemeanor.
 22 Sec. 3. Original sections 88-541 and 88-549, Reissue Revised
 23 Statutes of Nebraska, are repealed.

LEGISLATIVE BILL 740. Placed on General File with amendment.

AM619

1 1. Strike the original sections and insert the following new
 2 sections:
 3 Section 1. Section 81-2,239, Revised Statutes Cumulative Supplement,
 4 2022, is amended to read:
 5 81-2,239 Sections 81-2,239 to 81-2,292 and sections 3 to 6 of this
 6 act and the provisions of the Food Code and the Current Good
 7 Manufacturing Practice In Manufacturing, Packing, or Holding Human Food
 8 adopted by reference in sections 81-2,257.01 and 81-2,259, shall be known
 9 and may be cited as the Nebraska Pure Food Act.
 10 Sec. 2. Section 81-2,240, Revised Statutes Cumulative Supplement,
 11 2022, is amended to read:
 12 81-2,240 For purposes of the Nebraska Pure Food Act, unless the
 13 context otherwise requires, the definitions found in sections 81-2,241 to
 14 81-2,254 and section 3 of this act shall be used. In addition, the
 15 definitions found in the code and practice adopted by reference in
 16 sections 81-2,257.01 and 81-2,259 shall be used.
 17 Sec. 3. Guidance document has the same meaning as in section
 18 84-901.
 19 Sec. 4. (1) A political subdivision acting as a regulatory
 20 authority may enter into an agreement under the Interlocal Cooperation
 21 Act with other public agencies to grant and provide reciprocity for local
 22 licensing of mobile food establishments for purposes of regulating food
 23 safety and handling.
 24 (2) On or before December 1, 2023, a political subdivision acting as
 25 a regulatory authority that is eligible to participate in an agreement

26 under this section shall submit a report electronically to the
 27 Legislature. Such report shall contain the following information:
 1 (a) A description of any reciprocity agreement entered into pursuant
 2 to this section; or
 3 (b) If a reciprocity agreement has not been entered into pursuant to
 4 this section, a summary of actions taken to develop such an agreement and
 5 a description of any impediments to such an agreement.
 6 Sec. 5. (1) For purposes of this section, city means a city of the
 7 first class or a city of the second class.
 8 (2) The department shall establish and maintain the Mobile Food
 9 Establishment Ordinance Registry. The registry shall be made available
 10 for review by the public on the department's website. The purpose of the
 11 registry is to record in a central location the municipal ordinances used
 12 to regulate mobile food establishments.
 13 (3) Each city shall participate in the registry. Except as provided
 14 in subsection (4) of this section, each city shall provide the department
 15 with the following information for the registry:
 16 (a) The name and address of each person responsible for regulating
 17 mobile food establishment operations;
 18 (b) A sample copy of any form that is required to be submitted in
 19 order for the mobile food establishment to operate in the city;
 20 (c) A complete electronic record of the ordinances used to regulate
 21 mobile food establishments; and
 22 (d) Any other information the department deems necessary.
 23 (4) Any city that does not regulate the operation of mobile food
 24 establishments in any way shall submit to the department for publication
 25 on the registry a written statement confirming that the city does not
 26 regulate the operation of mobile food establishments.
 27 (5) To ensure an accurate and updated registry, each city shall:
 28 (a) Upon a request by the department, make available to the
 29 department all information required pursuant to this section; and
 30 (b) Beginning in 2023, by December 31 of each calendar year notify
 31 the department of any new or modified ordinance adopted within such
 1 calendar year regulating mobile food establishments.
 2 (6) The department may adopt and promulgate rules and regulations to
 3 carry out this section.
 4 Sec. 6. The department shall develop and make available to the
 5 public a guidance document for mobile food establishment operators. The
 6 guidance document shall describe food establishment permit requirements
 7 applicable to mobile food establishments, including permit requirements
 8 applicable to reciprocity agreements between participating regulatory
 9 authorities under section 4 of this act.
 10 Sec. 7. Original sections 81-2,239 and 81-2,240, Revised Statutes
 11 Cumulative Supplement, 2022, are repealed.

(Signed) Steve Halloran, Chairperson

AMENDMENTS - Print in Journal

Senator Murman filed the following amendment to LB698:

AM636

- 1 1. Insert the following new sections:
- 2 Sec. 2. This act becomes operative on July 1, 2023.
- 3 Sec. 4. Since an emergency exists, this act takes effect when passed
- 4 and approved according to law.
- 5 2. Renumber the remaining section accordingly.

Senator J. Cavanaugh filed the following amendment to LB77:

AM666

(Amendments to FA22)

- 1 1. Strike the original sections and all amendments thereto and
- 2 insert the following new sections:
- 3 Section 1. Section 69-2436, Revised Statutes Cumulative Supplement,
- 4 2022, is amended to read:
- 5 69-2436 (1) A permit to carry a concealed handgun is valid
- 6 throughout the state for a period of five years after the date of
- 7 issuance. ~~There shall be no fee for issuance or renewal of a permit. The~~
- 8 ~~fee for issuing a permit is one hundred dollars.~~
- 9 (2) The Nebraska State Patrol shall renew a permitholder's permit to
- 10 carry a concealed handgun for a renewal period of five years, subject to
- 11 continuing compliance with the requirements of section 69-2433, except as
- 12 provided in subsection (4) of section 69-2443. ~~Renewal. The renewal fee is~~
- 13 ~~fifty dollars, and renewal may be applied for no earlier than four months~~
- 14 ~~before expiration of the permit and no later than thirty business days~~
- 15 ~~after the date of expiration of the permit. At least four months before~~
- 16 ~~expiration of a permit to carry a concealed handgun, the Nebraska State~~
- 17 ~~Patrol shall send to the permitholder by United States mail or~~
- 18 ~~electronically notice of expiration of the permit.~~
- 19 (3) ~~The applicant shall submit the fee with the application to the~~
- 20 ~~Nebraska State Patrol. The fee shall be remitted to the State Treasurer~~
- 21 ~~for credit to the Nebraska State Patrol Cash Fund.~~
- 22 Sec. 2. Original section 69-2436, Revised Statutes Cumulative
- 23 Supplement, 2022, is repealed.

Senator Raybould filed the following amendment to [LB77](#):

[FA25](#)

Strike the enacting clause.

Senator Geist filed the following amendment to [LB77](#):

[AM653](#) is available in the Bill Room.

Senator McKinney filed the following amendment to [LB631](#):

[AM147](#)

- 1 1. Insert the following new sections:
- 2 Sec. 4. The Board of Parole shall adopt and promulgate rules and
- 3 regulations that include:
- 4 (1) Clearly defined, easily understood written mission statements
- 5 and strategic plans encompassing public safety and rehabilitation;
- 6 (2) Procedures to ensure that victims are appropriately notified and
- 7 given the opportunity to provide input in the rulemaking process;
- 8 (3) A requirement that board members receive initial and ongoing
- 9 training on cultural competency, implicit bias, an understanding of the
- 10 historical perspective of how and why parole was created, the powers and
- 11 duties of the board, and ethics. Such training shall address current
- 12 suggested best practices and enhance and strengthen members'
- 13 decisionmaking skills;
- 14 (4) A code of ethics for members of the board;
- 15 (5) Requirements and procedures for the board to incorporate
- 16 evidence-based practices that reduce recidivism. This includes, but is
- 17 not limited to, a requirement that the board measure performance outcomes
- 18 and develop transparent, written criteria that shall be considered when
- 19 making decisions on whether to grant or revoke parole and when setting
- 20 the conditions of parole;
- 21 (6) Methods by which the board will enhance opportunities for the
- 22 success of people released on parole by collaborating with partners
- 23 within and outside of the criminal justice system, supporting the
- 24 supervision of people released on parole in their communities, employing

25 informal social controls, and enabling people released on parole to
 26 participate meaningfully in the supervision process; and

27 (7) Policies and standard practices that will assist in ensuring
 1 neutrality, impartiality, and objectivity as an integral part of the
 2 board's culture and practices.

3 Sec. 5. (1) This section applies to the Board of Parole whenever it
 4 makes a determination of whether to grant or deny parole, sets the
 5 conditions of parole, or determines the sanctions for a violation of
 6 parole.

7 (2) The board shall serve as a neutral, impartial, and objective
 8 decisionmaker and shall be insulated from undue influences of specific
 9 ideological views and positions and from predetermined conceptions of the
 10 desired outcomes of proceedings before the board.

11 (3) If the board collaborates with or receives input from other
 12 entities within the criminal justice system, the board shall do so in a
 13 manner that respects and reinforces impartiality, neutrality, and
 14 objectivity.

15 (4) The board shall consider all evidence regarding a committed
 16 offender in an impartial, objective, and neutral manner.

17 Sec. 7. Section 83-1,135, Revised Statutes Cumulative Supplement,
 18 2022, is amended to read:

19 83-1,135 Sections 83-170 to 83-1,135.05 and sections 4 and 5 of this
 20 act shall be known and may be cited as the Nebraska Treatment and
 21 Corrections Act.

22 Sec. 8. Section 83-962, Revised Statutes Cumulative Supplement,
 23 2022, is amended to read:

24 83-962 (1) ~~Until July 1, 2020, the Governor may declare a~~
 25 ~~correctional system overcrowding emergency whenever the director~~
 26 ~~certifies that the department's inmate population is over one hundred~~
 27 ~~forty percent of design capacity. Beginning July 1, 2020, a correctional~~
 28 ~~system overcrowding emergency shall exist whenever the director certifies~~
 29 ~~that the department's inmate population is over one hundred forty percent~~
 30 ~~of design capacity. The director shall so certify within thirty days~~
 31 ~~after the date on which the population first exceeds one hundred forty~~
 1 ~~percent of design capacity.~~

2 (2) During a correctional system overcrowding emergency, the board
 3 shall immediately consider or reconsider committed offenders eligible for
 4 parole who have not been released on parole.

5 (3) Upon such consideration or reconsideration, and for all other
 6 consideration of committed offenders eligible for parole while the
 7 correctional system overcrowding emergency is in effect, the board shall
 8 order the release of each committed offender unless it is of the opinion
 9 that such release should be deferred because:

10 (a) The board has determined that it is more likely than not that
 11 the committed offender will not conform to the conditions of parole;

12 (b) The board has determined that release of the committed offender
 13 would have a very significant and quantifiable effect on institutional
 14 discipline; or

15 (c) The board has determined that there is a very substantial risk
 16 that the committed offender will commit a violent act against a person.

17 (4) In making the determination regarding the risk that a committed
 18 offender will not conform to the conditions of parole, the board shall
 19 take into account the factors set forth in subsection (2) of section
 20 83-1,114 and shall comply with the requirements of subsection (3) of
 21 section 83-1,114 and section 5 of this act.

22 (5) The board shall continue granting parole to offenders under this
 23 section until the director certifies that the population is at
 24 operational capacity. The director shall so certify within thirty days
 25 after the date on which the population first reaches operational
 26 capacity.

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

GENERAL FILE

LEGISLATIVE BILL 77. Senator M. Cavanaugh renewed [MO53](#), found in this day's Journal, to bracket until March 03, 2023.

SENATOR DEBOER PRESIDING

SPEAKER ARCH PRESIDING

Pending.

AMENDMENT - Print in Journal

Senator Slama filed the following amendment to [LB25](#):

[FA26](#)

Strike the enacting clause.

NOTICE OF COMMITTEE HEARING

Judiciary

Room 1113 1:30 PM

Thursday, March 9, 2023

LB438

LB466

LB668

LB643

LB8

(Signed) Justin Wayne, Chairperson

UNANIMOUS CONSENT - Add Cointroducers

Unanimous consent to add Senators as cointroducers. No objections. So ordered.

Senator M. Cavanaugh name added to LB316.

Senator Hughes name added to LB563.

Senator M. Cavanaugh name added to LB615.

Senator Hughes name added to LB647.

Senator Lippincott name added to LR50.

VISITORS

Visitors to the Chamber were Carol Windrum and Madeline Baugous, Omaha; Cassidy Bell, Lincoln; members of the American Cancer

Society/Cancer Action Network; Kim Metz, Logan Metz, Kolby Lusetto, Bridgeport.

The Doctor of the Day was Dr. Dale Michels of Walton.

MOTION - Adjournment

At 1:18 p.m., Senator Ballard moved to adjourn the Legislature until 9:00 a.m., Friday, March 3, 2023.

Senator M. Cavanaugh requested a roll call vote on the motion to adjourn.

The motion prevailed with 27 ayes, 1 nay, 13 absent and not voting, and 8 excused and not voting.

Brandon Metzler
Clerk of the Legislature

