

**SEVENTY-SEVENTH DAY - MAY 5, 2017****LEGISLATIVE JOURNAL****ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION****SEVENTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, May 5, 2017

**PRAYER**

The prayer was offered by Pastor Brian Johnson, First Presbyterian Church, Norfolk.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Foley presiding.

The roll was called and all members were present except Senators McDonnell and Morfeld who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventy-sixth day was approved.

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

Senator Larson filed the following amendment to LB632:  
AM87

1 1. On page 4, line 19, strike the second comma.

Senator Larson filed the following amendment to LB632:  
AM88

(Amendments to Final Reading copy)

- 1 1. Strike section 1.
- 2 2. Renumber the remaining sections and correct internal references
- 3 and the repealer accordingly.

**REPORTS**

Agency reports electronically filed with the Legislature can be found on the Nebraska Legislature's website at:  
<http://www.nebraskalegislature.gov/agencies/view.php>

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of May 4, 2017, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

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

Anderson, Linda  
Bold Alliance, Inc. (Withdrawn 05/03/2017)  
Bromm Nielsen & Mines  
Douglas County West Community Schools  
Hunzeker, Mark A.  
Rath, Douglas and Kimberly (Withdrawn 05/01/2017)  
Yaki, Michael  
Renovate America, Inc. (Withdrawn 05/01/2017)

**WITHDRAW - Amendment to LB512**

Senator Harr withdrew his amendment, AM1204, found on page 1223, to LB512.

**MOTION(S) - Return LB512 to Select File**

Senator Harr moved to return LB512 to Select File for his specific amendment, AM1346, found on page 1361.

The Harr motion to return prevailed with 40 ayes, 0 nays, 8 present and not voting, and 1 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 512.** The Harr specific amendment, AM1346, found on page 1361, was adopted with 42 ayes, 0 nays, 6 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Reengrossment.

**GENERAL FILE**

**LEGISLATIVE BILL 415.** Committee AM923, found on page 975 and considered on page 1298, as amended, was renewed.

Senator Walz renewed her amendment, AM1219, found on page 1273 and considered on page 1299, to the committee amendment.

Senator Erdman offered the following motion:

MO122

Recommit to the Nebraska Retirement Systems Committee.

Senator Erdman withdrew his motion to recommit to committee.

Senator Pansing Brooks offered the following motion:

MO123

Recommit to the Nebraska Retirement Systems Committee.

Senator Pansing Brooks withdrew her motion to recommit to committee.

Senator Walz withdrew her amendment.

The committee amendment, as amended, was adopted with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

### SELECT FILE

**LEGISLATIVE BILL 289.** ER39, found on page 867, was adopted.

Senator Pansing Brooks offered her amendment, AM1175, found on page 1332.

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

Senator Morfeld offered the following amendment:

AM1331

(Amendments to E&R amendments, ER39)

1 1. Strike original sections 10 and 14 and insert the following new  
2 sections:

3 Sec. 10. Section 28-1206, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5 28-1206 (1) A person commits the offense of possession of a deadly  
6 weapon by a prohibited person if he or she:

7 (a) ~~Possesses~~ ~~Any person who possesses~~ a firearm, a knife, or brass  
8 or iron knuckles and ~~he or she:~~

9 (i) ~~Has who has~~ previously been convicted of a felony;

10 (ii) ~~Is , who is~~ a fugitive from justice;

11 (iii) ~~Is , or who is~~ the subject of a current and validly issued

12 domestic violence protection order,

13 harassment protection order, or sexual assault protection order and is

14 knowingly violating such order; or

15 (b) ~~Possesses , or (b) any person who possesses~~ a firearm or brass

16 or iron knuckles and he or she ~~who~~ has been convicted within the past

17 seven years of a misdemeanor crime of domestic violence, ~~commits the~~  
 18 ~~offense of possession of a deadly weapon by a prohibited person.~~

19 (2) The felony conviction may have been had in any court in the  
 20 United States, the several states, territories, or possessions, or the  
 21 District of Columbia.

22 (3)(a) Possession of a deadly weapon which is not a firearm by a  
 23 prohibited person is a Class III felony.

24 (b) Possession of a deadly weapon which is a firearm by a prohibited  
 25 person is a Class ID felony for a first offense and a Class IB felony for  
 26 a second or subsequent offense.

1 ~~(4)(a)~~ ~~(4)(a)(i)~~ For purposes of this section, misdemeanor crime of  
 2 domestic violence means a crime that:

3 ~~(i) Is (A)(I) A crime that is classified as a misdemeanor under the~~  
 4 ~~laws of the United States or the District of Columbia or the laws of any~~  
 5 ~~state, territory, possession, or tribe;~~

6 ~~(ii) Has (H) A crime that has, as an element, the use or attempted~~  
 7 ~~use of physical force or the threatened use of a deadly weapon; and~~

8 ~~(iii) Is (H) A crime that is committed by another against his or~~  
 9 ~~her spouse, his or her former spouse, a person with whom he or she has a~~  
 10 ~~child in common whether or not they have been married or lived together~~  
 11 ~~at any time, or a person with whom he or she is or was involved in a~~  
 12 ~~dating relationship as defined in section 28-323; or~~

13 (b) For purposes of this section, misdemeanor crime of domestic  
 14 violence also includes the following offenses, if committed by a person  
 15 against his or her spouse, his or her former spouse, a person with whom  
 16 he or she is or was involved in a dating relationship as defined in  
 17 section 28-323, or a person with whom he or she has a child in common  
 18 whether or not they have been married or lived together at any time:

19 ~~(i) (B)(I) Assault in the third degree under section 28-310; ;~~

20 ~~(ii) Stalking stalking under subsection (1) of section 28-311.04; ;~~

21 ~~(iii) False false imprisonment in the second degree under section~~  
 22 ~~28-315; ;~~

23 ~~(iv) First or first offense domestic assault in the third degree~~  
 24 ~~under subsection (1) of section 28-323; or~~

25 ~~(v) Any any attempt or conspiracy to commit any one of such these~~  
 26 ~~offenses; ; and~~

27 ~~(H) The crime is committed by another against his or her spouse,~~  
 28 ~~his or her former spouse, a person with whom he or she has a child in~~  
 29 ~~common whether or not they have been married or lived together at any~~  
 30 ~~time, or a person with whom he or she is or was involved in a dating~~  
 31 ~~relationship as defined in section 28-323.~~

1 (c) (ii) A person shall not be considered to have been convicted of  
 2 a misdemeanor crime of domestic violence unless:

3 ~~(i) (A) The person was represented by counsel in the case or~~  
 4 ~~knowingly and intelligently waived the right to counsel in the case; and~~

5 ~~(ii) (B) In the case of a prosecution for a misdemeanor crime of~~  
 6 ~~domestic violence for which a person was entitled to a jury trial in the~~  
 7 ~~jurisdiction in which the case was tried, either:~~

8 ~~(A) (†) The case was tried to a jury; or~~

9 ~~(B)~~ ~~(H)~~ The person knowingly and intelligently waived the right to  
10 have the case tried to a jury.

11 ~~(5)~~ ~~(b)~~ For purposes of this section:

12 ~~(a) Domestic~~, ~~subject of a current and validly issued domestic~~  
13 ~~violence protection order means a protection order pertains to a current~~  
14 ~~court order that was validly issued pursuant to section 28-311.09 or~~  
15 ~~42-924;~~

16 ~~(b) Harassment protection order means a protection order issued~~  
17 ~~pursuant to section 28-311.09 or that meets or exceeds the criteria set~~  
18 ~~forth in section 28-311.10 regarding protection orders issued by a court~~  
19 ~~in any other state or a territory, possession, or tribe; and -~~

20 ~~(c) Sexual assault protection order means a protection order issued~~  
21 ~~pursuant to section 4 of this act or that meets or exceeds the criteria~~  
22 ~~set forth in section 5 of this act regarding protection orders issued by~~  
23 ~~a court in any other state or a territory, possession, or tribe.~~

24 Sec. 14. Section 42-924, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 42-924 (1) Any victim of domestic abuse may file a petition and  
27 affidavit for a protection order as provided in ~~subsections~~ ~~subsection~~  
28 (2) ~~and (3)~~ of this section. Upon the filing of such a petition and  
29 affidavit in support thereof, the court may issue a protection order  
30 without bond granting the following relief:

31 (a) Enjoining the respondent from imposing any restraint upon the  
1 petitioner or upon the liberty of the petitioner;

2 (b) Enjoining the respondent from threatening, assaulting,  
3 molesting, attacking, or otherwise disturbing the peace of the  
4 petitioner;

5 (c) Enjoining the respondent from telephoning, contacting, or  
6 otherwise communicating with the petitioner;

7 (d) Removing and excluding the respondent from the residence of the  
8 petitioner, regardless of the ownership of the residence;

9 (e) Ordering the respondent to stay away from any place specified by  
10 the court;

11 (f) Awarding the petitioner temporary custody of any minor children  
12 not to exceed ninety days;

13 (g) Enjoining the respondent from possessing or purchasing a firearm  
14 as defined in section 28-1201; or

15 (h) Ordering such other relief deemed necessary to provide for the  
16 safety and welfare of the petitioner and any designated family or  
17 household member.

18 (2) Petitions for protection orders shall be filed with the clerk of  
19 the district court, and the proceeding may be heard by the county court  
20 or the district court as provided in section 25-2740. A petition for a  
21 protection order may not be withdrawn except upon order of the court.

22 ~~(3)(a) A protection~~ ~~(3) A petition filed pursuant to subsection (1)~~  
23 ~~of this section may not be withdrawn except upon order of the court. An~~  
24 ~~order issued pursuant to subsection (1) of this section shall specify~~  
25 ~~that it is effective for a period of one year and, if the order grants~~  
26 ~~temporary custody, the number of days of custody granted to the~~

27 petitioner unless otherwise modified by the court.  
28 (b) Any victim of domestic abuse may file a petition and affidavit  
29 to renew a protection order. Such petition and affidavit for renewal  
30 shall be filed on or after thirty days before the expiration of the  
31 previous protection order. Such renewed order shall specify that it is  
1 effective for a period of one year to commence on the first day following  
2 the expiration of the previous order and, if the court grants temporary  
3 custody, the number of days of custody granted to the petitioner unless  
4 otherwise modified by the court.  
5 (4) Any person who knowingly violates a protection order issued  
6 pursuant to ~~subsection (1) of~~ this section or section 42-931 after  
7 service or notice as described in subsection (2) of section 42-926 shall  
8 be guilty of a Class I misdemeanor, except that any person convicted of  
9 violating such order who has a prior conviction for violating a  
10 protection order shall be guilty of a Class IV felony.  
11 (5) If there is any conflict between sections 42-924 to 42-926 and  
12 any other provision of law, sections 42-924 to 42-926 shall govern.

The Morfeld amendment was adopted with 30 ayes, 1 nay, 15 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

### GENERAL FILE

**LEGISLATIVE BILL 578A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

### NOTICE OF COMMITTEE HEARING(S)

Education

Room 2102

Wednesday, May 17, 2017 12:20 p.m.

Carter Peterson - Board of Trustees of the Nebraska State Colleges  
Gary Bieganski - Board of Trustees of the Nebraska State Colleges  
Jerald Meyer - Board of Educational Lands and Funds  
Marilyn Hadley - Nebraska Educational Telecommunications Commission  
Stan Carpenter - Nebraska Educational Telecommunications Commission  
Clay Smith - Nebraska Educational Telecommunications Commission

(Signed) Mike Groene, Chairperson

Health and Human Services

Room 1510

Tuesday, May 23, 2017 1:00 p.m.

Joel Bessmer - State Board of Health

(Signed) Merv Riepe, Chairperson

### **BILLS ON FIRST READING**

The following bills were read for the first time by title:

**LEGISLATIVE BILL 512A.** Introduced by Groene, 42.

A BILL FOR AN ACT relating to appropriations; to amend sections 49 and 50, Legislative Bill 327, One Hundred Fifth Legislature, First Session, 2017; to appropriate funds to aid in carrying out the provisions of Legislative Bill 512, One Hundred Fifth Legislature, First Session, 2017; to provide an operative date; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 289A.** Introduced by Pansing Brooks, 28.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 289, One Hundred Fifth Legislature, First Session, 2017.

### **RESOLUTION(S)**

**LEGISLATIVE RESOLUTION 130.** Introduced by Groene, 42; Ebke, 32; Erdman, 47; Friesen, 34; Linehan, 39.

**PURPOSE:** The purpose of this resolution is to examine issues related to the use of substitute teachers. The study shall focus on when and why substitute teachers are used, the use of substitute teachers due to sabbaticals or professional development activities and conference attendance by certificated teachers, how frequently substitute teachers are used for various purposes, the fiscal impact of using substitute teachers, and the relationship between collective bargaining agreements and the use of substitute teachers.

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

1. That the Education Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee 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.

**COMMITTEE REPORT(S)**

Enrollment and Review

**LEGISLATIVE BILL 644.** Placed on Select File with amendment.  
ER86 is available in the Bill Room.

(Signed) Anna Wishart, Chairperson

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

Senator Blood filed the following amendment to LB632:  
AM1350

(Amendments to AM1303)

1 1. On page 2, strike beginning with the first "and" in line 27  
2 through "state" in line 28.

Senator Krist filed the following amendment to LB233:  
AM1353 is available in the Bill Room.

**VISITORS**

Visitors to the Chamber were 30 fourth-grade students from Centennial Elementary, Utica.

The Doctor of the Day was Dr. Jason Bepalec from Geneva.

**ADJOURNMENT**

At 11:37 a.m., on a motion by Senator Kuehn, the Legislature adjourned until 9:00 a.m., Monday, May 8, 2017.

Patrick J. O'Donnell  
Clerk of the Legislature