

FORTY-FIRST DAY - MARCH 9, 2015
LEGISLATIVE JOURNAL
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

FORTY-FIRST DAY

Legislative Chamber, Lincoln, Nebraska
Monday, March 9, 2015

PRAYER

The prayer was offered by Pastor Steve Lund, Christ the Servant Lutheran Church, Norfolk.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., Speaker Hadley presiding.

The roll was called and all members were present except Senator Baker who was excused; and Senator Schilz who was excused until he arrives.

SENATOR SULLIVAN PRESIDING

CORRECTIONS FOR THE JOURNAL

The Journal for the fortieth day was approved.

COMMITTEE REPORT(S)
Banking, Commerce and Insurance

LEGISLATIVE BILL 67. Placed on General File.

LEGISLATIVE BILL 234. Placed on General File.

LEGISLATIVE BILL 145. Indefinitely postponed.

LEGISLATIVE BILL 213. Indefinitely postponed.

(Signed) Jim Scheer, Chairperson

Agriculture

LEGISLATIVE BILL 544. Placed on General File with amendment.
AM697

1 1. On page 5, lines 27 through 31, strike the new matter and

2 reinstate the stricken matter.

3 2. On page 6, line 1, reinstate the stricken matter and after the

4 reinstated "supplying" insert ". Sale does not mean the donation,
 5 exchange, or other transfer of seeds to or from a seed library or among
 6 members of, or participants in, a seed library"; and strike lines 5
 7 through 8 and insert the following new subdivision:
 8 "(30) Seed library means a nonprofit, governmental, or cooperative
 9 organization, association, or activity for the purpose of facilitating
 10 the donation, exchange, preservation, and dissemination of seeds of open
 11 pollinated, public domain plant varieties by or among its members or
 12 members of the public when the use, exchange, transfer, or possession of
 13 seeds acquired by or from the seed library is free of any charge or
 14 consideration."
 15 3. On page 10, strike beginning with "encourage" in line 27 through
 16 the first "or" in line 29.

(Signed) Jerry Johnson, Chairperson

Health and Human Services

LEGISLATIVE BILL 81. Placed on General File.

LEGISLATIVE BILL 89. Placed on General File.

LEGISLATIVE BILL 441. Placed on General File.

LEGISLATIVE BILL 199. Placed on General File with amendment.

AM513

1 1. On page 2, line 4, strike "public".

LEGISLATIVE BILL 296. Placed on General File with amendment.

AM447

1 1. Insert the following new sections:

2 Sec. 3. This act becomes operative on July 1, 2015.

3 Sec. 5. Since an emergency exists, this act takes effect when

4 passed and approved according to law.

5 2. Renumber the remaining section accordingly.

(Signed) Kathy Campbell, Chairperson

ANNOUNCEMENT(S)

Senator Seiler designates LB173 as his priority bill.

Senator Craighead designates LB253 as her priority bill.

Senator Gloor designates LB80 as his priority bill.

Senator Johnson designates LB183 as his priority bill.

MESSAGE(S) FROM THE GOVERNOR

March 6, 2015

Mr. President, Speaker Hadley
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Hadley and Members of the Legislature:

Contingent upon your approval, the following individuals are being reappointed to the Nebraska Environmental Trust Board:

Robert F. Krohn, 1427 South 85 Street, Omaha, NE 68124
Rodney R. Christen, 71850 617 Avenue, Steinauer, NE 68441

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

March 9, 2015

Mr. President, Speaker Hadley
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Hadley and Members of the Legislature:

Contingent upon your approval, the following individual is appointed as the Director of the Department of Environmental Quality:

James Reed Macy, 1200 N Street, Suite 400, Lincoln, NE 68508

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosure

March 9, 2015

Mr. President, Speaker Hadley
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Hadley and Members of the Legislature:

Contingent upon your approval, the following individual is appointed as the Director of the Division of Medicaid and Long Term Care at the Department of Health and Human Services:

Calder Lynch, 301 Centennial Mall South, Lincoln, NE 68509

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosure

AMENDMENT(S) - Print in Journal

Senator McCoy filed the following amendment to LB268:
AM720

1. Strike original section 1.
2. Renumber the remaining sections accordingly.

Senator McCoy filed the following amendment to LB268:
AM721

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

Senator McCoy filed the following amendment to LB268:
AM722

1. Strike original section 4.
2. Renumber the remaining sections and correct the repealer
- 3 accordingly.

Senator McCoy filed the following amendment to LB268:
AM723

1. Strike original section 5.
2. Renumber the remaining sections and correct the repealer
- 3 accordingly.

RESOLUTION(S)**LEGISLATIVE RESOLUTION 107.** Introduced by Bolz, 29.

WHEREAS, the observance of March as Developmental Disabilities Awareness Month is designed to increase the public's awareness and understanding of people who have developmental disabilities so that these citizens have increased access to employment, education, housing, and social opportunities; and

WHEREAS, the most effective way to increase this awareness and understanding is through everyone's active participation in community activities and the openness to learn and acknowledge each individual's contributions; and

WHEREAS, individuals with developmental disabilities, their families, friends, neighbors, and coworkers encourage everyone to focus on the abilities of all people; and

WHEREAS, service providers partner with the State of Nebraska to provide vocational, residential, and other services to over 4,500 people with developmental disabilities; and

WHEREAS, opportunities for citizens with developmental disabilities to function as independently and productively as possible must be fostered in our community.

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

1. That the Legislature proclaims March 2015 as Developmental Disabilities Awareness Month in Nebraska.
2. That the Legislature recognizes our communities are stronger when everyone participates in supporting opportunities for individuals with developmental disabilities.
3. The Legislature encourages all citizens to support opportunities for individuals with developmental disabilities in our community that include full access to employment, education, housing, and social opportunities.

Laid over.

AMENDMENT(S) - Print in Journal

Senator Kolowski filed the following amendment to LB281:

AM706

- 1 1. On page 2, line 30, after "obligation" insert "to the custodial
- 2 parent".
- 3 2. On page 3, line 3, strike "State of Nebraska" and insert
- 4 "Department of Health and Human Services"; in lines 12 and 16 strike
- 5 "(5)" and insert "(4)"; and in lines 18 and 19 strike "two" through
- 6 "arrears" and insert "a portion of the arrears not less than the
- 7 equivalent of the amount contributed".

ANNOUNCEMENT

The Chair announced the birthday of Senator Hadley.

SELECT FILE

LEGISLATIVE BILL 146. ER42, found on page 693, was adopted.

Senator Larson offered the following motion:

MO45

Bracket until March 10, 2015.

SPEAKER HADLEY PRESIDING

Senator Larson withdrew his motion to bracket.

Senator Larson offered the following motion:

MO46

Recommit to the Health and Human Services Committee.

Senator Larson withdrew his motion to recommit to committee.

Senator Larson offered the following motion:

MO47

Pass over.

Senator Larson withdrew his motion to pass over.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 10. ER44, found on page 720, was adopted.

Senator Chambers offered his amendment, AM528, found on page 639.

Pending.

RESOLUTION(S)

Pursuant to Rule 4, Sec. 5(b), LRs 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, and 90 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, and 90.

COMMITTEE REPORT(S)

Enrollment and Review

LEGISLATIVE BILL 504. Placed on Select File with amendment.

ER48

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

2 insert the following new sections:

3 Section 1. Section 29-2261, Revised Statutes Cumulative Supplement,
4 2014, is amended to read:

5 29-2261 (1) Unless it is impractical to do so, when an offender has
6 been convicted of a felony other than murder in the first degree, the
7 court shall not impose sentence without first ordering a presentence
8 investigation of the offender and according due consideration to a
9 written report of such investigation. When an offender has been convicted
10 of murder in the first degree and (a) a jury renders a verdict finding
11 the existence of one or more aggravating circumstances as provided in
12 section 29-2520 or (b)(i) the information contains a notice of
13 aggravation as provided in section 29-1603 and (ii) the offender waives
14 his or her right to a jury determination of the alleged aggravating
15 circumstances, the court shall not commence the sentencing determination
16 proceeding as provided in section 29-2521 without first ordering a
17 presentence investigation of the offender and according due consideration
18 to a written report of such investigation.

19 (2) A court may order a presentence investigation in any case,
20 except in cases in which an offender has been convicted of a Class IIIA
21 misdemeanor, a Class IV misdemeanor, a Class V misdemeanor, a traffic
22 infraction, or any corresponding city or village ordinance.

23 (3) The presentence investigation and report shall include, when
24 available, an analysis of the circumstances attending the commission of
25 the crime, the offender's history of delinquency or criminality, physical
26 and mental condition, family situation and background, economic status,
27 education, occupation, and personal habits, and any other matters that

1 the probation officer deems relevant or the court directs to be included.

2 All local and state police agencies and Department of Correctional
3 Services adult correctional facilities shall furnish to the probation
4 officer copies of such criminal records, in any such case referred to the
5 probation officer by the court of proper jurisdiction, as the probation
6 officer shall require without cost to the court or the probation officer.

7 Such investigation shall also include:

8 (a) Any written statements submitted to the county attorney by a
9 victim; and

10 (b) Any written statements submitted to the probation officer by a
11 victim.

12 (4) If there are no written statements submitted to the probation
13 officer, he or she shall certify to the court that:

14 (a) He or she has attempted to contact the victim; and

15 (b) If he or she has contacted the victim, such officer offered to
16 accept the written statements of the victim or to reduce such victim's
17 oral statements to writing.

18 For purposes of subsections (3) and (4) of this section, the term
19 victim shall be as defined in section 29-119.

20 (5) Before imposing sentence, the court may order the offender to
21 submit to psychiatric observation and examination for a period of not
22 exceeding sixty days or such longer period as the court determines to be
23 necessary for that purpose. The offender may be remanded for this purpose
24 to any available clinic or mental hospital, or the court may appoint a
25 qualified psychiatrist to make the examination. The report of the
26 examination shall be submitted to the court.

27 (6) Any presentence report, substance abuse evaluation, or
28 psychiatric examination shall be privileged and shall not be disclosed
29 directly or indirectly to anyone other than a judge, probation officers
30 to whom an offender's file is duly transferred, the probation
31 administrator or his or her designee, or others entitled by law to
1 receive such information, including personnel and mental health
2 professionals for the Nebraska State Patrol specifically assigned to sex
3 offender registration and community notification for the sole purpose of
4 using such report or examination for assessing risk and for community
5 notification of registered sex offenders. For purposes of this
6 subsection, mental health professional means (a) a practicing physician
7 licensed to practice medicine in this state under the Medicine and
8 Surgery Practice Act, (b) a practicing psychologist licensed to engage in
9 the practice of psychology in this state as provided in section 38-3111,
10 ~~or~~ (c) a practicing mental health professional licensed or certified in
11 this state as provided in the Mental Health Practice Act, or (d) a
12 substance abuse therapist licensed or certified in this state to conduct
13 substance abuse evaluations and treatment.

14 (7) The court may permit inspection of the report, evaluation, or
15 examination of parts thereof by the offender or his or her attorney, or
16 other person having a proper interest therein, whenever the court finds
17 it is in the best interest of a particular offender. Beginning July 1,
18 2016, the court shall permit inspection of the presentence report or
19 parts of the report, substance abuse evaluation, or psychiatric
20 examination, as determined by the court, by the attorney of the offender
21 and counsel for the prosecution. Such inspection shall be by electronic
22 access only unless the court determines such access is not available to
23 the attorney of the offender or counsel for the prosecution. The State
24 Court Administrator shall determine and develop the means of electronic
25 access to such presentence report, evaluations, and examinations. Upon
26 application by counsel for the prosecution or the defendant, the court
27 may order that addresses, telephone numbers, and other contact
28 information for victims or witnesses named in the report or examination
29 be redacted upon a showing by a preponderance of the evidence that such
30 redaction is warranted in the interests of public safety. The court may
31 allow fair opportunity for an offender to provide additional information
1 for the court's consideration.

2 (8 ~~7~~) If an offender is sentenced to imprisonment, a copy of the
3 report of any presentence investigation, substance abuse evaluation, or
4 psychiatric examination shall be transmitted immediately to the

5 Department of Correctional Services. Upon request, the Board of Parole or
6 the Office of Parole Administration may receive a copy of the report from
7 the department.

8 ~~(9 &)~~ Notwithstanding ~~subsections subsection~~ subsection (6) and (7) of this
9 section, the Supreme Court or an agent of the Supreme Court acting under
10 the direction and supervision of the Chief Justice shall have access to
11 psychiatric examinations, substance abuse evaluations, and presentence
12 investigations and reports for research purposes. The Supreme Court and
13 its agent shall treat such information as confidential, and nothing
14 identifying any individual shall be released.

15 Sec. 2. Original section 29-2261, Revised Statutes Cumulative
16 Supplement, 2014, is repealed.

17 2. On page 1, line 3, after the semicolon insert "to provide for
18 access to substance abuse evaluations;".

LEGISLATIVE BILL 504A. Placed on Select File.

LEGISLATIVE BILL 128. Placed on Select File.

(Signed) Matt Hansen, Chairperson

COMMITTEE REPORT(S)

Transportation and Telecommunications

LEGISLATIVE BILL 31. Placed on General File with amendment.

AM359

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

3 Section 1. Section 60-6,279, Reissue Revised Statutes of Nebraska,
4 is amended to read:

5 60-6,279 (1) A person shall not operate a motorcycle or moped on
6 any highway in this state unless such person is wearing eye protection.

7 (2) Except as otherwise provided in subsection (3) of this section,

8 a ~~A~~ person shall not operate or be a passenger on a motorcycle or moped
9 on any highway in this state unless such person is wearing a protective
10 helmet of the type and design manufactured for use by operators of such
11 vehicles and unless such helmet is secured properly on his or her head
12 with a chin strap while the vehicle is in motion. All such protective
13 helmets shall be designed to reduce injuries to the user resulting from
14 head impacts and shall be designed to protect the user by remaining on
15 the user's head, deflecting blows, resisting penetration, and spreading
16 the force of impact. Each such helmet shall consist of lining, padding,
17 and chin strap and shall meet or exceed the standards established in the
18 United States Department of Transportation's Federal Motor Vehicle Safety
19 Standard No. 218, 49 C.F.R. 571.218, for motorcycle helmets.

20 (3) A person who is at least twenty-one years of age is exempt from
21 subsection (2) of this section.

22 (4) For purposes of this section, eye protection means glasses that
23 cover the orbital region of a person's face, a protective face shield
24 attached to a protective helmet, goggles, or a windshield on the

25 motorcycle or moped that protects the operator's and passenger's
 26 horizontal line of vision in all operating positions.
 27 Sec. 2. Original section 60-6,279, Reissue Revised Statutes of
 1 Nebraska, is repealed.

LEGISLATIVE BILL 317. Placed on General File with amendment.
 AM483

1 1. Insert the following new sections:
 2 Section 1. This act becomes operative on July 1, 2015.
 3 Sec. 3. Since an emergency exists, this act takes effect when
 4 passed and approved according to law.
 5 2. Renumber the remaining section accordingly.

LEGISLATIVE BILL 641. Placed on General File with amendment.
 AM719

1 1. On page 2, line 6, strike "or a person operating a bicycle".

LEGISLATIVE BILL 644. Indefinitely postponed.

(Signed) Jim Smith, Chairperson

RESOLUTION(S)

LEGISLATIVE RESOLUTION 108. Introduced by Scheer, 19; Baker, 30; Bloomfield, 17; Bolz, 29; Brasch, 16; Campbell, 25; Chambers, 11; Coash, 27; Cook, 13; Craighead, 6; Crawford, 45; Davis, 43; Ebke, 32; Friesen, 34; Garrett, 3; Gloor, 35; Groene, 42; Haar, K., 21; Hadley, 37; Hansen, 26; Harr, B., 8; Hilkemann, 4; Howard, 9; Hughes, 44; Johnson, 23; Kintner, 2; Kolowski, 31; Kolterman, 24; Krist, 10; Kuehn, 38; Larson, 40; Lindstrom, 18; McCollister, 20; McCoy, 39; Mello, 5; Morfeld, 46; Murante, 49; Nordquist, 7; Pansing Brooks, 28; Riepe, 12; Schilz, 47; Schnoor, 15; Schumacher, 22; Seiler, 33; Smith, 14; Stinner, 48; Sullivan, 41; Watermeier, 1; Williams, 36.

WHEREAS, John Ryan McDonald has been inducted into Omicron Delta Kappa, a national leadership honor society; and

WHEREAS, membership in Omicron Delta Kappa is granted to those who demonstrate leadership achievements in one of five phases of campus life including athletics; campus or community service, social and religious activities and campus government; creative and performing arts; journalism, speech, and mass media; and scholarship; and

WHEREAS, John Ryan is a student at the University of Nebraska-Lincoln and works as a page at the Legislature; 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 FOURTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates John Ryan McDonald on being inducted into Omicron Delta Kappa.
2. That a copy of this resolution be sent to John Ryan McDonald.

Laid over.

ANNOUNCEMENT(S)

Senator Mello designates LB419 as his priority bill.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Christen, Rodney R. - Nebraska Environmental Trust Board - Natural Resources
Krohn, Robert F. - Nebraska Environmental Trust Board - Natural Resources
Lynch, Calder, Director - Division of Medicaid and Long Term Care-
Department of Health and Human Services - Health and Human Services
Macy, James Reed, Director - Department of Environmental Quality -
Natural Resources

(Signed) Bob Krist, Chairperson
Executive Board

EXECUTIVE BOARD REPORT

Senator Krist, Chairperson of the Executive Board, reported the appointments of the following members of the Legislature to the following special committees:

Developmental Disabilities Special Investigative Committee (LR32)

Senator Baker (Vice-chairperson)
Senator Bolz
Senator Coash (Chairperson)
Senator Davis
Senator Harr, Burke
Senator Hilkemann
Senator Johnson

ACCESSNebraska Special Investigative Committee of the Legislature (LR33)

Senator Craighead
Senator Crawford
Senator Hansen
Senator Howard (Chairperson)
Senator McCollister (Vice-chairperson)
Senator Riepe
Senator Stinner

Department of Correctional Services Special Investigative Committee of the
Legislature (LR34)

Senator Bolz
 Senator Chambers
 Senator Coash
 Senator Ebke
 Senator Krist
 Senator Mello
 Senator Morfeld
 Senator Pansing Brooks (Vice-chairperson)
 Senator Schumacher
 Senator Seiler (Chairperson)
 Senator Williams

(Signed) Bob Krist, Chairperson
 Legislative Council, Executive Board

AMENDMENT(S) - Print in Journal

Senator Campbell filed the following amendment to LB196:
 AM696

- 1 1. On page 7, strike beginning with "In" in line 23 through
- 2 "canceled" in line 25, show as stricken, and insert "Any practice or
- 3 payment obligation incurred by the student loan recipient under the
- 4 student loan program is canceled in the event of the student loan
- 5 recipient's total and permanent disability or death".
- 6 2. On page 8, line 27, strike "and" and show as stricken.
- 7 3. On page 9, line 5, after "recipient" insert "; and
- 8 (4) Any practice or payment obligation incurred by the loan
- 9 repayment recipient under the loan repayment program is canceled in the
- 10 event of the loan repayment recipient's total and permanent disability or
- 11 death"; and in line 20 strike "and".
- 12 4. On page 10, line 3, after "awards" insert "; and
- 13 (4) Any practice or payment obligation incurred by the medical
- 14 resident incentive recipient under the medical resident incentive program
- 15 is canceled in the event of the medical resident incentive recipient's
- 16 total and permanent disability or death".

Senator Garrett filed the following amendment to LB635:
 AM749

- 1 1. On page 4, after line 7, insert the following new subsection:
- 2 "(6) Subsections (1) through (4) of this section shall not apply to
- 3 a permitholder who is also a peace officer".

NOTICE OF COMMITTEE HEARING(S)
Appropriations

Room 1524

Tuesday, March 17, 2015 1:30 p.m.

LB82

(Signed) Heath Mello, Chairperson

UNANIMOUS CONSENT - Add Cointroducer(s)

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

Pansing Brooks - LB268
Kolterman - LB235
Garrett - LB294
Howard - LB358

VISITORS

Visitors to the Chamber were 60 fourth-grade students and teachers from West Park Elementary, Columbus; 19 twelfth-grade students and teacher from Mead; and 20 kindergarten- through fifth-grade students and teachers with the Lincoln Parks and Recreation Department.

The Doctor of the Day was Dr. Kristi Kohl from Grant.

ADJOURNMENT

At 11:58 a.m., on a motion by Senator Riepe, the Legislature adjourned until 9:00 a.m., Tuesday, March 10, 2015.

Patrick J. O'Donnell
Clerk of the Legislature

