

Transcript Prepared By the Clerk of the Legislature
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Floor Debate
November 12, 2009

[LB5 LB8 LB16 LR1 LR2 LR3 LR4 LR5 LR11 LR12 LR13 LR14 LR15 LR16]

SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. We are here gathered today on the sixth day of the One Hundred First Legislature, First Special Session. Our chaplain for today is Senator Harms. Please rise. []

SENATOR HARMS: (Prayer offered.) []

SPEAKER FLOOD: Thank you, Senator Harms. I call to order the sixth day of the One Hundred First Legislature, First Special Session. Senators, please record your presence. Record please, Mr. Clerk. []

CLERK: I have a quorum present, Mr. President. []

SPEAKER FLOOD: Thank you, Mr. Clerk. Are there any corrections for the Journal? []

CLERK: I have no corrections, Mr. President. []

SPEAKER FLOOD: Are there any messages, reports, or announcements? []

CLERK: Your Committee on Education, chaired by Senator Adams, reports LB5 to General File with committee amendments attached. Government Committee, chaired by Senator Avery, reports LR4 back to the Legislature for further consideration. Confirmation reports from the Retirement Systems Committee, two separate reports, those signed by Senator Pankonin. New resolutions: LR11 by Senator Hadley, LR12, by Senator Hadley, LR13 by Senator Sullivan. All those will be laid over. And an Attorney General's Opinion, Mr. President, addressed to Senator Heidemann to be inserted. And that's all that I have. (Legislative Journal pages 83-89.) [LB5 LR4 LR11 LR12 LR13]

SPEAKER FLOOD: Thank you, Mr. Clerk. The candy bags on your desk on in honor of Senator McCoy's birthday today. Happy Birthday, Senator McCoy. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR1, LR2, LR3, and LR5. Mr. Clerk, we now proceed to the first item on the agenda: legislative confirmation reports. [LR1 LR2 LR3 LR5]

CLERK: The first report, Mr. President, by Health and Human Services, chaired by Senator Gay, reports on the appointment of Jodi Fenner as the director of the Division of Developmental Disabilities, and Kerry T. Winterer as chief executive officer. (Legislative Journal page 53.) []

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SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Gay, you're recognized to open on the first Health Committee confirmation report. []

SENATOR GAY: Thank you, Mr. President. The Health Committee held a public hearing on November 6 to consider these appointments. The appointees appeared in person and answered questions from the committee. Mr. Winterer's and Ms. Fenner's appointments were approved unanimously by the committee. I'll start with Kerry Winterer. It's a new appointment as the director of Health and Human Services. He started his work in healthcare in 1988, cofounding the Benefit Group, which administers healthcare and other plans for small employers. As vice president and general counsel, Mr. Winterer was responsible for operational areas of the company, including the administration and financial oversight, as well as assisting clients with governmental compliance. He has served on a number of community organizations for the past 20 years, and he has worked very closely with Heartland Family Services, serving twice as the president. He has also served with United Way of the Midlands, Boys Scouts of America, Greater Omaha Convention Visitor Bureau's board, and was Nebraska's 1999 Champion of Small Business. He was born in Scottsbluff and graduated from Gering High School. Earned his bachelor's degree in psychology from UNL in 1972, and in 1975 obtained a law degree from Columbia University. Ms. Fenner has been serving as our interim director for developmental disabilities. It is now contingent of your approval, appointed as the permanent director of the Division of Developmental Disabilities. She has previously served as chief legal counsel for Health and Human Services, where she oversaw all the legal and regulatory functions of the department. Her background includes working as an attorney in the Nebraska Attorney General's Office, where she was a section chief for the agriculture, environment, and natural resources section. Ms. Fenner served as an adjunct accounting professor at Southeast Community College; has held a variety of financial and accounting and management positions; is a graduate from UNL College of Law, and the Oklahoma Center for School Business Management in Oklahoma City University where she has a bachelor's degree. I would ask for your confirmation on Mr. Kerry Winterer as chief executive officer, and Ms. Jodi Fenner as director of the Division of Developmental Disabilities. []

SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Thank you, Senator Gay. You have heard the opening on the first legislative confirmation report offered by the Health and Human Services Committee. The floor is now open for discussion. Seeing no lights on, Senator Gay, you are recognized to close on your confirmation hearing report. Senator Gay waives closing. The question before the body is, shall the first of the Health and Human Services confirmation reports be adopted? All those in favor, vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal pages 89-90.) 40 ayes, 0 nays, Mr. President,

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to adopt the confirmation report. []

SENATOR LANGEMEIER: The confirmation report is adopted. Mr. Clerk. []

CLERK: The second report from Health and Human Services involves an appointment to the Commission for the Blind and Visually Impaired. (Legislative Journal page 54.) []

SENATOR LANGEMEIER: Senator Gay, you are recognized to open on the second confirmation report offered by the Health and Human Services Committee. []

SENATOR GAY: Thank you, Mr. President. We also held this public hearing on November 6, and Mr. Hansen appeared in person and answered questions from the committee, and was also approved unanimously. Mr. Hansen is a new appointment for a two-year term on the Commission for the Blind and Visually Impaired. He is a computer systems administrator for the University of Nebraska-Lincoln, and he has been visually impaired himself since birth. He has volunteered in many capacities over the last 12 years for the National Federation of the Blind of Nebraska, including serving as their Web master. He has also been awarded the President's Award for Selfless Service to the National Federation of the Blind of Nebraska. As a youth, Mr. Hansen was active in boy scouting and has obtained his Eagle Scout award. I would ask for your confirmation on Mr. Michael Hansen. []

SENATOR LANGEMEIER: Thank you, Senator Gay. You have heard the opening on the second confirmation report offered by Health and Human Services Committee. The floor is now open for discussion. Seeing no lights on, Senator Gay, you're recognized to close on the confirmation hearing report. Senator Gay waives closing. The question before the body is, shall the second confirmation hearing report offered by Health and Human Services Committee be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal page 90.) 36 ayes, 0 nays, Mr. President, to adopt the confirmation report. []

SENATOR LANGEMEIER: The confirmation report is adopted. Mr. Clerk. []

CLERK: A third Health and Human Services report involves four appointments to the State Board of Health. (Legislative Journal page 54.) []

SENATOR LANGEMEIER: Senator Gay, as Chairman of the Health and Human Services Committee, you are recognized to open on the third report offered by the committee. []

SENATOR GAY: Thank you, Mr. President. On the State Board of Health, again

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November 6, we held a public hearing. Dr. Russell Hopp has served for 27 years with Creighton University Medical Center in Omaha. He is a professor of pediatrics and medicine, specializing in pediatric allergy and asthma. He is an osteopathic representative to the Board of Health and is a reappointment for a five-year term. Dr. Ken Kester is a reappointment to the board for a five-year term. Dr. Kester is the pharmacy team leader at the Nebraska Heart Hospital. He has brought experience in both hospital and community pharmacies. He has a law degree from UNL and has been active in developing and implementing telepharmacy here in Nebraska. Rich Robinson is the engineer on the board. He's is a V.P. for Kirkham Michael Consulting Engineers, managing municipal, governmental, and environmental service within Nebraska and western Iowa, mainly dealing with water issues in this capacity. Mr. Robinson has obtained a bachelor's and master's degree in engineering from the University of Nebraska-Lincoln, and he is, as I mentioned, a Grade 1 water operator. Dr. Gary Westerman has served at Creighton University Medical Center School of Dentistry for 31 years. He is a professor and chairman of the department of community and preventive dentistry, and a professor in the School of Medicine in the department of pediatrics, and a faculty associate in the Center for Health, Policy, and Ethics at Creighton University. He is active in the Nebraska Mission of Mercy Services through Creighton, and he provides dental services to many underserved populations across Nebraska. Dr. Westerman serves as vice chair currently, of the board, and is being reappointed to a five-year term. I'd ask for your confirmation on these appointments. []

SENATOR LANGEMEIER: Thank you, Senator Gay. You have heard the opening on the third confirmation report offered by the Health and Human Services Committee. The floor is now open for discussion. Seeing no lights on, Senator Gay, you're recognized to close. Senator Gay waives closing. The question before the body is, shall the third confirmation report offered by the Health and Human Services Committee be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal page 91.) 35 ayes, 0 nays, Mr. President. []

SENATOR LANGEMEIER: The report is adopted. Mr. Clerk. []

CLERK: The fourth report involves four appointments to the Nebraska Rural Health Advisory Commission. (Legislative Journal page 54.) []

SENATOR LANGEMEIER: Senator Gay, you are recognized to open on the fourth report offered by the Health and Human Services Committee. []

SENATOR GAY: Thank you, Mr. President. The four, Ms. Margaret "Peggy" Rogers, Dr. Rebecca Schroeder, Dr. Michael Sitorius, and Roger Wells. Ms. Rogers has 19 years of long-term healthcare experience at Hillcrest Nursing Home at McCook, Nebraska; 11 as

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the administrator there. She has also served on a number of boards in the Nebraska Health Care Association and the Nebraska Heart Association, and she is new appointment for a three-year term. Dr. Rebecca Schroeder has six years' experience serving on this commission and is being reappointed to a three-year term. She is a clinical psychologist in Curtis, Nebraska, for 19 years, and she is currently the vice chair of the Nebraska Psychological Association. Dr. Michael Sitorius grew up in Cozad, Nebraska, as the son of a rural family practitioner; attended Hastings College and then the University of Nebraska Medical Center, and he is currently the chair of the department of family medicine at the Med Center. He has worked for the University of Nebraska Medical Center for 22 years and has served on this commission for 12 years and is being reappointed to a three-year term. Roger Wells is a reappointment, as well, to a three-year term. He is present chair of the commission. He is a native of St. Paul, Nebraska; is a physician assistant at Howard County Medical Center in St. Paul. He obtained a PA degree from the University of Nebraska Medical Center and serves as chairman of the Academy of Physician Assistants board of directors. These were all approved unanimously and I would just say, not just on these confirmations, but all the others, we've had some very excellent people willing to step forward and serve, and this Rural Health Advisory Commission is no exception. So I'd ask for your unanimous support on this. []

SENATOR LANGEMEIER: Thank you, Senator Gay. You have heard the opening on the fourth confirmation report offered by the Health and Human Services Committee. The floor is open for discussion. Seeing no lights on, Senator Gay, you are recognized to close. Senator Gay waives closing. The question before the body is, shall the fourth report offered by the Health and Human Services Committee be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal pages 91-92.) 35 ayes, 0 nays, Mr. President, on the adoption of the report. []

SENATOR LANGEMEIER: The report is adopted. Mr. Clerk. []

CLERK: Mr. President, Health and Human Services reports on three separate appointments to the Rural Health Advisory Commission. (Legislative Journal page 54.) []

SENATOR LANGEMEIER: Senator Gay, as Chairman of the Health and Human Services Committee, you are recognized to open on your fifth report. []

SENATOR GAY: Thank you, Mr. President. These are all new appointments. Dr. Mark Goodman is the interim chair. He is an associate professor of family medicine and clinical associate for the Center for Health Policy and Ethics at Creighton University. He

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has taught for 15 years at Creighton, is an Omaha native. Obtained a bachelor's degree from the University of Nebraska-Lincoln and his medical degree from the University of Nebraska Med Center. Dr. Goodman has also served on the Medicaid Task Force, and his appointment is for a three-year term. Dr. Suzanne Minarick Greenquist is an osteopathic physician serving at the Lincoln Family Medicine Center. Her hometown is in North Bend, Nebraska. She has published articles promoting health in rural Nebraska. Her undergraduate honors thesis at the University of Nebraska-Lincoln was in retention of rural Nebraska physicians. Dr. Greenquist is a new appointment for a three-year term. Dr. Shawn Kralik is a new appointment for a one-year term on the advisory commission. Dr. Kralik is at a dental practice in West Point, Nebraska, since 2003. He's attended Seward High School, the University of Nebraska at Kearney, and the University of Nebraska Medical Center College of Dentistry. He's a coach in youth basketball and currently serves as board member in the West Point Chamber of Commerce. I ask for your confirmation of these individuals to the Rural Health Advisory Commission. []

SENATOR LANGEMEIER: Thank you, Senator Gay. You have heard the opening on the fifth confirmation report offered by the Health and Human Services Committee. The floor is now open for discussion. Seeing no lights on, Senator Gay, you are recognized to close. Senator Gay waives closing. The question before the body is, shall the fifth confirmation report offered by the Health and Human Services Committee be adopted? All those in favor, vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal page 92.) 41 ayes, 0 nays, Mr. President, on the adoption of the confirmation report. []

SENATOR LANGEMEIER: The confirmation report is adopted. Mr. Clerk. []

CLERK: Mr. President, the final report from Health and Human Services Committee involves two appointments to the State Board of Health. (Legislative Journal page 54.) []

SENATOR LANGEMEIER: Senator Gay, you are recognized as Chairman of the Health and Human Services Committee, to open on the sixth and final confirmation report. []

SENATOR GAY: Thank you, Mr. President. These two are for the State Board of Health, and the reason these are separate, they could not attend because they were in practice, and due to the short notice of the special session. But however, Dr. Edward Discoe has been on the board. He lives in Columbus where he is a family physician at the Columbus Medical Center. His medical degree is from the University of Nebraska Medical Center, and his bachelor's business in agribusiness actually is from UNL. He currently serves as the chairman of the board and is being reappointed to an additional five-year term. Luisa Rounds was out of the country, but she's an impressive lady. She

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received her nursing degree from the University of Nebraska Medical Center College of Nursing. She serves as an international healthcare specialist, assisting in strategic partnership programs to provide cost containment and revenue generating programs in collaborative relationships in over 44 countries and 119 institutions, at the University of Nebraska Medical Center. Ms. Rounds is a new appointment to a five-year term. I'd ask for your confirmation on these two appointments. Thank you, Mr. President. []

SENATOR LANGEMEIER: Thank you, Senator Gay. You have heard the opening on the sixth and final report from the Health and Human Services Committee. The floor is now open for discussion. Seeing no lights on, Senator Gay, you're recognized to close. Senator Gay waives closing. The question before the body is, shall the sixth report offered by Health and Human Services Committee be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal page 93.) 38 ayes, 0 nays, Mr. President, on the adoption of the report. []

SENATOR LANGEMEIER: The confirmation report is adopted. (Visitors introduced.) The treats that are being handed around, the cookies or cigars, are from Senator Lautenbaugh on behalf it was his birthday yesterday. So Happy Birthday. Mr. Clerk, next item. []

CLERK: I have a confirmation hearing report from the Judiciary Committee, chaired by Senator Ashford. It involves five appointments to the Community Corrections Council. (Legislative Journal page 65.) []

SENATOR LANGEMEIER: Senator Ashford, as Chair of the Judiciary Committee, you are recognized to open on the first confirmation report offered by the Judiciary Committee. []

SENATOR ASHFORD: Thank you, Mr. President. The Judiciary Committee met and voted unanimously to approve the appointment of five people to the Community Corrections Council. Three of these are new appointees and two are being reappointed, and I urge your support for them. And I'm just going to go through each one briefly. Joe Kelly of Lincoln appeared at the hearing and expressed his willingness to continue his long service on the council. He has served since its inception in 2003, and has been appointed here to a new three-year term beginning in August 2009. As the Lancaster County Deputy Attorney, Mr. Kelly is able to provide a very valuable prosecutorial perspective to the council. He appeared at the hearing to stress the importance of fully utilizing and expanding the community corrections programs, like drug courts and other alternatives to incarceration. The second individual, Bob Lindemeier, of North Platte, has also been reappointed for a term from July 23, 2009, to August 29, 2011. He has also been involved with the council since its inception in 2003. Mr. Lindemeier is a

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defense attorney in North Platte, and also serves on the Commission on Public Advocacy. He serves on several boards and is an active volunteer in his home community. Mr. Lindemeier provides a defense attorney background to the council. The third individual, Dallas Massey, of Scottsbluff, is one of three new appointees to the Community Corrections Council, and will serve a term from October 7, 2009, to August 2011. Ms. Massey works as a psychotherapist in Scottsbluff and will fill one of the positions for behavioral mental health providers. With about 30 years of work experience in various areas of addictions and mental health, Ms. Massey can offer insights gained from providing much needed services in rural areas. Having performed many court-ordered evaluations, she is also interested in streamlining the evaluation process. The fourth individual is Travis Parker of Lincoln, who will also serve a behavioral mental health provider position on the council. He is a licensed mental health practitioner and works as deputy director of the Community Mental Health Center of Lancaster County. He has several years of experience working on inpatient mental health units at the York, Lincoln, and Tecumseh correctional facilities. Currently, Mr. Parker also works part-time as a crisis response counselor, assisting law enforcement officials throughout the southeastern portion of the state with emergency protective custody and prebooking jail diversion assessments. He travels throughout the country consulting and providing training to communities and agencies interested in launching their own jail diversion programs. The fifth and final individual is Frank Peak of Omaha, is the final new appointee to the Community Corrections Council. He has a very long history in community and political activism and social justice leadership, as well as a commitment to health education. He is currently the administrator of Community Outreach Services for the Creighton Medical Center Partnership in Health, which works to provide health education and affordable healthcare to underserved and economically challenged families. Mr. Peak has served in many capacities on many boards, with an aim to promote health and wellness in schools and communities, and end the disparity in healthcare among minorities and the underprivileged. Mr. Peak will fill the place on the council reserved for a mental health provider. All five individuals have expressed a willingness to serve on the council. Their combined years of experience in varied areas of this process will provide valuable insights to the council, and I urge your support for these individuals. Thank you. []

SENATOR LANGEMEIER: Thank you. You have heard the opening on the first confirmation report offered by the Judiciary Committee. The floor is now open for discussion. Seeing no lights on, Senator Ashford, you're recognized to close. Senator Ashford waives closing. The question before the body is, shall the first confirmation report offered by the Judiciary Committee be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal pages 93-94.) 38 ayes, 0 nays, Mr. President, on the adoption of the report. []

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SENATOR LANGEMEIER: The report is adopted. Mr. Clerk. []

CLERK: Mr. President, the final report this afternoon by Judiciary Committee involves two appointments from the Crime Victim's Reparations Committee. (Legislative Journal page 66.) []

SENATOR LANGEMEIER: Thank you. Senator Ashford, as Chairman of the Judiciary Committee, you are recognized to open on the second confirmation report offered by the Judiciary Committee. []

SENATOR ASHFORD: Can I get a call of the house on this, or...no, never mind. (Laughter) I just was going to see if Senator Gay was here. There he is. Thank you. Thank you, Mr. President and members. Last session, the Judiciary Committee worked on LB598, which authorized the creation of a nonprofit community trust by the Crime Victim's Reparations Committee, and added two additional members of the public to the committee: one representing charitable organizations and one representing businesses. The Judiciary Committee, last week, voted unanimously to approve the appointment of the two new members, and I would respectfully ask your approval of these very qualified individuals. First of all, Michael McLarney of Omaha was approved by the committee for a first-time appointment. His term would be from October 21, 2009, to July 16, 2011. Mr. McLarney has been involved in helping provide for crime victims and their families, as president and CEO of the United Way of the Midlands. After the Von Maur shooting tragedy, the United Way was charged with managing the funds donated to the shooting victims and the families of the eight people killed. Mr. McLarney brings compassion, proficiency, and a great deal of valuable experience to this committee. Secondly, Randall Hansen of Omaha was also approved by the committee for a first-time appointment. His term will be from September 28, 2009, to July 16, 2013. Mr. Hansen is president of an accounting firm in Omaha and has over 30 years of public accounting experience. He has served on a number of CPA boards and has contributed significant time and effort to promote small business and professional ethics. Mr. Hansen is already actively involved in the drafting of the articles of incorporation bylaws, rules, and procedures of the 501(c)(3) corporation provided for under LB598. Although he was unable to attend the hearing, he submitted a letter stating his willingness to serve. Both Mr. McLarney and Mr. Hansen will bring the experience and knowledge needed, and I urge your support for their appointments. []

SENATOR LANGEMEIER: Thank you, Senator Ashford. You have heard the opening on the second confirmation report offered by the Judiciary Committee. The floor is now open for discussion. Seeing no lights on, Senator Ashford, you are recognized to close. Senator Ashford waives closing. The question before the body is, shall the second confirmation report offered by the Judiciary Committee be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. []

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CLERK: (Record vote, Legislative Journal pages 94-95.) 41 ayes, 0 nays, Mr. President, on the adoption of the report. []

SENATOR LANGEMEIER: The report is adopted. Speaker Flood, you are recognized for an announcement. []

SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. Just to clarify what we're doing. Obviously, we will probably be adjourning soon this afternoon. For the balance of the day, give the Appropriations Committee additional time to work on their committee work this afternoon. Tomorrow, we'll be convening at 9 in the morning. We will be taking up the bill forwarded the Legislature by the Education Committee, as it relates to state aid. We will be working through the noonhour, most likely working until about 1 p.m. The reason we'll work to about 1 p.m., is to give the Appropriations Committee more time on Friday afternoon. In essence, the committee is going to need the weekend, hopefully to put together the budget picture from their standpoint. It's possible that could be reported out Monday; it could be Tuesday. We will retake up the school aid issue on Monday, assuming it's not complete on Friday, and midweek next week we could see debate on the Appropriations Committee budget. I wanted to give you kind of a sense of where I think we're going. That's obviously subject to change based upon the work of the committee and committees involved. But again, tomorrow we'll be taking up Senator Adams' committee's work as it relates to state aid. We'll start at 9 a.m., most likely work till 1 p.m., and resume on Monday if unfinished tomorrow. Thank you, Mr. President. []

SENATOR LANGEMEIER: Thank you, Speaker Flood. Mr. Clerk, items? []

CLERK: I do, Mr. President. Senator Karpisek offers LR14 and LR15; Senator McCoy, LR16. All three of those will be laid over. Business and Labor Committee, chaired by Senator Lathrop, reports LB8 to General File. Name adds: Senators Campbell, White, Giese, Lathrop, Pankonin, would like to add their name to LB16. (Legislative Journal pages 95-97.) [LR14 LR15 LR16 LB8 LB16]

And a priority motion. Senator Coash would move to adjourn the body until Friday morning, November 13, at 9 a.m. []

SENATOR LANGEMEIER: You have heard the motion to adjourn until Friday morning, November 13, at 9 a.m. All those in favor say aye. All those opposed say nay. The ayes have it. We are adjourned. []