

FIFTY-THIRD DAY - MARCH 26, 2015

LEGISLATIVE JOURNAL

**ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION**

FIFTY-THIRD DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, March 26, 2015

PRAYER

The prayer was offered by Pastor Kenneth Miller, St. Paul Lutheran Church, Auburn.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Coash presiding.

The roll was called and all members were present except Senator Murante who was excused; and Senators Kolowski and Sullivan who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-second day was approved.

COMMITTEE REPORT(S)

Enrollment and Review

LEGISLATIVE BILL 538. Placed on Select File with amendment.
ER58 is available in the Bill Room.

LEGISLATIVE BILL 538A. Placed on Select File.

LEGISLATIVE BILL 320. Placed on Select File with amendment.
ER60 is available in the Bill Room.

LEGISLATIVE BILL 320A. Placed on Select File.

LEGISLATIVE BILL 500. Placed on Select File.

(Signed) Matt Hansen, Chairperson

AMENDMENT(S) - Print in Journal

Senator Mello filed the following amendment to LB32:
AM1059

1 1. Strike the original section and insert the following new section:
2 Section 1. (1) For the biennium ending June 30, 2019, and the
3 biennium ending June 30, 2021, the Department of Correctional Services
4 shall, as part of the appropriations request process pursuant to section
5 81-132, include a strategic plan that identifies the main purpose or
6 purposes of each program, verifiable and auditable key goals that the
7 department believes are fair measures of its progress in meeting each
8 program's main purpose or purposes, and benchmarks for improving
9 performance on the key goals. The department shall also report whether
10 the benchmarks are being met and, if not, the expected timeframes for
11 meeting them.
12 (2) Not later than September 15 in 2017, 2018, 2019, 2020, and 2021,
13 the Department of Correctional Services shall report electronically to
14 the Judiciary Committee of the Legislature and the Appropriations
15 Committee of the Legislature on the progress towards the key goals
16 identified pursuant to this section that occurred in the previous twelve
17 months. In calendar years 2017, 2018, 2019, 2020, and 2021, the
18 department shall appear at a joint hearing of the Judiciary Committee and
19 Appropriations Committee and present the report.

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of March 25, 2015, 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

Ariano, Elizabeth
Indivior PLC
Kevil, G. Bruce
Associated Builders and Contractors, Inc. (Withdrawn 03/24/2015)
Luginbill, Jeromie
T.R. Hepburn, INC
Salvati, Katie
T.R. Hepburn, INC
Santos, Trevor
National Shooting Sports Foundation, Inc.
Willson, Ginger
We Support Agriculture
Wilson-Jones, Elliott
Council of State Governments - Justice Center (Withdrawn 03/20/2015)

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>

GENERAL FILE

LEGISLATIVE BILL 70A. Title read. Considered.

Advanced to Enrollment and Review Initial with 27 ayes, 6 nays, 15 present and not voting, and 1 excused and not voting.

BILL ON FIRST READING

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

LEGISLATIVE BILL 472A. Introduced by Campbell, 25.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 472, One Hundred Fourth Legislature, First Session, 2015; and to reduce appropriations.

RESOLUTION(S)

LEGISLATIVE RESOLUTION 157. Introduced by Campbell, 25.

WHEREAS, Thomas A. Patras of Waverly has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, Thomas has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. For his Eagle Scout community service project, Thomas refurbished the dugouts at the Wayne Park baseball complex in Waverly by replacing rotting wood and then sealing, priming, and painting new and existing wood in the dugouts. Thomas spent 75 hours on this project; and

WHEREAS, only a small percentage of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Thomas, through his hard work and perseverance, has joined other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientists, and athletes.

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

- 1. That the Legislature congratulates Thomas A. Patras on achieving the rank of Eagle Scout.
- 2. That a copy of this resolution be sent to Thomas A. Patras.

Laid over.

AMENDMENT(S) - Print in Journal

Senator Davis filed the following amendment to LB106:
AM1034

(Amendments to Standing Committee amendments, AM521)

- 1 1. Insert the following new section:
- 2 Sec. 9. The Livestock Operation Siting and Expansion Act applies
- 3 only to counties electing to use the assessment matrix developed by the
- 4 department under section 5 of this act. County officials may develop
- 5 their own assessment matrix for use by the county instead of using the
- 6 assessment matrix developed by the department or may decide to proceed
- 7 without using an assessment matrix.
- 8 2. On page 1, line 3, strike "8" and insert "9".
- 9 3. On page 2, line 12, strike "shall" and insert "may".
- 10 4. Renumber the remaining sections and correct the repealer
- 11 accordingly.

MOTION - Bracket LB128

Senator Davis offered the following motion to LB128:
MO59
Bracket until June 5, 2015.

Senator Davis requested a roll call vote, in reverse order, on the motion to bracket.

Voting in the affirmative, 18:

Baker	Friesen	Hughes	Lindstrom	Smith
Brasch	Gloor	Kintner	McCoy	Williams
Craighead	Groene	Kolowski	Riepe	
Davis	Hilkemann	Kuehn	Schnoor	

Voting in the negative, 26:

Bloomfield	Crawford	Harr, B.	Mello	Sullivan
Bolz	Ebke	Howard	Morfeld	Watermeier
Campbell	Garrett	Johnson	Nordquist	
Chambers	Haar, K.	Krist	Pansing Brooks	
Coash	Hadley	Larson	Scheer	
Cook	Hansen	McCollister	Schumacher	

Present and not voting, 1:

Kolterman

Excused and not voting, 4:

Murante	Schilz	Seiler	Stinner
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The Davis motion to bracket failed with 18 ayes, 26 nays, 1 present and not voting, and 4 excused and not voting.

MOTION - Recommit LB128 to Committee

Senator Davis offered the following motion to LB128:

MO60

Recommit to the Agriculture Committee.

Senator Davis requested a roll call vote on the motion to recommit to committee.

Voting in the affirmative, 20:

Baker	Ebke	Hilkemann	Kuehn	Riepe
Bolz	Friesen	Hughes	Lindstrom	Schnoor
Brasch	Gloor	Kintner	McCollister	Smith
Craighead	Groene	Kolowski	McCoy	Williams

Voting in the negative, 18:

Bloomfield	Cook	Hansen	Larson	Scheer
Campbell	Crawford	Harr, B.	Morfeld	Sullivan
Chambers	Garrett	Howard	Nordquist	
Coash	Haar, K.	Johnson	Pansing Brooks	

Present and not voting, 7:

Davis	Kolterman	Mello	Watermeier
Hadley	Krist	Schumacher	

Excused and not voting, 4:

Murante	Schilz	Seiler	Stinner
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The Davis motion to recommit to committee failed with 20 ayes, 18 nays, 7 present and not voting, and 4 excused and not voting.

RESOLUTION(S)

LEGISLATIVE RESOLUTION 41. Read. Considered.

SENATOR KRIST PRESIDING

LR41 was adopted with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

COMMITTEE REPORT(S)

Judiciary

LEGISLATIVE BILL 72. Placed on General File with amendment.
AM604

1 1. Strike original section 5 and insert the following new sections:

2 Sec. 4. Section 33-109, Revised Statutes Cumulative Supplement,
3 2014, is amended to read:

4 33-109 (1)(a) This subdivision applies until January 1, 2018. The
5 register of deeds and the county clerk shall receive for recording a
6 deed, mortgage, or release, recording and indexing of a will, recording
7 and indexing of a decree in a testate estate, recording proof of
8 publication, or recording any other instrument, a fee of ten dollars for
9 the first page and six dollars for each additional page. Two dollars and
10 fifty cents of the ten-dollar fee for recording the first page and fifty
11 cents of the six-dollar fee for recording each additional page shall be
12 used exclusively for the purposes of preserving and maintaining public
13 records of the office of the register of deeds and for modernization and
14 technology needs relating to such records. The funds allocated under this
15 subdivision shall not be substituted for other allocations of county
16 general funds to the register of deeds for the purposes enumerated in
17 this subdivision.

18 (b) This subdivision applies on and after January 1, 2018. The
19 register of deeds and the county clerk shall receive for recording a
20 deed, mortgage, or release, recording and indexing of a will, recording
21 and indexing of a decree in a testate estate, recording proof of
22 publication, or recording any other instrument, a fee of five dollars per
23 page. For entering each instrument presented for record in the numerical
24 index, the clerk or register of deeds shall receive the sum of fifty
25 cents for each lot and each single block without lots in platted areas
26 and fifty cents for each section in unplatted areas to be paid in advance
27 by the person offering the instrument for record.

1 (2) The cost for a certified copy of any instrument filed or
2 recorded in the office of county clerk or register of deeds shall be one
3 dollar and fifty cents per page.

4 (3) No fees shall be received for recording instruments for the

5 Department of Health and Human Services pursuant to section 6 of this
6 act.

7 Sec. 6. (1) When an interest in real estate is transferred for less
8 than full consideration or the real estate transferred is subject to
9 rights, possession, or powers retained by the transferor in a deed or
10 other instrument, the transferee's interest in the real estate acquired
11 at the time of the transfer is immediately upon acquisition by the
12 transferee subject to a lien in favor of the State of Nebraska for
13 medicaid reimbursement pursuant to section 68-919 to the extent necessary
14 to secure payment in full of any such claim remaining unpaid after
15 application of the assets of the transferor's probate estate. The lien
16 shall not attach to the interest of the transferor in the real estate
17 retained by the transferor. Except as provided in this section, the lien
18 applies to medical assistance provided before, at the same time as, or
19 after the transfer. This section does not apply to transfers in which the
20 transferor is the trustor of a revocable trust. This section applies to
21 transfers made on or after the effective date of this act.

22 (2) Within ten days after a transfer subject to subsection (1) of
23 this section, the transferor shall mail by certified mail, return receipt
24 requested, to the Department of Health and Human Services a copy of the
25 deed or other instrument transferring the interest together with notice
26 of the name and addresses of the transferor and transferee and the
27 relationship between the parties. Within fifteen days after a transfer
28 subject to subsection (1) of this section, the transferor shall file a
29 copy of such notice with the register of deeds of the county or counties
30 in which the real estate is situated to be recorded and indexed on the
31 transferred real estate together with a certificate of such service on
1 the department. Failure to do so shall not affect the validity of the
2 lien imposed by subsection (1) of this section, but shall subject the
3 transferor to such costs as the department may incur to discover the
4 transfer.

5 (3) The lien imposed by subsection (1) of this section shall be
6 effective upon the filing of a notice of lien in accordance with
7 subsection (4) of this section.

8 (4) A lien imposed by subsection (1) of this section shall be valid
9 against any subsequent creditor only when notice of such lien has been
10 filed by the department in the office of the register of deeds of the
11 county or counties in which the real estate subject to the lien is
12 situated as designated in the notice of lien. Such notice shall specify
13 the amount then secured by the lien and state that the lien covers
14 subsequent advances in addition to any such amount. The department shall
15 not be charged a fee by the register of deeds for filing of the notice of
16 lien. The department shall provide the register of deeds with a self-
17 addressed return envelope bearing sufficient postage for purposes of
18 returning to the department the documents filed pursuant to this
19 subsection.

20 (5) In the case of any prior mortgage or trust deed on real property
21 so written as to secure a present debt and future advances, a lien
22 imposed by subsection (1) of this section, when notice thereof has been

23 filed in accordance with subsection (4) of this section, shall be subject
24 to such prior lien unless the department has notified the lienholder in
25 writing of such lien, in which case the lien of any indebtedness
26 thereafter created under such mortgage or trust deed shall be junior to
27 the lien of the department.

28 (6) The lien shall be limited to the amount necessary to discharge
29 any such claim remaining unpaid after application of any assets from the
30 transferor's probate estate less any consideration paid to the transferor
31 at the time of the transfer adjusted to the current value of such
1 consideration as reflected by the Consumer Price Index for Urban Wage
2 Earners and Clerical Workers. The burden of proof of consideration paid
3 rests with the transferee or the transferee's successor in interest.

4 (7) Real estate for which the deed or instrument creating such
5 interest contains a recital made under the oath of the grantor that the
6 grantee is not a transferee within the meaning of this section or for
7 which an affidavit of the grantor containing such recital is recorded
8 contemporaneously with the deed or instrument shall not become subject to
9 the lien imposed in subsection (1) of this section. A grantee who is a
10 transferee who takes possession or otherwise enjoys the benefits of the
11 transfer knowing the recital is false becomes personally liable for
12 medicaid reimbursement pursuant to section 68-919 to the extent necessary
13 to discharge any such claim remaining unpaid after application of the
14 assets of the transferor's probate estate.

15 (8) The department may discharge the lien upon application by the
16 transferee in which the transferee agrees to indemnify the department for
17 Medicaid reimbursement pursuant to section 68-919 to the extent necessary
18 to discharge any such claim remaining unpaid after application of the
19 assets of the transferor's probate estate, but not to exceed the amount
20 of the lien as determined pursuant to subsection (6) of this section. The
21 department may require the application to be accompanied by good and
22 sufficient sureties or other evidence determined by the department to be
23 sufficient to secure the liability agreed to by the transferee.

24 (9) Any indemnity shall be released and any lien shall be discharged
25 upon (a) notice delivered to the department, by certified mail with a
26 return receipt, of (i) the death and identification of the transferor,
27 (ii) the legal description of the real estate subject to the indemnity or
28 lien, and (iii) the names and addresses of the owners of record of the
29 real estate, and (b) the department either (i) filing a release in the
30 real estate records of the county in which the real estate is located or
31 (ii) failing to file an action to foreclose the lien or collect on the
1 indemnity within one year after delivery of the notice. Proof of delivery
2 of such notice may be made by filing a copy thereof together with a copy
3 of the certified mail return receipt with the register of deeds of the
4 county or counties in which the real estate is situated and indexing the
5 same on the affected real estate.

6 (10) For purposes of this section, transferee means:

7 (a) An individual listed in section 77-2004 or 77-2005 in relation
8 to the transferor;

9 (b) A business organization controlled by one or more individuals

10 listed in subdivision (10)(a) of this section. Control means individuals
 11 listed in subdivision (10)(a) of this section together own or have the
 12 option to acquire fifty percent or more of the business organization; or
 13 (c) A nonrevocable trust in which an individual listed in
 14 subdivision (10)(a) of this section is a beneficiary.
 15 2. On page 11, line 13, after the period insert "Notice to the
 16 department shall not be dispensed with pursuant to subsection (4) or (5)
 17 of this section.".
 18 3. Renumber the remaining sections and correct internal references
 19 and the repealer accordingly.

LEGISLATIVE BILL 598. Placed on General File with amendment.
 AM928 is available in the Bill Room.

(Signed) Les Seiler, Chairperson

AMENDMENT(S) - Print in Journal

Senator Groene filed the following amendment to LB431:
 FA36
 Strike the enacting clause.

Senator Davis filed the following amendment to LB128:
 FA38
 Strike the enacting clause.

Senator Krist filed the following amendment to LB245:
 FA37
 Strike the enacting clause.

UNANIMOUS CONSENT - Add Cointroducer(s)

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

Coash - LB136
 Garrett - LB546

WITHDRAW - Cointroducer

Senator Lindstrom withdrew his name as cointroducer to LB268.

VISITORS

Visitors to the Chamber were UNL Law School students, Jennifer Hiatt and Nathaniel Woodford; 24 twelfth-grade students from Omaha Northwest Magnet School; a group from Elkhorn Rural Public Power District of Battle Creek; 3 students and teacher from Johnson County Coalition, Tecumseh; 33 fourth-grade students and teachers from Fillmore Central School,

Geneva; a group from the Monument Prevention Coalition of Scotts Bluff County; and Reverend Portia Cavitt from Omaha.

ADJOURNMENT

At 12:45 p.m., on a motion by Senator Williams, the Legislature adjourned until 10:00 a.m., Monday, March 30, 2015.

Patrick J. O'Donnell
Clerk of the Legislature