

THIRTY-SIXTH DAY - MARCH 2, 2016**LEGISLATIVE JOURNAL****ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION****THIRTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 2, 2016

PRAYER

The prayer was offered by Senator Kolterman.

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 Bolz, Davis, Gloor, Groene, K. Haar, Hansen, Mello, Murante, Pansing Brooks, Schilz, Smith, and Sullivan who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-fifth day was approved.

COMMITTEE REPORT(S)

Enrollment and Review

LEGISLATIVE BILL 919. Placed on Select File with amendment.
ER175

1 1. On page 1, line 4, strike "court programs" and insert "courts";
2 and in line 5 strike "programs" and insert "courts".

LEGISLATIVE BILL 919A. Placed on Select File.

(Signed) Matt Hansen, Chairperson

MESSAGE(S) FROM THE GOVERNOR

March 1, 2016

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 Commission on Problem Gambling:

Mark Canada, 5301 Skyeloch, Hastings, NE 68901
Susan Lutz, 2101 W. Eisenhower Avenue, Norfolk, NE 68701

Contingent upon your approval, the following individual is being appointed to the Nebraska Commission on Problem Gambling:

James D. Patterson, 1102 Overland Trail, Papillion, NE 68046

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 1, 2016

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 being appointed to the Nebraska Educational Telecommunications Commission:

Lisa May, 1008 13 Avenue, Kearney, NE 68845

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

Enclosures

March 1, 2016

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 State Board of Health:

Wayne Stuber, 3708 Farnam, Omaha, NE 68131
Douglas Vander Broek, DC, 6511 Shenandoah Drive, Lincoln, NE 68510
Debra Parsow, 812 South 67 Street, Omaha, NE 68106
Diane Jackson, 240 West A Avenue, #3, Red Cloud, NE 68970
Jim Trebbein, 15906 Military Road, Bennington, NE 68007

Contingent upon your approval, the following individual is being appointed to the State Board of Health:

Michael Hansen, 3670 Regency Place, Columbus, NE 68601

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

BILL ON FIRST READING

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

LEGISLATIVE BILL 851A. Introduced by McCollister, 20.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 851, One Hundred Fourth Legislature, Second Session, 2016.

MOTION(S) - Confirmation Report(s)

Senator Larson moved the adoption of the General Affairs Committee report for the confirmation of the following appointment(s) found on page 754:

State Electrical Board
Edwin Bergstraesser
Cory L. Mueller

Voting in the affirmative, 27:

Baker	Ebke	Hughes	McCoy	Stinner
Bloomfield	Fox	Johnson	Morfeld	Watermeier
Brasch	Friesen	Kolowski	Riepe	Williams
Campbell	Garrett	Krist	Scheer	
Cook	Harr, B.	Larson	Schumacher	
Crawford	Hilkemann	McCollister	Seiler	

Voting in the negative, 0.

Present and not voting, 10:

Chambers	Craighead	Howard	Kolterman	Lindstrom
Coash	Hadley	Kintner	Kuehn	Schnoor

Excused and not voting, 12:

Bolz	Groene	Mello	Schilz
Davis	Haar, K.	Murante	Smith
Gloor	Hansen	Pansing Brooks	Sullivan

The appointments were confirmed with 27 ayes, 0 nays, 10 present and not voting, and 12 excused and not voting.

Senator Larson moved the adoption of the General Affairs Committee report for the confirmation of the following appointment(s) found on page 754:

Nebraska Arts Council
Patrick Drickey
Kathryn LeBaron
Sherry McClymont
Harvey Varenhorst

Voting in the affirmative, 27:

Baker	Davis	Johnson	Larson	Stinner
Bloomfield	Ebke	Kintner	McCollister	Watermeier
Brasch	Fox	Kolowski	McCoy	Williams
Campbell	Garrett	Kolterman	Riepe	
Chambers	Harr, B.	Krist	Schumacher	
Cook	Hilkemann	Kuehn	Seiler	

Voting in the negative, 0.

Present and not voting, 10:

Coash	Crawford	Howard	Lindstrom	Scheer
Craighead	Friesen	Hughes	Morfeld	Schnoor

Excused and not voting, 12:

Bolz	Haar, K.	Mello	Schilz
Gloor	Hadley	Murante	Smith
Groene	Hansen	Pansing Brooks	Sullivan

The appointments were confirmed with 27 ayes, 0 nays, 10 present and not voting, and 12 excused and not voting.

Senator Brasch moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointment(s) found on page 755:

State Highway Commission
Mary K. Gerdes

Voting in the affirmative, 31:

Baker	Davis	Hughes	McCoy	Sullivan
Bloomfield	Ebke	Kintner	Pansing Brooks	Watermeier
Brasch	Fox	Kolowski	Riepe	Williams
Campbell	Friesen	Kolterman	Scheer	
Chambers	Garrett	Krist	Schumacher	
Cook	Harr, B.	Kuehn	Seiler	
Craighead	Hilkemann	McCollister	Stinner	

Voting in the negative, 0.

Present and not voting, 8:

Coash	Howard	Larson	Morfeld
Crawford	Johnson	Lindstrom	Schnoor

Excused and not voting, 10:

Bolz	Groene	Hadley	Mello	Schilz
Gloor	Haar, K.	Hansen	Murante	Smith

The appointment was confirmed with 31 ayes, 0 nays, 8 present and not voting, and 10 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 746A. Title read. Considered.

Advanced to Enrollment and Review Initial with 28 ayes, 0 nays, 12 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 83. Committee AM2191, found on page 677 and considered on page 769, was renewed.

Senator Kintner withdrew his amendment, FA90, found on page 790.

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

Senator Cook moved for a call of the house. The motion prevailed with 27 ayes, 1 nay, and 21 not voting.

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

Voting in the affirmative, 30:

Baker	Crawford	Harr, B.	Krist	Pansing Brooks
Bolz	Davis	Hilkemann	Larson	Scheer
Campbell	Fox	Howard	Lindstrom	Schnoor
Chambers	Gloor	Johnson	McCollister	Seiler
Cook	Haar, K.	Kolowski	Mello	Stinner
Craighead	Hansen	Kolterman	Morfeld	Sullivan

Voting in the negative, 10:

Brasch	Groene	Kintner	McCoy	Schumacher
Friesen	Hughes	Kuehn	Riepe	Smith

Present and not voting, 4:

Bloomfield	Ebke	Watermeier	Williams
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Excused and not voting, 5:

Coash	Garrett	Hadley	Murante	Schilz
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The motion to cease debate prevailed with 30 ayes, 10 nays, 4 present and not voting, and 5 excused and not voting.

The committee amendment was adopted with 27 ayes, 10 nays, 8 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Brasch offered the following amendment:
AM2383

(Amendments to Standing Committee amendments, AM2191)

- 1 1. On page 1, line 7, strike "individual", show as stricken, and
- 2 insert "woman"; and in line 8 strike "individuals", show as stricken, and
- 3 insert "women".

SENATOR SCHEER PRESIDING

Senator Brasch withdrew her amendment.

Pending.

BILL ON FIRST READING

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

LEGISLATIVE BILL 934A. Introduced by Coash, 27.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 934, One Hundred Fourth Legislature, Second Session, 2016.

COMMITTEE REPORT(S) Nebraska Retirement Systems

LEGISLATIVE BILL 467. Placed on General File with amendment.
AM2351 is available in the Bill Room.

(Signed) Mark Kolterman, Chairperson

Transportation and Telecommunications

LEGISLATIVE BILL 977. Placed on General File with amendment.
AM2318 is available in the Bill Room.

(Signed) Jim Smith, Chairperson

GENERAL FILE

LEGISLATIVE BILL 83. Considered.

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

Senator Pansing Brooks moved for a call of the house. The motion prevailed with 23 ayes, 0 nays, and 26 not voting.

The motion to cease debate prevailed with 25 ayes, 2 nays, 14 present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review Initial with 26 ayes, 7 nays, 8 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 710. Title read. Considered.

Committee AM1846, found on page 638, was adopted with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 722. Title read. Considered.

Committee AM2126, found on page 681, was adopted with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 29 ayes, 4 nays, 11 present and not voting, and 5 excused and not voting.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Canada, Mark - Nebraska Commission on Problem Gambling - General Affairs

Hansen, Michael - State Board of Health - Health and Human Services

Jackson, Diane - State Board of Health - Health and Human Services

Lutz, Susan - Nebraska Commission on Problem Gambling - General Affairs

May, Lisa - Nebraska Educational Telecommunications Commission - Education

Parsow, Debra - State Board of Health - Health and Human Services

Patterson, James D. - Nebraska Commission on Problem Gambling - General Affairs

Stuberg, Wayne - State Board of Health - Health and Human Services

Trebbein, Jim - State Board of Health - Health and Human Services

Vander Broek, Douglas - State Board of Health - Health and Human Services

(Signed) Bob Krist, Chairperson
Executive Board

AMENDMENT(S) - Print in Journal

Senator Fox filed the following amendment to LB698:
AM2359

(Amendments to AM2255)

1 1. Insert the following new sections:

2 Sec. 28. Section 81-2201, Reissue Revised Statutes of Nebraska, is

3 amended to read:

4 81-2201 Sections 81-2201 to 81-2227 ~~81-2228~~ shall be known and may
5 be cited as the Nebraska Community Aging Services Act.
6 Sec. 29. Section 81-2213, Reissue Revised Statutes of Nebraska, is
7 amended to read:
8 81-2213 The department shall have the following powers and duties:
9 (1) To develop, approve, and submit to the Governor a two-year,
10 three-year, or four-year state plan on aging, as determined by the
11 department, for purposes of administering grant funds allocated to the
12 state under the federal Older Americans Act of 1965, as such act existed
13 on January 1, 2016, as now or hereafter amended, or administering state
14 funds allocated to the Nebraska Community Aging Services Act;
15 (2) To cooperate with similar departments, commissions, or councils
16 in the federal government and in other states;
17 (3) To adopt and promulgate rules, regulations, and bylaws governing
18 its procedure and activities and as necessary to carry out the policies
19 of the department and the policies prescribed by the Administration on
20 Aging pursuant to the federal Older Americans Act of 1965, as such act
21 existed on January 1, 2016, as now or hereafter amended;
22 (4) To create committees to aid in the discharge of its powers and
23 duties;
24 (5) To cooperate with and assist other state and local governmental
25 agencies and officials on matters relating to services for older
26 individuals;
1 (6) To divide the state into planning-and-service areas as provided
2 in section 71-807 for behavioral health regions, except that Regions 3
3 and 5 may each be divided into two planning-and-service areas with
4 boundaries as established by the department for planning-and-service
5 areas in existence in those regions on July 1, 1982;
6 (7) To establish minimum standards for program operations and to
7 adopt and promulgate rules and regulations for the performance of area
8 agencies on aging and for any services provided by such area agencies on
9 aging which are funded in whole or in part under the Nebraska Community
10 Aging Services Act or the federal Older Americans Act of 1965, as such
11 federal act existed on January 1, 2016, as now or hereafter amended;
12 (8) To require the submission of a two-year, three-year, or four-
13 year ~~one-year and a five-year~~ area plan and budget by each area agency on
14 aging or agency seeking designation as an area agency on aging. Such
15 plans and budgets shall be submitted sixty days prior to the start of
16 each fiscal year in accordance with the uniform area plan format and
17 other instructions issued by the department;
18 (9) To review and approve a two-year, three-year, or four-year ~~one-~~
19 ~~year and a five-year~~ area plan and budget for the support of each area
20 agency on aging and the provision of eligible activities and services as
21 defined in section 81-2222;
22 (10) To adopt and submit electronically to the Legislature a
23 community aging services budget;
24 (11) To review the performance of each area agency on aging and,
25 based on the department-approved area plan and budget, to determine the
26 continued designation or the withdrawal of the designation of an area

27 agency on aging receiving or requesting resources through the state or
28 under the Nebraska Community Aging Services Act or the federal Older
29 Americans Act of 1965, as such federal act existed on January 1, 2016 ;
30 as now or hereafter amended. After consultation with the director of the
31 area agency on aging and the governing unit of the area agency on aging,
1 the department may withdraw a designation when it can be shown that
2 federal or state laws, rules, or regulations have not been complied with,
3 state or federal funds are not being expended for the purposes for which
4 they were intended, or older individuals are not receiving appropriate
5 services within available resources. Withdrawal of a designation may be
6 appealed to the department. Upon withdrawal of a designation, the
7 department may temporarily perform all or part of the functions and
8 responsibilities of the area agency on aging, may designate another
9 agency to perform such functions and responsibilities identified by the
10 department until the designation of a new area agency on aging, and, when
11 deemed necessary, may temporarily deliver services to assure continuity;
12 (12) To conduct continuing studies and analyses of the problems
13 faced by older individuals within the state and develop such
14 recommendations for administrative or legislative action as appear
15 necessary;
16 (13) To develop grants and plans, enter into contracts, accept
17 gifts, grants, and federal funds, and do all things necessary and proper
18 to discharge these powers and duties;
19 (14) To accept and administer any other programs or resources
20 delegated, designated, assigned, or awarded to the department from public
21 or private sources; and
22 (15) Such other powers and duties necessary to effectively implement
23 the Nebraska Community Aging Services Act.
24 Sec. 30. Section 81-2218, Reissue Revised Statutes of Nebraska, is
25 amended to read:
26 81-2218 The governing unit of the designated area agency on aging
27 shall:
28 (1) In accordance with section 81-2219, employ a qualified
29 administrator to serve as the chief executive officer for the
30 administration of the agency and employ adequate staff for carrying out
31 the area program plan;
1 (2) Approve and submit ~~an a one year and a five year~~ area plan and
2 budget to the department ~~pursuant to section 81-2213 by July 1 of each~~
3 ~~year~~. The plan shall comply with the requirements of the Nebraska
4 Community Aging Services Act and the federal Older Americans Act of 1965,
5 as such federal act existed on January 1, 2016 , as now or hereafter
6 amended;
7 (3) Approve such contracts and agreements as are necessary to carry
8 out the functions of the agency; and
9 (4) Establish and consult with an area advisory council on needs,
10 services, and policies affecting older individuals in the area. The
11 advisory council for the area agency on aging shall establish bylaws
12 which specify the role and functions of the council, number of members,
13 selection of members, term of membership, and frequency of meetings.

14 Sec. 31. Section 81-2220, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 81-2220 An area agency on aging shall:

17 (1) Monitor, evaluate, and comment on policies, programs, hearings,
18 and community actions which affect older individuals;

19 (2) Conduct public hearings, studies, and assessments on the needs
20 of older individuals living in the planning-and-service area;

21 (3) Represent the interests of older individuals to public officials
22 and to public and private agencies or organizations;

23 (4) Cooperate, coordinate, and plan with other agencies,
24 organizations, or individuals to promote benefits and opportunities for
25 older individuals consistent with the goals of the Nebraska Community
26 Aging Services Act and the federal Older Americans Act of 1965, as such
27 federal act existed on January 1, 2016, as now or hereafter amended;

28 (5) Develop ~~an a one-year and a five-year~~ area plan and budget
29 pursuant to section 81-2213 for a comprehensive, coordinated program of
30 community aging services needed by older individuals of the area and
31 consistent with the requirements of the Nebraska Community Aging Services
1 Act and the federal Older Americans Act of 1965, as such federal act
2 existed on January 1, 2016, as now or hereafter amended;

3 (6) Monitor and evaluate the activities of service providers to
4 ensure that the services being provided comply with the terms of the
5 grant or contract. When a provider is found to be in breach of the terms
6 of its grant or contract, the area agency on aging shall enforce the
7 terms of the grant or contract;

8 (7) Comply with rules, regulations, and requirements of the
9 department which have been developed in consultation with the area
10 agencies on aging for client and fiscal information and provide to the
11 department information necessary for federal and state reporting, program
12 evaluation, program management, fiscal control, and research needs; and

13 (8) Provide technical assistance to service providers as needed,
14 prepare written monitoring reports, and provide written reports of onsite
15 assessments of all service providers funded by the area agency on aging
16 according to the rules and regulations promulgated by the department.

17 Sec. 32. Section 81-2221, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 81-2221 ~~The one-year and the five-year area plan and budget adopted~~
20 pursuant to section 81-2220 shall contain at least the following:

21 (1) Provisions required by the Nebraska Community Aging Services Act
22 and the federal Older Americans Act of 1965, as such federal act existed
23 on January 1, 2016, as now or hereafter amended; and

24 (2) A detailed statement of the manner in which the area agency on
25 aging develops, administers, and supports the comprehensive, coordinated
26 program of community aging services throughout the area.

27 The department may require minimum service levels for the area and
28 establish minimum standards for activities which carry out the
29 requirements of the Nebraska Community Aging Services Act and the federal
30 Older Americans Act of 1965, as such federal act existed on January 1,
31 2016, as now or hereafter amended.

1 Sec. 33. Section 81-2235, Reissue Revised Statutes of Nebraska, is
 2 amended to read:
 3 81-2235 (1) Each care management unit may be reimbursed by the
 4 Department of Health and Human Services for costs not paid for by the
 5 individual or through other reimbursement specified in section 81-2234.
 6 Reimbursement by the department shall be based on actual casework time
 7 units expended on all care management services provided and shall include
 8 expenses for personnel, administration and planning, client eligibility
 9 review, contractual services, and necessary support services and other
 10 necessary actual and indirect costs. Standardized rates of reimbursement
 11 shall be adopted and promulgated by the department and shall be adjusted
 12 at least every three years.
 13 (2) Appropriations for reimbursement by the department for services
 14 provided under sections 81-2229 to 81-2235 and for the costs of the
 15 department to administer the program shall be appropriated separately
 16 from funds appropriated under the Nebraska Community Aging Services Act.
 17 ~~(3) Funds appropriated under this section shall not be used to~~
 18 ~~replace funds appropriated under the Nebraska Community Aging Services~~
 19 ~~Act and granted to the area agencies on aging prior to August 30, 1987,~~
 20 ~~and used to provide case management or care management services in their~~
 21 ~~planning and service area, except that such funds may be replaced by non-~~
 22 ~~Nebraska Community Aging Services funds that are obtained subsequent to~~
 23 ~~August 30, 1987, as allowed under rules and regulations adopted and~~
 24 ~~promulgated by the Department of Health and Human Services.~~
 25 Sec. 37. The following section is outright repealed: Section
 26 81-2228, Reissue Revised Statutes of Nebraska.
 27 2. On page 4, line 10, after "Rights" insert "Act"; and strike
 28 beginning with "Home" in line 10 through "Act" in line 11 and insert
 29 "act".
 30 3. On page 8, strike beginning with "health" in line 4 through
 31 "30-3401" in line 5 and insert "power of attorney for health care as
 1 defined in section 30-3402".
 2 4. Amend the operative date and repealer sections so that the
 3 sections added by this amendment become operative three calendar months
 4 after adjournment of this legislative session.
 5 5. Renumber the remaining sections accordingly.

UNANIMOUS CONSENT - Add Cointroducer(s)

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

Hansen - LB947

VISITOR(S)

Visitors to the Chamber were 25 students and teachers from the Career Academy of Lincoln; Clint Howard from Hollywood, CA; 40 seventh- and

eighth-grade students from Adams Central Jr. High School, Hastings; and 9 twelfth-grade students and teacher from Arcadia High School.

The Doctor of the Day was Dr. Kip Anderson from Columbus.

ADJOURNMENT

At 11:53 a.m., on a motion by Senator Lindstrom, the Legislature adjourned until 9:00 a.m., Thursday, March 3, 2016.

Patrick J. O'Donnell
Clerk of the Legislature

