

**NINTH DAY - JANUARY 19, 2016****LEGISLATIVE JOURNAL****ONE HUNDRED FOURTH LEGISLATURE  
SECOND SESSION****NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, January 19, 2016

**PRAYER**

The prayer was offered by Reverend Dwayne Hawkins, Antioch Baptist Church, Omaha.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., President Foley presiding.

The roll was called and all members were present except Senators Campbell, Garrett, Howard, Kuehn, McCollister, McCoy, Mello, and Morfeld who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eighth day was approved.

**REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB955	Government, Military and Veterans Affairs
LB956	Appropriations
LB957	Appropriations
LB958	Revenue
LB959	Education
LB960	Appropriations
LB961	Natural Resources
LB962	Health and Human Services
LB963	Health and Human Services
LB964	Transportation and Telecommunications
LB965	Judiciary
LB966	Judiciary
LB967	Education
LB968	Agriculture

LB971 Judiciary  
LB973 Transportation and Telecommunications  
LB974 Revenue  
LB975 Judiciary  
LB976 Judiciary  
LB977 Transportation and Telecommunications  
LB978 Government, Military and Veterans Affairs  
LB979 Health and Human Services  
LB980 Judiciary  
LB981 Business and Labor  
LB982 Business and Labor  
LB983 Business and Labor  
LB984 Judiciary  
LB985 Health and Human Services  
LB986 Nebraska Retirement Systems  
LB987 Executive Board  
LB988 Appropriations  
LB989 Transportation and Telecommunications

(Signed) Bob Krist, Chairperson  
Executive Board

**NOTICE OF COMMITTEE HEARING(S)**  
Banking, Commerce and Insurance

Room 1507

Tuesday, January 26, 2016 1:30 p.m.

LB758  
LB772  
LB819  
LB840

(Signed) Jim Scheer, Chairperson

**ATTORNEY GENERAL'S OPINION**

Opinion 16-001

SUBJECT: Defining "Textbooks" for Purposes of the Textbook  
Loan Program

REQUESTED BY: Senator Bob Krist  
Nebraska State Legislature

WRITTEN BY: Douglas J. Peterson, Attorney General  
Leslie S. Donley, Assistant Attorney General

You have requested an opinion from this office with respect to a legal interpretation of Neb. Rev. Stat. § 79-734(2) (2014). This statute requires public school boards to purchase and loan textbooks, upon individual request, to children who are enrolled in kindergarten to grade twelve of a private school approved for legal operation by the State Board of Education. You state in your opinion request letter that the Nebraska Department of Education ("Department") is interpreting the word "textbook," as that term is used in § 79-734(2) and the accompanying regulation, "in a manner that provides public school students with educational materials that are not allowed for private school students under the textbook loan program." You indicate that you are considering introducing legislation to define "textbook" under § 79-734(2), but would like us to clarify whether legislation is necessary in light of the department's regulatory definition of "textbook" and the 2008 amendments to the definition. You state that if legislation is necessary, "[our] opinion would help to clarify the nature and extent of the ambiguity in the statute." Finally, you state that your opinion request has no financial implications, but rather seeks a clarification as to what "textbooks" are to be provided to private school children once the appropriation has been determined.

### **RELEVANT STATUTORY AND REGULATORY PROVISIONS**

The statute pertinent to your inquiry, Neb. Rev. Stat. § 79-734, provides:

- (1) School boards and boards of education of all classes of school districts shall purchase all textbooks, equipment, and supplies necessary for the schools of such district. The duty to make such purchases may be delegated to employees of the school district.
- (2) School boards and boards of education shall purchase and loan textbooks to all children who are enrolled in kindergarten to grade twelve of a public school and, upon individual request, to children who are enrolled in kindergarten to grade twelve of a private school which is approved for continued legal operation under rules and regulations established by the State Board of Education pursuant to subdivision (5)(c) of section 79-318. The Legislature may appropriate funds to carry out the provisions of this subsection. A school district is not obligated to spend any money for the purchase and loan of textbooks to children enrolled in private schools other than funds specifically appropriated by the Legislature to be distributed by the State Department of Education for the purpose of purchasing and loaning textbooks as provided in this subsection. Textbooks loaned to children enrolled in kindergarten to grade twelve of such private schools shall be textbooks which are designated for use in the public schools of the school district in which the child resides or the school district in which the private school the child attends is located. Such textbooks shall be loaned free to such children subject to such rules and regulations as are or may be

prescribed by such school boards or boards of education. The State Department of Education shall adopt and promulgate rules and regulations to carry out this section. The rules and regulations shall include provisions for the distribution of funds appropriated for textbooks. The rules and regulations shall include a deadline for applications from school districts for distribution of funds. If funds are not appropriated to cover the entire cost of applications, a pro rata reduction shall be made.

For purposes of the textbook loan program, the Department has defined "textbook" to mean

a book or electronic media (DVDs, audio CDs, CD-ROMs, audiotapes, videotapes, etc.) which is designated for use by individual students in classroom instruction as the principal source of study material, in any of grades kindergarten through grade 12 in the public school of each school district. The following are not to be considered textbooks: library books, teacher's editions, workbooks and other similar consumable materials, and any book or material designated for classroom, and not individual use (e.g. "Big Books" and the like). Multiple texts which are the principal source of study material for a given course of study are textbooks.

Title 92, *Nebraska Administrative Code*, Chapter 4—"Regulations for Textbook Loans to Children Enrolled in Private Schools in Nebraska," § 002.03 (effective date January 19, 2008) ("Rule 4").

#### **ADDITIONAL BACKGROUND**

In your opinion request letter, you note that educational materials for students in kindergarten through grade 12 have changed dramatically since the regulatory definition of textbook was promulgated in 2008. You indicate that in this computer age, publishers are moving towards "e-books" and other "electronic materials" that have either replaced or supplemented traditional textbooks. You further state that in some instances traditional hardbound textbooks are being replaced "with a 'subscription' of hard copy 'work texts,' a series of write-in textbooks that are issued annually for six years." You explain that these work texts combine instructional course material with interactive questions and exercises for students. You state that the Department has taken the position that "e-books" are not analogous to "electronic media," as referenced in Rule 4, and that the "work texts" referenced above are analogous to "workbooks or other similar consumable materials," thereby excluding such materials from the textbook loan program. You state that public schools' increased use of these new materials has diminished the number of traditional textbooks available to private school students through the textbook loan program.

## DISCUSSION

Based on Neb. Rev. Stat. § 79-734 and Rule 4, we now address your inquiry. You have posed a series of questions, which we address as follows:

A. How is the word "textbook" defined as it is used in § 79-734(2)?

"Textbook" is not defined in § 79-734, in Chapter 79, or anywhere else in statute. In 1989, the Department adopted Rule 4 pursuant to the authority given to it with the enactment of 1986 Neb. Laws LB 757, § 1. In 2008, the Department amended its definition of "textbook" in Rule 4 to include "electronic media (DVDs, audio CDs, CD-ROMs, audiotapes, videotapes, etc.)"—tangible items that the Department determined could be loaned, returned and maintained in a separate inventory in accordance with program requirements.

In your opinion request letter, you suggest that since the word "textbook" is not defined in § 79-734, one must look to the word's "plain and ordinary meaning" for its definition. In Nebraska, in the absence of anything to the contrary, statutory language is to be given its plain and ordinary meaning; an appellate court will not resort to interpretation to ascertain the meaning of statutory words which are plain, direct, and unambiguous. *Swift and Company v. Nebraska Department of Revenue*, 278 Neb. 763, 773 N.W.2d 381 (2009). Statutory language is to be given its plain and ordinary meaning, and an appellate court's duty in discerning the meaning of a statute is to determine and give effect to the purpose and intent of the Legislature as ascertained from the entire language of the statute considered in its plain, ordinary, and popular sense. *Pettit v. Nebraska Dept. of Correctional Services*, 291 Neb. 513, 522, 867 N.W.2d 553, 560 (2015). In that regard, you indicate that the *Merriam-Webster [Online] Dictionary* defines "textbook" as "a book used in the study of a subject: as (a) one containing a presentation of the principles of a subject; (b) a literary work relevant to the study of a subject."<sup>1</sup> You further note that "[t]he definition of 'book' includes not only 'a set of printed sheets of paper that are held together inside a cover: a long written work,' but also 'a long written work than can be read on a computer.'" See <http://www.merriam-webster.com/dictionary/book>. You then assert that it "seem[s] that NDE and school boards generally interpret the word 'textbook' as including electronic materials and work texts, as I have been informed that these materials are being provided to individual public schools students across the state."

However, we do not believe it is necessary to construe the word "textbook" when a regulatory definition for textbook already exists. Rather, it seems to us that the question to address is whether the current definition of textbook could be construed to include "electronic materials and work texts." For purposes of construction, a rule or order of an administrative agency is treated like a statute. *Utelcom, Inc. v. Egr*, 264 Neb. 1004, 1009, 653 N.W.2d 846, 851 (2002); *State v. McIntyre*, 290 Neb. 1021, 1031, 863 N.W.2d 471, 480 (2015). In the absence of anything to the contrary,

language in a rule or regulation is to be given its plain and ordinary meaning. *Melanie M. v. Winterer*, 290 Neb. 764, 775, 862 N.W.2d 76, 86 (2015). A regulation is open for construction only when the language used requires interpretation or may reasonably be considered ambiguous. *State v. Woods*, 255 Neb. 755, 764, 587 N.W.2d 122, 128 (1998). In addition, an agency is to be given deference in its interpretation of its own regulations unless plainly erroneous or inconsistent. *Upper Big Blue Natural Resources District v. Nebraska Dept. of Natural Resources*, 276 Neb. 612, 618, 756 N.W.2d 145, 149 (2008).

The plain and ordinary language in section 002.03 provides that "textbooks" shall not only include books but also "electronic media." *Merriam-Webster's [Online] Dictionary* defines "electronic" in part as "operating through the use of many small electrical parts (such as microchips and transistors); produced by the use of electronic equipment; operating by means of a computer: involving a computer or a computer system." "Medium" is defined as "[b plural usually media] (1) a channel or system of communication, information, or entertainment--compare mass medium; (2) a publication or broadcast that carries advertising; (3) a mode of artistic expression or communication; (4) something (as a magnetic disk) on which information may be stored."<sup>2</sup> Section 002.03 further provides that the books or electronic media subject to loan are those used by school districts as their "principal source of study material." In this regard, "principal" means "2. chief; most important or considerable; as, the *principal* topics of debate; [or] the *principal* points of law . . ." WEBSTER'S NEW UNIVERSAL UNABRIDGED DICTIONARY 1430 (2<sup>nd</sup> ed. 1983) (emphasis in original). These definitions, read in conjunction with the language from the statute ("designated for use") and regulation ("principal source of study material"), supports a conclusion that the definition could encompass a full panoply of electronic materials, including work texts. We note further that the inclusion of "etc." at the end of listed items in the parenthetical describing "electronic media," i.e., "DVDs, audio CDs, CD-ROMs, audiotapes, videotapes," suggests that the list is illustrative, but not exhaustive.

To be clear, our conclusion in this regard begins with the fundamental premise that § 79-734(2) establishes a textbook *loan* program. We fully recognize that any items which may fall under the regulatory definition of textbook must be workable within the other provisions of Rule 4, which dictates how items are made available (Rule 4, § 004), returned to the lending school district (Rule 4, § 003.01) and maintained in a separate inventory (Rule 4, § 004.07). And while our interpretation of § 002.03 differs from that of the Department, we do not believe the Department's own interpretation is plainly erroneous or inconsistent. Finally, while we may have concluded that these electronic materials may reasonably fall under the regulatory definition of textbook, we do not have sufficient facts to fully address whether these particular materials could, in fact, be loaned, returned, maintained, etc., in the manner authorized by § 79-734(2) and specified in Rule 4.

- B. Should the word "textbook" in § 79-734(2) be defined differently depending on whether it is used with reference to public school children or private school children?

Please see our response to question A above. We believe that a reasonable construction of section 002.03 would allow school districts to purchase and loan electronic materials and work texts to private school children, provided the program requirements in Rule 4 are met.

- C. If "textbook" is defined the same in terms of public school and private school children, is there another statutory provision that would allow school boards to provide "textbooks" or other educational materials to public school children that are not authorized under § 79-734(2) for private school children?

Please see our responses to questions A and B above. Since we have concluded that electronic materials and work texts could fall under the current regulatory definition of "textbook," we do not believe it is necessary to address the question presented.

We note that your opinion request letter includes several statutory provisions purportedly cited by the Department "to justify providing educational materials to individual public school students that are not offered to private school students under § 79-734(2)." You indicate that, based on your observations, you do not believe these provisions appear to support the Department's position. However, we will point out that several statutes allow school districts to select and purchase items for the benefit of their students. Generally speaking, a school district is a body corporate and has both the express powers granted to it in law and implied powers necessary to enable them to perform their duties. See Neb. Rev. Stat. § 79-405 (2014); *Cowles v. School District No. 6*, 23 Neb. 655, \_\_\_, 37 N.W. 493, 496 (1888). School districts have authority to purchase a large number of things that are reasonably related to their educational mission including, but not limited to, "textbooks." School districts have express authority (1) to select "available materials and equipment to be used" (Neb. Rev. Stat. § 79-101(12)); to contract for the provision of "instructional materials, supplies and equipment" (Neb. Rev. Stat. § 79-515); to "provide the necessary supplies and equipment" (Neb. Rev. Stat. § 79-526(1)); and to purchase "all . . . equipment, and supplies necessary for the schools of [the] district" (Neb. Rev. Stat. § 79-734(1)). School districts' ability to purchase other educational materials is authorized under these statutes and their implied powers.

- D. Based on the answers to questions A-C, is it necessary to amend § 79-734(2) in order to expand the types of educational materials available to private school children to include educational materials that currently are being provided to public school children, or would an amendment of the applicable regulations, Rule 4, be sufficient?

We believe that the plain and ordinary language of the regulatory textbook definition, as it currently exists, could be construed to include electronic materials and work texts. Thus, amending § 79-734(2) is likely unnecessary. We note, however, that several other states have amended their textbook loan program statutes to expressly include electronic or digital materials.<sup>3</sup>

E. If it is not necessary to amend § 79-734(2) to provide private school children with the same educational materials as are provided to public school children, then could Rule 4 as currently written be interpreted to allow private school children access to electronic media and subscription "work texts" that currently are being accessed by and provided to public school children?

Please see our responses to questions A-D.

### CONCLUSION

We believe that Rule 4 could reasonably be construed to encompass electronic materials and work texts under the definition of "textbooks" in section 002.03. Our conclusion herein is premised on the fundamental concept that § 79-734(2) establishes a *loan* program, and that any electronic materials are subject to the operational requirements set out in Rule 4 relating to loaning, returning, and maintaining separate inventory, etc., of items. We further emphasize the fact that several states have amended their respective textbook loan program statutes to expressly clarify their authority to include electronic or digital materials or computer software in their programs. Ultimately, the decision to expressly expand the textbook loan program in this manner is a matter for the Legislature.

<sup>1</sup> See <http://www.merriam-webster.com/dictionary/textbook> (accessed January 4, 2016).

<sup>2</sup> See <http://www.merriam-webster.com/dictionary/textbook> (accessed January 13, 2016).

<sup>3</sup> For example, the State of Iowa defines "textbook" to include "[e]lectronic textbooks, including but not limited to computer software . . . ." Iowa Code Ann. § 301.1 (West 2015). South Dakota defines "textbook" as "any instructional materials that constitute the principal source of teaching and learning for a given course of study including print and digital materials . . . ." S.D. Codified Laws Ann. § 13-34-23 (2015). Illinois Compiled Statutes Annotated § 5/28-15 allows "furnishing free textbooks or electronic textbooks." Minnesota law defines "textbook" as "any book or book substitute, including electronic books as well as other printed materials delivered electronically . . . ." Minnesota Statutes Annotated, § 123B.41 (West).



Sincerely,  
DOUGLAS J. PETERSON  
Attorney General  
(Signed) Leslie S. Donley  
Assistant Attorney General

pc. Patrick J. O'Donnell  
Clerk of the Nebraska Legislature

49-1487-29

### RESOLUTION(S)

Pursuant to Rule 4, Sec. 5(b), LRs 382, 383, 384, 385, 386, 387, 388, 391, 392, 393, 395, 396, 400, 401, and 402 were adopted.

### PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 382, 383, 384, 385, 386, 387, 388, 391, 392, 393, 395, 396, 400, 401, and 402.

### GENERAL FILE

**LEGISLATIVE BILL 113.** Senator Larson offered the following motion:  
MO161  
Unanimous consent to bracket until April 20, 2016.

No objections. So ordered.

**LEGISLATIVE BILL 136.** Title read. Considered.

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

### BILLS ON FIRST READING

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

**LEGISLATIVE BILL 1014.** Introduced by Stinner, 48.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 3-613, Reissue Revised Statutes of Nebraska, and sections 13-520, 77-3442, and 77-3443, Revised Statutes Supplement, 2015; to change provisions relating to levy limitations and budget limitations for public airports; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 1015.** Introduced by Harr, B., 8.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704.56, Reissue Revised Statutes of Nebraska; to change a sales tax exemption relating to purchases by museums; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 1016.** Introduced by Watermeier, 1; Krist, 10.

A BILL FOR AN ACT relating to the Legislative Performance Audit Act; to amend section 50-1203, Revised Statutes Supplement, 2015; to redefine a term; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 1017.** Introduced by Lindstrom, 18.

A BILL FOR AN ACT relating to the Department of Economic Development; to amend section 81-1210.01, Reissue Revised Statutes of Nebraska, and section 81-1201.21, Revised Statutes Supplement, 2015; to transfer funds as prescribed; to redefine a term; to eliminate a residency requirement for student interns under a grant program; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 1018.** Introduced by Coash, 27.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to the Nebraska Arts Council as prescribed; and to state intent.

**LEGISLATIVE BILL 1019.** Introduced by Davis, 43; Haar, K., 21.

A BILL FOR AN ACT relating to the Niobrara Scenic River Act; to amend section 72-2008, Reissue Revised Statutes of Nebraska, and section 72-2007, Revised Statutes Supplement, 2015; to require legislative confirmation of certain appointments; to change provisions relating to support by the Game and Parks Commission; and to repeal the original sections.

**LEGISLATIVE BILL 1020.** Introduced by Fox, 7; Campbell, 25; Ebke, 32; Gloor, 35; Lindstrom, 18; Scheer, 19; Williams, 36.

A BILL FOR AN ACT relating to the Nebraska Condominium Act; to amend sections 76-854 and 76-861, Reissue Revised Statutes of Nebraska; to provide for amendments to declarations to correct scrivener's errors, omissions, or errors in the declaration; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 1021.** Introduced by Crawford, 45; Murante, 49.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2711, Revised Statutes Supplement, 2015; to change provisions relating

to access to sales and use tax information by municipalities; and to repeal the original section.

**NOTICE OF COMMITTEE HEARING(S)**

Education

Room 1525

Tuesday, January 26, 2016 1:30 p.m.

Stan H. Carpenter - Nebraska Educational Telecommunications Commission  
LB781  
LB826

(Signed) Kate Sullivan, Chairperson

Transportation and Telecommunications

Room 1113

Monday, February 1, 2016 1:30 p.m.

LB900

(Signed) Jim Smith, Chairperson

**SELECT FILE**

**LEGISLATIVE BILL 18.** Considered.

Senator Groene renewed his amendment, AM143, found on page 477 and considered on page 510, First Session, 2015.

Senator Chambers renewed his amendment, FA11, found on page 510, First Session, 2015, to the Groene amendment.

Senator Chambers withdrew his amendment.

Pending.

**BILLS ON FIRST READING**

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

**LEGISLATIVE BILL 1022.** Introduced by Legislative Performance Audit Committee: Watermeier, 1, Chairperson; Krist, 10; Kuehn, 38; Larson, 40; Scheer, 19.

A BILL FOR AN ACT relating to the office of Legislative Audit; to amend sections 50-1212, 50-1213, 77-1116, 77-2711, 77-27,119, 77-27,187.02, 77-2912, 77-5208, 77-5725, 77-5806, 77-5905, and 77-6306, Revised Statutes Supplement, 2015; to require a report; to change provisions relating to access to records, sharing of confidential information, and notifying the Tax Commissioner of the intent to conduct an audit; to change dates for application of incentives; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 1023.** Introduced by Ebke, 32; Bolz, 29; Pansing Brooks, 28.

A BILL FOR AN ACT relating to the Nebraska Treatment and Corrections Act; to amend section 83-1,135, Revised Statutes Supplement, 2015; to state intent; to require development of protocols for coordination of mental health and substance abuse treatment; to require a needs assessment on programming; to provide a termination date; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 1024.** Introduced by Larson, 40.

A BILL FOR AN ACT relating to conflicts of interest; to amend section 49-14,102, Revised Statutes Cumulative Supplement, 2014; to change a provision relating to the value of a contract with a government body as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 1025.** Introduced by Morfeld, 46.

A BILL FOR AN ACT relating to the Public Accountancy Act; to amend section 1-136.02, Revised Statutes Cumulative Supplement, 2014; to change experience requirements; and to repeal the original section.

**LEGISLATIVE BILL 1026.** Introduced by Morfeld, 46.

A BILL FOR AN ACT relating to educational technology; to amend sections 79-1302, 79-1303, and 79-1304, Reissue Revised Statutes of Nebraska; to state and restate findings; to define terms; to create the position of and provide duties for a PK-12 Chief Integration Officer; to provide and change duties for the Educational Technology Center; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 1027.** Introduced by Morfeld, 46.

A BILL FOR AN ACT relating to appropriations; to create and provide funding for the Campus Sexual Assault Prevention Grant Program; to provide for applications, awards, and administration of the program; to provide a duty for the Attorney General; and to state intent relating to appropriations.

**LEGISLATIVE BILL 1028.** Introduced by Morfeld, 46.

A BILL FOR AN ACT relating to the Business Innovation Act; to amend sections 81-12,160, 81-12,162, and 81-12,163, Revised Statutes Supplement, 2015; to change provisions relating to funding; to require the Department of Economic Development to contract with certain entities in carrying out the Business Innovation Act; to provide an operative date; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 1029.** Introduced by Mello, 5.

A BILL FOR AN ACT relating to labor; to amend section 81-1201.21, Revised Statutes Supplement, 2015; to adopt the Sector Partnership Program Act; to create a fund; to harmonize provisions; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 1030.** Introduced by Bolz, 29; Campbell, 25.

A BILL FOR AN ACT relating to public assistance; to amend section 68-158, Revised Statutes Cumulative Supplement, 2014; to change provisions relating to an expenditure limit; and to repeal the original section.

**LEGISLATIVE BILL 1031.** Introduced by Hansen, 26; Morfeld, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 74-1306 and 77-1601.02, Reissue Revised Statutes of Nebraska, section 77-3445, Revised Statutes Cumulative Supplement, 2014, and sections 77-3442 and 77-3443, Revised Statutes Supplement, 2015; to change the levy authority of railroad transportation safety districts; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 1032.** Introduced by McCollister, 20; Baker, 30; Bolz, 29; Campbell, 25; Chambers, 11; Cook, 13; Crawford, 45; Haar, K., 21; Hansen, 26; Howard, 9; Kolowski, 31; Mello, 5; Morfeld, 46; Pansing Brooks, 28; Schumacher, 22; Sullivan, 41.

A BILL FOR AN ACT relating to medical care; to adopt the Transitional Health Insurance Program Act; to provide severability; and to declare an emergency.

**LEGISLATIVE BILL 1033.** Introduced by Campbell, 25.

A BILL FOR AN ACT relating to persons with disabilities; to provide legislative intent; to create an advisory committee within the Department of Health and Human Services and provide powers and duties to the department; to require reports; and to declare an emergency.

**LEGISLATIVE BILL 1034.** Introduced by Campbell, 25; Bolz, 29; Pansing Brooks, 28.

A BILL FOR AN ACT relating to children; to amend section 43-4203, Revised Statutes Cumulative Supplement, 2014, and section 43-4202, Revised Statutes Supplement, 2015; to change provisions relating to the Nebraska Children's Commission; to change a termination date; to provide duties for the commission and a committee; to eliminate an annual statement; to repeal the original sections; and to outright repeal section 43-534, Revised Statutes Cumulative Supplement, 2014.

**LEGISLATIVE BILL 1035.** Introduced by Williams, 36.

A BILL FOR AN ACT relating to the Secretary of State; to amend sections 52-1308, 52-1318, 52-1601, 52-1602, and 52-1603, Reissue Revised Statutes of Nebraska, and section 52-1312, Revised Statutes Supplement, 2015; to redefine farm product and to change provisions relating to the central filing system and the master lien list; and to repeal the original sections.

**LEGISLATIVE BILL 1036.** Introduced by Campbell, 25; Cook, 13; Davis, 43; Howard, 9; Mello, 5; Morfeld, 46; Pansing Brooks, 28.

A BILL FOR AN ACT relating to interest, loans, and debt; to amend sections 45-804, 45-902, 45-904, 45-906, 45-907, 45-908, 45-911, 45-915, 45-915.01, 45-917, 45-918, 45-919, 45-921, 45-922, 45-923, 45-925, and 45-1001, Reissue Revised Statutes of Nebraska, and section 45-901, Revised Statutes Cumulative Supplement, 2014; to change provisions of the Credit Services Organization Act, the Delayed Deposit Services Licensing Act, and the Nebraska Installment Loan Act; to define and redefine terms; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 1037.** Introduced by Brasch, 16.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-1359, Revised Statutes Cumulative Supplement, 2014; to change provisions relating to agricultural land and horticultural land; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 1038.** Introduced by Davis, 43.

A BILL FOR AN ACT relating to water appropriations; to amend section 46-290, Reissue Revised Statutes of Nebraska; to change application provisions; and to repeal the original section.

**RESOLUTION(S)**

**LEGISLATIVE RESOLUTION 414.** Introduced by Chambers, 11.

WHEREAS, the Nebraska Legislature comprises forty-nine members elected by the citizens of the State; and

WHEREAS, the members of the Legislature are elected to serve and act with undivided loyalty in the best interests of the people of the State; and

WHEREAS, as elected officials and lawmakers, members of the Legislature are held to a higher standard; and

WHEREAS, members of the Legislature are expected to exemplify integrity, be above suspicion, and avoid even the appearance of impropriety in discharging their duty; and

WHEREAS, lobbyists are paid to influence members of the Legislature to advance the particular interests of their clients by various and sundry official legislative acts; and

WHEREAS, the appearance of impropriety and undue influence may be fostered when members of the Legislature are provided and accept free meals and beverages in the State Capitol building from lobbyists who are paid to influence the members of the Legislature to advance the interests of their clients by various and sundry official legislative acts; and

WHEREAS, in politics, "there is no such thing as a free lunch" and "the hand that feeds controls"

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

1. That no meals and beverages shall ever be provided anywhere in the State Capitol building to members of the Legislature by any lobbyist or group of lobbyists while the Legislature is in session.

Laid over.

**LEGISLATIVE RESOLUTION 415.** Introduced by Riepe, 12; Fox, 7; Hughes, 44; Kolterman, 24; Stinner, 48.

WHEREAS, United States Senator Bill Cassidy, M.D. (LA) introduced Senate Bill 1989 entitled Primary Care Enhancement Act of 2015 on August 5, 2015; and

WHEREAS, health care reform is needed to improve health outcomes and bend the cost curve; and

WHEREAS, direct primary care providers are able to improve health outcomes and reduce costs; and

WHEREAS, federal regulations are preventing fee-for-service medicare beneficiaries and most patients using health savings accounts from using direct primary care; and

WHEREAS, direct primary care offers unfettered access to comprehensive coverage for primary care services in a medical home setting using a flat-fee payment model; and

WHEREAS, direct primary care improves health care while reducing costs for patients, families, businesses, governments, and payers; and

WHEREAS, direct primary care empowers the patient-practitioner relationship; and

WHEREAS, direct primary care can offer medical students and residents an alternative to the fee-for-service profession; and

WHEREAS, the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services currently has no pathway for fee-for-service medicare beneficiaries to take advantage of direct primary care practitioners other than paying for services out-of-pocket; and

WHEREAS, employers are now offering direct primary care benefits to employees but current interpretations by the United States Internal Revenue Service of health savings account laws make it difficult for other employers who use health savings accounts to offer direct primary care as a benefit.

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

1. That the Legislature urges the Nebraska congressional delegation to support and co-sponsor Senate Bill 1989 entitled Primary Care Enhancement Act of 2015.

2. That a copy of this resolution be sent to each member of the Nebraska congressional delegation and to United States Senator Bill Cassidy, M.D. (LA).

Laid over.

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

Senator Krist filed the following amendment to LB18A:

AM1850

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

2 sections:

3 Section 1. There is hereby appropriated \$7,875 from the General

4 Fund and \$7,875 from federal funds for FY2016-17 to the Department of

5 Health and Human Services, for Program 33, to aid in carrying out the

6 provisions of Legislative Bill 18, One Hundred Fourth Legislature, Second

7 Session, 2016.

8 No expenditures for permanent and temporary salaries and per diems

9 for state employees shall be made from funds appropriated in this

10 section.

11 Sec. 2. There is hereby appropriated (1) \$21,358 from the General

12 Fund and \$42,020 from federal funds for FY2016-17 and (2) \$21,785 from



13 the General Fund and \$42,860 from federal funds for FY2017-18 to the  
14 Department of Health and Human Services, for Program 344, to aid in  
15 carrying out the provisions of Legislative Bill 18, One Hundred Fourth  
16 Legislature, Second Session, 2016.

17 No expenditures for permanent and temporary salaries and per diems  
18 for state employees shall be made from funds appropriated in this  
19 section.

20 Sec. 3. There is hereby appropriated (1) \$91,549 from the General  
21 Fund and \$98,584 from federal funds for FY2016-17 and (2) \$93,380 from  
22 the General Fund and \$100,556 from federal funds for FY2017-18 to the  
23 Department of Health and Human Services, for Program 348, to aid in  
24 carrying out the provisions of Legislative Bill 18, One Hundred Fourth  
25 Legislature, Second Session, 2016.

26 No expenditures for permanent and temporary salaries and per diems  
27 for state employees shall be made from funds appropriated in this  
1 section.

#### **UNANIMOUS CONSENT - Add Cointroducer(s)**

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

Davis - LB47, LB136, LB276, and LB755

Cook - LB844

McCollister - LB694

Friesen - LR35

#### **VISITORS**

The Doctor of the Day was Dr. Trisha Sams from Utica.

#### **ADJOURNMENT**

At 12:00 p.m., on a motion by Senator Brasch, the Legislature adjourned until 9:00 a.m., Wednesday, January 20, 2016.

Patrick J. O'Donnell  
Clerk of the Legislature

