

THIRTY-FIFTH DAY - FEBRUARY 26, 2007**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
FIRST SESSION****THIRTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska
Monday, February 26, 2007

PRAYER

The prayer was offered by Pastor Jim Keck, First Plymouth Church, Lincoln.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Langemeier presiding.

The roll was called and all members were present except Senator Pedersen who was excused; and Senators Carlson, Cornett, Engel, and Nantkes who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-fourth day was approved.

**COMMITTEE REPORTS
Enrollment and Review**

LEGISLATIVE BILL 223. Placed on Select File - ER8028.
ER8028

- 1 1. On page 1, line 6, after the fourth comma insert
- 2 "77-2753,"; and in line 13 strike "to define and redefine terms;".
- 3 2. On page 9, line 20; and page 10, line 3, strike the
- 4 comma, show as stricken, and insert an underscored semicolon.
- 5 3. On page 10, line 2, strike the last comma, show as
- 6 stricken, and insert an underscored semicolon; in line 6 strike the
- 7 first comma, show as stricken, and insert an underscored semicolon;
- 8 and in line 8 strike the comma and insert an underscored semicolon.
- 9 4. On page 27, line 20, after "States" insert an
- 10 underscored comma.
- 11 5. On page 35, line 3, strike the second "section" and
- 12 show as stricken.
- 13 6. On page 53, line 6, strike "the", show as stricken,
- 14 and insert "this".

15 7. On page 92, line 22, strike "21" and insert "15"; and
 16 in line 23 strike "and 34" and insert "24, and 35".

LEGISLATIVE BILL 441. Placed on Select File.
LEGISLATIVE BILL 441A. Placed on Select File.
LEGISLATIVE BILL 470. Placed on Select File.
LEGISLATIVE BILL 470A. Placed on Select File.
LEGISLATIVE BILL 239. Placed on Select File.

(Signed) Amanda McGill, Chairperson

COMMITTEE REPORTS Health and Human Services

LEGISLATIVE BILL 144. Placed on General File - Com AM297.
 AM297

1 1. Strike original section 2 and insert the following new
 2 section:
 3 Sec. 2. The Hepatitis C Education and Prevention Task
 4 Force is created and shall consist of eighteen members, including
 5 the chairperson of the Health and Human Services Committee of the
 6 Legislature or his or her designated representative and a member of
 7 the Legislature appointed by the Executive Board of the Legislative
 8 Council and the following members appointed by the Governor:
 9 (1) A disease prevention and health promotion
 10 administrator;
 11 (2) The state hepatitis coordinator;
 12 (3) A state surveillance officer;
 13 (4) A behavioral health specialist;
 14 (5) A medical provider;
 15 (6) A representative of the State Department of
 16 Education;
 17 (7) A representative of the Department of Veterans'
 18 Affairs;
 19 (8) A representative of a public health association;
 20 (9) A representative of a rural health association;
 21 (10) A registered nurse licensed to practice in Nebraska;
 22 (11) A pharmacist licensed to practice in Nebraska;
 23 (12) A primary care physician licensed to practice in
 1 Nebraska;
 2 (13) A primary care nurse practitioner licensed to
 3 practice in Nebraska;
 4 (14) A physician assistant licensed to practice in
 5 Nebraska;
 6 (15) A laboratory professional; and
 7 (16) A resident of Nebraska affected by hepatitis C.
 8 2. On page 3, lines 11 and 12, strike "on or before May
 9 1, 2007" and insert "within thirty days after the effective date of
 10 this act".

LEGISLATIVE BILL 292. Placed on General File - Com AM444.
AM444

- 1 1. Strike original section 2 and insert the following new
2 sections:
- 3 Sec. 2. Section 68-1803, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:
- 5 68-1803 (1) Each intermediate care facility for the
6 mentally retarded shall pay a tax equal to ~~six percent~~ a percentage
7 of its net revenue for the most recent State of Nebraska fiscal
8 year. The percentage shall be (a) six percent prior to January
9 1, 2008, (b) five and one-half percent beginning January 1, 2008,
10 through September 30, 2011, and (c) six percent beginning October
11 1, 2011.
- 12 (2) Taxes collected under this section shall be remitted
13 to the State Treasurer for credit to the ICF/MR Reimbursement
14 Protection Fund.
- 15 (3) Taxes collected pursuant to this section shall be
16 reported on a separate line on the cost report of the intermediate
17 care facility for the mentally retarded, regardless of how such
18 costs are reported on any other cost report or income statement.
19 The department shall recognize such tax as an allowable cost
20 within the state plan for reimbursement of intermediate care
21 facilities for the mentally retarded which participate in the
22 medical assistance program. The tax shall be a direct pass-through
23 and shall not be subject to cost limitations.
- 1 Sec. 3. Original sections 68-1804 and 68-1803, Revised
2 Statutes Cumulative Supplement, 2006, are repealed.

LEGISLATIVE BILL 481. Placed on General File - Com AM270.
AM270

- 1 1. Strike section 2 and insert the following new
2 sections:
- 3 Section 1. Section 71-101, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:
- 5 71-101 Sections 71-101 to 71-1,107.30, 71-1,133 to
6 71-1,338, 71-1,343 to 71-1,361, and 71-1301 to 71-1354, section 4
7 of this act, and the Physical Therapy Practice Act shall be known
8 and may be cited as the Uniform Licensing Law.
- 9 For purposes of the Uniform Licensing Law, unless the
10 context otherwise requires:
- 11 (1) Board or professional board means one of the boards
12 appointed by the State Board of Health pursuant to sections 71-111
13 and 71-112;
- 14 (2) Licensed, when applied to any licensee in any of the
15 professions named in section 71-102, means a person licensed under
16 the Uniform Licensing Law;
- 17 (3) Profession or health profession means any of the
18 several groups named in section 71-102;
- 19 (4) Department means the Department of Health and Human

20 Services Regulation and Licensure;

21 (5) Whenever a particular gender is used, it is construed
22 to include both the masculine and the feminine, and the singular
23 number includes the plural when consistent with the intent of the
1 Uniform Licensing Law;

2 (6) License, licensing, or licensure means permission to
3 engage in a health profession which would otherwise be unlawful
4 in this state in the absence of such permission and which is
5 granted to individuals who meet prerequisite qualifications and
6 allows them to perform prescribed health professional tasks and use
7 a particular title;

8 (7) Certificate, certify, or certification, with respect
9 to professions, means a voluntary process by which a statutory,
10 regulatory entity grants recognition to an individual who has met
11 certain prerequisite qualifications specified by such regulatory
12 entity and who may assume or use the word certified in the title or
13 designation to perform prescribed health professional tasks. When
14 appropriate, certificate means a document issued by the department
15 which designates particular credentials for an individual;

16 (8) Lapse means the termination of the right or privilege
17 to represent oneself as a licensed, certified, or registered person
18 and to practice the profession when a license, certificate, or
19 registration is required to do so;

20 (9) Credentialing means the totality of the process
21 associated with obtaining state approval to provide health care
22 services or human services or changing aspects of a current
23 approval. Credentialing grants permission to use a protected
24 title that signifies that a person is qualified to provide the
25 services of a certain profession. Credential includes a license,
26 certificate, or registration; and

27 (10) Dependence means a compulsive or chronic need for
1 or an active addiction to alcohol or any controlled substance or
2 narcotic drug.

3 Sec. 3. Section 71-131, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 71-131 (1) In the absence of any specific requirement or
6 provision relating to any particular profession:

7 (a) The department may, upon the recommendation of
8 the designated professional board, adopt and promulgate rules
9 and regulations to specify the passing grade on licensure or
10 certification examinations. In the absence of such rules and
11 regulations, an examinee shall be required to obtain an average
12 grade of seventy-five and shall be required to obtain a grade of
13 sixty in each subject examined;

14 (b) A person who desires to take a licensure or
15 certification examination but does not wish to receive a license or
16 certification may take such examination by meeting the examination
17 eligibility requirements and paying the cost of the examination;
18 and

19 (c) An examinee who fails a licensure or certification
20 examination may retake the entire examination or the part failed
21 upon payment of the licensure or certification fee each time he or
22 she is examined. The department shall withhold from the licensure
23 or certification fee the cost of any national examination used
24 when an examinee fails a licensure or certification examination
25 and shall return to the examinee the remainder of the licensure
26 or certification fee collected subject to section 71-162.05, except
27 that:

1 (i) If the state-developed jurisprudence portion of the
2 licensure or certification examination was failed, the examinee may
3 retake that portion without charge; and

4 (ii) If any component of a national examination was
5 failed, the examinee shall be charged the cost for purchasing such
6 examination.

7 (2) In pharmacy, all applicants shall be required to
8 attain a grade to be determined by the Board of Pharmacy in
9 an examination in pharmacy and a grade of seventy-five in an
10 examination in jurisprudence of pharmacy.

11 (3) In social work, the passing criterion for such
12 examination shall be established and may be changed by the Board of
13 Mental Health Practice by rule and regulation. The board may exempt
14 an applicant from the written examination if he or she meets all
15 the requirements for certification without examination pursuant to
16 section 71-1,319 or rules and regulations adopted and promulgated
17 by the department pursuant to section 71-139.

18 (4) In professional counseling, the passing criterion for
19 such examination shall be established and may be changed by the
20 Board of Mental Health Practice by rule and regulation. The board
21 may exempt an applicant from the written examination if he or she
22 meets all of the requirements for certification without examination
23 pursuant to rules and regulations adopted and promulgated by the
24 department pursuant to section 71-139.

25 (5) In marriage and family therapy, the passing criterion
26 for such examination shall be established and may be changed by the
27 Board of Mental Health Practice by rule and regulation. The board
1 may exempt an applicant from the written examination if he or she
2 meets all of the requirements for certification without examination
3 pursuant to section 71-1,329 or rules and regulations adopted and
4 promulgated by the department pursuant to section 71-139.

5 ~~(6) Applicants for licensure in medicine and surgery
6 and osteopathic medicine and surgery shall pass the licensing
7 examination. An applicant who fails to pass any part of the
8 licensing examination within four attempts shall complete one
9 additional year of postgraduate medical education at an accredited
10 school or college of medicine or osteopathic medicine. All parts
11 of the licensing examination shall be successfully completed within
12 seven years, except that if the applicant has been enrolled in a
13 combined doctorate of medicine and doctorate of philosophy degree~~

14 ~~program in an accredited school or college of medicine, all parts~~
 15 ~~of the licensing examination shall be successfully completed within~~
 16 ~~ten years. An applicant who fails to successfully complete the~~
 17 ~~licensing examination within the time allowed shall retake that~~
 18 ~~part of the examination which was not completed within the time~~
 19 ~~allowed.~~

20 (7)-(6) In medical nutrition therapy, the passing
 21 criterion for such examination shall be established and may be
 22 changed by the Board of Medical Nutrition Therapy by rule and
 23 regulation. Such examination shall test for the essential clinical
 24 elements of the field of medical nutrition therapy. The board shall
 25 base all of its actions on broad categorical parameters derived
 26 from the essential elements of the field of medical nutrition
 27 therapy and shall not endorse nor restrict its assessment to any
 1 particular nutritional school of thought. The board may exempt
 2 an applicant from the written examination if he or she meets all
 3 of the requirements for licensure without examination pursuant to
 4 section 71-1,291 or rules and regulations adopted and promulgated
 5 by the department pursuant to section 71-139.

6 (8)-(7) In alcohol and drug counseling, the Board of
 7 Alcohol and Drug Counseling shall approve a licensing examination
 8 and establish the passing criterion for such examination, which
 9 meets or exceeds the minimum international standards for alcohol
 10 and drug counselors established by the International Certification
 11 and Reciprocity Consortium, Alcohol and Other Drug Abuse, Inc. or
 12 its successor.

13 Sec. 4. Applicants for licensure in medicine and surgery
 14 and osteopathic medicine and surgery shall pass the licensing
 15 examination. An applicant who fails to pass any part of the
 16 licensing examination within four attempts shall complete one
 17 additional year of postgraduate medical education at an accredited
 18 school or college of medicine or osteopathic medicine. All parts
 19 of the licensing examination shall be successfully completed within
 20 ten years. An applicant who fails to successfully complete the
 21 licensing examination within the time allowed shall retake that
 22 part of the examination which was not completed within the time
 23 allowed.

24 Sec. 5. Original sections 71-101, 71-104.01, and 71-131,
 25 Revised Statutes Cumulative Supplement, 2006, are repealed.

26 Sec. 6. Since an emergency exists, this act takes effect
 27 when passed and approved according to law.

LEGISLATIVE BILL 397. Indefinitely postponed.

(Signed) Joel Johnson, Chairperson

MOTION - Print in Journal

Senator Dierks filed the following motion to LB 635:
Withdraw LB 635.

GENERAL FILE

LEGISLATIVE BILL 568. Considered.

Senator Preister offered the following amendment:
FA31

On page 3 strike 2012 in line 15 and insert 2009.

Senator Chambers offered the following amendment to the Preister amendment:

FA32

Amendment to FA31

In FA31, strike "2009" and insert "2008".

Pending.

ANNOUNCEMENT

The Chair announced February 25 was Senator Kruse's birthday.

MOTION - Place LB 49 on General File

Senator Hudkins renewed her motion, found on page 608, to place LB 49 on General File, pursuant to Rule 3, Section 19(b).

Senator Ashford moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 1 nay, and 21 not voting.

Senator Hudkins moved for a call of the house. The motion prevailed with 33 ayes, 0 nays, and 16 not voting.

Senator Hudkins requested a roll call vote on her motion to place LB 49 on General File.

Voting in the affirmative, 7:

Dierks	Janssen	Schimek	Wallman
Hudkins	Preister	Stuthman	

Voting in the negative, 32:

Adams	Cornett	Fulton	Kopplin	Pankonin
Aguilar	Dubas	Gay	Langemeier	Raikes
Ashford	Engel	Hansen	McDonald	Rogert
Avery	Erdman	Harms	McGill	Synowiecki
Burling	Fischer	Howard	Mines	
Carlson	Flood	Johnson	Nantkes	
Chambers	Friend	Karpisek	Pahls	

Present and not voting, 6:

Christensen	Lathrop	Pirsch
Kruse	Nelson	White

Excused and not voting, 4:

Heidemann	Louden	Pedersen	Wightman
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The Hudkins motion to place LB 49 on General File failed with 7 ayes, 32 nays, 6 present and not voting, and 4 excused and not voting.

LB 49 stands indefinitely postponed.

The Chair declared the call raised.

COMMITTEE REPORTS

Judiciary

LEGISLATIVE BILL 92. Placed on General File.

LEGISLATIVE BILL 152. Placed on General File.

LEGISLATIVE BILL 221. Placed on General File.

LEGISLATIVE BILL 467. Placed on General File - Com AM484.
AM484

1 1. On page 3, line 8, after the comma insert "one
2 assistant to be a deputy public counsel for institutions."; and
3 after line 16 insert the following new paragraph:
4 "The authority of the deputy public counsel for
5 institutions shall extend to all mental health and veterans
6 institutions and facilities operated by the Department of
7 Health and Human Services and to all complaints pertaining to
8 administrative acts of the department when those acts are concerned
9 with the rights and interests of individuals placed within those
10 institutions and facilities.".

LEGISLATIVE BILL 475. Placed on General File.

(Signed) Brad Ashford, Chairperson

AMENDMENTS - Print in Journal

Senator Friend filed the following amendment to LB 347:
AM477

- 1 1. Strike section 3 and insert the following new section:
2 Sec. 3. Section 14-553, Reissue Revised Statutes of
3 Nebraska, as amended by section 1, Legislative Bill 206, One
4 Hundredth Legislature, First Session, 2007, is amended to read:
5 14-553 The city treasurer of a city of the metropolitan
6 class shall be a member of the finance department of such city and
7 shall give bond or evidence of equivalent insurance in an amount
8 as required by the finance director of such city. The treasurer
9 shall be liable ~~on his or her bond~~ for the safekeeping and proper
10 disbursement of all funds and money of the city collected or
11 received by him or her. He or she shall keep his or her books and
12 accounts in such manner as to show the amount of money collected by
13 him or her from all sources, the condition of each fund into which
14 the same has been placed, and the items of disbursement thereof.
15 2. On page 11, line 13, strike "14-551,"; in line 15
16 strike the first "and"; and in line 16 after the second comma
17 insert "and section 14-553, Reissue Revised Statutes of Nebraska,
18 as amended by section 1, Legislative Bill 206, One Hundredth
19 Legislature, First Session, 2007,".

Senator Cornett filed the following amendment to LB 211A:
AM474

(Amendments to Final Reading copy)

- 1 1. Strike original section 1 and insert the following new
2 section:
3 Section 1. There is hereby appropriated (1) \$42,300 from
4 the General Fund for FY2007-08 and (2) \$42,300 from the General
5 Fund for FY2008-09 to the Commission of Industrial Relations, for
6 Program 531, to aid in carrying out the provisions of Legislative
7 Bill 211, One Hundredth Legislature, First Session, 2007.
8 Total expenditures for permanent and temporary salaries
9 and per diems from funds appropriated in this section shall not
10 exceed \$42,300 for FY2007-08 or \$42,300 for FY2008-09.

ANNOUNCEMENTS

The Government, Military and Veterans Affairs Committee designates LB 497 as its priority bill.

Senator Nantkes designates LB 57 as her priority bill.

RESOLUTION

LEGISLATIVE RESOLUTION 39. Introduced by Johnson, 37; Hansen, 42; Howard, 9; Pankonin, 2; Synowiecki, 7.

WHEREAS, the Legislature regards access to mental health and substance abuse treatment to be of paramount importance to the citizens of our state; and

WHEREAS, President George W. Bush's proposed budget for the United States Government, Fiscal Year 2008 includes significantly decreased appropriations to a number of programs that are critical in providing services to citizens with mental illness and substance abuse disorders; and

WHEREAS, the Legislature finds that individuals experiencing problems associated with mental health and substance abuse are having difficulty accessing appropriate services in a timely manner. This is evidenced by extensive wait lists for individuals requiring mental health and substance abuse services in the community. Currently, over one thousand people are on wait lists for such services in Nebraska; and

WHEREAS, the Legislature finds that delays in accessing mental health and substance abuse services can exacerbate conditions for those consumers needing such professional intervention. Wait lists and access delays demonstrate an inadequate capacity for behavioral treatment services in Nebraska to sufficiently and timely meet consumer need in both rural and urban settings; and

WHEREAS, the Legislature finds that insurance companies are increasingly limiting their liability for claims for mental health and substance abuse services. The diminishing availability for mental health and substance abuse treatment resources for the insured population has impacted public resources. An increasing number of consumers are forced to access the public behavioral health system to meet mental health and substance abuse needs; and

WHEREAS, the Legislature considers federal funding for mental health and substance abuse treatment to be critical in providing an appropriate level of access to proper treatment for citizens; and

WHEREAS, the Legislature finds that a decrease in federal funding for mental health and substance abuse treatment will provide substantive harm to a vulnerable population and will negatively impact the quality of life for our citizens.

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

1. That the Legislature urges the members of Nebraska's congressional delegation to ensure that Congress fully fund mental health and substance abuse treatment.

2. That the Legislature urges the Governor to use his best efforts to work with the Nebraska congressional delegation to ensure that this funding is restored.

3. That the Legislature proclaims that all components of state government should work together to ensure mental health and substance abuse treatment funding.

4. That the Governor and each member of Nebraska's congressional delegation receive a copy of this resolution.

SPEAKER'S ANNOUNCEMENT

Pursuant to Rule 4, Section 8, LR 39 was referred to the Reference Committee.

UNANIMOUS CONSENT - Add Cointroducers

Senator Cornett asked unanimous consent to add her name as cointroducer to LB 12. No objections. So ordered.

Senators Cornett and Gay asked unanimous consent to add their names as cointroducers to LB 370. No objections. So ordered.

Senator Fulton asked unanimous consent to add his name as cointroducer to LB 699. No objections. So ordered.

SPEAKER FLOOD PRESIDING

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 29, 30, and 31 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 29, 30, and 31.

VISITORS

Visitors to the Chamber were 28 fourth-grade students and teachers from Trinity Lutheran, Lincoln; Mustafa Dundar, Muharrem Ince, and Fehmi Oztunc of the Turkish Parliament; and Senator Erdman's grandmother and parents, Margaret, Steve, and Cathy Erdman, from Bayard.

The Doctor of the Day was Dr. Roger Meyer from Utica.

ADJOURNMENT

At 12:09 p.m., on a motion by Senator Adams, the Legislature adjourned until 9:00 a.m., Tuesday, February 27, 2007.

Patrick J. O'Donnell
Clerk of the Legislature

