

**THIRTY-FIFTH DAY - FEBRUARY 24, 2017****LEGISLATIVE JOURNAL****ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION****THIRTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, February 24, 2017

**PRAYER**

The prayer was offered by Reverend Michael Davis, Elgin United Methodist Church, Elgin.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Scheer presiding.

The roll was called and all members were present except Senators Hilkemann, Kolowski, Walz, and Wayne who were excused; and Senators Bolz, Hansen, Murante, and Watermeier who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-fourth day was approved.

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

Senator Crawford filed the following amendment to LB588:  
AM305

1 1. On page 2, line 20, after "reflexology" insert "who limit their  
2 services to the application of specific pressure, by the use of the  
3 practitioner's hands, thumbs, and fingers, to the soft tissue of the  
4 hands, feet, and outer ears and whose services are not designated or  
5 implied to be massage or massage therapy".

**ANNOUNCEMENT(S)**

Senator Chambers designates LB447 as his priority bill.

**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>

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of February 23, 2017, 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

Freeman, Clayton  
Alzheimer's Association Nebraska Chapter  
Kester, Steven  
Apple Inc.  
Radcliffe, Walter H. of Radcliffe and Associates  
Oracle  
Zulkoski Weber LLC  
Cedars Youth Services

**COMMITTEE REPORT(S)**  
Enrollment and Review

**LEGISLATIVE BILL 1.** Placed on Final Reading.  
**LEGISLATIVE BILL 2.** Placed on Final Reading.  
**LEGISLATIVE BILL 3.** Placed on Final Reading.  
**LEGISLATIVE BILL 4.** Placed on Final Reading.  
**LEGISLATIVE BILL 5.** Placed on Final Reading.  
**LEGISLATIVE BILL 45.** Placed on Final Reading.  
**LEGISLATIVE BILL 56.** Placed on Final Reading.

(Signed) Anna Wishart, Chairperson

**RESOLUTION(S)**

**LEGISLATIVE RESOLUTION 48.** Introduced by Harr, 8.

WHEREAS, Nebraska and Taiwan have participated in a sister-state relationship since 1983; and

WHEREAS, Nebraska and Taiwan share the same values of freedom, democracy, rule of law, and respect for human rights; and

WHEREAS, Taiwan is the ninth largest global trading partner for the United States and is the seventh largest export market for American agricultural products; and

WHEREAS, the United States is the second largest trading partner for Taiwan; and

WHEREAS, Taiwan is Nebraska's eleventh largest trading partner for both imports and exports; and

WHEREAS, in 2016, the State of Nebraska embarked on a trade mission to Taiwan that led to a trade agreement for the sale of approximately \$400 million of Nebraska corn, soybeans, wheat, beef, and pork to Taiwan.

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

1. That Nebraska supports Taiwan's mature and vital democracy and celebrates the thirty-fourth anniversary of Nebraska's sister-state relationship with Taiwan.

2. That the Legislature acknowledges the rich history of friendship and the close economic and trade relationship between Nebraska and Taiwan.

3. That copies of this resolution be sent to the Director General of the Taipei Economic and Cultural Office in Denver, Colorado, and to the United States Secretary of State.

Laid over.

### GENERAL FILE

**LEGISLATIVE BILL 470.** Title read. Considered.

Senator Chambers offered the following motion:

MO40

Indefinitely postpone.

### SENATOR KRIST PRESIDING

Senator Larson moved for a call of the house. The motion prevailed with 29 ayes, 3 nays, and 17 not voting.

Senator Larson requested a roll call vote, in reverse order, on the motion to indefinitely postpone.

Voting in the affirmative, 24:

Albrecht	Briese	Geist	Lindstrom	Stinner
Baker	Chambers	Halloran	Linehan	Vargas
Bostelman	Clements	Hansen	Lowe	Watermeier
Brasch	Craighead	Hilgers	Pansing Brooks	Williams
Brewer	Erdman	Kolterman	Smith	

Voting in the negative, 9:

Blood	Friesen	Larson	Morfeld	Quick
Bolz	Hughes	McDonnell	Murante	

Present and not voting, 10:

Crawford	Howard	Kuehn	Riepe	Schumacher
Ebke	Krist	McCollister	Scheer	Wishart

Excused and not voting, 6:

Groene            Hilkemann    Walz  
Harr                Kolowski     Wayne

The Chambers motion to indefinitely postpone prevailed with 24 ayes, 9 nays, 10 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

**NOTICE OF COMMITTEE HEARING(S)**  
Health and Human Services

Room 1510

Friday, March 3, 2017 1:30 p.m.

Brian Buhlke - Nebraska Rural Health Advisory Commission  
April Dexter - Nebraska Rural Health Advisory Commission  
Martin Fattig - Nebraska Rural Health Advisory Commission  
Jessye Goertz - Nebraska Rural Health Advisory Commission  
Benjamin R. Iske - Nebraska Rural Health Advisory Commission

(Signed) Merv Riepe, Chairperson

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

Senator Schumacher filed the following amendment to LB148:  
AM192

1 1. On page 7, line 27, after "company" insert ". For the limited  
2 purposes of determining professional malpractice insurance premiums, a  
3 security issued through a transaction that is exempted pursuant to  
4 subdivision (23) of section 8-1111 shall not be considered a security".  
5 2. On page 57, line 9, after "dollars" insert "or such greater  
6 amount as from time to time may be set in accordance with rules and  
7 regulations adopted and promulgated by the director to adjust the amount  
8 to reflect changes in the Consumer Price Index for All Urban Consumers as  
9 prepared by the United States Department of Labor, Bureau of Labor  
10 Statistics".

**ANNOUNCEMENT(S)**

The Education Committee designates LB409 as its priority bill.

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 233A.** Introduced by Smith, 14.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 233, One Hundred Fifth Legislature, First Session, 2017.

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

Senator Hansen filed the following amendment to LB113:  
AM362

(Amendments to E&R amendments, ER5)

- 1 1. On page 9, line 7, strike "All municipalities", show the old
- 2 matter as stricken, and insert "Each municipality"; in line 11 strike
- 3 "cities", show as stricken, and insert "a city"; and in line 12 strike
- 4 "they adopt or retain", show as stricken, and insert "it adopts or
- 5 retains".
- 6 2. On page 15, line 4, after "class" insert ". If the mayor and city
- 7 council enact such an ordinance".
- 8 3. On page 22, lines 26 and 27, after "federal" insert "decennial"
- 9 and after "census" insert "or the most recent revised certified count by
- 10 the United States Bureau of the Census".

**GENERAL FILE**

**LEGISLATIVE BILL 203.** Title read. Considered.

Senator Albrecht offered her amendment, AM350, found on page 529.

The Albrecht amendment was adopted with 38 ayes, 0 nays, 4 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 3 present and not voting, and 7 excused and not voting.

**LEGISLATIVE BILL 16.** Title read. Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 8 present and not voting, and 7 excused and not voting.

**LEGISLATIVE BILL 99.** Title read. Considered.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 10 present and not voting, and 8 excused and not voting.

**LEGISLATIVE BILL 140.** Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 7 present and not voting, and 7 excused and not voting.

**LEGISLATIVE BILL 184.** Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 10 present and not voting, and 7 excused and not voting.

**LEGISLATIVE BILL 185.** Title read. Considered.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

**LEGISLATIVE BILL 186.** Title read. Considered.

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

**LEGISLATIVE BILL 46.** Title read. Considered.

#### **SENATOR LINDSTROM PRESIDING**

Senator Watermeier offered the following amendment:

AM37

1 1. Strike original section 1.

2 2. On page 12, lines 6 and 7, strike "Nebraska Child Abuse  
3 Prevention Fund" and insert "Health and Human Services Cash Fund to  
4 supplement federal funds available to the department for the Temporary  
5 Assistance for Needy Families program, 42 U.S.C. 601, et seq".

6 3. On page 12, lines 15 and 16; and page 13, lines 8 and 9 and 13,  
7 strike "Nebraska Child Abuse Prevention Fund" and insert "Health and  
8 Human Services Cash Fund to supplement federal funds available to the  
9 department for the Temporary Assistance for Needy Families program".

10 4. Renumber the remaining sections and correct internal references  
11 and the repealer accordingly.

Pending.

#### **COMMITTEE REPORT(S)**

Health and Human Services

**LEGISLATIVE BILL 481.** Placed on General File.

**LEGISLATIVE BILL 605.** Placed on General File.

**LEGISLATIVE BILL 166.** Placed on General File with amendment.

AM143

1 1. Strike original sections 8 to 11, 15, 18, 20, 21, 26, and 27 and

2 insert the following new sections:

3 Sec. 8. Section 38-1,125, Reissue Revised Statutes of Nebraska, is

4 amended to read:

5 38-1,125 (1) Except as otherwise provided in section 38-2897, every

6 ~~Every~~ credential holder, ~~except pharmacist interns and pharmacy~~

7 ~~technicians~~, shall, within thirty days of an occurrence described in this

8 subsection, report to the department in such manner and form as the

9 department may require whenever he or she:

10 (a) Has first-hand knowledge of facts giving him or her reason to

11 believe that any person in his or her profession:

12 (i) Has acted with gross incompetence or gross negligence;

13 (ii) Has engaged in a pattern of incompetent or negligent conduct as

14 defined in section 38-177;

15 (iii) Has engaged in unprofessional conduct as defined in section

16 38-179;

17 (iv) Has been practicing while his or her ability to practice is

18 impaired by alcohol, controlled substances, mind-altering substances, or

19 physical, mental, or emotional disability; or

20 (v) Has otherwise violated the regulatory provisions governing the

21 practice of the profession;

22 (b) Has first-hand knowledge of facts giving him or her reason to

23 believe that any person in another profession:

24 (i) Has acted with gross incompetence or gross negligence; or

25 (ii) Has been practicing while his or her ability to practice is

26 impaired by alcohol, controlled substances, mind-altering substances, or

27 physical, mental, or emotional disability; or

1 (c) Has been the subject of any of the following actions:

2 (i) Loss of privileges in a hospital or other health care facility

3 due to alleged incompetence, negligence, unethical or unprofessional

4 conduct, or physical, mental, or chemical impairment or the voluntary

5 limitation of privileges or resignation from the staff of any health care

6 facility when that occurred while under formal or informal investigation

7 or evaluation by the facility or a committee of the facility for issues

8 of clinical competence, unprofessional conduct, or physical, mental, or

9 chemical impairment;

10 (ii) Loss of employment due to alleged incompetence, negligence,

11 unethical or unprofessional conduct, or physical, mental, or chemical

12 impairment;

13 (iii) An adverse judgment, settlement, or award arising out of a

14 professional liability claim, including a settlement made prior to suit

15 in which the consumer releases any professional liability claim against

16 the credentialed person, or adverse action by an insurance company

17 affecting professional liability coverage. The department may define what

18 constitutes a settlement that would be reportable when a credential

19 holder refunds or reduces a fee or makes no charge for reasons related to

20 a consumer complaint other than costs;

21 (iv) Denial of a credential or other form of authorization to

22 practice by any jurisdiction due to alleged incompetence, negligence,

23 unethical or unprofessional conduct, or physical, mental, or chemical

24 impairment;

25 (v) Disciplinary action against any credential or other form of  
26 permit he or she holds taken by any jurisdiction, the settlement of such  
27 action, or any voluntary surrender of or limitation on any such  
28 credential or other form of permit;

29 (vi) Loss of membership in, or discipline of a credential related to  
30 the applicable profession by, a professional organization due to alleged  
31 incompetence, negligence, unethical or unprofessional conduct, or  
1 physical, mental, or chemical impairment; or

2 (vii) Conviction of any misdemeanor or felony in this or any other  
3 jurisdiction.

4 (2) The requirement to file a report under subdivision (1)(a) or (b)  
5 of this section shall not apply:

6 (a) To the spouse of the credential holder;

7 (b) To a practitioner who is providing treatment to such credential  
8 holder in a practitioner-consumer relationship concerning information  
9 obtained or discovered in the course of treatment unless the treating  
10 practitioner determines that the condition of the credential holder may  
11 be of a nature which constitutes a danger to the public health and safety  
12 by the credential holder's continued practice; or

13 (c) When a credential holder who is chemically impaired enters the  
14 Licensee Assistance Program authorized by section 38-175 except as  
15 otherwise provided in such section.

16 (3) A report submitted by a professional liability insurance company  
17 on behalf of a credential holder within the thirty-day period prescribed  
18 in subsection (1) of this section shall be sufficient to satisfy the  
19 credential holder's reporting requirement under subsection (1) of this  
20 section.

21 Sec. 9. Section 38-2801, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23 38-2801 Sections 38-2801 to 38-28,107 and sections 11 to 13 and 15  
24 of this act and the Nebraska Drug Product Selection Act shall be known  
25 and may be cited as the Pharmacy Practice Act.

26 Sec. 10. Section 38-2802, Reissue Revised Statutes of Nebraska, is  
27 amended to read:

28 38-2802 For purposes of the Pharmacy Practice Act and elsewhere in  
29 the Uniform Credentialing Act, unless the context otherwise requires, the  
30 definitions found in sections 38-2803 to 38-2847 and sections 11 to 13 of  
31 this act apply.

1 Sec. 12. Practice agreement means a document signed by a pharmacist  
2 and a practitioner with independent prescribing authority, in which the  
3 pharmacist agrees to design, implement, and monitor a therapeutic plan  
4 based on a written protocol.

5 Sec. 13. Written protocol means a written template, agreed to by  
6 pharmacists and practitioners with independent prescribing authority,  
7 working in concert, which directs how the pharmacists will implement and  
8 monitor a therapeutic plan.

9 Sec. 18. Section 38-2897, Reissue Revised Statutes of Nebraska, is  
10 amended to read:



11 38-2897 (1) The requirement to file a report under subsection (1)  
12 of section 38-1,125 shall not apply to pharmacist interns or pharmacy  
13 technicians, except that a A pharmacy technician shall, within thirty  
14 days after having report first-hand knowledge of facts giving him or her  
15 reason to believe that any person in his or her profession, or any person  
16 in another profession under the regulatory provisions of the department,  
17 may be practicing while his or her ability to practice is impaired by  
18 alcohol, controlled substances, or narcotic drugs, report to the  
19 department in such manner and form as the department may require. A  
20 report made to the department under this section shall be confidential.  
21 The identity of any person making such report or providing information  
22 leading to the making of such report shall be confidential.  
23 (2) A pharmacy technician Any person making a report to the  
24 department under this section, except for those self-reporting, shall be  
25 completely immune from criminal or civil liability of any nature, whether  
26 direct or derivative, for filing a report or for disclosure of documents,  
27 records, or other information to the department under this section. The  
28 immunity granted under by this section shall not apply to any person  
29 causing damage or injury by his or her willful, wanton, or grossly  
30 negligent act of commission or omission.  
31 (3) A report submitted by a professional liability insurance company  
1 on behalf of a credential holder within the thirty-day period prescribed  
2 in this section shall be sufficient to satisfy the credential holder's  
3 reporting requirement under this section.  
4 (4) Persons who are members of committees established under the  
5 Health Care Quality Improvement Act, the Patient Safety Improvement Act,  
6 or section 25-12,123 or witnesses before such committees shall not be  
7 required to report under this section. Any person who is a witness before  
8 such a committee shall not be excused from reporting matters of first-  
9 hand knowledge that would otherwise be reportable under this section only  
10 because he or she attended or testified before such committee.  
11 (5) Documents from original sources shall not be construed as immune  
12 from discovery or use in actions under this section.  
13 Sec. 20. (1)(a) When administration of a drug occurs in a hospital  
14 pursuant to a chart order, hospital personnel may provide the unused  
15 portion of the drug to the patient upon discharge from the hospital for  
16 continued use in treatment of the patient if:  
17 (i) The drug has been opened and used for treatment of the patient  
18 at the hospital and is necessary for the continued treatment of the  
19 patient and would be wasted if not used by the patient; and  
20 (ii) The drug is:  
21 (A) In a multidose device or a multidose container; or  
22 (B) In the form of a liquid reconstituted from a dry stable state to  
23 a liquid resulting in a limited stability.  
24 (b) A drug provided to a patient in accordance with this subsection  
25 shall be labeled with the name of the patient, the name of the drug  
26 including the quantity if appropriate, the date the drug was provided,  
27 and the directions for use.  
28 (2)(a) A licensed health care practitioner authorized to prescribe

29 controlled substances may provide to his or her patients being discharged  
30 from a hospital a sufficient quantity of drugs adequate, in the judgment  
31 of the practitioner, to continue treatment, which began in the hospital,  
1 until the patient is reasonably able to access a pharmacy.

2 (b) The pharmacist-in-charge at the hospital shall maintain records  
3 of the drugs provided to patients in accordance with this subsection  
4 which shall include the name of the patient, the name of the drug  
5 including the quantity if appropriate, the date the drug was provided,  
6 and the directions for use.

7 (3) If a drug is provided to a patient in accordance with this  
8 section:

9 (a) The drug shall be kept in a locked cabinet or automated  
10 medication system with access only by a licensed health care practitioner  
11 authorized to prescribe, dispense, or administer controlled substances;

12 (b) Prior to providing the drug to the patient, a written or  
13 electronic order shall be in the patient's record;

14 (c) The process at the hospital shall be under the direct  
15 supervision of the prescriber;

16 (d) If the label is prepared by a nurse, the prescriber shall verify  
17 the drug and the directions for the patient;

18 (e) When possible, the directions for the patient shall be  
19 preprinted on the label by the pharmacist;

20 (f) The label shall include the name of the patient, the name of the  
21 drug including the quantity if appropriate, the date the drug was  
22 provided, and the directions for use;

23 (g) A written information sheet shall be given to the patient for  
24 each drug provided; and

25 (h) Documentation in a readily retrievable format shall be  
26 maintained each time a drug is provided to a patient from the hospital  
27 pharmacy's inventory which shall include the date, the patient, the drug,  
28 and the prescriber.

29 Sec. 21. Section 71-2412, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31 71-2412 Drugs may be administered to residents of a long-term care  
1 facility by authorized personnel of the long-term care facility from the  
2 contents of emergency boxes located within such long-term care facility  
3 if such drugs and boxes meet all of the following requirements:

4 (1) All emergency box drugs shall be provided by and all emergency  
5 boxes containing such drugs shall be sealed by a supplying pharmacy with  
6 the seal on such emergency box to be of such a nature that it can be  
7 easily identified if it has been broken;

8 (2) Emergency boxes shall be stored in a medication room or other  
9 secured area within the long-term care facility. Only authorized  
10 personnel of the long-term care facility or the supplying pharmacy shall  
11 obtain access to such room or secured area, by key or combination, in  
12 order to prevent unauthorized access and to ensure a proper environment  
13 for preservation of the emergency box drugs;

14 (3) The exterior of each emergency box shall be labeled so as to  
15 clearly indicate that it is an emergency box for use in emergencies only.

16 The label shall contain a listing of the drugs contained in the box,  
 17 including the name, strength, route of administration, quantity, and  
 18 expiration date of each drug, and the name, address, and telephone number  
 19 of the supplying pharmacy;

20 (4) All emergency boxes shall be inspected by a pharmacist  
 21 designated by the supplying pharmacy at least once every thirty days or  
 22 after a reported usage of any drug to determine the expiration date and  
 23 quantity of the drugs in the box. Every inspection shall be documented  
 24 and the record retained by the long-term care facility for a period of  
 25 five years; and

26 ~~(5) An emergency box shall not contain multiple dose vials, shall  
 27 not contain more than ten drugs which are controlled substances, and  
 28 shall contain no more than a total of fifty drugs; and~~

29 (5) ~~(6)~~ All drugs in emergency boxes shall be in the original  
 30 manufacturer's or distributor's containers or shall be repackaged by the  
 31 supplying pharmacy and shall include the manufacturer's or distributor's  
 1 name, lot number, drug name, strength, dosage form, NDC number, route of  
 2 administration, and expiration date on a typewritten label. Any drug  
 3 which is repackaged shall contain on the label the calculated expiration  
 4 date.

5 For purposes of the Emergency Box Drug Act, calculated expiration  
 6 date has the same meaning as in ~~subdivision (7)(b) of section 38-2808.01~~  
 7 ~~38-2884.~~

8 Sec. 26. Original sections 28-410, 28-411, 28-414, 28-414.01,  
 9 28-414.03, 28-442, 38-1,124, 38-1,125, 38-2801, 38-2802, 38-2866.01,  
 10 38-2870, 38-2892, 38-2897, 71-2412, and 71-2413, Reissue Revised Statutes  
 11 of Nebraska, and sections 71-401, 71-2445, 71-2478, and 71-2479, Revised  
 12 Statutes Cumulative Supplement, 2016, are repealed.

13 Sec. 27. The following section is outright repealed: Section  
 14 38-2853, Reissue Revised Statutes of Nebraska.

15 2. Renumber the remaining sections accordingly.

(Signed) Merv Riepe, Chairperson

#### ANNOUNCEMENT(S)

Senator Craighead designates LB195 as her priority bill.

#### COMMITTEE REPORT(S)

Enrollment and Review

**LEGISLATIVE BILL 74.** Placed on Final Reading.  
**LEGISLATIVE BILL 80.** Placed on Final Reading.  
**LEGISLATIVE BILL 131.** Placed on Final Reading.  
**LEGISLATIVE BILL 132.** Placed on Final Reading.  
**LEGISLATIVE BILL 134.** Placed on Final Reading.

(Signed) Anna Wishart, Chairperson

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

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

Senator Lowe name added to LB121.  
Senator McDonnell name added to LB218.  
Senator McDonnell name added to LB253.  
Senator Wayne name added to LB289.  
Senator Brewer name added to LB299.  
Senator Kolowski name added to LB438.  
Senator McDonnell name added to LB488.  
Senator Brewer name added to LB553.  
Senator Krist name added to LB617.  
Senator Brewer name added to LB637.

**VISITOR(S)**

Visitors to the Chamber were Larry Isaak and Dick Short of the Midwestern Higher Education Compact; members of the National Utility Contractors Association of Nebraska; BJ Woehler and Eric Klein of the National Utility Contractors Association from Wayne; and students from Southwest High School.

**ADJOURNMENT**

At 11:57 a.m., on a motion by Senator Hughes, the Legislature adjourned until 9:00 a.m., Monday, February 27, 2017.

Patrick J. O'Donnell  
Clerk of the Legislature