

FORTY-FOURTH DAY - MARCH 17, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION****FORTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, March 17, 2009

PRAYER

The prayer was offered by Reverend Dwight Ford, Grace City Church, Omaha.

ROLL CALL

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

The roll was called and all members were present except Senators Christensen and White who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-third day was approved.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 105. Placed on Final Reading.
ST9006

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Langemeier amendment, AM227, on page 31, line 10, "permits" has been struck and "permit" inserted.

2. On page 1, line 3, "37-438," has been struck; in line 4 "37-448," has been struck; the matter beginning with "37-458" in line 5 through "37-4,108" in line 7 has been struck and "37-477, 37-479, 37-481" inserted; and in line 9 the matter beginning with the first comma through "37-1227" has been struck.

3. On page 2, line 1, "certain" has been inserted after "of"; and in line 2 "and the State Boat Act" has been struck.

LEGISLATIVE BILL 105A. Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 63. Placed on Select File with amendment.
ER8031 is available in the Bill Room.

LEGISLATIVE BILL 121. Placed on Select File with amendment.
ER8032 is available in the Bill Room.

(Signed) Jeremy Nordquist, Chairperson

COMMITTEE REPORTS

Banking, Commerce and Insurance

LEGISLATIVE BILL 551. Placed on General File.

(Signed) Rich Pahls, Chairperson

Business and Labor

LEGISLATIVE BILL 627. Placed on General File with amendment.
AM230

- 1 1. On page 4, strike lines 1 through 4 and insert the
- 2 following new subsection:
- 3 "(4) A boiler that is used as a water heater to supply
- 4 potable hot water and that is not otherwise exempt from inspection
- 5 under the act pursuant to section 48-726 shall be subject to
- 6 inspection at least once every twenty-four months in accordance
- 7 with a schedule of inspection established by the commissioner by
- 8 rule and regulation.".

(Signed) Steve Lathrop, Chairperson

General Affairs

LEGISLATIVE BILL 198. Placed on General File with amendment.
AM679 is available in the Bill Room.

LEGISLATIVE BILL 287. Placed on General File with amendment.
AM536

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 9-255.04, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 9-255.04 (1) No expense shall be incurred or amounts paid
- 6 in connection with the conduct of bingo by a licensed organization
- 7 except those which are reasonable and necessary.
- 8 (2) A licensed organization shall not spend more than

9 fourteen percent of its bingo gross receipts to pay the expenses of
10 conducting bingo. The actual cost of (a) license and local permit
11 fees, (b) any taxes authorized by the Nebraska Bingo Act, (c)
12 bingo and promotional prizes, (d) the purchase, rental, or lease
13 of bingo equipment, and (e) the rental or lease of a premises for
14 the conduct of bingo and the purchase, rental, or lease of personal
15 property as allowed by the department in rule and regulation which
16 is necessary for the conduct of bingo shall not be included in
17 determining compliance with the expense limitation contained in
18 this section.

19 (3) A licensed organization which is also licensed to
20 conduct a lottery by the sale of pickle cards pursuant to the
21 Nebraska Pickle Card Lottery Act may allocate a portion of the
22 expenses associated with the conduct of its bingo occasions to
23 its lottery by the sale of pickle cards conducted at such bingo
1 occasions. Such allocation shall be based upon the percentage that
2 pickle card gross proceeds derived from the sale of pickle cards
3 at the bingo occasions represents to the total of bingo gross
4 receipts and pickle card gross proceeds derived from such bingo
5 occasions for the previous annual reporting period. An organization
6 licensed to conduct bingo that has not been previously licensed
7 shall determine such allocation based upon the percentage that
8 pickle card gross proceeds derived from the sale of pickle cards at
9 the bingo occasions represents to the total of bingo gross receipts
10 and pickle card gross proceeds derived from such bingo occasions
11 for the initial three consecutive calendar months of operation.

12 (4) The total amount of expenses that may be allocated
13 to the organization's lottery by the sale of pickle cards shall be
14 subject to the limitations on bingo expenses as provided for in
15 the Nebraska Bingo Act with respect to the fourteen-percent expense
16 limitation and the fair-market-value limitation on the purchase,
17 rental, or lease of bingo equipment and the rental or lease of
18 personal property or of a premises for the conduct of bingo. No
19 portion of the ~~eight~~ twelve percent of the definite profit of a
20 pickle card unit as allowed by section 9-347 to pay the allowable
21 expenses of operating a lottery by the sale of pickle cards shall
22 be used to pay any expenses associated with the sale of pickle
23 cards at a bingo occasion.

24 (5) All persons paid for working at a bingo occasion,
25 including pickle card sellers but excluding concession workers,
26 shall be paid only by a check written from the licensed
27 organization's bingo checking account and shall not receive any
1 other compensation or payment for working at a bingo occasion
2 from any other source. Such wages shall be at an hourly or
3 occasion rate and shall be included in the amount allowed by the
4 expense limitation provided in subsection (2) of this section. No
5 person shall receive any compensation or payment from a licensed
6 organization based upon a percentage of the organization's bingo
7 gross receipts or profit.

8 (6) No expenses associated with the conduct of bingo
9 may be paid directly from the licensed organization's pickle card
10 checking account. A licensed organization may transfer funds from
11 its pickle card checking account to its bingo checking account as
12 permitted by subsection (3) of this section by a check drawn on
13 the pickle card checking account or by electronic funds transfer as
14 provided only by section 9-347.

15 Sec. 2. Section 9-347, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 9-347 (1) The gross proceeds of any lottery by the sale
18 of pickle cards shall be used solely for lawful purposes, awarding
19 of prizes, payment of the unit cost, any commission paid to a
20 pickle card operator, allowable expenses, and allocations for bingo
21 expenses as provided by subsection (5) of this section.

22 (2) Not less than sixty-five percent or more than eighty
23 percent of the gross proceeds of any lottery by the sale of pickle
24 cards shall be used for the awarding of prizes.

25 (3) Not more than ~~eight-twelve~~ percent of the definite
26 profit of a pickle card unit shall be used by the licensed
27 organization to pay the allowable expenses of operating a lottery
1 by the sale of pickle cards, except that license fees paid to the
2 department to license the organization, each utilization-of-funds
3 member, and any sales agent and pickle card dispensing device
4 registration fees shall not be included in determining the
5 ~~eight percent-twelve-percent~~ limitation on expenses and no portion
6 of such ~~eight-twelve~~ percent shall be used to pay any expenses
7 associated with the sale of pickle cards at a bingo occasion
8 conducted pursuant to the Nebraska Bingo Act, and of such ~~eight~~
9 ~~twelve~~ percent not more than ~~four-six~~ percent of the definite
10 profit may be used by the licensed organization for the payment
11 of any commission, salary, or fee to a sales agent in connection
12 with the marketing, sale, and delivery of a pickle card unit. When
13 determining the ~~eight-twelve~~ percent of definite profit that is
14 permitted to pay the allowable expenses of operating a lottery by
15 the sale of pickle cards, the definite profit from the sale of
16 pickle cards at the organization's bingo occasions shall not be
17 included.

18 (4) Not more than thirty percent of the definite profit
19 of a pickle card unit shall be used by a licensed organization
20 to pay a pickle card operator a commission, fee, or salary for
21 selling individual pickle cards as opportunities for participation
22 in a lottery by the sale of pickle cards on behalf of the licensed
23 organization.

24 (5) An organization licensed to conduct bingo pursuant
25 to the Nebraska Bingo Act may allocate a portion of the expenses
26 associated with the conduct of its bingo occasions to its lottery
27 by the sale of pickle cards conducted at such bingo occasions.
1 Such allocation shall be based upon the percentage that pickle
2 card gross proceeds derived from the sale of pickle cards at the

3 bingo occasions represents to the total of bingo gross receipts
 4 and pickle card gross proceeds derived from such bingo occasions
 5 for the previous annual reporting period. An organization licensed
 6 to conduct bingo that has not been previously licensed shall
 7 determine such allocation based upon the percentage that pickle
 8 card gross proceeds derived from the sale of pickle cards at the
 9 bingo occasions represents to the total of bingo gross receipts
 10 and pickle card gross proceeds derived from such bingo occasions
 11 for the initial three consecutive calendar months of operation.
 12 The total amount of expenses that may be allocated to the
 13 organization's lottery by the sale of pickle cards shall be
 14 subject to the limitations on bingo expenses as provided for in
 15 the Nebraska Bingo Act with respect to the fourteen-percent expense
 16 limitation and the fair-market-value limitation on the purchase,
 17 rental, or lease of bingo equipment and the rental or lease of
 18 personal property or of a premises for the conduct of bingo. No
 19 expenses associated with the conduct of bingo may be paid directly
 20 from the pickle card checking account. A licensed organization
 21 which needs to allocate a portion of the expenses associated with
 22 the conduct of its bingo occasions to its lottery by the sale
 23 of pickle cards conducted at such bingo occasions to pay bingo
 24 expenses as provided by this section shall transfer funds from the
 25 pickle card checking account to the bingo checking account by a
 26 check drawn on the pickle card checking account or by electronic
 27 funds transfer.

1 Sec. 3. Section 9-347.01, Reissue Revised Statutes of
 2 Nebraska, is amended to read:
 3 9-347.01 (1) For each type of pickle card unit marketed
 4 in this state, the department shall determine the following: (a)
 5 When a licensed organization sells pickle cards through pickle card
 6 operators, the portion of the definite profit from that pickle card
 7 unit which shall go to the licensed organization, such amount to
 8 be not less than seventy percent of the definite profit from such
 9 pickle card unit; (b) the maximum amount of the definite profit
 10 from the sale of a pickle card unit that a licensed organization
 11 may pay a pickle card operator as a commission, fee, or salary to
 12 sell its pickle cards, such amount not to exceed thirty percent of
 13 the definite profit from such pickle card unit; (c) the portion of
 14 the definite profit from the sale of a pickle card unit which may
 15 be expended by a licensed organization for allowable expenses, such
 16 amount not to exceed ~~eight-twelve~~ percent of the definite profit
 17 from such pickle card unit; and (d) the portion of the definite
 18 profit from the sale of a pickle card unit which may be utilized
 19 by a licensed organization for payment of the organization's sales
 20 agent, such amount to be a portion of the allowable expenses and
 21 not to exceed ~~four-six~~ percent of the definite profit from such
 22 pickle card unit.
 23 (2) The licensed organization's net profit from the sale
 24 of a pickle card unit shall be used exclusively for a lawful

25 purpose. A licensed organization shall not donate or promise to
 26 donate its net profit or any portion of the net profit to a
 27 recipient outside of its organization as an inducement for or
 1 in exchange for (a) a payment, gift, or other thing of value
 2 from the recipient to any person, organization, or corporation,
 3 including, but not limited to, the licensed organization or any
 4 of its members, employees, or agents, or (b) a pickle card
 5 operator's agreement to sell pickle cards on behalf of the licensed
 6 organization.

7 Sec. 4. Original sections 9-255.04, 9-347, and 9-347.01,
 8 Reissue Revised Statutes of Nebraska, are repealed.

(Signed) Russ Karpisek, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 532. Placed on General File with amendment.
 AM678

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

3 Section 1. In addition to the powers granted in section
 4 23-104, counties may regulate by ordinance:

5 (1) Parking, as it pertains to snow removal for and
 6 access by emergency vehicles to residential and commercial areas;

7 (2) Motor vehicles as defined in section 60-339 that are
 8 abandoned on public or private property;

9 (3) Graffiti on public or private property;

10 (4) False alarms caused by an emergency alarm system; and

11 (5) Public indecency, including public nudity.

12 Any ordinance adopted by the county shall be enforced by
 13 a fine not exceeding five hundred dollars for each offense and
 14 recoverable costs and attorney's fees or other penalty adopted by
 15 ordinance.

16 Sec. 2. The county board shall provide notice of the
 17 time when any ordinance is set for consideration before the
 18 board. Such notice shall appear in at least two publications of a
 19 newspaper published or of general circulation in the county. The
 20 publication shall state the entire wording of the ordinance. The
 21 last publication shall be not less than five days nor more than
 22 two weeks prior to the time set for the hearing for public comment
 23 on the adoption of any such ordinance. Final action by the county
 1 board shall not be taken on the proposed ordinance until after at
 2 least one public hearing has been arranged for and held thereon
 3 by the county board. Thereafter the ordinance may be amended and
 4 adopted or adopted as proposed.

5 Sec. 3. County ordinances shall be adopted pursuant to
 6 rules and regulations as the county board may provide, and all such
 7 ordinances may be proved by the certificate of the county clerk
 8 under the seal of the county. When printed or published in book

9 or pamphlet form and purporting to be published by authority of
 10 the county, such ordinances shall be read and received in evidence
 11 in all courts and places without further proof. The adoption and
 12 publication or posting of the ordinance shall be sufficiently
 13 proved by a certificate under the seal of the county, from the
 14 county clerk, showing that such ordinance was adopted, and when and
 15 in what paper the ordinance was published, or when, by whom, and
 16 where the ordinance was posted. When ordinances are published in
 17 book or pamphlet form, purporting to be published by authority of
 18 the county board, the ordinance need not be otherwise published,
 19 and such book or pamphlet shall be received as evidence of the
 20 adoption and legal publication of such ordinances, as of the dates
 21 mentioned in such book or pamphlet, in all courts without further
 22 proof.

23 Sec. 4. (1) Ordinances shall be read by title on three
 24 different days unless three-fourths of the county board members
 25 vote to suspend this requirement. In case such requirement is
 26 suspended, the ordinances shall be read by title or number and then
 27 moved for final adoption. Three-fourths of the county board members
 1 may require a reading of any such ordinance in full before adoption
 2 under either procedure set out in this section. The votes of each
 3 member shall be called aloud and recorded. To adopt any ordinance,
 4 a concurrence of a majority of the whole number of the members
 5 elected to the board shall be required.

6 (2) Ordinances shall contain no subject which is not
 7 clearly expressed in the title, and no ordinance or section thereof
 8 shall be revised or amended unless the new ordinance contains the
 9 entire ordinance or section as revised or amended and the ordinance
 10 or section so amended is repealed, except that:

11 (a) For an ordinance revising all the ordinances of the
 12 county, the only title necessary shall be An ordinance of the
 13 county of, revising all the ordinances of the county.
 14 Under such title all the ordinances may be revised in sections and
 15 chapters or otherwise, may be corrected, added to, and any part
 16 suppressed, and may be repealed with or without a saving clause as
 17 to the whole or any part without other title; and

18 (b) For an ordinance used solely to revise ordinances
 19 or to adopt new ordinances in order to adopt statutory changes
 20 made by the Legislature which are specific and mandatory and bring
 21 the ordinances into conformance with state law, the title need
 22 only state that the ordinance revises those ordinances affected by
 23 or adopts ordinances generated by legislative changes. Under such
 24 title, all such ordinances may be revised, repealed, or adopted in
 25 sections and chapters or otherwise by a single ordinance without
 26 other title.

27 Sec. 5. The style of ordinances shall be: "Be it ordained
 1 by the county board of the county of, " and all
 2 ordinances shall, within fifteen days after they are adopted, be
 3 published in some newspaper published or of general circulation

4 within the county, or in pamphlet form, to be distributed or sold,
5 as may be provided by ordinance. Every ordinance fixing a penalty
6 or forfeiture for its violation shall, before the ordinance takes
7 effect, be published for at least one week in the manner prescribed
8 in this section.

9 Sec. 6. No ordinance of any county shall go into effect
10 until fifteen days after the adoption of such ordinance.

11 Sec. 7. The powers conferred by sections 1 to 6 of this
12 act shall not be exercised within the limits of any incorporated
13 city or village nor within the area over which a city or village
14 has been granted and is exercising such powers. At such time as
15 a city or village exercises control over an unincorporated area
16 by the adoption or amendment of an ordinance, the ordinance or
17 amendment shall supersede any similar ordinance of the county.

(Signed) Bill Avery, Chairperson

MESSAGES FROM THE GOVERNOR

March 12, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed as the Director of Children and Family Services of the Department of Health and Human Services:

Todd Reckling, 2900 South 46th Street, Lincoln, NE 68506

The aforementioned appointee is respectfully submitted for your consideration. Copies of the appointment certificate and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

March 6, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individuals are being reappointed to the State Emergency Response Commission:

Steven Danon, 4804 South 160th Street, Omaha, NE 68135
Richard Christensen, 1200 Lock View Drive, Hastings, NE 68901
Donald Eisenhauer, 803 4th Street, Fairbury, NE 68352
Larry Johnson, 1729 North 160th Street, Omaha, NE 68118

The aforementioned appointees are respectfully submitted for your consideration. Copies of the appointment certificates and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 43, 44, 45, and 46 were adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 43, 44, 45, and 46.

MOTIONS - Approve Appointments

Senator Karpisek moved the adoption of the General Affairs Committee report for the confirmation of the following appointment(s) found on page 695:

Nebraska Arts Council
Judy Pearl-Lee

Voting in the affirmative, 38:

Adams	Dierks	Haar	Lautenbaugh	Schilz
Ashford	Dubas	Hadley	Louden	Stuthman
Avery	Fischer	Hansen	McCoy	Sullivan
Campbell	Flood	Harms	Mello	Utter
Carlson	Fulton	Howard	Nantkes	Wallman
Coash	Gay	Janssen	Pahls	Wightman
Cook	Giese	Karpisek	Pirsch	
Council	Gloor	Langemeier	Price	

Voting in the negative, 0.

Present and not voting, 9:

Cornett	Heidemann	McGill	Nordquist	Rogert
Friend	Lathrop	Nelson	Pankonin	

Excused and not voting, 2:

Christensen White

The appointment was confirmed with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

Senator Gay moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 695:

Stem Cell Research Advisory Committee

Bradley B. Keller
 Rebecca Morris
 Dennis R. Roop
 Gerald Spangrude

Voting in the affirmative, 43:

Adams	Dierks	Hansen	Mello	Schilz
Ashford	Dubas	Harms	Nantkes	Stuthman
Avery	Fischer	Howard	Nelson	Sullivan
Campbell	Fulton	Janssen	Nordquist	Utter
Carlson	Gay	Karpisek	Pahls	Wallman
Coash	Giese	Langemeier	Pankonin	White
Cook	Gloor	Lautenbaugh	Pirsch	Wightman
Cornett	Haar	Louden	Price	
Council	Hadley	McCoy	Rogert	

Voting in the negative, 0.

Present and not voting, 5:

Flood	Friend	Heidemann	Lathrop	McGill
-------	--------	-----------	---------	--------

Excused and not voting, 1:

Christensen

The appointments were confirmed with 43 ayes, 0 nays, 5 present and not voting, and 1 excused and not voting.

Senator Gay moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 696:

Foster Care Review Board

Mary Jo Pankoke

Mario Scalora

Dave Schroeder

Georgie Scurfield

Voting in the affirmative, 38:

Adams	Fischer	Hansen	Mello	Stuthman
Avery	Flood	Harms	Nelson	Sullivan
Campbell	Fulton	Howard	Pahls	Utter
Carlson	Gay	Janssen	Pankonin	Wallman
Coash	Giese	Langemeier	Pirsch	White
Cook	Gloor	Lautenbaugh	Price	Wightman
Dierks	Haar	Louden	Rogert	
Dubas	Hadley	McCoy	Schilz	

Voting in the negative, 0.

Present and not voting, 11:

Ashford	Council	Karpisek	Nantkes
Christensen	Friend	Lathrop	Nordquist
Cornett	Heidemann	McGill	

The appointments were confirmed with 38 ayes, 0 nays, and 11 present and not voting.

Senator Gay moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 696:

Commission for the Deaf and Hard of Hearing

Clifford Carlson

Luana Duennerman

Steven Manning

Jan Moore

Voting in the affirmative, 44:

Adams	Dierks	Hadley	Louden	Price
Ashford	Dubas	Hansen	McCoy	Rogert
Avery	Fischer	Harms	Mello	Schilz
Campbell	Friend	Howard	Nantkes	Stuthman
Carlson	Fulton	Janssen	Nelson	Sullivan
Christensen	Gay	Karpisek	Nordquist	Utter
Coash	Giese	Langemeier	Pahls	Wallman
Cook	Gloor	Lathrop	Pankonin	White
Council	Haar	Lautenbaugh	Pirsch	

Voting in the negative, 0.

Present and not voting, 5:

Cornett	Flood	Heidemann	McGill	Wightman
---------	-------	-----------	--------	----------

The appointments were confirmed with 44 ayes, 0 nays, and 5 present and not voting.

Senator Gay moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 696:

Commission for the Blind and Visually Impaired
Carol Jenkins

Voting in the affirmative, 41:

Adams	Dubas	Harms	Nantkes	Stuthman
Ashford	Fischer	Howard	Nelson	Sullivan
Campbell	Friend	Janssen	Nordquist	Utter
Carlson	Fulton	Karpisek	Pahls	Wallman
Christensen	Gay	Langemeier	Pankonin	White
Cook	Giese	Lautenbaugh	Pirsch	
Cornett	Gloor	Louden	Price	
Council	Haar	McCoy	Rogert	
Dierks	Hansen	Mello	Schilz	

Voting in the negative, 0.

Present and not voting, 8:

Avery	Flood	Heidemann	McGill
Coash	Hadley	Lathrop	Wightman

The appointment was confirmed with 41 ayes, 0 nays, and 8 present and not voting.

GENERAL FILE

LEGISLATIVE BILL 63A. Title read. Considered.

Advanced to Enrollment and Review Initial with 27 ayes, 1 nay, 18 present and not voting, and 3 excused and not voting.

RESOLUTION

LEGISLATIVE RESOLUTION 51. Introduced by Dierks, 40.

WHEREAS, the Ewing Lady Tigers won the 2009 Class D-2 Girls' State Basketball Championship; and

WHEREAS, the Lady Tigers defeated the top-ranked Chambers Coyotes to win the championship game; and

WHEREAS, the Lady Tigers finished the season with a record of twenty-four wins and three losses; and

WHEREAS, this is the third year in a row that the Lady Tigers won the Class D-2 Girls' State Basketball Championship; and

WHEREAS, the Lady Tigers rallied to tie the score at the end of the fourth quarter, requiring the Class D-2 championship game to go into overtime for the first time in its twenty-six-year history; and

WHEREAS, the Lady Tigers and the Ewing fans also received the 2009 Class D-2 Sportsmanship Award.

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

1. That the Legislature congratulates the Ewing Lady Tigers for their achievement in winning the 2009 Class D-2 Girls' State Basketball Championship.

2. That the Legislature congratulates head coach Brock Eichelberger and assistant coach Ann Boelter for their excellent season and guidance of the team.

3. That a copy of this resolution be sent to head coach Brock Eichelberger.

Laid over.

ANNOUNCEMENT

Speaker Flood designates LBs 9, 56, 92, 97, 112, 155, 162, 218, 232, 237, 246, 263, 358, 402, 413, 414, 440, 464, 494, 503, 511, 542, 548, 579, and 626 as Speaker priority bills.

COMMITTEE REPORTS
Nebraska Retirement Systems

LEGISLATIVE BILL 205. Placed on General File with amendment.
AM689

- 1 1. Strike sections 3 to 5.
- 2 2. On page 3, line 24; and page 7, line 9, after "each"
- 3 insert "even-numbered".
- 4 3. On page 4, line 14, strike "Members" and insert "Upon
- 5 a three-fifths majority vote of the pension board, a member" and
- 6 strike "their" and insert "his or her".
- 7 4. On page 8, line 1, strike "Members" and insert "Upon
- 8 a three-fifths majority vote of the body, board, council, or
- 9 committee, a member" and strike "their" and insert "his or her".
- 10 5. Renumber the remaining section and correct the
- 11 repealer accordingly.

LEGISLATIVE BILL 449. Placed on General File with amendment.
AM515

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 79-954, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 79-954 (1) Except as provided in subsection (2) of
- 6 this section, if ~~if~~ a disability beneficiary under the age of
- 7 sixty-five years is restored to active service as a school employee
- 8 or if the examining physician certifies that the person is no
- 9 longer disabled for service as a school employee, the school or
- 10 disability retirement allowance shall cease. If the beneficiary
- 11 again becomes a school employee, he or she shall become a member of
- 12 the retirement system. Any prior service certificate, on the basis
- 13 of which his or her creditable service was computed at the time
- 14 of his or her retirement for disability, shall be restored to full
- 15 force and effect upon his or her again becoming a member of such
- 16 retirement system.
- 17 (2) If a disability beneficiary under the age of
- 18 sixty-five years obtains employment as a school employee and the
- 19 examining physician certifies that the beneficiary has a permanent
- 20 disability, the beneficiary shall retain his or her disability
- 21 retirement allowance if the beneficiary works fewer than fifteen
- 22 hours per week.
- 23 Sec. 2. Original section 79-954, Reissue Revised Statutes
- 1 of Nebraska, is repealed.

(Signed) Dave Pankonin, Chairperson

Revenue

LEGISLATIVE BILL 218. Placed on General File with amendment.
AM712

- 1 1. Strike original section 15.
- 2 2. On page 12, line 19, strike "2009" and insert "2011".

LEGISLATIVE BILL 357. Placed on General File with amendment.
AM657

- 1 1. On page 2, line 23, strike "three" and insert "two and
- 2 two-tenths".

LEGISLATIVE BILL 405. Placed on General File with amendment.
AM722

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 77-27,234, Revised Statutes Cumulative
- 4 Supplement, 2008, is amended to read:
- 5 77-27,234 Sections 77-27,228 to 77-27,233 terminate for
- 6 taxable years beginning or deemed to begin on or after January 1,
- 7 ~~2010-2011~~, under the Internal Revenue Code of 1986, as amended.
- 8 Sec. 2. Original section 77-27,234, Revised Statutes
- 9 Cumulative Supplement, 2008, is repealed.

LEGISLATIVE BILL 587. Placed on General File with amendment.
AM721

- 1 1. On page 5, line 9, before the semicolon insert "in
- 2 conjunction with medical treatment".

(Signed) Abbie Cornett, Chairperson

Education

LEGISLATIVE BILL 235. Placed on General File with amendment.
AM681

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Solar and wind leases on and sale of carbon
- 4 offset credits involving school lands shall be governed by sections
- 5 1 to 3 of this act.
- 6 Sec. 2. The Board of Educational Lands and Funds may
- 7 issue leases for electricity generation utilizing solar or wind
- 8 energy for such durations and under such terms and conditions as
- 9 the board shall deem appropriate. In making such determinations,
- 10 the board shall consider comparable arrangements involving other
- 11 lands similarly situated and any other relevant factors bearing
- 12 upon such leases.
- 13 Sec. 3. The Board of Educational Lands and Funds may
- 14 enter into contracts for the sale of carbon offset credits under

15 such terms and conditions as the board shall deem appropriate for
 16 durations not exceeding ten years. In entering into such contracts,
 17 the board shall consider comparable arrangements involving other
 18 lands similarly situated and any other relevant factors bearing
 19 upon such contracts.

LEGISLATIVE BILL 340. Placed on General File with amendment.
 AM654

1 1. Insert the following new section:
 2 Sec. 3. Since an emergency exists, this act takes effect
 3 when passed and approved according to law.
 4 2. On page 5, strike lines 4 through 8 and insert the
 5 following:
 6 "(15) Facilitate a study that explores the following
 7 issues related to the Nebraska community college system:
 8 (a) The need for changes to the statutory role and
 9 mission of Nebraska community colleges;
 10 (b) Changes in the weighting of courses that may be
 11 necessary for reimbursable educational units to properly reflect
 12 the role and mission of Nebraska community colleges and the cost of
 13 providing such courses;
 14 (c) Powers, duties, and mission of the Nebraska Community
 15 College Association or its successor and whether membership in such
 16 an association should be required;
 17 (d) Consequences for failing to satisfy current community
 18 college association membership requirements contained in section
 19 85-1502; and
 20 (e) State coordination of community colleges in the
 21 absence of a community college association or membership therein.
 22 The commission shall include and facilitate discussion
 23 among the state's community colleges in the completion of such
 1 study. Each community college shall participate in good faith with
 2 the conduct of such study. The commission shall report its findings
 3 to the Legislature on or before December 15, 2009."

LEGISLATIVE BILL 440. Placed on General File with amendment.
 AM660

1 1. On page 2, line 17, after "diversity" insert
 2 "scholarship".

LEGISLATIVE BILL 283. Indefinitely postponed.

LEGISLATIVE BILL 400. Indefinitely postponed.

LEGISLATIVE BILL 655. Indefinitely postponed.

LEGISLATIVE BILL 673. Indefinitely postponed.

(Signed) Greg Adams, Chairperson

Agriculture

LEGISLATIVE BILL 263. Placed on General File with amendment.
AM354

- 1 1. On page 2, line 9, after "the" insert "registration,
- 2 labeling, sale,".
- 3 2. On page 3, line 10, before the period insert "or any
- 4 natural resources district to enforce the Nebraska Ground Water
- 5 Management and Protection Act".

LEGISLATIVE BILL 588. Placed on General File with amendment.
AM705

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Sections 1 to 7 of this act shall be known and
- 4 may be cited as the Dog and Cat Purchase Protection Act.
- 5 Sec. 2. For purposes of the Dog and Cat Purchase
- 6 Protection Act:
- 7 (1) Casual breeder means any person, other than a
- 8 commercial breeder as defined in section 54-626, who offers for
- 9 sale, sells, trades, or receives compensation for one or more pet
- 10 animals from a litter produced by a female dog or cat owned by such
- 11 casual breeder;
- 12 (2) Clinical symptom means indication of an illness
- 13 or dysfunction that is apparent to a veterinarian based on the
- 14 veterinarian's observation, examination, or testing of an animal or
- 15 on a review of the animal's medical records;
- 16 (3) Health certificate means the official small animal
- 17 certificate of veterinary inspection of the Bureau of Animal
- 18 Industry of the Department of Agriculture;
- 19 (4) Pet animal means a dog, wholly or in part of the
- 20 species canis familiaris, or a cat, wholly or in part of the
- 21 species felis domesticus, that is under fifteen months of age;
- 22 (5) Purchaser means the final owner of a pet animal
- 23 purchased from a seller. Purchaser does not include a person who
- 1 purchases a pet animal for resale;
- 2 (6) Seller means a casual breeder or any commercial
- 3 establishment, including a commercial breeder, dealer, or pet shop
- 4 as such terms are defined in section 54-626, that engages in a
- 5 business of selling pet animals at retail for profit. A seller
- 6 does not include an animal control facility or animal shelter as
- 7 defined in section 54-626 or any animal adoption activity that an
- 8 animal control facility or animal shelter conducts offsite at any
- 9 pet store or other commercial establishment; and
- 10 (7) Serious health problem means a congenital or
- 11 hereditary defect, an illness that causes death or severely impairs
- 12 the pet animal's health within fifteen months after the pet
- 13 animal's date of birth, the contraction of Parvovirus within seven
- 14 days after delivery of the pet animal to the purchaser, or any

15 other contagious disease that causes severe illness or death within
16 ten days after delivery of the pet animal to the purchaser.

17 Sec. 3. (1) A seller shall deliver to the purchaser at
18 the time of sale of a pet animal a written disclosure statement
19 containing the following information regarding the pet animal:

20 (a) The name, address, and license number of any
21 commercial breeder or dealer as such terms are defined in
22 section 54-626 or, if applicable, the United States Department
23 of Agriculture license number of the breeder or any broker who has
24 had possession of the animal prior to the seller's possession;

25 (b) The date of the pet animal's birth, if known, the
26 state in which the pet animal was born, if known, and the date the
27 seller received the pet animal;

1 (c) The sex and color of the pet animal, any other
2 identifying marks apparent upon the pet animal, and the breed of
3 the pet animal, if known, or a statement that the breed of the pet
4 animal is unknown or the pet animal is of mixed breed;

5 (d) The pet animal's individual identifying tag, tattoo,
6 microchip number, or collar number;

7 (e) The names and registration numbers of the sire and
8 dam and the litter number, if applicable and if known;

9 (f) A record of any vaccination, worming treatment, or
10 medication administered to the pet animal while in the possession
11 of the seller and, if known, any such vaccination, treatment, or
12 medication administered to the pet animal prior to the date the
13 seller received the pet animal; and

14 (g) The date or dates of any examination of the pet
15 animal by a licensed veterinarian while in the possession of the
16 seller.

17 (2) The seller may include any of the following with the
18 written disclosure statement required by subsection (1) of this
19 section:

20 (a) A statement that a veterinarian examined the pet
21 animal and, at the time of the examination, the pet animal had
22 no apparent or clinical symptoms of a serious health problem that
23 would adversely affect the health of the pet animal at the time of
24 sale or that is likely to adversely affect the health of the pet
25 animal in the future; and

26 (b) A record of any serious health problem that adversely
27 affects the pet animal at the time of sale or that is likely to
1 adversely affect the health of the pet animal in the future.

2 (3) The written disclosure made pursuant to this section
3 shall be signed by the seller certifying the accuracy of the
4 written disclosure statement and by the purchaser acknowledging
5 receipt of the written disclosure statement. In addition to
6 information required to be given to a purchaser under this section,
7 at the time of sale the seller shall provide the purchaser with a
8 written notice of the purchaser's rights and responsibilities under
9 the Dog and Cat Purchase Protection Act. Such notice may be in the

10 form of a legible copy of the act.

11 (4) If the pet animal is sold to a purchaser who resides
 12 outside of the state or intends that the pet animal will be
 13 relocated or permanently domiciled outside of the state, the seller
 14 shall provide the purchaser with a health certificate signed by
 15 a licensed veterinarian who has examined the pet animal and is
 16 authorized to certify such certificate.

17 (5) The seller shall maintain a copy of any written
 18 disclosure statements made and any other records on the health,
 19 status, or disposition of each pet animal for at least one year
 20 after the date of sale to a purchaser.

21 Sec. 4. (1) In order to have recourse to the remedies
 22 available to purchasers under this section, a purchaser shall have
 23 the pet animal examined by a licensed veterinarian within seven
 24 business days after delivery of the pet animal to the purchaser.
 25 The pet animal shall be declared unfit for sale and the purchaser
 26 may obtain one of the remedies listed in subsection (2) or (3)
 27 of this section if (a) during such examination, the veterinarian
 1 diagnoses the pet animal with a serious health problem that the
 2 veterinarian believes existed at the time of delivery of the pet
 3 animal to the purchaser or (b) within fifteen months after the date
 4 of birth of the pet animal, a veterinarian diagnoses the pet animal
 5 with a serious health problem or states in writing that the pet
 6 animal has died from a serious health problem that the veterinarian
 7 believes existed at the time of delivery of the pet animal to the
 8 purchaser.

9 (2) If a pet animal is diagnosed with a serious health
 10 problem under subsection (1) of this section, the purchaser shall
 11 notify the seller within two business days after the diagnosis
 12 and provide the seller with the name and telephone number of
 13 the veterinarian or a copy of the veterinarian's report. After
 14 such notification, the purchaser may obtain one of the following
 15 remedies from the seller:

16 (a) A refund of the full purchase price of the pet animal
 17 upon return of such pet animal to the seller;

18 (b) An exchange for a pet animal of the purchaser's
 19 choice of equivalent value, if such pet animal is available, upon
 20 return of the pet animal, if alive, to the seller; or

21 (c) Reimbursement for reasonable veterinary fees, not to
 22 exceed the full purchase price of the pet animal.

23 (3) If a pet animal dies from a serious health problem
 24 as determined under subsection (1) of this section, the purchaser
 25 shall notify the seller within two business days after receipt
 26 of the written statement of the veterinarian by the purchaser and
 27 shall provide the seller with a copy of such written statement.

1 After receipt of the written statement by the seller, the purchaser
 2 may obtain one of the following remedies from the seller:

3 (a) A refund of the full purchase price of the pet
 4 animal; or

5 (b) A pet animal of the purchaser's choice of equivalent
6 value, if such pet animal is available, and reimbursement for
7 reasonable veterinary fees not to exceed one-half of the full
8 purchase price of the pet animal.

9 (4) For purposes of this section, veterinary fees shall
10 be deemed reasonable if the service is appropriate for the
11 diagnosis and treatment of the serious health problem and the
12 cost of the service is comparable to similar services provided
13 by licensed veterinarians in close proximity to the treating
14 veterinarian.

15 Sec. 5. No refund or reimbursement of fees or replacement
16 of a pet animal under section 4 of this act shall be required if
17 one or more of the following conditions exist:

18 (1) The serious health problem or death of the pet animal
19 resulted from maltreatment, neglect, or injury occurring after
20 delivery of the pet animal to the purchaser;

21 (2) Any written disclosure statements provided by a
22 seller pursuant to subsection (2) of section 3 of this act
23 disclosed the serious health problem for which the purchaser is
24 seeking a remedy; or

25 (3) The purchaser failed to follow through with
26 preventative care, including, but not limited to, vaccinations,
27 deworming treatment, or medication, recommended by a licensed
1 veterinarian examining the pet animal.

2 Sec. 6. (1) If a seller does not comply with a demand for
3 remedy by a purchaser under section 4 of this act, the purchaser
4 may file an action in a court of competent jurisdiction.

5 (2) If a seller contests a demand for remedy by a
6 purchaser under section 4 of this act, the seller may require the
7 purchaser to produce the pet animal for examination or autopsy by
8 a licensed veterinarian designated by the seller. The seller shall
9 pay for all costs associated with such examination or autopsy. The
10 seller shall have a right of recovery against the purchaser if the
11 seller is not obligated to provide the remedy sought,

12 (3) The prevailing party in a proceeding under this
13 section shall be limited to a recovery of actual costs and no more
14 than five hundred dollars in reasonable attorney's fees.

15 Sec. 7. Nothing in the Dog and Cat Purchase Protection
16 Act shall limit any rights and remedies otherwise available under
17 the laws of this state. Any agreement or contract entered into
18 by a seller and a purchaser waiving any rights under the act is
19 void. Nothing in the Dog and Cat Purchase Protection Act shall
20 be construed to limit a seller to offering only those warranties,
21 express or implied, required by the act.

22 Sec. 8. This act becomes operative on January 1, 2010.

(Signed) Tom Carlson, Chairperson

Health and Human Services

LEGISLATIVE BILL 542. Placed on General File.

LEGISLATIVE BILL 173. Placed on General File with amendment.
AM733

1 1. Strike the original section and insert the following
2 new section:

3 Section 1. (1) Prescription drugs or devices which have
4 been dispensed pursuant to a valid prescription and delivered
5 to a Department of Correctional Services facility, a criminal
6 detention facility, a juvenile detention facility, or a jail for
7 administration to a prisoner or detainee held at such facility or
8 jail, but which are not administered to such prisoner or detainee,
9 may be returned to the dispensing pharmacy under contract with
10 the facility or jail for credit or for relabeling and redispensing
11 and administration to another prisoner or detainee held at such
12 facility or jail pursuant to a valid prescription as provided in
13 this section.

14 (2)(a) The decision to accept return of a dispensed
15 prescription drug or device for credit or for relabeling and
16 redispensing rests solely with the pharmacist at the contracting
17 pharmacy.

18 (b) A dispensed prescription drug or device shall be
19 properly stored and in the control of the facility or jail at all
20 times prior to the return of the drug or device for credit or for
21 relabeling and redispensing. The drug or device shall be returned
22 in the original and unopened labeled container dispensed by the
23 pharmacist with the tamper-evident seal intact, and the container
1 shall bear the expiration date or calculated expiration date and
2 lot number of the drug or device.

3 (c) A prescription drug or device shall not be returned
4 or relabeled and redispensed under this section if the drug
5 or device is a controlled substance or if the relabeling and
6 redispensing is otherwise prohibited by law.

7 (3) For purposes of this section:

8 (a) Administration has the definition found in section
9 38-2807;

10 (b) Calculated expiration date has the definition found
11 in subdivision (3)(a) of section 71-2421;

12 (c) Criminal detention facility has the definition found
13 in section 83-4,125;

14 (d) Department of Correctional Services facility has the
15 definition of facility found in section 83-170;

16 (e) Dispense or dispensing has the definition found in
17 section 38-2817;

18 (f) Jail has the definition found in section 47-117;

19 (g) Juvenile detention facility has the definition found
20 in section 83-4,125;

- 21 (h) Prescription has the definition found in section
 22 38-2840; and
 23 (i) Prescription drug or device has the definition found
 24 in section 38-2841.
 25 (4) The Jail Standards Board, in consultation with the
 26 Board of Pharmacy, shall adopt and promulgate rules and regulations
 27 to carry out contracts with respect to relabeling, redispensing,
 1 and providing credit pursuant to this section, including, but not
 2 limited to, rules and regulations relating to (a) education and
 3 training of persons authorized to administer the prescription drug
 4 or device to a prisoner or detainee, (b) the proper storage and
 5 protection of the drug or device consistent with the directions
 6 contained on the label or written drug information provided by the
 7 pharmacist for the drug or device, (c) limits on quantity to be
 8 dispensed, (d) transferability of drugs or devices for prisoners
 9 or detainees between facilities, (e) container requirements, (f)
 10 establishment of a drug formulary, and (g) fees for the dispensing
 11 pharmacy to accept the returned drug or device.
 12 (5) Any person or entity which exercises reasonable care
 13 in accepting, distributing, or dispensing prescription drugs or
 14 devices under this section or rules and regulations adopted and
 15 promulgated under this section shall be immune from civil or
 16 criminal liability or professional disciplinary action of any kind
 17 for any injury, death, or loss to person or property relating to
 18 such activities.

LEGISLATIVE BILL 396. Placed on General File with amendment.
 AM682

- 1 1. Strike the original sections and insert the following
 2 new sections:
 3 Section 1. Section 68-901, Revised Statutes Cumulative
 4 Supplement, 2008, is amended to read:
 5 68-901 Sections 68-901 to 68-956 and sections 2 to 6 of
 6 this act shall be known and may be cited as the Medical Assistance
 7 Act.
 8 Sec. 2. Sections 2 to 6 of this act shall be known and
 9 may be cited as the Medical Home Pilot Program Act. The Medical
 10 Home Pilot Program Act terminates on June 30, 2014. The purposes of
 11 the act are to improve health care access and health outcomes for
 12 patients and to contain costs of the medical assistance program.
 13 Sec. 3. For purposes of the Medical Home Pilot Program
 14 Act:
 15 (1) Division means the Division of Medicaid and Long-Term
 16 Care of the Department of Health and Human Services;
 17 (2) Medical home means a provider of primary health care
 18 services to patients that meets the requirements for participation
 19 in the medical home pilot program established under section 5 of
 20 this act;
 21 (3) Patient means a recipient of medical assistance under

22 the Medical Assistance Act; and

23 (4) Primary care physician means a physician licensed
 1 under the Uniform Credentialing Act and practicing in the area
 2 of general medicine, family medicine, pediatrics, or internal
 3 medicine.

4 Sec. 4. (1) No later than January 1, 2012, the division
 5 shall design and implement a medical home pilot program, in
 6 consultation with the Medical Home Advisory Council, in one or more
 7 geographic regions of the state to provide access to medical homes
 8 for patients. The division shall apply for any available federal or
 9 other funds for the program. The division shall establish necessary
 10 and appropriate reimbursement policies and incentives under such
 11 program to accomplish the purposes of the Medical Home Pilot
 12 Program Act. The reimbursement policies:

13 (a) Shall require the provision of a medical home for
 14 clients;

15 (b) Shall be designed to increase the availability of
 16 primary health care services to clients;

17 (c) May provide an increased reimbursement rate to
 18 providers who provide primary health care services to clients
 19 outside of regular business hours or on weekends; and

20 (d) May provide a postevaluation incentive payment.

21 (2) No later than June 1, 2014, the division shall
 22 evaluate the medical home pilot program and report the results
 23 of such evaluation to the Governor and the Health and Human
 24 Services Committee of the Legislature. Such report shall include
 25 an evaluation of health outcomes and cost savings achieved,
 26 recommendations for improvement, recommendations regarding
 27 continuation and expansion of the program, and such other
 1 information as deemed necessary by the division or requested by
 2 the committee.

3 Sec. 5. A medical home shall:

4 (1) Provide comprehensive, coordinated health care for
 5 patients and consistent, ongoing contact with patients throughout
 6 their interactions with the health care system, including, but not
 7 limited to, electronic contacts and ongoing care coordination and
 8 health maintenance tracking for patients;

9 (2) Provide primary health care services for patients
 10 and appropriate referral to other health care professionals or
 11 behavioral health professionals as needed;

12 (3) Focus on the ongoing prevention of illness and
 13 disease;

14 (4) Encourage active participation by a patient and
 15 the patient's family, guardian, or authorized representative,
 16 when appropriate, in health care decisionmaking and care plan
 17 development;

18 (5) Encourage the appropriate use of specialty care
 19 services and emergency room services by patients; and

20 (6) Provide other necessary and appropriate health care

21 services and supports to accomplish the purposes of the Medical
22 Home Pilot Program Act.

23 Sec. 6. (1) The Medical Home Advisory Council is created.
24 The council shall consist of seven voting members appointed by the
25 Governor as follows:

26 (a) Two licensed primary care physicians actively
27 practicing in the area of general and family medicine;

1 (b) Two licensed primary care physicians actively
2 practicing in the area of pediatrics;

3 (c) Two licensed primary care physicians actively
4 practicing in the area of internal medicine; and

5 (d) One representative from a licensed hospital in
6 Nebraska.

7 (2) The chairperson of the Health and Human Services
8 Committee of the Legislature or another member of the committee
9 designated by the chairperson shall serve as an ex officio,
10 nonvoting member of the council.

11 (3) The council shall annually select one of its
12 appointed members to serve as chairperson of the council for a
13 one-year term. Appointed members of the council shall be reimbursed
14 for their actual and necessary expenses as provided in sections
15 81-1174 to 81-1177. The division shall provide administrative
16 support to the council.

17 (4) The Governor may remove appointed members of the
18 council for good cause upon written notice and an opportunity to
19 be heard. Any appointed member of the council who ceases to meet
20 the requirements for appointment to the council shall cease to be a
21 member of the council. A vacancy on the council shall be filled in
22 the same manner as provided for the original appointment.

23 (5) The Governor shall make initial appointments to the
24 council no later than October 1, 2009. The council shall conduct
25 its initial organizational meeting no later than October 31, 2009.

26 (6) The council shall (a) guide and assist the division
27 in the design and implementation of the medical home pilot program
1 and (b) promote the use of best practices to ensure access to
2 medical homes for patients and accomplish the purposes of the
3 Medical Home Pilot Program Act.

4 Sec. 7. Original section 68-901, Revised Statutes
5 Cumulative Supplement, 2008, is repealed.

LEGISLATIVE BILL 407. Indefinitely postponed.

LEGISLATIVE BILL 408. Indefinitely postponed.

LEGISLATIVE BILL 586. Indefinitely postponed.

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Theresa Hatcher - Board of Emergency Medical Services

Troy Hiemer - Board of Emergency Medical Services

Aye: 7 Senators Campbell, Gay, Gloor, Howard, Pankonin, Stuthman, Wallman. Nay: 0. Absent: 0.

(Signed) Tim Gay, Chairperson

NOTICE OF COMMITTEE HEARINGS

Judiciary

Room 1113

Wednesday, March 25, 2009 1:30 p.m.

LB660

LB4

LB589

LB423

LB226

Thursday, March 26, 2009 1:30 p.m.

LB595

LB659

LB510

LB518

(Signed) Brad Ashford, Chairperson

MOTION - Print in Journal

Senator Rogert filed the following motion to LB160:

MO23

Indefinitely postpone.

AMENDMENT - Print in Journal

Senator Langemeier filed the following amendment to LB483:

FA22

Strike the enacting clause.

GENERAL FILE

LEGISLATIVE BILL 111. Senator Janssen offered the following amendment:

AM726

- 1 1. Insert the following new section:
- 2 Sec. 3. Since an emergency exists, this act takes effect
- 3 when passed and approved according to law.

The Janssen amendment was adopted with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 300. Title read. Considered.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 7 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 54. Title read. Considered.

Committee AM348, found on page 637, was adopted with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 8 present and not voting, and 1 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 165. ER8019, found on page 533, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 168. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 207. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 177. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 377. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 110. ER8025, found on page 609, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 110A. Advanced to Enrollment and Review for Engrossment.

BILL ON FIRST READING

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

LEGISLATIVE BILL 98A. Introduced by Carlson, 38.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 98, One Hundred First Legislature, First Session, 2009; and to declare an emergency.

COMMITTEE REPORT

Revenue

LEGISLATIVE BILL 420. Placed on General File with amendment. AM710

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 77-2704.12, Revised Statutes
- 4 Cumulative Supplement, 2008, is amended to read:
- 5 77-2704.12 (1) Sales and use taxes shall not be imposed
- 6 on the gross receipts from the sale, lease, or rental of
- 7 and the storage, use, or other consumption in this state of
- 8 purchases by (a) any nonprofit organization created exclusively
- 9 for religious purposes, (b) any nonprofit organization providing
- 10 services exclusively to the blind, (c) any nonprofit private
- 11 educational institution established under sections 79-1601 to
- 12 79-1607, or (d) any nonprofit private college or university
- 13 established under sections 85-1101 to 85-1111, ~~(e) any nonprofit~~
- 14 ~~(i) hospital, (ii) health clinic when two or more hospitals or~~
- 15 ~~the parent corporations of the hospitals own or control the health~~
- 16 ~~clinic for the purpose of reducing the cost of health services or~~
- 17 ~~when the health clinic receives federal funds through the United~~
- 18 ~~States Public Health Service for the purpose of serving populations~~
- 19 ~~that are medically underserved, (iii) skilled nursing facility,~~
- 20 ~~(iv) intermediate care facility, (v) assisted living facility, (vi)~~
- 21 ~~intermediate care facility for the mentally retarded, (vii) nursing~~
- 22 ~~facility, (viii) home health agency, (ix) hospice or hospice~~
- 23 ~~service, or (x) respite care service licensed under the Health Care~~
- 1 ~~Facility Licensure Act, (f)~~
- 2 (2) Sales and use taxes shall not be imposed on the
- 3 gross receipts from the sale, lease, or rental of and the
- 4 storage, use, or other consumption in this state of purchases

5 by (a) any nonprofit licensed child-caring agency, ~~(g)~~(b) any
6 nonprofit licensed child placement agency, or ~~(h)~~(c) any nonprofit
7 organization certified by the Department of Health and Human
8 Services to provide community-based services for persons with
9 developmental disabilities. The exemptions in this subsection are
10 limited to purchases made for use in the exempt health care
11 activities or services that are licensed or certified by the
12 Department of Health and Human Services.

13 (3) Sales and use taxes shall not be imposed on the gross
14 receipts from the sale, lease, or rental of and the storage, use,
15 or other consumption in this state of purchases by any nonprofit
16 licensed hospital. The exemption in this subsection is limited to
17 purchases made for use at the facility or the portion of a facility
18 that is licensed under the Health Care Facility Licensure Act,
19 for use in the exempt health care activities or services that are
20 licensed under this act, or for use at a nonprofit health clinic
21 exempt under subsection (4) of this section.

22 (4)(a) Sales and use taxes shall not be imposed on the
23 gross receipts from the sale, lease, or rental of and the storage,
24 use, or other consumption in this state of purchases by any
25 nonprofit health clinic if one or more nonprofit hospitals or the
26 parent corporations of the nonprofit hospitals own or control the
27 nonprofit health clinic for the purpose of reducing the cost of
1 health services or if the nonprofit health clinic receives federal
2 funds through the United States Public Health Service for the
3 purpose of serving populations that are medically underserved.

4 (b) For the purposes of this subsection, nonprofit health
5 clinic means:

6 (i) Rural health clinic as defined by 42 U.S.C. 1395x,
7 as such section existed on January 1, 2009, and organized not for
8 profit; or

9 (ii) Health clinic as defined in section 71-416 and
10 organized not for profit.

11 (c) The exemptions in this subsection are limited to
12 purchases made by a nonprofit health clinic for use at the
13 nonprofit health clinic.

14 (5) Sales and use taxes shall not be imposed on the gross
15 receipts from the sale, lease, or rental of and the storage, use,
16 or other consumption in this state of purchases by any nonprofit
17 licensed (a) nursing facility, (b) skilled nursing facility, (c)
18 assisted-living facility, (d) intermediate care facility, (e)
19 intermediate care facility for the mentally retarded, (f) home
20 health agency, (g) hospice or hospice service, or (h) respite care
21 service. The exemptions in this subsection are limited to purchases
22 made for use at the facility or the portion of a facility that is
23 licensed under the Health Care Facility Licensure Act or for use
24 in the exempt health care activities or services licensed under the
25 act.

26 (2)-(6) Any organization listed in subsection (1)

27 subsections (1) through (5) of this section shall apply for
1 an exemption on forms provided by the Tax Commissioner. The
2 application shall be approved and a numbered certificate of
3 exemption received by the applicant organization in order to be
4 exempt from the sales and use tax.

5 ~~(3)-(7)~~ The appointment of purchasing agents shall
6 be recognized for the purpose of altering the status of the
7 construction contractor as the ultimate consumer of building
8 materials which are physically annexed to the structure and
9 which subsequently belong to the owner of the organization or
10 institution. The appointment of purchasing agents shall be in
11 writing and occur prior to having any building materials annexed
12 to real estate in the construction, improvement, or repair. The
13 contractor who has been appointed as a purchasing agent may apply
14 for a refund of or use as a credit against a future use tax
15 liability the tax paid on inventory items annexed to real estate
16 in the construction, improvement, or repair of a project for a
17 licensed not-for-profit institution.

18 ~~(4)-(8)~~ Any organization listed in ~~subsection (4)~~
19 subsections (1) through (5) of this section which enters into a
20 contract of construction, improvement, or repair upon property
21 annexed to real estate without first issuing a purchasing agent
22 authorization to a contractor or repairperson prior to the building
23 materials being annexed to real estate in the project may apply to
24 the Tax Commissioner for a refund of any sales and use tax paid by
25 the contractor or repairperson on the building materials physically
26 annexed to real estate in the construction, improvement, or repair.

27 ~~(5)-(9)~~ Any person purchasing, storing, using, or
1 otherwise consuming building materials in the performance of any
2 construction, improvement, or repair by or for any institution
3 enumerated in ~~subsection (4)~~ subsections (1) through (5) of this
4 section which is licensed upon completion although not licensed at
5 the time of construction or improvement, which building materials
6 are annexed to real estate and which subsequently belong to the
7 owner of the institution, shall pay any applicable sales or use
8 tax thereon. Upon becoming licensed and receiving a numbered
9 certificate of exemption, the institution organized not for profit
10 shall be entitled to a refund of the amount of taxes so paid in
11 the performance of such construction, improvement, or repair and
12 shall submit whatever evidence is required by the Tax Commissioner
13 sufficient to establish the total sales and use tax paid upon
14 the building materials physically annexed to real estate in the
15 construction, improvement, or repair.

16 Sec. 2. This act becomes operative on October 1, 2009.

17 Sec. 3. Original section 77-2704.12, Revised Statutes
18 Cumulative Supplement, 2008, is repealed.

(Signed) Abbie Cornett, Chairperson

ANNOUNCEMENT

Senator Ashford announced the Judiciary Committee will hold an executive session Wednesday, March 18, 2009, at 10:00 a.m., in Room 2022.

AMENDMENTS - Print in Journal

Senator Pirsch filed the following amendment to LB327:
AM740 is available in the Bill Room.

Senator Nantkes filed the following amendment to LB327:
AM734

(Amendments to Standing Committee amendments, ER8029)

- 1 1. Insert the following new sections:
- 2 Sec. 18. Section 45-906, Revised Statutes Cumulative
- 3 Supplement, 2008, is amended to read:
- 4 45-906 The application required by section 45-905 shall
- 5 be accompanied by:
- 6 (1) A nonrefundable application fee of five ~~hundred~~
- 7 thousand dollars; and
- 8 (2) A surety bond in the sum of fifty thousand dollars
- 9 to be executed by the licensee and a surety company authorized to
- 10 do business in Nebraska and approved by the director conditioned
- 11 for the faithful performance by the licensee of the duties and
- 12 obligations pertaining to the delayed deposit services business so
- 13 licensed and the prompt payment of any judgment recovered against
- 14 the licensee. The bond or a substitute bond shall remain in effect
- 15 during all periods of licensing or the licensee shall immediately
- 16 cease doing business and its license shall be surrendered to or
- 17 canceled by the department. A surety may cancel a bond only upon
- 18 thirty days' written notice to the director.
- 19 The director may at any time require the filing of a new
- 20 or supplemental bond in the form as provided in subdivision (2) of
- 21 this section if he or she determines that the bond filed under this
- 22 section is exhausted or is inadequate for any reason, including,
- 1 but not limited to, the financial condition of the licensee or
- 2 the applicant for a license, or violations of the Delayed Deposit
- 3 Services Licensing Act, any rule, regulation, or order thereunder,
- 4 or any state or federal law applicable to the licensee or applicant
- 5 for a license. The new or supplemental bond shall not exceed one
- 6 hundred thousand dollars.
- 7 Sec. 19. Section 45-910, Revised Statutes Cumulative
- 8 Supplement, 2008, is amended to read:
- 9 45-910 (1) A license issued pursuant to the Delayed
- 10 Deposit Services Licensing Act shall be conspicuously posted at the
- 11 licensee's place of business.
- 12 (2) All licenses shall remain in effect until the next
- 13 succeeding May 1, unless earlier canceled, suspended, or revoked
- 14 by the director pursuant to section 45-922 or surrendered by the

15 licensee pursuant to section 45-911.

16 (3) Licenses may be renewed annually by filing with the
17 director (a) a renewal fee consisting of ~~one hundred fifty-five~~
18 thousand dollars for the main office location and one hundred
19 dollars for each branch office location and (b) an application for
20 renewal containing such information as the director may require to
21 indicate any material change in the information contained in the
22 original application or succeeding renewal applications.

23 Sec. 21. Section 45-927, Revised Statutes Cumulative
24 Supplement, 2008, is amended to read:

25 45-927 All fees, charges, costs, and fines collected by
26 the director under the Delayed Deposit Services Licensing Act shall
27 be remitted to the State Treasurer. ~~Fees, Except as provided in~~
1 section 22 of this act, fees, charges, and costs shall be credited
2 to the Financial Institution Assessment Cash Fund, and fines shall
3 be credited to the permanent school fund.

4 Sec. 22. The Financial Literacy Education Fund is
5 created. The fund shall consist of the first four thousand four
6 hundred dollars of each fee paid under section 45-906 and the
7 first four thousand eight hundred fifty dollars of each renewal
8 fee under section 45-910. The fund shall be used to support
9 various adult financial literacy education programs developed
10 or implemented by the Department of Banking and Finance. The
11 fund shall be administered by the department. The department
12 shall adopt and promulgate rules and regulations to require that
13 at least one-half of the financial literacy education programs
14 developed or implemented pursuant to this section and offered to
15 the public be presented by or available at community colleges
16 or state institutions throughout the state. The department shall
17 provide to the Governor and Legislature an annual report that
18 includes an outline of each adult financial literacy education
19 program developed or implemented, the number of individuals who
20 were educated by each program, and an accounting for all funds
21 distributed. Any money in the fund available for investment
22 shall be invested by the state investment officer pursuant to
23 the Nebraska Capital Expansion Act and the Nebraska State Funds
24 Investment Act.

25 2. Renumber the remaining sections and correct the
26 operative date section, internal references, and repealer so
27 that the sections added by this amendment become operative three
1 calendar months after adjournment of this legislative session.

UNANIMOUS CONSENT - Add Cointroducer

Senator Giese asked unanimous consent to add his name as cointroducer to LB608. No objections. So ordered.

VISITORS

Visitors to the Chamber were 22 fourth-grade students and teacher from Faith Lutheran School, Lincoln; Sue Wilcoxson, Amy Burns, and Jackie Howard from Fremont; members of Nebraska Well Drillers Association from across the state; Peter and Colleen Brixius from Scottsbluff; Lisa Fricke from Elwood; 55 fourth-grade students, teachers, and sponsors from Catlin Arts Magnet, Omaha; and members of Delta Kappa Gamma Honorary Education Organization from across the state.

ADJOURNMENT

At 11:52 a.m., on a motion by Senator Harms, the Legislature adjourned until 9:00 a.m., Wednesday, March 18, 2009.

Patrick J. O'Donnell
Clerk of the Legislature