

**FORTY-FIFTH DAY - MARCH 18, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****FORTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, March 18, 2009

**PRAYER**

The prayer was offered by Senator Fulton.

**ROLL CALL**

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

The roll was called and all members were present except Senator White who was excused; and Senators Campbell, Cook, Dierks, Dubas, and Karpisek who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-fourth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 63A.** Placed on Select File.

**LEGISLATIVE BILL 111.** Placed on Select File with amendment.  
ER8033

- 1 1. On page 1, line 4, strike "and"; and in line 5 after
- 2 "section" insert "; and to declare an emergency".

**LEGISLATIVE BILL 300.** Placed on Select File with amendment.  
ER8034

- 1 1. On page 2, line 20, strike "(a)"; in lines 20 and 22
- 2 after each occurrence of "dollars" insert an underscored comma; and
- 3 in line 22 strike "(b)".
- 4 2. On page 4, line 13, strike "(a)"; in lines 14, 15, and
- 5 16 after "dollars" insert an underscored comma; in line 15 strike
- 6 "(b)"; and in line 17 after "more" insert an underscored comma.

**LEGISLATIVE BILL 54.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

**MOTION - Approve Appointments**

Senator Langemeier moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 718:

Nebraska Environmental Trust Board  
Barbara Batie  
Rodney Christen

Voting in the affirmative, 34:

Adams	Flood	Hansen	McCoy	Rogert
Avery	Fulton	Harms	Nantkes	Schilz
Carlson	Gay	Howard	Nordquist	Stuthman
Christensen	Giese	Janssen	Pahls	Sullivan
Coash	Gloor	Langemeier	Pankonin	Utter
Council	Haar	Lathrop	Pirsch	Wightman
Fischer	Hadley	Louden	Price	

Voting in the negative, 0.

Present and not voting, 9:

Ashford	Friend	Lautenbaugh	Mello	Wallman
Cornett	Heidemann	McGill	Nelson	

Excused and not voting, 6:

Campbell	Dierks	Karpisek
Cook	Dubas	White

The appointments were confirmed with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 184.** Senator Loudon withdrew his amendment, AM453, found on page 555.

Senator Langemeier withdrew his motion, MO18, found on page 577, to recommit to Natural Resources Committee.

Senator Loudon renewed his amendment, AM543, found on page 660.

Senator Loudon moved for a call of the house. The motion prevailed with 31 ayes, 0 nays, and 18 not voting.

The Louden amendment was adopted with 26 ayes, 5 nays, 17 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Pending.

### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LR47 was adopted.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR47.

### **SELECT FILE**

**LEGISLATIVE BILL 184.** Considered.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 327.** ER8029, found on page 681, was adopted.

Senator Pirsch renewed his amendment, AM740, found on page 760.

The Pirsch amendment was adopted with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

Senator Nantkes renewed her amendment, AM734, found on page 760.

Senator Pahls requested a ruling of the Chair on whether the Nantkes amendment, AM734, is germane to LB327 and whether the adoption of the amendment would require a three-fifths vote because AM734 is substantially the same as LB293, which was indefinitely postponed.

The Chair ruled AM734 is germane to LB327, but would require a three-fifths vote pursuant to Rule 6, Sec. (3)(h).

Senator Nantkes challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?"

Senator Pahls moved for a call of the house. The motion prevailed with 30 ayes, 0 nays, and 19 not voting.

Senator Nantkes requested a roll call vote on her motion to overrule the Chair.

Voting in the affirmative, 6:

Cook	Dubas	Nantkes
Council	Mello	Nordquist

Voting in the negative, 42:

Adams	Fischer	Hansen	Louden	Schilz
Ashford	Flood	Harms	McCoy	Stuthman
Avery	Friend	Heidemann	McGill	Sullivan
Campbell	Fulton	Howard	Nelson	Utter
Carlson	Gay	Janssen	Pahls	Wallman
Christensen	Giese	Karpisek	Pankonin	Wightman
Coash	Gloor	Langemeier	Pirsch	
Cornett	Haar	Lathrop	Price	
Dierks	Hadley	Lautenbaugh	Rogert	

Excused and not voting, 1:

White

The Nantkes motion to overrule the Chair failed with 6 ayes, 42 nays, and 1 excused and not voting.

The Chair was sustained.

The Chair declared the call raised.

The Nantkes amendment, AM734, found on page 760 and considered in this day's Journal, was renewed.

### **SENATOR LANGEMEIER PRESIDING**

Senator Nantkes moved for a call of the house. The motion prevailed with 30 ayes, 0 nays, and 19 not voting.

Senator Nantkes requested a roll call vote on her amendment.

Voting in the affirmative, 13:

Avery	Dubas	Howard	Mello	Wallman
Cook	Giese	Karpisek	Nantkes	
Council	Haar	McGill	Nordquist	

Voting in the negative, 25:

Adams	Dierks	Hansen	Lautenbaugh	Price
Campbell	Fischer	Harms	McCoy	Schilz
Carlson	Fulton	Heidemann	Pahls	Stuthman
Christensen	Gloor	Janssen	Pankonin	Utter
Coash	Hadley	Langemeier	Pirsch	Wightman

Present and not voting, 9:

Ashford	Flood	Lathrop	Nelson	Sullivan
Cornett	Gay	Louden	Rogert	

Excused and not voting, 2:

Friend	White
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The Nantkes amendment lost with 13 ayes, 25 nays, 9 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Advanced to Enrollment and Review for Engrossment.

### COMMITTEE REPORTS

Health and Human Services

**LEGISLATIVE BILL 489.** Placed on General File with amendment.  
AM731

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Sections 1 to 5 of this act shall be known and
- 4 may be cited as the Area Health Education Centers Act.
- 5 Sec. 2. For purposes of the Area Health Education Centers
- 6 Act, area health education center means a private, nonprofit
- 7 organization established under federal law that has a cooperative
- 8 agreement with the University of Nebraska Medical Center and
- 9 performs the duties provided in section 3 of this act.
- 10 Sec. 3. An area health education center shall:
- 11 (1) Develop and implement strategies to recruit into
- 12 careers in health professions: Individuals from underserved urban
- 13 communities; individuals who grew up in, resided a substantial
- 14 portion of their life in, or attended high school in federally
- 15 designated rural or nonmetropolitan communities; and individuals
- 16 from underrepresented or rural populations;
- 17 (2) Develop and implement strategies to foster and
- 18 provide community-based training and education to individuals
- 19 seeking careers in health professions within underserved areas
- 20 and populations;
- 21 (3) Develop and implement strategies to retain health
- 22 care professionals providing health care services to underserved

23 areas and populations;

1 (4) Prepare individuals to provide health care services  
 2 more effectively to underserved areas and populations through field  
 3 placements or preceptorships in conjunction with community-based  
 4 organizations, accredited primary care residency training programs,  
 5 community health centers, Indian health centers, public health  
 6 departments, or other appropriate facilities and programs;

7 (5) Conduct and participate in interdisciplinary training  
 8 of health profession students, including, but not limited to,  
 9 students studying to become physicians, physician assistants, nurse  
 10 practitioners, nurse midwives, dentists, or other health care  
 11 professionals or students in behavioral health, public health, and  
 12 other health care profession educational programs;

13 (6) Develop, deliver, or facilitate continuing  
 14 education and information dissemination programs for health care  
 15 professionals, with an emphasis on individuals providing health  
 16 care services to underserved areas and populations;

17 (7) Collaborate in the development of well-managed health  
 18 care delivery systems in underserved areas and among underserved  
 19 populations; and

20 (8) Conduct an annual evaluation of its performance in  
 21 carrying out the duties provided in this section and provide  
 22 data to the Governor and the Legislature that includes, but is  
 23 not limited to: (a) The number of participants in any of the  
 24 programs developed, implemented, or facilitated by area health  
 25 education centers who enter into health-related professions and  
 26 which professions they enter; (b) the number of participants in  
 27 any of the programs developed, implemented, or facilitated by  
 1 area health education centers who remain in Nebraska and provide  
 2 health care services to underserved areas and populations; and  
 3 (c) the number and type of continuing education programs offered,  
 4 the number and type of participants in such programs by health  
 5 profession category, and the number of continuing education hours  
 6 awarded.

7 Sec. 4. (1) The University of Nebraska Medical Center  
 8 shall enter into cooperative agreements with area health education  
 9 centers. Prior to entering into such agreements, the University of  
 10 Nebraska Medical Center shall ensure that an area health education  
 11 center:

12 (a) Is a private, nonprofit organization whose structure,  
 13 governance, and operation are independent from the University of  
 14 Nebraska Medical Center;

15 (b) Designates a geographic area, a medically underserved  
 16 urban community, or a federally designated rural or nonmetropolitan  
 17 community to be served by the area health education center  
 18 that does not duplicate, in whole or in part, the community  
 19 or population served by any other area health education center;

20 (c) Fosters networking and collaboration among  
 21 communities and community-based health care providers;

22 (d) Serves urban communities and federally designated  
 23 rural or nonmetropolitan communities with a demonstrated need for  
 24 health care professionals;

25 (e) Addresses the health care workforce needs of the  
 26 communities served; and

27 (f) Conducts an annual evaluation of its performance in  
 1 carrying out the duties provided in section 3 of this act and  
 2 reports the results of such evaluation to the Governor and the  
 3 Legislature.

4 (2) To assist area health education centers in carrying  
 5 out the duties provided in section 3 of this act, the University of  
 6 Nebraska Medical Center shall:

7 (a) Serve as a resource to area health education centers;

8 (b) Encourage collaboration between pertinent programs  
 9 administered by the University of Nebraska Medical Center and area  
 10 health education centers;

11 (c) Take into consideration the capabilities of the  
 12 existing area health education centers prior to establishing  
 13 separate or parallel programs; and

14 (d) Assist area health education centers in conducting an  
 15 annual evaluation of its performance in carrying out the duties as  
 16 provided in section 3 of this act.

17 Sec. 5. It is the intent of the Legislature to initially  
 18 appropriate funding for area health education centers for five  
 19 years. No later than June 30, 2014, the Health and Human  
 20 Services Committee of the Legislature, in consultation with the  
 21 Appropriations Committee of the Legislature, shall provide for an  
 22 evaluation of the effectiveness of area health education centers  
 23 in carrying out the duties provided under section 3 of this act  
 24 and make recommendation regarding the continued funding of such  
 25 centers.

26 Sec. 6. The Area Health Education Centers Act terminates  
 27 on June 30, 2014.

(Signed) Tim Gay, Chairperson

Natural Resources

**LEGISLATIVE BILL 388.** Placed on General File.

**LEGISLATIVE BILL 502.** Placed on General File.

(Signed) Chris Langemeier, Chairperson

Agriculture

**LEGISLATIVE BILL 602.** Indefinitely postponed.

(Signed) Tom Carlson, Chairperson

**MESSAGE FROM THE GOVERNOR**

March 18, 2009

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 52, 89, 90, 142, 151e, 167, 204, 231, and 379e were received in my office on March 12, 2009.

These bills were signed and delivered to the Secretary of State on March 18, 2009.

Sincerely,  
(Signed) Dave Heineman  
Governor

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 52.** Introduced by Lathrop, 12.

WHEREAS, the Ralston Rams won the 2009 Class B Boys' State Basketball Championship; and

WHEREAS, Ralston defeated Beatrice 61-49 in the championship game; and

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

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

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

1. That the Legislature congratulates the Ralston Rams on winning the 2009 Class B Boys' State Basketball Championship.

2. That a copy of this resolution be sent to the Rams and their head coach, Bill Heard.

Laid over.

**LEGISLATIVE RESOLUTION 53.** Introduced by Avery, 28.

WHEREAS, strong communities support a high quality of life for people of all ages; and

WHEREAS, strong communities are built on a foundation of neighbors helping neighbors to meet the basic demands of daily life; and

WHEREAS, the Witherbee Village is a project that is being established in the heart of Lincoln by residents of the neighborhoods involved in the project to secure valuable practical services so members of all ages may thrive in their homes; and

WHEREAS, Witherbee Village will be the first project of its type in the nation to deliver services to people of all ages, not just older residents, and thereby will facilitate intergenerational contacts and support services within its neighborhoods to assist people with social, economic, and medical challenges that may require informal and formal services; and

WHEREAS, the efforts of the residents of Witherbee Village to strengthen the neighborhoods by supporting residents and local businesses will continue the process of building a livable community that can serve as a model of community development.

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

1. That the Legislature recognizes and congratulates the residents of Witherbee Village.

2. That a copy of this resolution be sent to the president of the board of directors of Witherbee Village, Diane Rolfsmeyer.

Laid over.

**LEGISLATIVE RESOLUTION 54.** Introduced by Utter, 33.

WHEREAS, the Hastings St. Cecilia Bluehawks won the 2009 Class C-1 Boys' State Basketball Championship; and

WHEREAS, the Bluehawks rallied in the second half for a 61-58 victory over Chadron in the championship game; and

WHEREAS, the victory gives the Bluehawks back-to-back state championships, making the Bluehawks the second team in the 25-year history of Class C-1 to repeat as champions; and

WHEREAS, the Bluehawks were led by senior guard Jake Hamburger, who scored a game-high 18 points in the championship game; and

WHEREAS, the Bluehawks finished an outstanding season with a record of twenty-four wins and one loss.

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

1. That the Legislature congratulates the Hastings St. Cecilia Bluehawks on winning the 2009 Class C-1 Boys' State Basketball Championship.

2. That a copy of this resolution be sent to the Bluehawks and their head coach, Kevin Asher.

Laid over.

**LEGISLATIVE RESOLUTION 55.** Introduced by Wightman, 36.

WHEREAS, the Ravenna Blue Jays won the 2009 Class C-2 Boys' State Basketball Championship; and

WHEREAS, Ravenna defeated Freeman 57-51 in the championship game; and

WHEREAS, Ravenna finished the season with a record of twenty-three wins and five losses; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

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

1. That the Legislature congratulates the Ravenna Blue Jays on winning the 2009 Class C-2 Boys' State Basketball Championship.

2. That a copy of this resolution be sent to the Blue Jays and their head coach, Paul Beranek.

Laid over.

**LEGISLATIVE RESOLUTION 56.** Introduced by Heidemann, 1.

WHEREAS, the Sterling Jets won the 2009 Class D-2 Boys' State Basketball Championship; and

WHEREAS, the Jets persevered and won the championship in a thrilling 49-48 overtime win over top-ranked Ewing; and

WHEREAS, this championship marks the sixth state title for Sterling, and their first since 1996; and

WHEREAS, throughout the year the Jets have demonstrated that hard work, dedication, and discipline produce remarkable results; and

WHEREAS, the Jets are positive role models for young athletes in the community and throughout the region; and

WHEREAS, such a team achievement is made possible not only by the players' performance and coaching guidance, but also through the support of teachers, administrators, parents, and the community.

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

1. That the Legislature recognizes and congratulates the Sterling Jets on winning the 2009 Class D-2 Boys' State Basketball Championship.

2. That a copy of this resolution be sent to the Sterling Jets and their head coach, Jimmy Motz.

Laid over.

**PRESIDENT SHEEHY PRESIDING**

**GENERAL FILE**

**LEGISLATIVE BILL 361.** Title read. Considered.

Committee AM552, found on page 648, was adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 202.** Title read. Considered.

Advanced to Enrollment and Review Initial with 28 ayes, 0 nays, 19 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 202A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 328.** Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 620.** Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 164.** Title read. Considered.

Committee AM234, found on page 412, was adopted with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 5 present and not voting, and 5 excused and not voting.

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 57.** Introduced by Mello, 5.

WHEREAS, The Food Bank in Omaha, Nebraska, held its 2009 Celebrity Chef Gala on February 26, 2009, where it recognized honorees who have helped make The Food Bank's vision a reality; and

WHEREAS, The Food Bank honored Mission For All Nations as the 2009 recipient of the Agency of the Year award; and

WHEREAS, Mission For All Nations is a faith-based charitable organization founded to provide food, clothing, and shelter to those in need from all ethnic backgrounds; and

WHEREAS, the Legislature recognizes the important work of charitable organizations like Mission For All Nations.

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

1. That the Legislature congratulates Mission For All Nations for being honored by The Food Bank of Omaha as the 2009 Agency of the Year.

2. That a copy of this resolution be sent to Mission For All Nations and its founder, Josue Anaya.

Laid over.

**LEGISLATIVE RESOLUTION 58.** Introduced by Mello, 5; Cornett, 45.

WHEREAS, in a close, nail-biting game, the Omaha Bryan Bears beat Lincoln East 42-41 in the opening round of the 2009 Class A Boys' State Basketball Tournament; and

WHEREAS, this win was the first Boys' State Basketball Tournament win in school history; and

WHEREAS, head coach Tim Cannon has served as an example of good sportsmanship throughout his 24-year career with the Omaha Bryan Bears; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

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

1. That the Legislature congratulates the Omaha Bryan Bears on achieving the first Boys' State Basketball Tournament win in school history.

2. That head coach Tim Cannon be congratulated for his efforts in teaching, coaching, and providing guidance to the members of the Omaha Bryan Bears boys' basketball team.

3. That a copy of this resolution be sent to the Omaha Bryan Bears and their head coach, Tim Cannon.

Laid over.

## COMMITTEE REPORTS

### Natural Resources

**LEGISLATIVE BILL 134.** Placed on General File with amendment.  
AM636

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 2-3234, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:

5 2-3234 Each district shall have the power and authority  
 6 to exercise the power of eminent domain when necessary to carry  
 7 out its authorized purposes within the limits of the district  
 8 or outside its boundaries, except that a district shall obtain  
 9 the consent of the Legislature before using the power of eminent  
 10 domain for the development or management of recreational trails  
 11 or corridors unless associated with a flood control structure.  
 12 Exercise of eminent domain shall be governed by the provisions  
 13 of sections 76-704 to 76-724, except that whenever any district  
 14 seeks to acquire the right to interfere with the use of any  
 15 water being used for power purposes in accordance with sections  
 16 46-204, 70-668, 70-669, and 70-672 and is unable to agree with  
 17 the user of such water upon the compensation to be paid for such  
 18 interference, the procedure to condemn property shall be followed  
 19 in the manner set forth in sections 76-704 to 76-724 and no other  
 20 property shall be included in such condemnation. No district shall  
 21 contract for delivery of water to persons within the corporate  
 22 limits of any village, city, or metropolitan utilities district,  
 23 nor in competition therewith outside such corporate limits, except  
 1 by consent of and written agreement with the governing body of such  
 2 political subdivision. A village, city, or metropolitan utilities  
 3 district may negotiate and, if necessary, exercise the power of  
 4 eminent domain for the acquisition of water supply facilities of  
 5 the district which are within its boundaries.

6 Sec. 2. Original section 2-3234, Reissue Revised Statutes  
 7 of Nebraska, is repealed.

8 Sec. 3. Since an emergency exists, this act takes effect  
 9 when passed and approved according to law.

**LEGISLATIVE BILL 160.** Placed on General File with amendment.  
 AM735

1 1. Insert the following new section:

2 Sec. 5. The authority to issue bonds for qualified  
 3 projects granted in section 1 of this act terminates on December  
 4 31, 2019, except that (1) bonds already issued and outstanding  
 5 for qualified projects as of such date are permitted to remain  
 6 outstanding and the district shall retain all powers of taxation  
 7 provided for in section 1 of this act to provide for the payment  
 8 of principal and interest on such bonds and (2) refunding bonds  
 9 may continue to be issued and outstanding as of December 31,  
 10 2019, including extension of principal maturities if determined  
 11 appropriate.

12 2. On page 2, line 3, after "class" insert ", upon an  
 13 affirmative vote of two-thirds of the members of the board of  
 14 directors,"; in line 10 strike "two cents" and insert "one cent";  
 15 and in line 24 after the period insert "The proceeds of bonds  
 16 issued pursuant to section 1 of this act shall not be used to fund  
 17 combined sewer separation projects in a city of the metropolitan  
 18 class.".

19 3. On page 3, after line 8, insert the following new  
 20 subsection:  
 21 "(3) Proceeds from bonds issued pursuant to section 1  
 22 of this act or funds of a natural resources district encompassing  
 23 a city of the metropolitan class may be used to pay costs of a  
 1 reservoir or water quality basin project or projects greater than  
 2 twenty surface acres except when the county board of the affected  
 3 county votes on and passes a resolution stating that it does not  
 4 approve of the construction of such reservoir or water quality  
 5 basin project or projects within its exclusive zoning jurisdiction.  
 6 A vote on the resolution must take place within ninety days  
 7 after notice from the board of directors of the natural resources  
 8 district of its intent to issue bonds, seek voter approval of  
 9 bonds, or otherwise fund a reservoir or water quality basin project  
 10 or projects within such county's exclusive zoning jurisdiction  
 11 pursuant to section 1 of this act."

**LEGISLATIVE BILL 436.** Placed on General File with amendment.  
 AM708

1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 Section 1. The Legislature finds that it is in the public  
 4 interest to:  
 5 (1) Encourage customer-owned renewable energy resources;  
 6 (2) Stimulate the economic growth of this state;  
 7 (3) Encourage diversification of the energy resources  
 8 used in this state; and  
 9 (4) Maintain low-cost, reliable electric service.  
 10 Sec. 2. For purposes of sections 1 to 5 of this act:  
 11 (1) Customer-generator means an end-use electricity  
 12 customer that generates electricity on the customer's side of the  
 13 meter from a qualified facility;  
 14 (2) Interconnection agreement means an agreement between  
 15 a local distribution utility and a customer-generator that  
 16 establishes the financial, interconnection, safety, performance,  
 17 and reliability requirements relating to the installation and  
 18 operation of a qualified generation unit in accordance with the  
 19 standards prescribed in sections 1 to 5 of this act;  
 20 (3) Local distribution system means the equipment and  
 21 facilities used for the distribution of electric energy to the  
 22 end-use customer;  
 23 (4) Local distribution utility means the owner or  
 1 operator of the local distribution system;  
 2 (5) Net excess generation means the net amount of energy,  
 3 if any, by which the output of a qualified generation unit exceeds  
 4 a customer-generator's total electricity requirements during a  
 5 billing period;  
 6 (6) Net metering means a system of metering electricity  
 7 in which a local distribution utility;

8 (a) Credits a customer-generator at the applicable  
9 retail rate for each kilowatt-hour produced by a qualified  
10 generation unit during a billing period up to the total of the  
11 customer-generator's electricity requirements during that billing  
12 period. A customer-generator may be charged a minimum monthly fee  
13 that is the same as other noncustomer-generators in the same rate  
14 class but shall not be charged any additional standby, capacity,  
15 demand, interconnection, or other fee or charge; and

16 (b) Compensates the customer-generator for net excess  
17 generation during the billing period at a rate equal to the local  
18 distribution utility's avoided cost of electric supply over the  
19 billing period. The monetary credits shall be applied to the bills  
20 of the customer-generator for the preceding billing period and  
21 shall offset the cost of energy owed by the customer-generator. If  
22 the energy portion of the customer-generator's bill is less than  
23 zero in any month, monetary credits shall be carried over to future  
24 bills of the customer-generator until the balance is zero. At the  
25 end of each annualized period, any excess monetary credits shall be  
26 paid out to coincide with the final bill of that period; and

27 (7) Qualified facility means a facility for the  
1 production of electrical energy that:

2 (a) Uses as its energy source either methane, wind,  
3 solar, biomass, hydropower resources, or geothermal resources;

4 (b) Is controlled by the customer-generator and is  
5 located on premises owned, leased, or otherwise controlled by  
6 the customer-generator;

7 (c) Interconnects and operates in parallel with the local  
8 distribution system;

9 (d) Is intended to meet or offset the  
10 customer-generator's requirements for electricity;

11 (e) Is not intended to offset or provide credits  
12 for electricity consumption at another location owned, operated,  
13 leased, or otherwise controlled by the customer-generator or for  
14 any other customer;

15 (f) Has a rated capacity at or below twenty-five  
16 kilowatts;

17 (g) Meets all applicable safety, performance,  
18 interconnection, and reliability standards established by  
19 the National Electrical Code filed with the Secretary of State and  
20 adopted by the State Electrical Board under subdivision (5) of  
21 section 81-2104, the National Electrical Safety Code, the Institute  
22 of Electrical and Electronics Engineers, Underwriters Laboratories,  
23 Inc; and

24 (h) Is equipped to automatically isolate the qualified  
25 generation unit from the electrical system in the event of an  
26 electrical power outage or other conditions where the line is  
27 de-energized.

1 Sec. 3. (1) A local distribution utility shall  
2 interconnect the qualified facility of any customer-generator

3 that enters into an interconnection agreement with the local  
4 distribution utility, satisfies the requirements for a qualified  
5 facility and all other requirements of sections 1 to 5 of this act,  
6 and pays for costs incurred by the local distribution utility for  
7 equipment or services required for interconnection that would not  
8 be necessary if the qualified facility were not interconnected to  
9 the local distribution system, except as provided in subsection (2)  
10 of this section and as may be provided for in the utility's aid  
11 in construction policy.

12 (2) A local distribution utility shall provide at no  
13 additional cost to any customer-generator with a qualified facility  
14 a metering system that is capable of measuring the flow of  
15 electricity in both directions and may be accomplished through use  
16 of a single, bidirectional electric revenue meter that has only  
17 a single register for billing purposes, a smart metering system,  
18 or another meter configuration that can easily be read by the  
19 customer-generator.

20 (3) A local distribution utility may, at its own expense,  
21 install additional monitoring equipment to separately monitor the  
22 flow of electricity in each direction as may be necessary to  
23 accomplish the reporting requirements of sections 1 to 5 of this  
24 act.

25 (4) Subject to the requirements of sections 1 to  
26 5 of this act and the interconnection agreement, a local  
27 distribution utility shall provide net metering service to  
1 any customer-generator with a qualified facility. The local  
2 distribution utility shall allow a customer generator's retail  
3 electricity consumption to be offset by a qualified facility that  
4 is interconnected with the local distribution system. A qualified  
5 facility's net excess generation during a billing period, if  
6 any, shall be determined by the local distribution utility in  
7 accordance with section 2 of this act and shall be credited to  
8 the customer-generator at a rate equal to the local distribution  
9 utility's avoided cost of electricity supply during the billing  
10 period, and the monetary credits shall be carried forward  
11 from billing period to billing period and credited against the  
12 customer-generator's retail electric bills in subsequent billing  
13 periods. At the end of each annualized period, any excess monetary  
14 credits shall be paid out to coincide with the final bill of that  
15 period or within sixty days after the date the customer-generator  
16 terminates its retail service.

17 (5) A local distribution utility shall not be required  
18 to provide net metering service to additional customer-generators,  
19 regardless of the output of the proposed generation unit, after the  
20 date during a calendar year on which the total generating capacity  
21 of all customer-generators using net metering served by such local  
22 distribution utility is equal to or exceeds one percent of the  
23 capacity necessary to meet the local distribution utility's average  
24 aggregate customer monthly peak demand forecast for that calendar

25 year.

26 (6) No local distribution utility may require a  
27 customer-generator whose qualified facility meets the standards  
1 established under this section to:

2 (a) Comply with additional safety or performance  
3 standards or pay additional charges for equipment or services for  
4 interconnection that are additional to those necessary to meet the  
5 standards established under this section;

6 (b) Perform or pay for additional tests; or

7 (c) Purchase additional liability insurance if all safety  
8 and interconnection requirements are met.

9 (7) Nothing in this section prevents a local distribution  
10 utility from entering into other arrangements with customers  
11 desiring to install electric generating equipment or from providing  
12 net metering services to customer-generators having renewable  
13 generation units above twenty-five kilowatts.

14 Sec. 4. (1) A customer-generator shall request an  
15 inspection from the State Electrical Division pursuant to  
16 subsection (1) of section 81-2124 or subsection (1) of section  
17 81-2125 and shall provide documentation of the completed inspection  
18 to the local distribution utility prior to interconnection with the  
19 local distribution system.

20 (2) A customer-generator is responsible for notifying the  
21 local distribution utility of its intent to install a qualified  
22 facility at least sixty days prior to its installation and is  
23 responsible for all costs associated with the qualified facility.

24 (3) A local distribution utility shall not be required to  
25 interconnect with a qualified generation unit that fails to meet or  
26 maintain the local distribution utility's requirements for safety,  
27 reliability, and interconnection.

1 (4) A customer-generator owns the renewable energy  
2 credits of the electricity it generates.

3 Sec. 5. Beginning March 1, 2010, and on each March  
4 1 thereafter, each local distribution utility shall produce and  
5 publish on its web site, or if no web site is available, in  
6 its main office, and provide to the Nebraska Power Review Board  
7 an annual net metering report that shall include the following  
8 information:

9 (1) The total number of qualified facilities;

10 (2) The total estimated rated generating capacity of  
11 qualified facilities;

12 (3) The total estimated net kilowatt-hours received from  
13 customer-generators; and

14 (4) The total estimated amount of energy produced by the  
15 customer-generators.

16 Sec. 6. Section 70-1012, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 70-1012 Before any electric generation facilities or any  
19 transmission lines or related facilities carrying more than seven

20 hundred volts are constructed or acquired by any supplier, an  
 21 application, filed with the board and containing such information  
 22 as the board shall prescribe, shall be approved by the board,  
 23 except that such approval shall not be required (1) for the  
 24 construction or acquisition of a transmission line extension or  
 25 related facilities within a supplier's own service area or for the  
 26 construction or acquisition of a line not exceeding one-half mile  
 27 outside its own service area when all owners of electric lines  
 1 located within one-half mile of the extension consent thereto in  
 2 writing and such consents are filed with the board, (2) for any  
 3 generation facility when the board finds that: (a) Such facility is  
 4 being constructed or acquired to replace a generating plant owned  
 5 by an individual municipality or registered group of municipalities  
 6 with a capacity not greater than that of the plant being replaced,  
 7 (b) such facility will generate less than twenty-five thousand  
 8 kilowatts of electric energy at rated capacity, and (c) the  
 9 applicant will not use the plant or transmission capacity to supply  
 10 wholesale power to customers outside the applicant's existing  
 11 retail service area or chartered territory, ~~or~~(3) for acquisition  
 12 of transmission lines or related facilities, within the state,  
 13 carrying one hundred fifteen thousand volts or less, if the current  
 14 owner of the transmission lines or related facilities notifies the  
 15 board of the lines or facilities involved in the transaction and  
 16 the parties to the transaction, or (4) for the construction of a  
 17 qualified facility as defined in section 2 of this act.

18 Sec. 7. If any section in this act or any part of any  
 19 section is declared invalid or unconstitutional, the declaration  
 20 shall not affect the validity or constitutionality of the remaining  
 21 portions.

22 Sec. 8. Original section 70-1012, Reissue Revised  
 23 Statutes of Nebraska, is repealed.

**LEGISLATIVE BILL 246.** Placed on General File with amendment.  
 AM749

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

3 Section 1. (1) The Legislature recognizes the importance  
 4 of biotechnology and the role that biotechnology plays in  
 5 the economic well-being of the State of Nebraska. The Natural  
 6 Resources Committee of the Legislature shall be responsible for  
 7 the development of a statewide strategic plan for biotechnology in  
 8 Nebraska. The plan shall include a baseline review and assessment  
 9 of the potential in the biotechnology economy in Nebraska and a  
 10 strategic plan for the state's efforts in creating wealth and jobs  
 11 in the biotechnology economy. The plan shall address strategies  
 12 for developing the biotechnology economy and shall include, but  
 13 not be limited to, research, testing, agricultural feedstock and  
 14 chemicals, drugs and other pharmaceuticals, medical materials,  
 15 medical laboratories, and advanced biofuels. The plan shall

16 estimate the wealth and the number of jobs that may be generated  
17 from expanding the biotechnology economy.

18 (2) The Natural Resources Committee of the Legislature,  
19 in consultation with the Executive Board of the Legislature, shall  
20 commission a nonprofit corporation to provide research, analysis,  
21 and recommendations to the committee for the development of the  
22 plan. The nonprofit corporation shall be incorporated pursuant  
23 to the Nebraska Nonprofit Corporation Act, shall be organized  
1 exclusively for nonprofit purposes within the meaning of section  
2 501(c)(6) of the Internal Revenue Code as defined in section  
3 49-801.01, shall be engaged in activities to facilitate and promote  
4 the growth of life sciences within Nebraska, shall be dedicated to  
5 the development and growth of the biotechnology economy, and shall  
6 agree to provide one hundred thousand dollars for the research  
7 required by this section. The nonprofit corporation shall retain  
8 such consultation services as required for assistance in providing  
9 research, analysis, and recommendations. The nonprofit corporation  
10 shall present its research, analysis, and recommendations to the  
11 committee by June 30, 2010.

12 (3) The Natural Resources Committee shall prepare  
13 and present to the Legislature a statewide strategic plan for  
14 biotechnology during the One Hundred Second Legislature, First  
15 Session, for consideration by the Legislature. The committee  
16 shall prepare annual updates to the plan for consideration by the  
17 Legislature.

18 (4) The Biotechnology Development Cash Fund is created.  
19 The Natural Resources Committee shall use money in the fund  
20 to commission the nonprofit corporation and provide access to  
21 resources necessary for developing the plan. It is the intent of  
22 the Legislature to appropriate one hundred thousand dollars to the  
23 fund for fiscal year 2009-10. Any money in the fund available  
24 for investment shall be invested by the state investment officer  
25 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
26 State Funds Investment Act.

27 (5) For purposes of this section:

1 (a) Biotechnology means the technological application  
2 that uses biological systems, living organisms, or derivatives of  
3 biological systems or living organisms to make or modify products  
4 or processes for specific use; and

5 (b) Biotechnology economy means economic activity derived  
6 from scientific and research activity focused on understanding  
7 mechanisms and processes at the genetic and molecular levels and  
8 the application of the mechanisms and processes to industrial  
9 processes.

10 Sec. 2. The following section is outright repealed:  
11 Section 66-1701, Reissue Revised Statutes of Nebraska.

(Signed) Chris Langemeier, Chairperson

**REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

Christensen, Richard - State Emergency Response Commission - Government, Military and Veterans Affairs

Danon, Steven - State Emergency Response Commission - Government, Military and Veterans Affairs

Eisenhauer, Donald - State Emergency Response Commission - Government, Military and Veterans Affairs

Johnson, Larry - State Emergency Response Commission - Government, Military and Veterans Affairs

Reckling, Todd - Director of Children and Family Services, Department of Health and Human Services - Health and Human Services

(Signed) John Wightman, Chairperson  
Executive Board

**UNANIMOUS CONSENT - Add Cointroducers**

Senator McCoy asked unanimous consent to add his name as cointroducer to LB36, LB327, LB547, LB646, and LB660. No objections. So ordered.

Senator Haar asked unanimous consent to add his name as cointroducer to LB396. No objections. So ordered.

Senator Harms asked unanimous consent to add his name as cointroducer to LB675. No objections. So ordered.

**ANNOUNCEMENT**

Senator Wightman announced the Executive Board will meet Thursday, March 19, 2009, at 9:00 a.m. in Room 2102.

**VISITORS**

Visitors to the Chamber were Senator Utter's grandson, Vince Utter, from Sioux City, Iowa and Katherine Hamilton from Thedford; members of Merry Widows of St. Patrick's Catholic Church from Lincoln; 48 fifth-grade students and teachers from Milliken Park Elementary, Fremont; 22 twelfth-grade students, teacher, and sponsors from Bertrand; 40 fifth-grade students and teachers from Clarmar Elementary, Fremont; 16 twelfth-grade students and teacher from Lyons/Decatur School, Lyons; Betty Dahlgren from Bertrand, Kathy Deaver from Lincoln, and Jerrie Quincy, Shirley Smith, and Senator Carlson's wife, Margo Carlson, from Holdrege; members of

Nebraska Propane Gas Association from across the state; Evelyn and Gloria Katzberg from Juniata and Bev Williams from Lincoln; and Senator Christensen's sister, nieces, and nephew, Jan, Krystal, Kelsey, and Keith Koester from Frisco, Texas.

The Doctor of the Day was Dr. Gilbert Head from Omaha.

### **ADJOURNMENT**

At 11:55 a.m., on a motion by Senator Gay, the Legislature adjourned until 9:00 a.m., Thursday, March 19, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

