

FORTY-EIGHTH DAY - MARCH 23, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION****FORTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska
Monday, March 23, 2009

PRAYER

The prayer was offered by Pastor Michael Mudlaff, Westkirk Presbyterian Church, Urbandale, Iowa.

ROLL CALL

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

The roll was called and all members were present except Senator Campbell who was excused; and Senators Cornett, Council, Heidemann, and Price who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-seventh day was approved.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 361. Placed on Select File with amendment.
ER8036

- 1 1. In the Standing Committee amendments, AM552:
- 2 a. On page 3, line 15, after the first comma insert
- 3 "board's,"; and in line 22 after the comma insert "of";
- 4 b. On page 4, line 27, after "the" insert "board's," and
- 5 after "entity's" insert an underscored comma;
- 6 c. On page 5, line 4, strike "half of their" and insert
- 7 "one-half of its"; and
- 8 d. On page 6, line 21, strike "county board,"; and in
- 9 line 22 after the second comma insert "county board,".
- 10 2. On page 1, strike beginning with "section" in line
- 11 1 through line 4 and insert "sections 79-1218, 84-1411, and
- 12 84-1413, Reissue Revised Statutes of Nebraska; to provide for
- 13 videoconferencing and telephone conferences by educational service
- 14 unit boards; to change provisions relating to telephone conferences

15 by a risk management pool; to authorize electronic voting devices
 16 for certain public entities; to harmonize provisions; and to repeal
 17 the original sections.".

LEGISLATIVE BILL 202. Placed on Select File.

LEGISLATIVE BILL 202A. Placed on Select File.

LEGISLATIVE BILL 620. Placed on Select File.

LEGISLATIVE BILL 164. Placed on Select File.

LEGISLATIVE BILL 548. Placed on Select File with amendment.
 ER8037

1 1. On page 1, strike beginning with "schools" in line
 2 1 through line 5 and insert "the Tax Equity and Educational
 3 Opportunities Support Act; to amend sections 79-1022, 79-1023,
 4 79-1026.01, 79-1027, and 79-1031.01, Reissue Revised Statutes of
 5 Nebraska, as amended by sections 1, 2, 3, 4, and 5, respectively,
 6 Legislative Bill 61, One Hundred First Legislature, First Session,
 7 2009; to change certification dates as prescribed; to harmonize
 8 provisions; to repeal the original sections; and to declare an
 9 emergency.".

(Signed) Jeremy Nordquist, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 62. Introduced by Gay, 14.

WHEREAS, David Kluch has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest achievement rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, David Kluch has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only five percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout.

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

1. That the Legislature congratulates David Kluch on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to David Kluch.

Laid over.

AMENDMENT - Print in Journal

Senator Langemeier filed the following amendment to LB561:
AM769

- 1 1. Strike original section 2 and insert the following new
- 2 sections:
- 3 Sec. 2. Section 70-1903, Revised Statutes Cumulative
- 4 Supplement, 2008, is amended to read:
- 5 70-1903 For purposes of the Rural Community-Based Energy
- 6 Development Act:
- 7 (1) C-BED project or community-based energy development
- 8 project means a new wind energy project that:
- 9 (a) Has an ownership structure as follows:
- 10 (i) For a C-BED project that consists of more than
- 11 two turbines, has one or more qualified owners with no single
- 12 individual qualified owner owning directly or indirectly more than
- 13 fifteen percent of the project and with at least thirty-three
- 14 percent of the gross power purchase agreement payments flowing to
- 15 the qualified owner or owners or local community; or
- 16 (ii) For a C-BED project that consists of one or
- 17 two turbines, has one or more qualified owners with at least
- 18 thirty-three percent of the gross power purchase agreement payments
- 19 flowing to a qualified owner or owners or local community; and
- 20 (b) Has a resolution of support adopted:
- 21 (i) By the county board of each county in which the C-BED
- 22 project is to be located; or
- 23 (ii) By the tribal council for a C-BED project located
- 1 within the boundaries of an Indian reservation;
- 2 (2) Debt financing payments means principal, interest,
- 3 and other financing costs paid by the C-BED project company to
- 4 one or more third-party financial institutions for the financing or
- 5 refinancing of the construction of a C-BED project;
- 6 ~~(2)-(3)~~ Electric utility means an electric supplier that:
- 7 (a) Owns more than one hundred miles of
- 8 one-hundred-fifteen-kilovolt or larger transmission lines in the
- 9 State of Nebraska;
- 10 (b) Owns more than two hundred megawatts of electric
- 11 generating facilities; and
- 12 (c) Has the obligation to directly serve more than two
- 13 hundred megawatts of wholesale or retail electric load in the State
- 14 of Nebraska; ~~and~~
- 15 (4) Gross power purchase agreement payments means a total
- 16 amount of payments during the life of the agreement less debt
- 17 financing payments; and
- 18 ~~(3)-(5)~~ Qualified owner means:
- 19 (a) A Nebraska resident;

20 (b) A limited liability company that is organized under
21 the Limited Liability Company Act and that is made up of members
22 who are Nebraska residents;

23 (c) A Nebraska nonprofit corporation organized under the
24 Nebraska Nonprofit Corporation Act;

25 (d) An electric supplier as defined in section
26 70-1001.01, except that ownership in a single C-BED project is
27 limited to no more than:

1 (i) Fifteen percent either directly or indirectly by a
2 single electric supplier; and

3 (ii) A combined total of twenty-five percent ownership
4 either directly or indirectly by multiple electric suppliers; or

5 (e) A tribal council.

6 Sec. 3. Section 70-1904, Revised Statutes Cumulative
7 Supplement, 2008, is amended to read:

8 70-1904 (1) A C-BED project developer and an electric
9 utility are authorized to negotiate in good faith mutually
10 agreeable power purchase agreement terms.

11 (2) A qualified owner or any combination of qualified
12 owners may develop a C-BED project with an equity partner that is
13 not a qualified owner, if not more than sixty-seven percent of the
14 gross power purchase agreement payments flow to the nonqualified
15 owners.

16 (3) Except for an inherited interest, the transfer of
17 a C-BED project to any person other than a qualified owner is
18 prohibited during the initial ten years of the power purchase
19 agreement.

20 (4) A C-BED project that is operating under a power
21 purchase agreement is not eligible for any applicable net energy
22 billing.

23 (5) A C-BED project shall be subject to approval by the
24 Nebraska Power Review Board in accordance with Chapter 70, article
25 10, or shall receive certification as a qualifying facility in
26 accordance with the federal Public Utility Regulatory Policies Act
27 of 1978, 16 U.S.C. 2601 et seq., with written notice of such
1 certification provided to the Nebraska Power Review Board.

2 (6) A C-BED project developer shall notify the electric
3 utility that has a power purchase agreement with a C-BED project if
4 there is a change in project ownership which makes the project no
5 longer eligible as a C-BED project.

6 Sec. 4. Section 77-2704.57, Revised Statutes Cumulative
7 Supplement, 2008, is amended to read:

8 77-2704.57 (1) Sales and use tax shall not be imposed
9 on the gross receipts from the sale, lease, or rental of personal
10 property for use in a C-BED project or community-based energy
11 development project. This exemption shall be conditioned upon
12 filing requirements for the exemption as imposed by the Tax
13 Commissioner. The requirements imposed by the Tax Commissioner
14 shall be related to ensuring that the property purchased qualifies

15 for the exemption. The Tax Commissioner may require the filing
16 of the documents showing compliance with section 70-1907, the
17 organization of the project, the distribution of the payments,
18 the power purchase agreements, the project pro forma, articles of
19 incorporation, operating agreements, and any amendments or changes
20 to these documents during the life of the power purchase agreement.

21 (2) The Tax Commissioner shall notify an electric utility
22 that has a power purchase agreement with a C-BED project if
23 there is a change in project ownership which makes the project no
24 longer eligible as a C-BED project. Purchase of a C-BED project
25 by an electric utility prior to the end of the power purchase
26 agreement disqualifies the C-BED project for the exemption, but the
27 Department of Revenue may not recover the amount of the sales and
1 use tax that was not paid by the project prior to the purchase.

2 (3) For purposes of this section:

3 (a) C-BED project or community-based energy development
4 project means a new wind energy project that:

5 (i) Has an ownership structure as follows:

6 (A) For a C-BED project that consists of more than
7 two turbines, has one or more qualified owners with no single
8 individual qualified owner owning directly or indirectly more than
9 fifteen percent of the project and with at least thirty-three
10 percent of the gross power purchase agreement payments flowing to
11 the qualified owner or owners or local community; or

12 (B) For a C-BED project that consists of one or
13 two turbines, has one or more qualified owners with at least
14 thirty-three percent of the gross power purchase agreement payments
15 flowing to a qualified owner or owners or local community; and

16 (ii) Has a resolution of support adopted:

17 (A) By the county board of each county in which the C-BED
18 project is to be located; or

19 (B) By the tribal council for a C-BED project located
20 within the boundaries of an Indian reservation;

21 (b) New wind energy project means any tangible
22 personal property incorporated into the manufacture, installation,
23 construction, repair, or replacement of a device, such as a wind
24 charger, windmill, or wind turbine, which is used to convert wind
25 energy to electrical energy or for the transmission of electricity
26 to the purchaser; and

27 (c) Qualified owner means:

1 (i) A Nebraska resident;

2 (ii) A limited liability company that is organized under
3 the Limited Liability Company Act and that is entirely made up of
4 members who are Nebraska residents;

5 (iii) A Nebraska nonprofit corporation organized under
6 the Nebraska Nonprofit Corporation Act;

7 (iv) An electric supplier as defined in section
8 70-1001.01, except that ownership in a single C-BED project is
9 limited to no more than:

10 (A) Fifteen percent either directly or indirectly by a
11 single electric supplier; and

12 (B) A combined total of twenty-five percent ownership
13 either directly or indirectly by multiple electric suppliers; or

14 (v) A tribal council.

15 (4) ~~Power~~ Gross power purchase agreement payments are the
16 total amount of payments during the life of the agreement less
17 debt financing payments. For purposes of this subsection, debt
18 financing payments means principal, interest, and other financing
19 costs paid by the qualified owners to one or more third-party
20 financial institutions for the financing or refinancing of the
21 construction of the C-BED project. For the ~~purposes~~ purpose of
22 determining eligibility of the project, an estimate of the payments
23 and their recipients shall be used.

24 (5) Payments to the local community include, but are not
25 limited to, lease payments to property owners on whose property a
26 turbine is located, wind energy easement payments, and real and
27 personal property tax receipts from the C-BED project.

1 (6) The Department of Revenue may examine the actual
2 payments and the distribution of the payments to determine if the
3 projected distributions were met. If the payment distributions to
4 qualified owners do not meet the requirements of this section, the
5 department may recover the amount of the sales or use tax that was
6 not paid by the project at any time up until the end of three years
7 after the end of the power purchase agreement.

8 (7) At any time prior to the end of the power purchase
9 agreements, the project may voluntarily surrender the exemption
10 granted by the Tax Commissioner and pay the amount of sales and use
11 tax that would have otherwise have been due.

12 (8) The amount of the tax due under either subsection
13 (6) or (7) of this section shall be increased by interest at the
14 rate specified in section 45-104.02, as such rate may from time to
15 time be adjusted, from the date the tax would have been due if no
16 exemption was granted until the date paid.

17 Sec. 5. Original section 70-670, Reissue Revised Statutes
18 of Nebraska, and sections 70-1903, 70-1904, and 77-2704.57, Revised
19 Statutes Cumulative Supplement, 2008, are repealed.

BILL ON FIRST READING

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

LEGISLATIVE BILL 328A. Introduced by Pahls, 31.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 328, One Hundred First Legislature, First Session, 2009; and to declare an emergency.

MESSAGES FROM THE GOVERNOR

March 13, 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
reappointed to the Board of Parole:

James Pearson, 5933 South 91st, Lincoln, NE 68526

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 13, 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
reappointed to the State Racing Commission:

Janell Beveridge, P.O. Box 66, 411 West Second, Paxton, NE 69155

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

GENERAL FILE

LEGISLATIVE BILL 121A. Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 9 present and not voting, and 5 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 548. ER8037, found in this day's Journal, was adopted.

Advanced to Enrollment and Review for Engrossment.

GENERAL FILE

LEGISLATIVE BILL 355. Committee AM445, found on page 580 and considered on page 793, was renewed.

Senator Wightman renewed his amendment, AM805, found on page 793, to the committee amendment.

PRESIDENT SHEEHY PRESIDING

Pending.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 48 and 49 were adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 48 and 49.

COMMITTEE REPORTS

Government, Military and Veterans Affairs

LEGISLATIVE BILL 280. Placed on General File.

LEGISLATIVE BILL 674. Placed on General File with amendment.
AM671

- 1 1. Strike the original section and insert the following
- 2 new sections:
- 3 Section 1. This section applies in the event the Board
- 4 of Regents of the University of Nebraska establishes an internal
- 5 auditing system consisting of an audit committee, an auditor, and
- 6 such other personnel as shall be necessary.

7 (2) All final audit reports issued by the audit committee
8 or auditor shall be maintained permanently as a public record in
9 the office of the Corporation Secretary of the Board of Regents of
10 the University of Nebraska, and a copy of such audit reports shall
11 be provided to the Auditor of Public Accounts.

12 (3) The audit committee or auditor shall have access to
13 all records of any University of Nebraska-related unit or entity,
14 in whatever form or mode the records may be, unless the audit
15 committee's or auditor's access to the records is specifically
16 prohibited or limited by federal or state law. The information
17 obtained as a result of the access is not a public record subject
18 to disclosure pursuant to sections 84-712 to 84-712.09. When an
19 audit or investigative finding emanates from nonpublic information
20 which is nonpublic pursuant to federal or state law, such nonpublic
21 information is not a public record subject to disclosure pursuant
22 to sections 84-712 to 84-712.09 and shall not be made public. When
23 an audit or investigative finding emanates from public records,
1 such public records shall remain public.

2 (4) Working papers and other audit files maintained
3 by the audit committee or auditor are not public records
4 subject to disclosure pursuant to sections 84-712 to 84-712.09.
5 Information contained in working papers and audit files prepared
6 pursuant to a specific audit is not a public record subject to
7 disclosure pursuant to sections 84-712 to 84-712.09, except to
8 a county attorney or the Attorney General in connection with an
9 investigation made or action taken in the course of his or her
10 official duties, the Auditor of Public Accounts in the course
11 of his or her official duties, federal agencies that have made
12 grants to university departments or programs being audited under
13 this section in the course of such agencies' official duties,
14 or to the Legislative Performance Audit Committee in the course
15 of the committee's official duties and pursuant to subdivision
16 (16) of section 50-1205 or subdivision (5) of section 84-304. The
17 audit committee or auditor may make the working papers available
18 for purposes of an external quality control review as required
19 by generally accepted government auditing standards. However, any
20 reports made from such external quality control review are not a
21 public record subject to disclosure pursuant to sections 84-712 to
22 84-712.09 and are confidential.

23 (5) If any member of the audit committee or the auditor
24 knowingly divulges or makes known in any manner not permitted
25 by law any confidential record, document, or information, the
26 disclosure of which is restricted by law, such person shall be
27 subject to removal or impeachment and, in addition, is guilty of a
1 Class III misdemeanor.

2 (6) For purposes of this section:

3 (a) Audit committee means the Audit Committee of the
4 Board of Regents of the University of Nebraska;

5 (b) Auditor means the internal auditor of the University
 6 of Nebraska and any other authorized university officer, employee,
 7 or agent reporting to the auditor or the audit committee; and
 8 (c) Working papers means those documents containing
 9 evidence to support the auditor's findings, opinions, conclusions,
 10 and judgments and includes the collection of evidence prepared or
 11 obtained by the auditor during the audit.

12 Sec. 2. Section 81-2703, Reissue Revised Statutes of
 13 Nebraska, is amended to read:

14 81-2703 For purposes of the State Government
 15 Effectiveness Act:

16 (1) Agency shall mean any agency, department, board,
 17 commission, or other governmental unit of the State of Nebraska
 18 acting or purporting to act by reason of connection with the
 19 State of Nebraska but shall not include (a) any court, (b) any
 20 member or employee of the Legislature or the Legislative Council,
 21 (c) the Governor or his or her personal staff, (d) any political
 22 subdivision or entity thereof, (e) any instrumentality formed
 23 pursuant to an interstate compact and answerable to more than one
 24 state, or (f) any entity of the federal government;

25 (2) Employee shall mean any person employed by an agency,
 26 regardless of rank;

27 (3) Official shall mean any elected state official or any
 1 auditor as defined in subdivision (6)(b) of section 1 of this act;

2 (4) Personnel action shall include dismissing, demoting,
 3 transferring, reassigning, suspending, reprimanding, admonishing,
 4 reducing in rank, or reclassifying an employee, withholding work
 5 from an employee of an agency, requiring an employee to submit to
 6 a fitness-for-duty examination or take disability retirement, any
 7 other involuntary action taken against an employee, or any threat
 8 thereof made against an employee; and

9 (5) Wrongdoing shall include any action by an agency or
 10 employee which (a) is a violation of any law, (b) results in gross
 11 mismanagement or gross waste of funds, or (c) creates a substantial
 12 and specific danger to public health or safety.

13 Sec. 3. Original section 81-2703, Reissue Revised
 14 Statutes of Nebraska, is repealed.

LEGISLATIVE BILL 623. Indefinitely postponed.

(Signed) Bill Avery, Chairperson

Judiciary

LEGISLATIVE BILL 414. Placed on General File with amendment.
 AM812

1 1. On page 2, line 12, strike "XXX" and insert
 2 "\$139,277.61"; and in line 14 strike "XXX" and insert
 3 "\$142,759.55".

(Signed) Brad Ashford, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 63. Introduced by Avery, 28.

WHEREAS, William Alexander Avery has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest achievement rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, Alex has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. Alex earned 22 merit badges and rejuvenated the courtyard landscaping at First-Plymouth Congregational Church in Lincoln, Nebraska, for his community service project; and

WHEREAS, Alex has received numerous special awards, including the Arrow of Light Award, the Historic Trails Award, and induction into the Order of the Arrow. He participated in National Youth Leadership Training and also held the troop position of assistant senior patrol leader; and

WHEREAS, only five percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout.

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

1. That the Legislature congratulates William Alexander Avery on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to William Alexander Avery.

Laid over.

LEGISLATIVE RESOLUTION 64. Introduced by Avery, 28.

WHEREAS, David M. Cummings has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest achievement rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting

experience, David has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. David earned 22 merit badges and built a small group devotional area at Moses Merrill Camp and Conference Center in Linwood, Nebraska, for his community service project; and

WHEREAS, David has received numerous special awards, including the Arrow of Light Award and the Historic Trails Award. He participated in National Youth Leadership Training and also held the troop position of senior patrol leader; and

WHEREAS, only five percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout.

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

1. That the Legislature congratulates David M. Cummings on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to David M. Cummings.

Laid over.

LEGISLATIVE RESOLUTION 65. Introduced by Avery, 28.

WHEREAS, Wesley Anderson has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest achievement rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, Wes has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. Wes earned 28 merit badges and repainted the parking lot lines at Eastridge Presbyterian Church in Lincoln, Nebraska, for his community service project; and

WHEREAS, Wes has served his troop in a variety of leadership roles, including troop historian and librarian; and

WHEREAS, only five percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout.

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

1. That the Legislature congratulates Wesley Anderson on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Wesley Anderson.

Laid over.

LEGISLATIVE RESOLUTION 66. Introduced by Avery, 28.

WHEREAS, John A. Brandt has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest achievement rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, John has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. John earned 28 merit badges and renovated the outdoor classroom/courtyard at Meadow Lane Elementary School in Lincoln, Nebraska, for his community service project; and

WHEREAS, John has received numerous special awards, including the World Conservation Award and induction into the Order of the Arrow; and

WHEREAS, only five percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout.

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

1. That the Legislature congratulates John A. Brandt on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to John A. Brandt.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 355. Senator Stuthman offered the following motion:

MO25

Bracket until June 2, 2009.

Senator Price moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 7 nays, and 15 not voting.

Senator Stuthman moved for a call of the house. The motion prevailed with 40 ayes, 0 nays, and 9 not voting.

The Stuthman motion to bracket failed with 10 ayes, 30 nays, 7 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

The Wightman amendment, AM805, found on page 793 and in this day's Journal, to the committee amendment, was renewed.

Senator Wightman asked unanimous consent to withdraw his amendment, AM805, found on page 793, and replace it with his substitute amendment, AM827, to the committee amendment. No objections. So ordered.
AM827

(Amendments to Standing Committee amendments, AM445)

- 1 1. Insert the following new amendment:
- 2 4. On page 11, line 7, after "license" insert "which does
- 3 not sell food."; in line 8 strike "fifteen" and insert "ten"; in
- 4 line 9 strike ", cigarettes."; and in line 10 after "products"
- 5 insert ", except from the sale of cigarettes as defined in section
- 6 69-2702, and which has a walk-in humidor on the premises".
- 7 2. Renumber the remaining amendment accordingly.

Pending.

REFERENCE COMMITTEE REPORT

The Executive Board submits the following report:

Beveridge, Janell - State Racing Commission - General Affairs
Pearson, James - Board of Parole - Judiciary

(Signed) John Wightman, Chairperson
Executive Board

COMMITTEE REPORTS

Revenue

LEGISLATIVE BILL 59. Indefinitely postponed.
LEGISLATIVE BILL 127. Indefinitely postponed.
LEGISLATIVE BILL 161. Indefinitely postponed.
LEGISLATIVE BILL 296. Indefinitely postponed.
LEGISLATIVE BILL 336. Indefinitely postponed.
LEGISLATIVE BILL 466. Indefinitely postponed.
LEGISLATIVE BILL 485. Indefinitely postponed.
LEGISLATIVE BILL 536. Indefinitely postponed.
LEGISLATIVE BILL 539. Indefinitely postponed.
LEGISLATIVE BILL 570. Indefinitely postponed.

LEGISLATIVE BILL 613. Indefinitely postponed.

(Signed) Abbie Cornett, Chairperson

AMENDMENTS - Print in Journal

Senator Lautenbaugh filed the following amendment to LB355:
AM816

(Amendments to Standing Committee amendments, AM445)

- 1 1. Insert the following new amendment:
- 2 4. On page 11, line 8, strike "fifteen" and insert
- 3 "ten"; and in line 9 strike ", cigarettes,"; and in line 10 after
- 4 "products" insert ", except from the sale of cigarettes, and which
- 5 does not sell food on the premises".
- 6 2. Renumber the remaining amendment accordingly.

Senator Avery filed the following amendment to LB355:
AM794

(Amendments to Standing Committee amendments, AM445)

- 1 1. Strike amendment 1 and insert the following new
- 2 amendment:
- 3 1. Strike sections 2 and 4.

Senator Avery filed the following amendment to LB355:
AM795

(Amendments to Standing Committee amendments, AM445)

- 1 1. On page 1, lines 3 through 5, strike the new matter
- 2 and insert "Nothing in sections 1 to 5 of this act shall be
- 3 construed to permit smoking where it is prohibited or otherwise
- 4 restricted by other applicable law, ordinance, or resolution.".

Senator Karpisek filed the following amendment to LB403:
AM680

- 1 1. Insert the following new section:
- 2 Sec. 16. If any section in this act or any part of any
- 3 section is declared invalid or unconstitutional, the declaration
- 4 shall not affect the validity or constitutionality of the remaining
- 5 portions.
- 6 2. In the Standing Committee amendments, AM413:
- 7 a. On page 1, after line 14 insert the following new
- 8 subsection:
- 9 "(3) On and after the operative date of this act, no
- 10 employee of a state agency or political subdivision of the State
- 11 of Nebraska shall be authorized to participate in any retirement
- 12 system, including, but not limited to, the systems provided for
- 13 in the County Employees Retirement Act, the Judges Retirement Act,
- 14 the Nebraska State Patrol Retirement Act, the School Employees
- 15 Retirement Act, and the State Employees Retirement Act, unless the
- 16 employee is (a) a United States citizen or (b) is a qualified alien

- 17 under the federal Immigration and Nationality Act, 8 U.S.C. 1101
 18 et seq., as such act existed on January 1, 2009, and is lawfully
 19 present in the United States."; in line 17 strike "retirement
 20 benefit."; and in line 18 after "health" insert "payment or
 21 financial assistance";
- 22 b. On page 3, line 4, strike "execute a document,
 23 on a form" and insert "attest in a format"; in line 5 strike
 1 "attesting"; in line 14 strike "and execution" and strike
 2 "document" and insert "attestation"; in line 15 strike "document"
 3 and insert "attestation"; in line 16 strike "document form" and
 4 insert "format"; and in line 24 strike "document" and insert
 5 "attestation";
- 6 c. On page 4, line 24; and page 5, line 1, after
 7 "employees" insert "physically performing services within the State
 8 of Nebraska"; and
- 9 d. On page 5, after line 8 insert:
 10 "(4) This section does not apply to contracts awarded by
 11 a public employer prior to the operative date of this act.".
- 12 3. In the E & R amendments, ER8023, on page 1, strike
 13 lines 12 through 14 and insert:
 14 "(b) Public contractor means any contractor or his or her
 15 subcontractor who is awarded a contract by a public employer for
 16 the physical performance of services within the State of Nebraska;
 17 and".

UNANIMOUS CONSENT - Add cointroducers

Senator Howard asked unanimous consent to add her name as cointroducer to LB38. No objections. So ordered.

Senator Cook asked unanimous consent to add her name as cointroducer to LB633. No objections. So ordered.

VISITORS

Visitors to the Chamber were Micah Mudlaff from Urbandale, Iowa; 10 Cub Scouts and leaders from Pack 45, Lincoln; Tom and Mitchell Volk from Lincoln; and 60 students with Project Extra Mile from across the state.

The Doctor of the Day was Dr. Kelly Collins from Papillion.

ADJOURNMENT

At 12:00 p.m., on a motion by Senator Nordquist, the Legislature adjourned until 9:00 a.m., Tuesday, March 24, 2009.

Patrick J. O'Donnell
 Clerk of the Legislature