

FIFTY-SECOND DAY - MARCH 31, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION****FIFTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, March 31, 2009

PRAYER

The prayer was offered by Pastor Don Owen, Word of Life Church, Columbus.

ROLL CALL

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

The roll was called and all members were present except Senators Ashford, Fulton, and Howard who were excused; and Senator Dierks who was excused until he arrives.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-first day was approved.

COMMITTEE REPORTS

Health and Human Services

LEGISLATIVE BILL 136. Placed on General File with amendment.
AM867

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 68-915, Revised Statutes Cumulative
- 4 Supplement, 2008, is amended to read:
- 5 68-915 The following persons shall be eligible for
- 6 medical assistance:
- 7 (1) Dependent children as defined in section 43-504;
- 8 (2) Aged, blind, and disabled persons as defined in
- 9 sections 68-1002 to 68-1005;
- 10 (3) Children under nineteen years of age who are eligible
- 11 under section 1905(a)(i) of the federal Social Security Act;
- 12 (4) Persons who are presumptively eligible as allowed
- 13 under sections 1920 and 1920B of the federal Social Security Act;
- 14 (5) Children under nineteen years of age ~~and pregnant~~

15 ~~women~~ with a family income equal to or less than ~~one two~~ hundred
 16 ~~eighty five~~ percent of the Office of Management and Budget income
 17 poverty guideline, as allowed under Title XIX and Title XXI of
 18 the federal Social Security Act, without regard to resources,
 19 and pregnant women with a family income equal to or less than
 20 one hundred eighty-five percent of the Office of Management
 21 and Budget income poverty guideline, as allowed under Title
 22 XIX and Title XXI of the federal Social Security Act, without
 23 regard to resources. Children described in this subdivision and
 1 subdivision (6) of this section shall remain eligible for six
 2 consecutive months from the date of initial eligibility prior
 3 to redetermination of eligibility. The department may review
 4 eligibility monthly thereafter pursuant to rules and regulations
 5 adopted and promulgated by the department. The department may
 6 determine upon such review that a child is ineligible for medical
 7 assistance if such child no longer meets eligibility standards
 8 established by the department;

9 (6) For purposes of Title XIX of the federal Social
 10 Security Act as provided in subdivision (5) of this section,
 11 children with a family income as follows:

12 (a) Equal to or less than one hundred fifty percent of
 13 the Office of Management and Budget income poverty guideline with
 14 eligible children one year of age or younger;

15 (b) Equal to or less than one hundred thirty-three
 16 percent of the Office of Management and Budget income poverty
 17 guideline with eligible children over one year of age and under six
 18 years of age; or

19 (c) Equal to or less than one hundred percent of the
 20 Office of Management and Budget income poverty guideline with
 21 eligible children six years of age or older and less than nineteen
 22 years of age;

23 (7) Persons who are medically needy caretaker relatives
 24 as allowed under 42 U.S.C. 1396d(a)(ii);

25 (8) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii),
 26 disabled persons as defined in section 68-1005 with a family income
 27 of less than two hundred fifty percent of the Office of Management
 1 and Budget income poverty guideline and who, but for earnings in
 2 excess of the limit established under 42 U.S.C. 1396d(q)(2)(B),
 3 would be considered to be receiving federal Supplemental Security
 4 Income. The department shall apply for a waiver to disregard any
 5 unearned income that is contingent upon a trial work period in
 6 applying the Supplemental Security Income standard. Such disabled
 7 persons shall be subject to payment of premiums as a percentage of
 8 family income beginning at not less than two hundred percent of
 9 the Office of Management and Budget income poverty guideline. Such
 10 premiums shall be graduated based on family income and shall not be
 11 less than two percent or more than ten percent of family income;
 12 and

13 (9) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii),

14 persons who:

15 (a) Have been screened for breast and cervical cancer
 16 under the Centers for Disease Control and Prevention breast and
 17 cervical cancer early detection program established under Title XV
 18 of the federal Public Health Service Act, 42 U.S.C. 300k et seq.,
 19 in accordance with the requirements of section 1504 of such act, 42
 20 U.S.C. 300n, and who need treatment for breast or cervical cancer,
 21 including precancerous and cancerous conditions of the breast or
 22 cervix;

23 (b) Are not otherwise covered under creditable coverage
 24 as defined in section 2701(c) of the federal Public Health Service
 25 Act, 42 U.S.C. 300gg(c);

26 (c) Have not attained sixty-five years of age; and

27 (d) Are not eligible for medical assistance under any
 1 mandatory categorically needy eligibility group.

2 Eligibility shall be determined under this section
 3 using an income budgetary methodology that determines children's
 4 eligibility at no greater than ~~one-two hundred eighty-five~~ percent
 5 of the Office of Management and Budget income poverty guideline and
 6 adult eligibility using adult income standards no greater than the
 7 applicable categorical eligibility standards established pursuant
 8 to state or federal law. The department shall determine eligibility
 9 under this section pursuant to such income budgetary methodology
 10 and subdivision (1)(q) of section 68-1713.

11 Sec. 2. Original section 68-915, Revised Statutes
 12 Cumulative Supplement, 2008, is repealed.

LEGISLATIVE BILL 288. Placed on General File with amendment.
 AM846 is available in the Bill Room.

LEGISLATIVE BILL 601. Placed on General File with amendment.
 AM855

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

3 Section 1. Section 68-911, Revised Statutes Cumulative
 4 Supplement, 2008, is amended to read:

5 68-911 (1) Medical assistance shall include coverage for
 6 health care and related services as required under Title XIX of the
 7 federal Social Security Act, including, but not limited to:

8 (a) Inpatient and outpatient hospital services;

9 (b) Laboratory and X-ray services;

10 (c) Nursing facility services;

11 (d) Home health services;

12 (e) Nursing services;

13 (f) Clinic services;

14 (g) Physician services;

15 (h) Medical and surgical services of a dentist;

16 (i) Nurse practitioner services;

17 (j) Nurse midwife services;

18 (k) Pregnancy-related services;
 19 (l) Medical supplies; and
 20 (m) Early and periodic screening and diagnosis and
 21 treatment services for children.

22 (2) ~~Medical~~ In addition to coverage otherwise required
 23 under this section, medical assistance may include coverage for
 1 health care and related services as permitted but not required
 2 under Title XIX of the federal Social Security Act, including, but
 3 not limited to:

4 (a) Prescribed drugs;
 5 (b) Intermediate care facilities for the mentally
 6 retarded;
 7 (c) Home and community-based services for aged persons
 8 and persons with disabilities;
 9 (d) Dental services;
 10 (e) Rehabilitation services;
 11 (f) Personal care services;
 12 (g) Durable medical equipment;
 13 (h) Medical transportation services;
 14 (i) Vision-related services;
 15 (j) Speech therapy services;
 16 (k) Physical therapy services;
 17 (l) Chiropractic services;
 18 (m) Occupational therapy services;
 19 (n) Optometric services;
 20 (o) Podiatric services;
 21 (p) Hospice services;
 22 (q) Mental health and substance abuse services;
 23 (r) Hearing screening services for newborn and infant
 24 children; and
 25 (s) Administrative expenses related to administrative
 26 activities, including outreach services, provided by school
 27 districts and educational service units to students who are
 1 eligible or potentially eligible for medical assistance.

2 (3) No later than July 1, 2009, the department shall
 3 submit a state plan amendment or waiver to the federal Centers
 4 for Medicare and Medicaid Services to provide coverage under the
 5 medical assistance program for community-based secure residential
 6 and subacute behavioral health services for all eligible
 7 recipients, regardless of whether the recipient has been ordered to
 8 receive such services by a mental health board under the Nebraska
 9 Mental Health Commitment Act.

10 Sec. 2. Original section 68-911, Revised Statutes
 11 Cumulative Supplement, 2008, is repealed.

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

(Signed) Tim Gay, Chairperson

Natural Resources

LEGISLATIVE BILL 471. Placed on General File.

LEGISLATIVE BILL 568. Placed on General File with amendment.
AM732

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

3 Section 1. For purposes of sections 1 to 4 of this act:

4 (1) Decommissioning security means a security instrument
5 that is posted or given prior to construction by the wind developer
6 to ensure sufficient funding is available for removal of a wind
7 energy conversion system and reclamation at the end of the useful
8 life of such a system; and

9 (2) Wind agreement means a right, whether or not stated
10 in the form of a restriction, easement, covenant, or condition,
11 in any deed, wind easement, wind option, or lease or lease option
12 securing land for the study or production of wind generated energy
13 or any other instrument executed by or on behalf of any owner of
14 land or air space for the purpose of allowing another party to
15 study the potential for, or to develop, a wind energy conversion
16 system as defined in section 66-909.02 on the land or in the air
17 space.

18 Sec. 2. A wind agreement shall run with the land
19 benefited and burdened and shall terminate upon the conditions
20 stated in the wind agreement, except that the initial term of a
21 wind agreement shall not exceed fifty years. A wind agreement shall
22 terminate if development of a wind energy conversion system as
23 defined in section 66-909.02 has not commenced within ten years
1 after the effective date of the wind agreement, except that this
2 period may be extended by mutual agreement of the parties to the
3 wind agreement.

4 Sec. 3. A wind agreement shall comply with section
5 66-911.01.

6 Sec. 4. No interest in any resource located on a tract of
7 land and associated with the production or potential production of
8 wind generated energy on the tract of land may be severed from the
9 surface estate, except that such interests may be granted for an
10 initial period not to exceed fifty years.

11 Sec. 5. Section 66-911.01, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 66-911.01 An instrument creating a ~~lease-land right~~ or
14 an option to ~~lease~~ secure a land right in real property or the
15 vertical space above real property for a solar energy system or for
16 a wind energy conversion system or for wind measurement equipment
17 shall be created in writing and the instrument, or an abstract,
18 shall be filed, duly recorded, and indexed in the office of the
19 register of deeds of the county in which the real property subject
20 to the ~~easement-instrument~~ is located. ~~An instrument creating a~~

21 ~~lease or an option to lease real property or the vertical space~~
 22 ~~above real property for wind measuring equipment may be created in~~
 23 ~~writing and may be filed, duly recorded, and indexed in the office~~
 24 ~~of the register of deeds of the county in which the real property~~
 25 ~~subject to the easement is located. Such lease or lease option~~
 26 ~~document~~ The instrument shall include, but the contents are not
 27 limited to:

- 1 (1) The names of the parties;
- 2 (2) A legal description of the real property involved;
- 3 (3) The nature of the interest created;
- 4 (4) The consideration paid for the transfer; ~~and~~
- 5 (5) A description of the improvements the developer
 6 intends to make on the real property, including, but not limited
 7 to: Roads; transmission lines; substations; wind turbines; and
 8 meteorological towers;
- 9 (6) A description of any decommissioning security as
 10 defined in section 1 of this act or local requirements related to
 11 decommissioning; and
- 12 ~~(5)-(7)~~ (7) The terms or conditions, if any, under which the
 13 interest may be revised or terminated.

14 Sec. 6. Original section 66-911.01, Reissue Revised
 15 Statutes of Nebraska, is repealed.

(Signed) Chris Langemeier, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 76. Introduced by Campbell, 25.

WHEREAS, Justin Kuzila 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, Justin 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. Justin earned 29 merit badges and planted trees along the bike path at the intersection of 120th Street and A Street in Lincoln, Nebraska, for his community service project; and

WHEREAS, Justin has received numerous special awards and training, including the Catholic Church's special religious award; 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 Justin Kuzila on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Justin Kuzila.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 292A. Title read. Considered.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 6 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 555. Title read. Considered.

Committee AM367, found on page 675, was considered.

Senator Dubas moved the previous question. The question is, "Shall the debate now close?"

Senator Dubas moved for a call of the house. The motion prevailed with 34 ayes, 0 nays, and 15 not voting.

The motion to cease debate prevailed with 25 ayes, 13 nays, 8 present and not voting, and 3 excused and not voting.

The committee amendment was adopted with 46 ayes, 0 nays, and 3 excused and not voting.

The Chair declared the call raised.

SENATOR ROBERT PRESIDING

Senator Nantkes requested a record vote on the advancement of the bill.

Voting in the affirmative, 37:

Avery	Dubas	Karpisek	Nelson	Stuthman
Campbell	Gay	Langemeier	Nordquist	Sullivan
Christensen	Giese	Lautenbaugh	Pahls	Wallman
Coash	Gloor	Louden	Pankonin	White
Cook	Haar	McCoy	Pirsch	Wightman
Cornett	Hadley	McGill	Price	
Council	Hansen	Mello	Rogert	
Dierks	Harms	Nantkes	Schilz	

Voting in the negative, 1:

Utter

Present and not voting, 5:

Adams Fischer Friend Janssen Lathrop

Excused and not voting, 6:

Ashford Flood Heidemann
Carlson Fulton Howard

Advanced to Enrollment and Review Initial with 37 ayes, 1 nay, 5 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 396. Title read. Considered.

Pending.

COMMITTEE REPORTS

Government, Military and Veterans Affairs

LEGISLATIVE BILL 475. Placed on General File with amendment. AM830 is available in the Bill Room.

LEGISLATIVE BILL 533. Placed on General File with amendment. AM873

- 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.

(Signed) Bill Avery, Chairperson

NOTICE OF COMMITTEE HEARING

Government, Military and Veterans Affairs

Room 1507

Tuesday, April 7, 2009 8:30 a.m.

Richard Christensen - State Emergency Response Commission
Steven Danon - State Emergency Response Commission
Donald Eisenhower - State Emergency Response Commission
Larry Johnson - State Emergency Response Commission

(Signed) Bill Avery, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 77. Introduced by Langemeier, 23.

WHEREAS, the David City High School speech team won the 2009 Class C-1 State Speech title, finishing twenty-eight points ahead of runner-up Raymond Central; and

WHEREAS, this marks David City's second state title in school history, having also won in 2006; and

WHEREAS, the David City High School speech team was propelled to victory by four first-place finishes, two by Michaela Hruska and one each by Abbi Bardsley and Weston Sieck; 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 David City High School speech team on winning the 2009 Class C-1 State Speech title.

2. That a copy of this resolution be sent to the speech team and their coach, Jarod Ockander.

Laid over.

BILL ON FIRST READING

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

LEGISLATIVE BILL 280A. Introduced by Avery, 28.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 280, One Hundred First Legislature, First Session, 2009.

UNANIMOUS CONSENT - Add Cointroducer

Senator McCoy asked unanimous consent to add his name as cointroducer to LB457. No objections. So ordered.

VISITORS

Visitors to the Chamber were 65 fourth-grade students, teachers, and sponsors from Gretna; Student Pharmacists from UNL College of Pharmacy and Creighton University School of Pharmacy; Diane Wilson and Marilyn Wise from Fremont; 102 fourth-grade students and teachers from Crete; and 32 fifth- and sixth-grade students, teachers, and sponsors from Loomis.

RECESS

At 11:57 a.m., on a motion by Senator Cook, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., President Sheehy presiding.

ROLL CALL

The roll was called and all members were present except Senators Ashford, Fulton, and Howard who were excused; and Senator Schilz who was excused until he arrives.

COMMITTEE REPORTS

General Affairs

The General Affairs 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.

Vicki Bromm - Nebraska Arts Council
Julie Jacobson - Nebraska Arts Council
Louise Kent - Nebraska Arts Council
Robert Nefsky - Nebraska Arts Council
Jeanne Ross - Nebraska Arts Council

Aye: 8 Senators Coash, Cook, Dierks, Dubas, Friend, Karpisek, Price, Rogert. Nay: 0. Absent: 0.

The General Affairs 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.

Stanley Elsasser - State Electrical Board
George Morrissey - State Electrical Board

Aye: 8 Senators Coash, Cook, Dierks, Dubas, Friend, Karpisek, Price, Rogert. Nay: 0. Absent: 0.

(Signed) Russ Karpisek, Chairperson

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 61, 62, 63, 64, 65, and 66 were adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 61, 62, 63, 64, 65, and 66.

GENERAL FILE

LEGISLATIVE BILL 396. Committee AM682, found on page 752, was adopted with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 5 present and not voting, and 4 excused and not voting.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 458. Placed on Select File.

LEGISLATIVE BILL 206. Placed on Select File with amendment.
ER8043

- 1 1. In the Standing Committee amendments, AM512:
- 2 a. On page 2, line 26, strike "in" and insert "of"; and
- 3 b. On page 6, line 2, after "children" insert "of
- 4 members".
- 5 2. On page 1, strike beginning with "to" in line 2
- 6 through the second semicolon in line 3.

(Signed) Jeremy Nordquist, Chairperson

GENERAL FILE

LEGISLATIVE BILL 449. Title read. Considered.

Committee AM515, found on page 744, was adopted with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 340. Title read. Considered.

Committee AM654, found on page 746, was adopted with 37 ayes, 0 nays, 5 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 4 present and not voting, and 7 excused and not voting.

COMMITTEE REPORT
Enrollment and Review

LEGISLATIVE BILL 403. Placed on Final Reading.

ST9015

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

1. In the Karpisek amendment, AM680:
 - a. Section 16 has been renumbered as section 17; and
 - b. On page 1, line 16, the first "is" has been struck and "is" has been inserted after "(a)".
2. In the E & R amendments, ER8023:
 - a. On page 1, line 11, "of Act" has been struck and "Act of" inserted; and
 - b. On page 2, line 2, "to provide severability;" has been inserted after the semicolon.
3. In the Standing Committee amendments, AM413, section 17 has been renumbered as section 18.

(Signed) Jeremy Nordquist, Chairperson

COMMITTEE REPORT
Judiciary

LEGISLATIVE BILL 35. Placed on General File with amendment. AM836 is available in the Bill Room.

(Signed) Brad Ashford, Chairperson

AMENDMENTS - Print in Journal

Senator Friend filed the following amendment to LB532:
AM898

(Amendments to Standing Committee amendments, AM678)

- 1 1. Strike amendment 1 and insert the following new
- 2 amendment:
- 3 "1. On page 1, strike line 3."

Senator Friend filed the following amendment to LB532:
AM899

(Amendments to Standing Committee amendments, AM678)

- 1 1. On page 1, line 13, strike "five hundred" and insert
- 2 "fifty".

Senator Gay filed the following amendment to LB464:
AM901

- 1 1. On page 2, line 15, strike "On" and insert "Except as
- 2 provided in sections 79-221 and 79-222, on".

UNANIMOUS CONSENT - Add Cointroducer

Senator Langemeier asked unanimous consent to add his name as cointroducer to LB463. No objections. So ordered.

VISITORS

Visitors to the Chamber were members of Community Colleges in International Development from Egypt.

The Doctor of the Day was Dr. Amy Jespersen from Omaha.

ADJOURNMENT

At 4:07 p.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Wednesday, April 1, 2009.

Patrick J. O'Donnell
Clerk of the Legislature

