

SIXTY-SEVENTH DAY - APRIL 23, 2009

LEGISLATIVE JOURNAL

**ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION**

SIXTY-SEVENTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, April 23, 2009

PRAYER

The prayer was offered by Father Paul Rutten, Lincoln.

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 Senators Cook and Nordquist who were excused; and Senators Ashford, Pankonin, and Pirsch who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the sixty-sixth day was approved.

COMMITTEE REPORT

Agriculture

LEGISLATIVE BILL 224. Placed on General File with amendment.
AM949

- 1 1. Strike sections 1 and 5 and insert the following
- 2 sections:
- 3 Section 1. Section 2-101, Revised Statutes Cumulative
- 4 Supplement, 2008, is amended to read:
- 5 2-101 (1) The Nebraska State Fair Board, formerly known
- 6 as the State Board of Agriculture, shall hold an annual meeting for
- 7 the purpose of deliberating and consulting as to the wants,
- 8 prospects, and conditions of the agricultural, horticultural,
- 9 industrial, mechanical, and other interests throughout the state,
- 10 as well as those interests in the encouragement and perpetuation of
- 11 the arts, skilled crafts, and sciences.
- 12 (2) The Nebraska State Fair Board may provide in its
- 13 constitution and bylaws for the qualification and participation
- 14 of delegates at the annual meeting from such associations
- 15 incorporated under the laws of the state for purposes of promoting

16 and furthering the interests of participants in agricultural,
 17 horticultural, industrial, mechanical, or other pursuits or for the
 18 encouragement and perpetuation of the arts, skilled crafts, and
 19 sciences, and from such associations as provide for the training,
 20 encouragement, and competition of the youth of Nebraska in such
 21 endeavors. The annual meeting shall be held in every odd-numbered
 22 year at the capital of the state and in every even-numbered year at
 23 such location as the board determines. The chairperson of the board
 1 shall also have the power to call meetings of the board whenever he
 2 or she may deem it expedient. All meetings of the board shall be
 3 conducted in accordance with the Open Meetings Act.

4 (3) The Nebraska State Fair shall be under the direction
 5 and supervision of the Nebraska State Fair Board. The board may, at
 6 its discretion, hold or dispense with the holding of the fair, in
 7 any year.

8 (4)(a) It is the intent of the Legislature that no later
 9 than 2010 the Nebraska State Fair be permanently located within
 10 the city of Grand Island upon the site and tract of land owned
 11 by the Hall County Livestock Improvement Association and known as
 12 ~~Fonner Park~~ no later than 2010, and, as available and necessary,
 13 upon other parcels of land adjacent to Fonner Park. The Nebraska
 14 State Fair Board shall cooperate and coordinate with the Hall
 15 County Livestock Improvement Association, the city of Grand Island,
 16 and other appropriate entities to provide for and carry out any
 17 plan of improvements to ~~Fonner Park, such location, including~~
 18 the construction of buildings, and other capital facilities,
 19 the relocation of existing improvements, and other enhancements,
 20 necessary to develop the site as a location suitable for conducting
 21 the Nebraska State Fair. Such cooperation and coordination may
 22 include financial participation in the costs of site development,
 23 new construction, and other capital improvements upon ~~Fonner Park~~
 24 such location and includes the execution of any agreement for site
 25 governance, revenue sharing, and facility utilization between and
 26 among the Nebraska State Fair Board, the Hall County Livestock
 27 Improvement Association, and other appropriate entities.

1 (b) The Nebraska State Fair Board, the Department of
 2 Administrative Services, and the Board of Regents of the University
 3 of Nebraska shall cooperate with each other and with other
 4 appropriate entities to provide for and carry out the plan to
 5 relocate the Nebraska State Fair and transfer the Nebraska State
 6 Fairgrounds in Lancaster County to the Board of Regents, including
 7 activities by the Board of Regents to obtain due diligence surveys,
 8 reports, and site assessments at the Nebraska State Fairgrounds in
 9 Lancaster County and by the Nebraska State Fair Board in connection
 10 with providing marketable title to the same in a form acceptable to
 11 the Board of Regents.

12 Sec. 5. Section 2-113, Revised Statutes Cumulative
 13 Supplement, 2008, is amended to read:

14 2-113 (1) Upon completion of the conditions specified

15 in subsection (2) of this section, the Director of Administrative
16 Services shall, on or before December 31, 2009, transfer by
17 warranty deed the site and tract of land in Lancaster County known
18 as the Nebraska State Fairgrounds, to the Board of Regents of the
19 University of Nebraska. Such transfer shall occur notwithstanding
20 sections 72-811 to 72-818 or any other provision of law.

21 (2) The transfer described in subsection (1) of this
22 section shall be contingent upon:

23 (a) Funds for the purpose of carrying out subsection
24 (4) of section 2-101 having been provided by or on behalf of the
25 University of Nebraska in a total amount of no less than twenty-one
26 million five hundred thousand dollars in cash or legally binding
27 commitments. Such funds may be provided over time, but they shall
1 in cumulative increments equal at least seven million five hundred
2 thousand dollars by October 1, 2008, fourteen million five hundred
3 thousand dollars by February 1, 2009, and twenty-one million five
4 hundred thousand dollars by July 1, 2009;

5 (b) The University of Nebraska providing a master plan
6 and business plan to carry out the master plan for the Innovation
7 Campus to the Department of Administrative Services and to the
8 Clerk of the Legislature on or before December 1, 2009, and
9 a commitment to provide on or before December 1 of each year
10 thereafter an annual update of the master plan and business plan to
11 the Clerk of the Legislature; and

12 (c) Funds for the purpose of carrying out subsection
13 (4) of section 2-101 having been provided by or on behalf of the
14 city of Grand Island in a total amount of no less than eight
15 million five hundred thousand dollars in cash or legally binding
16 commitments. Such funds may be provided over time, but they shall
17 in cumulative increments equal at least three million dollars by
18 October 1, 2008, six million dollars by February 1, 2009, and eight
19 million five hundred thousand dollars by July 1, 2009.

20 (3) The University of Nebraska and the city of
21 Grand Island shall provide certification to the Department of
22 Administrative Services on October 1, 2008, February 1, 2009, and
23 July 1, 2009, of all funds provided to carry out subsection (4) of
24 section 2-101. All amounts as certified in subdivisions (2)(a) and
25 (c) of this section shall be held and expended as determined by
26 agreement between the Hall County Livestock Improvement Association
27 and the Nebraska State Fair Board.

1 (4)(a) The Nebraska State Fair shall be relocated to
2 the city of Grand Island pursuant to subsection (4) of section
3 2-101 contingent upon completion of the conditions specified in
4 ~~subsection (2) subdivisions (2)(a) and (c) of this section.~~

5 (b) The Nebraska State Fair Board shall be responsible
6 for any remaining costs associated with site improvements for
7 relocating the Nebraska State Fair, not to exceed seven million
8 dollars.

9 (c) On or before December 31, 2009, the Nebraska

10 State Fair Board shall provide written release or other written
 11 instrument acceptable to the State Building Administrator in
 12 consultation with the President of the University of Nebraska
 13 in connection with the transfer of the Nebraska State Fairgrounds
 14 to the Board of Regents.

15 Sec. 11. Since an emergency exists, this act takes effect
 16 when passed and approved according to law.

17 2. On page 7, line 18, strike "(2) An", show the old
 18 matter as stricken, and insert "(2)(a) Except as provided in
 19 subdivision (2)(b) of this section, an"; in line 23 after the
 20 period insert "This subdivision includes each race meeting held
 21 after January 1, 2010, within the licensed racetrack enclosure
 22 located in Lancaster County where the Nebraska State Fair was held
 23 prior to 2010; and

24 (b) For race meetings conducted at the location where
 25 the Nebraska State Fair is held, an amount equal to two and
 26 one-half percent of the first taxable seventy million dollars at
 27 each race meeting shall be retained by the licensee for the purpose
 1 of maintenance of the premises within the licensed racetrack
 2 enclosure and maintenance of other buildings, streets, utilities,
 3 and existing improvements at the location where the Nebraska State
 4 Fair is held. Such amount shall be a credit against the tax levied
 5 in subsection (1) of this section."

6 3. On page 8, line 12, strike "section 2-103" and insert
 7 "sections 2-101 and 2-113".

(Signed) Tom Carlson, Chairperson

REPORTS

The following reports were received by the Legislature:

Investment Council

Annual Report Calendar Year 2008

Mexican American Commission

2007 & 2008 Biennium Report

Retirement Systems, Public Employees

Retirement Plan Review - January 1, 2008 to December 31, 2008

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of April 22, 2009, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Brashear, Kermit A.
Learning Community of Douglas and Sarpy County
Johnson-Weinberger, Dan
National Popular Vote
Johnson-Weinberger, Dan
National Popular Vote (Withdrawn 04/22/2009)
Pieper, James S.
Learning Community of Douglas and Sarpy County

SELECT FILE

LEGISLATIVE BILL 98. ER8057, found on page 994, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 98A. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 420. ER8058, found on page 1000, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 489. ER8060, found on page 1000, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 489A. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 679. ER8051, found on page 928, was adopted.

Senator Harms withdrew his amendment, AM1120, found on page 1149.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 198. ER8053, found on page 928, was adopted.

Senator Stuthman renewed his amendment, AM1179, found on page 1168.

The Stuthman amendment was adopted with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 322. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 549. ER8056, found on page 953, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 246. ER8061, found on page 1001, was adopted.

Senator Dubas withdrew her amendment, AM964, found on page 953.

Senator Dubas offered the following amendment:

AM1195

(Amendments to Standing Committee amendments, AM749)

- 1 1. On page 2, strike line 6 and insert "agree to remit
- 2 one hundred thousand dollars to the State Treasurer for credit to
- 3 the Biotechnology Development Cash Fund for the research"; in line
- 4 21 after the period insert "The fund may receive gifts, bequests,
- 5 grants, or other contributions or donations from public or private
- 6 entities. Within five days after the State Treasurer receives
- 7 one hundred thousand dollars from the nonprofit corporation for
- 8 credit to the fund, the State Treasurer shall transfer one
- 9 hundred thousand dollars from the General Fund to the Biotechnology
- 10 Development Cash Fund."; and in line 22 strike "one" and insert
- 11 "two".

The Dubas amendment was adopted with 28 ayes, 0 nays, 18 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 440. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 159. Senator Wightman offered the following amendment:

AM1193

- 1 1. On page 5, line 18, after "(6)" insert "(a)".
- 2 2. On page 6, strike beginning with "The" in line 8
- 3 through line 13 and insert the following new subdivisions:
- 4 "(b) The credit allowed by this subsection shall not
- 5 exceed the lesser of the taxpayer's income tax liability or:
- 6 (i) For taxable years beginning on or after January 1,

- 7 2010, and before January 1, 2011, under the Internal Revenue Code
 8 of 1986, as amended, three hundred dollars per married filing
 9 jointly return or one hundred fifty dollars for any other return;
 10 (ii) For taxable years beginning on or after January 1,
 11 2011, and before January 1, 2012, under the code, four hundred
 12 dollars per married filing jointly return or two hundred dollars
 13 for any other return; and
 14 (iii) For taxable years beginning on or after January 1,
 15 2012, and before January 1, 2015, under the code, five hundred
 16 dollars per married filing jointly return or two hundred fifty
 17 dollars for any other return.
 18 (c) Any unused tax credit shall not be allowed to be
 19 carried forward to apply to the taxpayer's succeeding year's
 20 liability.
 21 (d) This subsection terminates on January 1, 2015."

The Wightman amendment was adopted with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 159A. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 430. Senator Christensen withdrew his amendment, AM1105, found on page 1142.

Senator Christensen renewed his amendment, AM1132, found on page 1149.

Senator Christensen offered the following amendment to his amendment: AM1192

(Amendments to AM1132)

- 1 1. On page 1, line 21, strike "person who is a".
- 2 2. On page 2, line 1, strike the first comma and insert
- 3 "and".

SENATOR CARLSON PRESIDING

Senator Price moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 3 nays, and 20 not voting.

The Christensen amendment, AM1192, was adopted with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

Senator Christensen offered the following amendment to his amendment:

FA31

Amend AM1132

On page 1, line 8 after the word "if" strike "upon" and insert "prior to"

On page 1, line 11 strike "saddle bag or" and insert "hardened"

On page 2, line 1 strike the word "upon" and insert "prior to"

The Christensen amendment was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

The Christensen amendment, AM1132, as amended, was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 551. ER8049, found on page 884, was adopted.

Senator White renewed his amendment, AM1039, found on page 1063.

SENATOR LANGEMEIER PRESIDING

SENATOR CARLSON PRESIDING

The White amendment was adopted with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

RESOLUTIONS

LEGISLATIVE RESOLUTION 95. Introduced by Pahls, 31.

PURPOSE: The purpose of this resolution is to conduct a study of the needs, resources, and responsibilities of the Department of Revenue and its divisions. The committee conducting this study shall review the constitutional provisions and the statutes establishing the department and its responsibilities. The committee shall review and evaluate the revenue policy objectives that the Legislature is attempting to achieve and the role the department plays in achieving those goals. The committee shall prepare legislation for introduction in the 2010 legislative session containing any changes the committee deems necessary to improve and enhance the department's effectiveness.

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

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 96. Introduced by Pahls, 31.

PURPOSE: The purpose of this resolution is to have the Executive Board of the Legislative Council conduct a study on the responsiveness of state agencies when they are requested to provide accurate and timely information to the Legislature, its committees, and its members. The board shall review the need for information and the limitations that state agencies may have in responding. The board shall make every effort to avoid political undertones and shall keep the focus on how to facilitate the flow of needed information and expertise from state agencies to the Legislature, its committees, and its members.

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

1. That the Executive Board of the Legislative Council shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the board shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 97. Introduced by Pahls, 31.

PURPOSE: The purpose of this resolution is to conduct a study of the major sources of state and local tax revenue, including sales and use taxes, income taxes, and property taxes. The committee conducting this study shall review the major tax sources, identifying what is taxed and what is not taxed and who pays and who does not pay, by sector and by demographics under each source of revenue and in total. The committee shall prepare a report to be disseminated to the members of the Legislature indicating, by sector and by demographics, the tax burdens each group bears under each major source of revenue and under the major sources in total. The committee shall draft legislation for introduction in the 2010 legislative session to restructure the balance of the tax burdens on sectors and citizens by adjusting tax rates, expanding or narrowing tax bases, and eliminating or creating exemptions to fairly spread the tax burdens while still raising the revenue needed to meet state and local revenue needs.

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

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

AMENDMENTS - Print in Journal

Senator Mello filed the following amendment to LB633:
AM1072

(Amendments to Standing Committee amendments, AM907)

- 1 1. Insert the following new section:
- 2 Sec. 10. The Neighborhood Development Act terminates on
- 3 June 30, 2013.
- 4 2. On page 2, line 19, strike "five hundred" and insert
- 5 "one hundred twenty-five"; and in line 20 after "FY2009-10" insert
- 6 "and each of the following fiscal years through FY2012-13".
- 7 3. On page 4, line 27, after "needs" insert "that are".
- 8 4. On page 5, line 7, strike "need" and insert "needs".

Senator Ashford filed the following amendment to LB63:
AM1124

(Amendments to E & R amendments, ER8031)

- 1 1. Insert the following new sections:
- 2 Sec. 31. Section 47-632, Revised Statutes Cumulative
- 3 Supplement, 2008, is amended to read:
- 4 47-632 (1) The Community Corrections Uniform Data
- 5 Analysis Cash Fund is created. The Except as provided in
- 6 subsection (2) of this section, the fund shall be established for
- 7 administrative purposes only within the Nebraska Commission on Law
- 8 Enforcement and Criminal Justice, and shall be administered by
- 9 the executive director of the Community Corrections Council, and
- 10 ~~The fund shall consist of money collected pursuant to section~~
- 11 ~~47-633. The fund shall only be used to support operations costs~~
- 12 and analysis relating to the implementation and coordination of
- 13 the uniform analysis of crime data pursuant to the Community
- 14 Corrections Act, including associated information technology
- 15 projects, as specifically approved by the executive director of
- 16 the Community Corrections Council. The fund shall consist of money
- 17 collected pursuant to section 47-633.
- 18 (2) On the effective date of this act, the State
- 19 Treasurer shall transfer three hundred fifty thousand dollars
- 20 from the Community Corrections Uniform Data Analysis Cash Fund to
- 21 the Violence Prevention Cash Fund.
- 22 (3) Any money in the ~~fund~~ Community Corrections Uniform
- 1 Data Analysis Cash Fund available for investment shall be invested
- 2 by the state investment officer pursuant to the Nebraska Capital
- 3 Expansion Act and the Nebraska State Funds Investment Act.
- 4 Sec. 32. Section 60-497.01, Revised Statutes Cumulative

5 Supplement, 2008, is amended to read:

6 60-497.01 (1) An abstract of the court record of every
7 case in which a person is convicted of violating any provision of
8 the Motor Vehicle Operator's License Act, the Motor Vehicle Safety
9 Responsibility Act, ~~or~~ the Nebraska Rules of the Road, or section
10 5 of this act, as from time to time amended by the Legislature,
11 or any traffic regulations in city or village ordinances shall be
12 transmitted within thirty days of sentencing or other disposition
13 by the court to the director. Any abstract received by the director
14 more than thirty days after the date of sentencing or other
15 disposition shall be reported by the director to the State Court
16 Administrator.

17 (2) Any person violating section 28-306, 60-696, 60-697,
18 60-6,196, 60-6,197, 60-6,213, or 60-6,214 who is placed on
19 probation shall be assessed the same points under section 60-4,182
20 as if such person were not placed on probation unless a court has
21 ordered that such person must obtain an ignition interlock permit
22 in order to operate a motor vehicle with an ignition interlock
23 device pursuant to section 60-6,211.05 and sufficient evidence is
24 presented to the department that such a device is installed. For
25 any other violation, the director shall not assess such person
26 with any points under section 60-4,182 for such violation when
27 the person is placed on probation until the director is advised
1 by the court that such person previously placed on probation has
2 violated the terms of his or her probation and such probation has
3 been revoked. Upon receiving notice of revocation of probation,
4 the director shall assess to such person the points which such
5 person would have been assessed had the person not been placed on
6 probation. When a person fails to successfully complete probation,
7 the court shall notify the director immediately.

8 2. On page 3, line 26, after the period insert "A copy
9 of an abstract of the court's conviction, including an adjudication
10 of a juvenile, shall be transmitted to the director pursuant to
11 sections 60-497.01 to 60-497.04.".

12 3. On page 43, line 24, after the third comma insert
13 "60-497.01,"; and in line 25, after "sections" insert "47-632,".

14 4. Renumber the remaining sections accordingly.

Senator Ashford filed the following amendment to LB63A:
AM1108

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

3 Section 1. There is hereby appropriated (1) \$100,000
4 from the General Fund for FY2009-10 and (2) \$100,000 from the
5 General Fund for FY2010-11 to the Nebraska Commission on Law
6 Enforcement and Criminal Justice, for Program 204 - Office of
7 Violence Prevention, to aid in carrying out the provisions of
8 Legislative Bill 63, One Hundred First Legislature, First Session,
9 2009.

- 10 Total expenditures for permanent and temporary salaries
 11 and per diems from funds appropriated in this section shall not
 12 exceed \$100,000 for FY2009-10 or \$100,000 for FY2010-11.
 13 Sec. 2. There is hereby appropriated \$350,000 from the
 14 Violence Prevention Cash Fund for FY2009-10 to the Attorney
 15 General, for Program 507, to aid in carrying out the provisions of
 16 Legislative Bill 63, One Hundred First Legislature, First Session,
 17 2009.
 18 No expenditures for permanent and temporary salaries and
 19 per diems for state employees shall be made from funds appropriated
 20 in this section.
 21 The Attorney General shall distribute the funds
 22 appropriated in this section to organizations or governmental
 23 entities that are involved in violence reduction.
 1 Sec. 3. Since an emergency exists, this act takes effect
 2 when passed and approved according to law.

COMMITTEE REPORT

Agriculture

LEGISLATIVE BILL 71. Placed on General File with amendment.
 AM541

- 1 1. Strike the original sections and insert the following
 2 new sections:
 3 Section 1. Section 28-1008, Reissue Revised Statutes of
 4 Nebraska, is amended to read:
 5 28-1008 For purposes of sections 28-1008 to 28-1017 and
 6 28-1019 and section 7 of this act
 7 (1) Abandon means to leave any animal in one's care,
 8 whether as owner or custodian, for any length of time without
 9 making effective provision for its food, water, or other care as is
 10 reasonably necessary for the animal's health;
 11 (2) Animal means any vertebrate member of the animal
 12 kingdom. The term does not include an uncaptured wild creature;
 13 (3) Bovine means a cow, an ox, or a bison;
 14 (4) Cruelly mistreat means to knowingly and intentionally
 15 kill, maim, disfigure, torture, beat, mutilate, burn, scald, or
 16 otherwise inflict harm upon any animal;
 17 (5) Cruelly neglect means to fail to provide any animal
 18 in one's care, whether as owner or custodian, with food, water, or
 19 other care as is reasonably necessary for the animal's health;
 20 (6) Equine means a horse, pony, donkey, mule, hinny, or
 21 llama;
 22 (7) Humane killing means the destruction of an animal by
 23 a method which causes the animal a minimum of pain and suffering;
 1 (8) Law enforcement officer means any member of the
 2 Nebraska State Patrol, any county or deputy sheriff, any member
 3 of the police force of any city or village, or any other public
 4 official authorized by a city or village to enforce state or

5 local animal control laws, rules, regulations, or ordinances.
 6 Law enforcement officer also includes any inspector under the
 7 Commercial Dog and Cat Operator Inspection Act to the extent that
 8 such inspector may exercise the authority of a law enforcement
 9 officer under section 28-1012 while in the course of performing
 10 inspection activities under the Commercial Dog and Cat Operator
 11 Inspection Act;

12 (9) Mutilation means intentionally causing permanent
 13 injury, disfigurement, degradation of function, incapacitation, or
 14 imperfection to an animal. Mutilation does not include conduct
 15 performed by a veterinarian licensed to practice veterinary
 16 medicine and surgery in this state or conduct that conforms to
 17 accepted veterinary practices;

18 (10) Police animal means a horse or dog owned or
 19 controlled by the State of Nebraska for the purpose of assisting a
 20 Nebraska state trooper in the performance of his or her official
 21 enforcement duties;

22 (11) Repeated beating means intentional successive
 23 strikes to an animal by a person resulting in serious bodily injury
 24 or death to the animal;

25 (12) Serious injury or illness includes any injury or
 26 illness to any animal which creates a substantial risk of death
 or which causes broken bones, prolonged impairment of health, or
 1 prolonged loss or impairment of the function of any bodily organ;
 2 and

3 (13) Torture means intentionally subjecting an animal
 4 to extreme pain, suffering, or agony. Torture does not include
 5 conduct performed by a veterinarian licensed to practice veterinary
 6 medicine and surgery in this state or conduct that conforms to
 7 accepted veterinary practices.

8 Sec. 2. Section 28-1013, Reissue Revised Statutes of
 9 Nebraska, is amended to read:

10 28-1013 Sections 28-1008 to 28-1017 and 28-1019 shall not
 11 apply to:

12 (1) Care or treatment of an animal or other conduct by a
 13 veterinarian or veterinary technician licensed under the Nebraska
 14 ~~Veterinary Practice Act until December 1, 2008, and the Veterinary~~
 15 Medicine and Surgery Practice Act ~~on and after December 1, 2008;~~
 16 ~~that occurs within the scope of his or her employment, that occurs~~
 17 ~~while acting in his or her professional capacity, or that conforms~~
 18 ~~to commonly accepted veterinary practices;~~

19 (2) Commonly accepted care or treatment of a police
 20 animal by a law enforcement officer in the normal course of his or
 21 her duties;

22 (3) Research activity carried on by any research facility
 23 currently meeting the standards of the federal Animal Welfare Act,
 24 7 U.S.C. 2131 et seq., as such act existed on January 1, 2003;

25 (4) Commonly accepted practices of hunting, fishing, or
 26 trapping;

- 27 (5) Commonly accepted practices occurring in conjunction
1 with sanctioned rodeos, animal racing, or pulling contests;
2 (6) Humane killing of an animal by the owner or by his or
3 her agent or a veterinarian upon the owner's request;
4 (7) Commonly accepted practices of animal husbandry with
5 respect to farm animals and commercial livestock operations,
6 including their transport from one location to another and
7 nonnegligent actions taken by personnel or agents of the Nebraska
8 Department of Agriculture or the United States Department of
9 Agriculture in the performance of duties prescribed by law;
10 (8) Use of reasonable force against an animal, other than
11 a police animal, which is working, including killing, capture, or
12 restraint, if the animal is outside the owned or rented property
13 of its owner or custodian and is injuring or posing an immediate
14 threat to any person or other animal;
15 (9) Killing of house or garden pests;
16 (10) Commonly followed practices occurring in conjunction
17 with the slaughter of animals for food or byproducts; and
18 (11) Commonly accepted animal training practices.

19 Sec. 3. Section 28-1014, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 28-1014 Any city, village, or county may adopt and
22 promulgate rules, regulations, and ordinances which are not
23 inconsistent with the provisions of sections 28-1008 to 28-1017 and
24 28-1019 and section 7 of this act for the protection of the public,
25 public health, and animals within its jurisdiction.

26 Sec. 4. Section 28-1015, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 28-1015 When an animal is owned by a minor child, the
2 parent of such minor child with whom the child resides or legal
3 guardian with whom the child resides shall be subject to the
4 penalties provided under sections 28-1008 to 28-1017 and 28-1019
5 and section 7 of this act if the animal is abandoned or cruelly
6 neglected.

7 Sec. 5. Section 28-1016, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 28-1016 Nothing in sections 28-1008 to 28-1017 and
10 28-1019 and section 7 of this act shall be construed as amending
11 or changing the authority of the Game and Parks Commission as
12 established in the Game Law or to prohibit any conduct authorized
13 or permitted by such law.

14 Sec. 6. Section 28-1017, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 28-1017 (1) For purposes of this section:

17 (a) Reasonably suspects means a basis for reporting
18 knowledge or a set of facts that would lead a person of ordinary
19 care and prudence to believe and conscientiously entertain a strong
20 suspicion that criminal activity is at hand or that a crime has
21 been committed; and

22 (b) Employee means any employee of ~~an agency relating~~
23 ~~to a governmental~~ agency dealing with child or adult protective
24 services, animal control, or animal abuse.

25 (2) Any employee, while acting in his or her professional
26 capacity or within the scope of his or her employment, who
27 observes or is involved in an incident which leads the employee
1 to reasonably suspect that an animal has been abandoned, cruelly
2 neglected, or cruelly mistreated shall report such to the entity or
3 entities that investigate such reports in that jurisdiction.

4 (3) The report of an employee shall be made within two
5 working days of acquiring the information concerning the animal by
6 facsimile transmission of a written report presented in the form
7 described in subsection (6) of this section or by telephone. When
8 an immediate response is necessary to protect the health and safety
9 of the animal or others, the report of an employee shall be made by
10 telephone as soon as possible.

11 (4) Nothing in this section shall be construed to impose
12 a duty to investigate observed or reasonably suspected animal
13 abandonment, cruel neglect, or cruel mistreatment. Any person
14 making a report under this section is immune from liability except
15 for false statements of fact made with malicious intent.

16 (5) ~~Reports~~ A report made by an employee pursuant to this
17 section shall include:

18 (a) The reporter's name and title, business address, and
19 telephone number;

20 (b) The name, if known, of the animal owner or custodian,
21 whether a business or individual;

22 (c) A description of the animal or animals involved,
23 person or persons involved, and location of the animal or animals
24 and the premises; and

25 (d) The date, time, and a description of the observation
26 or incident which led the reporter to reasonably suspect animal
27 abandonment, cruel neglect, or cruel mistreatment and any other
1 information the reporter believes may be relevant.

2 (6) ~~Reports~~ A report made by an employee pursuant to this
3 section may be made on preprinted forms prepared by the entity
4 or entities that investigate reports of animal abandonment, cruel
5 neglect, or cruel mistreatment in that jurisdiction. The form shall
6 include space for the information required under subsection (5) of
7 this section.

8 (7) When two or more employees jointly have observed or
9 reasonably suspected animal abandonment, cruel neglect, or cruel
10 mistreatment and there is agreement between or among them, a report
11 may be made by one person by mutual agreement. Any such reporter
12 who has knowledge that the person designated to report has failed
13 to do so shall thereafter make the report.

14 (8) Any employee failing to report under this section
15 shall be guilty of an infraction.

16 Sec. 7. (1) Any animal health care professional, while

17 acting in his or her professional capacity or within the scope of
 18 his or her employment, who observes or is involved in an incident
 19 which leads the animal health care professional to reasonably
 20 suspect that an animal has been abandoned, cruelly neglected, or
 21 cruelly mistreated, may report such treatment to an entity that
 22 investigates such reports in the appropriate jurisdiction.

23 (2) Nothing in this section shall be construed to impose
 24 a duty to investigate observed or reasonably suspected abandonment,
 25 cruel neglect, or cruel mistreatment of an animal. Any person
 26 making a report under this section is immune from liability except
 27 for false statements of fact made with malicious intent.

1 (3) For purposes of this section, an animal health care
 2 professional means a licensed veterinarian as defined in section
 3 38-3310 or a licensed veterinary technician as defined in section
 4 38-3311.

5 Sec. 8. Original sections 28-1008, 28-1013, 28-1014,
 6 28-1015, 28-1016, and 28-1017, Reissue Revised Statutes of
 7 Nebraska, are repealed.

(Signed) Tom Carlson, Chairperson

SELECT FILE

LEGISLATIVE BILL 56. Senator Dierks offered the following amendment:

FA32

On page 7, line 22 strike "five" and insert "three".

The Dierks amendment was adopted with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 162. ER8065, found on page 1048, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 436. ER8062, found on page 1021, was adopted.

Senator Haar renewed his amendment, AM1065, found on page 1059.

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

Senator Giese offered the following amendment:

AM1032

(Amendments to Standing Committee amendments, AM708)

1 1. Insert the following new section:

2 Sec. 7. Section 81-2104, Reissue Revised Statutes of

3 Nebraska, is amended to read:

4 81-2104 The board shall have power to:

5 (1) Elect its own officers;

6 (2) Engage and fix the compensation of such officers,
7 inspectors, and employees as may be required in the performance of
8 its duties;

9 (3) Pay such other expenses as may be necessary in the
10 performance of its duties;

11 (4) Provide upon request such additional voluntary
12 inspections and reviews as it deems appropriate;

13 (5) Adopt, promulgate, and revise rules and regulations
14 necessary to enable it to carry into effect the State Electrical
15 Act. In adopting and promulgating such rules and regulations, the
16 board shall be governed by the minimum standards set forth in the
17 National Electrical Code issued and adopted by the National Fire
18 Protection Association in ~~2005, 2008~~, Publication Number ~~70-2005~~,
19 ~~and amendments to the code adopted as of January 1, 2003, 70-2008~~,
20 which code ~~and amendments~~ shall be filed in the offices of the
21 Secretary of State and the board and shall be a public record. The
22 board shall adopt and promulgate rules and regulations establishing

1 wiring standards that protect public safety and health and property
2 and that apply to all electrical wiring which is installed subject
3 to the State Electrical Act;

4 (6) Revoke, suspend, or refuse to renew any license or
5 registration granted pursuant to the State Electrical Act when the
6 licensee or registrant (a) violates any provision of the National
7 Electrical Code as adopted pursuant to subdivision (5) of this
8 section, the act, or any rule or regulation adopted and promulgated
9 pursuant to the act, (b) fails or refuses to pay any examination,
10 registration, or license renewal fee required by law, (c) is an
11 electrical contractor or master electrician and fails or refuses to
12 provide and keep in force a public liability insurance policy as
13 required by the board, or (d) violates any political subdivision's
14 approved inspection ordinances;

15 (7) Order disconnection of power to any electrical
16 installation that is proximately dangerous to health and property;

17 (8) Order removal of electrical wiring and apparatus from
18 premises when such wiring and apparatus is proximately dangerous to
19 health and property;

20 (9) Investigate, for the purpose of identifying dangerous
21 electrical wiring or violations of the National Electrical Code as
22 adopted pursuant to subdivision (5) of this section, any death by
23 electrocution that occurs within the State of Nebraska;

24 (10) Refuse to renew any license granted pursuant to the
25 act when the licensee fails to submit evidence of completing the
26 continuing education requirements under section 81-2117.01;

27 (11) Provide for the amount and collection of fees for
1 inspection and other services;

2 (12) Adopt a seal, and the executive secretary shall have

- 3 the care and custody thereof; and
 4 (13) Enforce the provisions of the National Electrical
 5 Code as adopted pursuant to subdivision (5) of this section.
 6 2. On page 8, line 22, strike "section 70-1012" and
 7 insert "sections 70-1012 and 81-2104"; and in line 23 strike "is"
 8 and insert "are".

SPEAKER FLOOD PRESIDING

Senator Karpisek requested a ruling of the Chair on whether the Giese amendment is germane to the bill.

The Chair ruled the Giese amendment is germane to the bill.

Senator Coash offered the following amendment to the Giese amendment:
 AM1199

(Amendments to AM1032)

- 1 1. On page 1, line 20, strike "which", show as stricken,
 2 and insert "except section 210.12(B). The".

SENATOR LANGEMEIER PRESIDING

SENATOR MCGILL PRESIDING

Senator Coash withdrew his amendment.

Senator Giese withdrew his amendment, AM1032.

Advanced to Enrollment and Review for Engrossment.

COMMITTEE REPORTS

Business and Labor

LEGISLATIVE BILL 267. Placed on General File.

LEGISLATIVE BILL 552. Placed on General File.

LEGISLATIVE BILL 629. Placed on General File.

LEGISLATIVE BILL 628. Placed on General File with amendment.
 AM1116

- 1 1. On page 3, after line 13 insert the following new
 2 paragraph:
 3 "\$2,500.00 for Tort Claim Number 2007-01616, against the
 4 Department of Roads, pay to Joshua Vandenberg and Vince Powers,
 5 411 South 13th Street, Suite 300, Lincoln, Nebraska 68508, out of
 6 the Roads Operations Cash Fund."; and after line 24 insert the
 7 following new paragraph:
 8 "\$600,000.00 for Tort Claim Number 2009-03528, against
 9 the Department of Health and Human Services, pay to David Manes,
 10 Personal Representative of the Estate of Olivia Manes and Jefferson

11 Downing, 530 South 13th Street, Suite 100, Lincoln, Nebraska 68508,
 12 out of the General Fund.".

13 2. On page 4, after line 4 insert "GENERAL FUND

14 600,000.00"; in line 5 strike "3,717,933.66" and insert

15 "3,720,433.66"; and in line 7 strike "4,000,697.71" and insert

16 "4,603,197.71".

17 3. On page 5, line 5, strike "\$213.28" and insert

18 "\$202.53"; and in line 17 strike "\$185.82" and insert "\$176.82".

(Signed) Steve Lathrop, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 98. Introduced by Pankonin, 2.

WHEREAS, Bradly Cunningham, son of Pat and Deb Cunningham and a senior at Louisville High School, 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 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, Bradly 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. Bradly earned twenty-four merit badges, and for his Eagle Scout community service project he planned, organized, and directed the reconstruction of the steps and handicap accessible ramp at the Village Hall in South Bend. The project involved tearing out the old concrete steps, then framing and pouring new concrete for a parking slab, steps, and a wheelchair accessible ramp; and

WHEREAS, Bradly also served his troop in a variety of leadership roles, including senior patrol leader, patrol leader, assistant patrol leader, den chief, librarian, quarter master, and scribe; and

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

WHEREAS, Bradly, through his hard work and perseverance, has joined other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientists, and athletes.

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

1. That the Legislature congratulates Bradly Cunningham on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Bradly Cunningham.

Laid over.

BILL ON FIRST READING

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

LEGISLATIVE BILL 198A. Introduced by Stuthman, 22.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 198, One Hundred First Legislature, First Session, 2009.

AMENDMENTS - Print in Journal

Senator Janssen filed the following amendment to LB497:
AM1174

(Amendments to AM1015)

- 1 1. On page 4, strike lines 18 through 22 and show as
- 2 stricken; in line 23 strike "(5)", show as stricken, and insert
- 3 "(4)"; and in line 26 strike "(6)(a)", show as stricken, and insert
- 4 "(5)(a)".

Senator Fulton filed the following amendment to LB497:
AM1062

(Amendments to AM1015)

- 1 1. On page 18, line 18, strike "or impounded" and show
- 2 as stricken; and strike beginning with "If" in line 19 through the
- 3 period in line 23 and show as stricken.
- 4 2. On page 19, line 5, strike "or impoundment" and show
- 5 as stricken.
- 6 3. On page 36, strike lines 4 through 11 and insert:
- 7 "(11) Notwithstanding any other provision of law, an
- 8 order for the installation of an ignition interlock device and
- 9 ignition interlock permit made pursuant to subdivision (1)(b) of
- 10 this section as part of a conviction, as well as the administration
- 11 of such order by the Office of Probation Administration for
- 12 the installation, maintenance, and removal of such device, as
- 13 applicable, shall not be construed to create an order of probation
- 14 when an order of probation has not been issued.".

VISITORS

Visitors to the Chamber were 88 fourth-grade students from Aldrich Elementary, Omaha; 60 fourth-grade students from G. Standley Hall School, La Vista; Bill Scribner from David City; 11 fourth-grade students and sponsors from St. John's Lutheran, Seward; 12 fourth-grade students from St. Joseph's Catholic School, York; Fred Lockwood from Scottsbluff; and Melissa Hohenstein from Jackson.

The Doctor of the Day was Dr. Kyle Haeefele from Lincoln.

ADJOURNMENT

At 1:30 p.m., on a motion by Speaker Flood, the Legislature adjourned until 10:00 a.m., Monday, April 27, 2009.

Patrick J. O'Donnell
Clerk of the Legislature

