

**THIRTY-FOURTH DAY - MARCH 1, 2010****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
SECOND SESSION****THIRTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, March 1, 2010

**PRAYER**

The prayer was offered by Pastor Matthew Mortenson, Christ Lutheran Church, Falls City.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Speaker Flood presiding.

The roll was called and all members were present except Senators Giese and Pahls who were excused; and Senators Adams, Gay, and Stuthman who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-third day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 805.** Placed on Select File with amendment.  
ER8173

- 1 1. In the Standing Committee amendments, AM1913, on page
- 2 6, lines 15 and 16, strike "such sections", show as stricken, and
- 3 insert "section 43-3318, 60-498.02, 60-4,183, or 60-4,186".
- 4 2. On page 1, strike beginning with "75-363" in line
- 5 1 through line 10 and insert "60-4,129, 60-4,169, 60-6,123,
- 6 60-6,190, 75-362, 75-363, and 75-364, Reissue Revised Statutes of
- 7 Nebraska, sections 60-465 and 60-4,150, Revised Statutes Cumulative
- 8 Supplement, 2008, and sections 18-1739, 60-3,193.01, 60-462.01,
- 9 60-484.02, and 60-4,147.02, Revised Statutes Supplement, 2009;
- 10 to adopt by reference updates to the International Registration
- 11 Plan and certain federal laws and regulations relating to parking
- 12 permits for persons with disabilities, operators' licenses,
- 13 transporting hazardous materials, and motor carrier safety and
- 14 procedure; to allow the release of digital image or signature

15 information to local law enforcement officers; to change provisions  
 16 relating to commercial motor vehicles, employment driving permits,  
 17 commercial drivers' licenses, traffic control signals, and speed  
 18 limits; to harmonize provisions; and to repeal the original  
 19 sections."

**LEGISLATIVE BILL 951.** Placed on Select File with amendment.  
 ER8171

- 1 1. On page 1, line 3, after the semicolon insert "to
- 2 harmonize provisions;"

**LEGISLATIVE BILL 879.** Placed on Select File with amendment.  
 ER8174 is available in the Bill Room.

**LEGISLATIVE BILL 768.** Placed on Select File.

**LEGISLATIVE BILL 799.** Placed on Select File.

**LEGISLATIVE BILL 926.** Placed on Select File with amendment.  
 ER8175

- 1 1. On page 1, line 3, after "redefine" insert "terms; to
- 2 change requirements for a"

**LEGISLATIVE BILL 1063.** Placed on Select File with amendment.  
 ER8172

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 82-326, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 82-326 The amount of money made available from any
- 6 appropriations under the provisions of sections 82-317 to 82-329,
- 7 85-106 to 85-106.03, and 85-304 to 85-304.03 shall be used, in
- 8 addition to the cost of the works of art, to provide for the
- 9 administration by the contracting agency, the architect, and the
- 10 Nebraska Arts Council, and for all costs of installation of the
- 11 works of art. The Nebraska Arts Council may set aside up to ten
- 12 percent of the amount appropriated for administration for an art
- 13 maintenance fund which shall be used to repair or restore all works
- 14 of art acquired under such sections.

- 15 Sec. 2. Section 82-329, Reissue Revised Statutes of
- 16 Nebraska, is amended to read:

- 17 82-329 The Nebraska Arts Council shall maintain an
- 18 inventory of all works of art purchased under sections 82-317
- 19 to 82-329, 85-106 to 85-106.03, and 85-304 to 85-304.03 and
- 20 shall inspect each work of art ~~at least once each calendar year~~
- 21 on a regular schedule to determine its condition. The Nebraska
- 22 Arts Council may recommend procedures for regular maintenance,
- 23 preservation, and security and for the repair of any damaged work
- 1 of art.

2 Sec. 3. Section 82-331, Revised Statutes Supplement,  
3 2009, is amended to read:

4 82-331 (1) There is hereby established in the state  
5 treasury a trust fund to be known as the Nebraska Cultural  
6 Preservation Endowment Fund. The fund shall consist of funds  
7 appropriated or transferred by the Legislature, and only the  
8 earnings of the fund may be used as provided in this section.

9 (2) On August 1, 1998, the State Treasurer shall transfer  
10 five million dollars from the General Fund to the Nebraska Cultural  
11 Preservation Endowment Fund.

12 (3) Except as provided in subsection (4) of this section,  
13 it is the intent of the Legislature that the State Treasurer  
14 shall transfer (a) an amount not to exceed five hundred thousand  
15 dollars from the General Fund to the Nebraska Cultural Preservation  
16 Endowment Fund on December 31 of 2009 and 2010 and (b) an amount  
17 not to exceed ~~one million~~ five hundred thousand dollars from the  
18 General Fund to the Nebraska Cultural Preservation Endowment Fund  
19 on December 31 of 2011, ~~and 2012, 2013, 2014, 2015, and 2016.~~

20 (4) Prior to the transfer of funds from any state  
21 account into the Nebraska Cultural Preservation Endowment Fund,  
22 the Nebraska Arts Council shall provide documentation to the  
23 budget division of the Department of Administrative Services that  
24 qualified endowments have generated a dollar-for-dollar match  
25 of new money, up to the amount of state funds authorized  
26 by the Legislature to be transferred to the Nebraska Cultural  
27 Preservation Endowment Fund. The budget division of the Department  
1 of Administrative Services shall notify the State Treasurer to  
2 execute a transfer of state funds up to the amount specified by the  
3 Legislature, but only to the extent that the Nebraska Arts Council  
4 has provided documentation of a dollar-for-dollar match. Funds not  
5 transferred shall be carried forward to the succeeding year and be  
6 added to the funds authorized for a dollar-for-dollar match during  
7 that year.

8 (5) The Legislature shall not appropriate or transfer  
9 money from the Nebraska Cultural Preservation Endowment Fund for  
10 any purpose other than the purposes stated in sections 82-330 to  
11 82-333, except that the Legislature may appropriate or transfer  
12 money from the fund upon a finding that the purposes of such  
13 sections are not being accomplished by the fund.

14 (6) Any money in the Nebraska Cultural Preservation  
15 Endowment Fund available for investment shall be invested by the  
16 state investment officer pursuant to the Nebraska Capital Expansion  
17 Act and the Nebraska State Funds Investment Act.

18 (7) All investment earnings from the Nebraska Cultural  
19 Preservation Endowment Fund shall be credited to the Nebraska Arts  
20 and Humanities Cash Fund.

21 Sec. 4. Original sections 82-326 and 82-329, Reissue  
22 Revised Statutes of Nebraska, and section 82-331, Revised Statutes  
23 Supplement, 2009, are repealed.

24 2. On page 1, strike lines 2 through 4 and insert "82-326  
 25 and 82-329, Reissue Revised Statutes of Nebraska, and section  
 26 82-331, Revised Statutes Supplement, 2009; to authorize an art  
 27 maintenance fund and change inspection provisions for works of art;  
 1 to change intent relating to transfers to the Nebraska Cultural  
 2 Preservation Endowment Fund; and to repeal the original sections.".

(Signed) Jeremy Nordquist, Chairperson

## COMMITTEE REPORTS

### Education

**LEGISLATIVE BILL 965.** Placed on General File with amendment.  
 AM1999

- 1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 Section 1. Section 32-570, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 32-570 (1) A vacancy in the membership of a school board  
 6 shall occur as set forth in section 32-560 or in the case of  
 7 absences, unless excused by a majority of the remaining members  
 8 of the board, when a member is absent from the district for a  
 9 continuous period of sixty days at one time or from more than  
 10 two consecutive regular meetings of the board. ~~unless excused by a~~  
 11 ~~majority of the remaining members of the board.~~  
 12 (2) A person appointed to fill a vacancy on the school  
 13 board of a Class I school district by the remaining members of  
 14 the board shall hold office until the beginning of the next school  
 15 year. A board member of a Class I school district elected to fill a  
 16 vacancy at a regular or special school district meeting shall serve  
 17 for the remainder of the unexpired term or until a successor is  
 18 elected and qualified.  
 19 (3) Except as provided in subsection (4) of this section,  
 20 a vacancy in the membership of a school board of a Class II, III,  
 21 IV, V, or VI school district resulting from any cause other than  
 22 the expiration of a term shall be ~~temporarily~~ filled by appointment  
 23 of a qualified registered voter by the remaining members of the  
 1 board. A-If the vacancy occurs prior to the filing deadline  
 2 for nonincumbents for the primary election preceding the general  
 3 election in the middle of the vacated term, a registered voter  
 4 shall be nominated at the next primary election and elected at the  
 5 following general election for the remainder of the unexpired term.  
 6 If the vacancy occurs on or after such deadline, the appointment  
 7 shall be for the balance of the unexpired term. A registered voter  
 8 appointed or elected pursuant to this subsection shall meet the  
 9 same requirements as the member whose office is vacant.  
 10 (4) Any vacancy in the membership of a school board of  
 11 a school district which does not nominate candidates at a primary  
 12 election and elect members at the following general election shall

13 be ~~temporarily~~ filled by appointment of a qualified registered  
 14 voter by the remaining members of the board. ~~A~~ If the vacancy  
 15 occurs prior to a caucus preceding the general election in the  
 16 middle of the vacated term, a registered voter shall be nominated  
 17 and elected to fill the vacancy for the remainder of the term in  
 18 the manner provided for nomination and election of board members in  
 19 the district. If the vacancy occurs on or after such deadline, the  
 20 appointment shall be for the balance of the unexpired term.

21 (5) If any school board fails to fill a vacancy on the  
 22 board, the vacancy may be filled by election at a special election  
 23 or school district meeting called for that purpose. Such election  
 24 or meeting shall be called in the same manner and subject to  
 25 the same procedures as other special elections or school district  
 26 meetings.

27 (6) If there are vacancies in the offices of a majority  
 1 of the members of a school board, the Secretary of State shall  
 2 conduct a special school district election to fill such vacancies.

3 Sec. 2. Section 79-1217, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:

5 79-1217 (1) All educational service units shall be  
 6 governed by a board to be known as the Board of Educational  
 7 Service Unit No. .... . Until the first Thursday after the first  
 8 Tuesday in January 2009, the educational service unit board, except  
 9 the board of an educational service unit with only one member  
 10 school district, shall be composed of one member from each county  
 11 and four members at large, all of whom shall reside within the  
 12 geographical boundaries of the educational service unit, but no  
 13 more than two of the members at large shall be appointed or  
 14 elected from the same county unless any one county within the  
 15 educational service unit has a population in excess of one hundred  
 16 fifty thousand inhabitants or the educational service unit consists  
 17 of only one county. Beginning on the first Thursday after the  
 18 first Tuesday in January 2009, the educational service unit board,  
 19 except the board of an educational service unit with only one  
 20 member school district, shall be composed of one member elected to  
 21 represent each election district established pursuant to section  
 22 79-1217.01. Successors to the members initially appointed pursuant  
 23 to section 79-1212 shall be elected pursuant to section 32-515.

24 (2) Vacancies in office shall occur as set forth in  
 25 section 32-560, except as otherwise provided in section 79-1212  
 26 regarding the requirement to live in the district represented, or  
 27 in the case of absences, unless excused by a majority of the  
 1 remaining members of the board, when a member is absent from  
 2 the geographical boundaries of the educational service unit for a  
 3 continuous period of sixty days at one time or from more than two  
 4 consecutive regular meetings of the board. Whenever any vacancy  
 5 occurs on the board, the remaining members of such board shall  
 6 appoint an individual residing within the election district of the  
 7 educational service unit for which the vacancy exists and meeting

8 the qualifications for the office to fill such vacancy for the  
9 balance of the unexpired term.

10 (3) Members of the board shall receive no compensation  
11 for their services but shall be reimbursed for the actual and  
12 necessary expenses incurred in the performance of their duties  
13 under the Educational Service Units Act as provided in sections  
14 81-1174 to 81-1177.

15 (4) Except as provided in subsection (5) of this section,  
16 any joint school district located in two or more counties shall  
17 be considered a part of the educational service unit in which the  
18 greater number of school-age children of such joint school district  
19 reside.

20 (5) Any Class I district which is part of a Class VI  
21 district shall be considered a part of the educational service  
22 unit of which the Class VI district is a member. If the Class  
23 VI district has removed itself from an educational service unit,  
24 each Class I district which is part of such Class VI district may  
25 continue its existing membership in an educational service unit  
26 or may change its status relative to membership in an educational  
27 service unit in accordance with section 79-1209. The patrons of a  
1 Class I district maintaining membership in an educational service  
2 unit pursuant to this subsection shall have the same rights and  
3 privileges as other patrons of the educational service unit, and  
4 the taxable valuation of the taxable property within the geographic  
5 boundaries of such Class I district shall be subject to the  
6 educational service unit's tax levy established pursuant to section  
7 79-1225.

8 (6) The administrator of each educational service unit,  
9 prior to July 1 of each year in which a statewide primary election  
10 is to be held, shall certify to the election commissioner or county  
11 clerk of each county located within the unit the corporate name  
12 of each school district, as described in section 79-405, located  
13 within the county. If a school district is a joint school district  
14 located in two or more counties, the administrator shall certify to  
15 each election commissioner or county clerk the educational service  
16 unit of which the school district is considered to be a part.

17 (7) Educational service units with only one member school  
18 district shall be governed by the school board of such school  
19 district.

20 Sec. 3. Original sections 32-570 and 79-1217, Reissue  
21 Revised Statutes of Nebraska, are repealed.

(Signed) Greg Adams, Chairperson

## Revenue

**LEGISLATIVE BILL 975.** Placed on General File.

**LEGISLATIVE BILL 1031.** Placed on General File with amendment.  
AM2040

- 1 1. On page 3, line 6; and page 8, line 13, before the
- 2 underscored period insert "through fiscal year 2016-17".

**LEGISLATIVE BILL 1032.** Placed on General File with amendment.  
AM2039

- 1 1. On page 3, line 9; and page 8, line 18, strike
- 2 "2011-12", show as stricken, and insert "2016-17".

(Signed) Abbie Cornett, Chairperson

**MESSAGE FROM THE GOVERNOR**

February 25, 2010

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

Dear Mr. O'Donnell:

Engrossed Legislative Bill 711e was received, signed, and delivered to the Secretary of State earlier today.

Sincerely,  
(Signed) Dave Heineman  
Governor

**RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 322, 323, 325, 326, 327, 328, 329, 330, and 331 were adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 322, 323, 325, 326, 327, 328, 329, 330, and 331.

**ANNOUNCEMENT**

The Chair announced today is Senator Fischer's and Senator Sullivan's birthdays.

**GENERAL FILE**

**LEGISLATIVE BILL 951A.** Title read. Considered.

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

**LEGISLATIVE BILL 910A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 6 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 817.** Committee AM1964, found on page 574 and considered on page 679, was renewed.

The committee amendment was adopted with 41 ayes, 1 nay, 3 present and not voting, and 4 excused and not voting.

Senator Ashford withdrew his amendment, AM1976, found on page 612.

Senator Council withdrew her amendment, AM2048, found on page 687.

Advanced to Enrollment and Review Initial with 44 ayes, 1 nay, 1 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 1002.** Title read. Considered.

**SENATOR LANGEMEIER PRESIDING**

Committee AM1841, found on page 559, was considered.

Senator Loudon renewed his amendment, AM1991, found on page 625, to the committee amendment.

**SENATOR CARLSON PRESIDING**

Pending.

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 336.** Introduced by Flood, 19.

WHEREAS, the Madison High School wrestling team won a share of the 2010 Class C State Wrestling Championship, the school's second team championship in three years; and

WHEREAS, Madison High School finished the state tournament in a first-place tie with Mitchell High School at 122 points, with both schools named co-champions of Class C, the first co-championship since 1947; and



WHEREAS, individual championships by Kurt Ruh and Kyle Ruh helped to lead Madison High School to the state championship; and

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

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

1. That the Legislature congratulates the Madison High School wrestling team on winning the 2010 Class C State Wrestling Championship.

2. That a copy of this resolution be sent to the Madison High School wrestling team and their coach, Kenny Loosvelt.

Laid over.

**LEGISLATIVE RESOLUTION 337.** Introduced by Flood, 19.

WHEREAS, Jaden Moore, an esteemed resident of Norfolk, Nebraska, and a student at Norfolk Middle School, has achieved national recognition for exemplary volunteer service by receiving a 2010 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Jaden Moore earned this award by giving generously of her time and energy to a project which made hundreds of colorful pillow cases for sick and abused children. Jaden helped to collect fabric and monetary donations for the project, spent countless hours creating the pillowcases, and delivered the pillowcases to a hospital pediatric ward and a child advocacy center; and

WHEREAS, the success of the State of Nebraska, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Jaden Moore who use their considerable talents and resources to serve others.

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

1. That the Legislature congratulates and honors Jaden Moore as a recipient of a Prudential Spirit of Community Award, recognizes her outstanding record of volunteer service, peer leadership, and community spirit, and extends best wishes for her continued success and happiness.

2. That a copy of this resolution be sent to Jaden Moore.

Laid over.

**LEGISLATIVE RESOLUTION 338.** Introduced by Harms, 48.

WHEREAS, Willie Schwartzkopf of Mitchell High School won the 2010 Class C State Wrestling Championship in the 171-pound division; and

WHEREAS, Willie Schwartzkopf defeated Nyle Bartling of Syracuse High School 10-3 to win the state championship; and

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

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

1. That the Legislature congratulates Willie Schwartzkopf on winning the 2010 Class C State Wrestling Championship in the 171-pound division.
2. That a copy of this resolution be sent to Willie Schwartzkopf.

Laid over.

**LEGISLATIVE RESOLUTION 339.** Introduced by Harms, 48.

WHEREAS, Jordan Debus of Mitchell High School won the 2010 Class C State Wrestling Championship in the 189-pound division; and

WHEREAS, Jordan Debus defeated Lucas Kastl of David City High School 12-2 to win the state championship; and

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

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

1. That the Legislature congratulates Jordan Debus on winning the 2010 Class C State Wrestling Championship in the 189-pound division.
2. That a copy of this resolution be sent to Jordan Debus.

Laid over.

**LEGISLATIVE RESOLUTION 340.** Introduced by Harms, 48.

WHEREAS, Tyler Nation of Scottsbluff High School won the 2010 Class B State Wrestling Championship in the 125-pound division; and

WHEREAS, Tyler Nation defeated Zane Sackett of Skutt Catholic High School 5-3 to win the state championship; and

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

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

1. That the Legislature congratulates Tyler Nation on winning the 2010 Class B State Wrestling Championship in the 125-pound division.
2. That a copy of this resolution be sent to Tyler Nation.

Laid over.

**LEGISLATIVE RESOLUTION 341.** Introduced by Harms, 48.

WHEREAS, the Mitchell High School wrestling team won a share of the 2010 Class C State Wrestling Championship, the school's first-ever team championship; and

WHEREAS, Mitchell High School finished the state tournament in a first-place tie with Madison High School at 122 points, with both schools named co-champions of Class C, the first co-championship since 1947; and

WHEREAS, Mitchell High School rallied on the final day of the tournament to tie Madison High School through individual championships by Willie Schwartzkopf and Jordan Debus; and

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

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

1. That the Legislature congratulates the Mitchell High School wrestling team on winning the 2010 Class C State Wrestling Championship.

2. That a copy of this resolution be sent to the Mitchell High School wrestling team and their coach, Joe Yauney.

Laid over.

### AMENDMENTS - Print in Journal

Senator Christensen filed the following amendment to LB817:  
AM2035

(Amendments to Standing Committee amendments, AM1964)

- 1 1. Insert the following new section:
- 2 Sec. 2. Section 28-1416, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 28-1416 (1) In any prosecution based on conduct which is
- 5 justifiable under sections 28-1406 to 28-1416, justification is an
- 6 affirmative defense.
- 7 (2) The fact that conduct is justifiable under sections
- 8 28-1406 to 28-1416 ~~does not abolish or impair~~ abolishes any remedy
- 9 for such conduct which is available in any civil action.
- 10 2. On page 2, line 18, after "sections" insert "28-1416
- 11 and".
- 12 3. Renumber the remaining sections accordingly.

Senator Adams filed the following amendment to LB1006:  
AM2055

- 1 1. On page 5, line 9, strike "immediately preceding"
- 2 and insert "of the calendar year in which"; and in line 10 after
- 3 "admission" insert "begins".

Senator Lathrop filed the following amendment to LB1090:  
AM2050

- 1 1. On page 2, after line 16 insert "\$1,450,000 for Tort
- 2 Claim Number 2008-02412 against the Department of Roads, pay to

- 3 James Schafer, in trust for Tom Wolfe, out of the Roads Operations  
 4 Cash Fund.".  
 5 2. On page 3, line 1, strike "\$32,973.56" and insert  
 6 "\$1,482,973.56"; and in line 3 strike "\$403,842.80" and insert  
 7 "\$1,853,842.80".

### NOTICE OF COMMITTEE HEARING

Business and Labor

Room 2102

Tuesday, March 9, 2010 1:00 p.m.

AM2050 to LB1090

(Signed) Steve Lathrop, Chairperson

### VISITORS

Visitors to the Chamber were members of Nebraska Fraternal Congress and Special Olympians from across the state; and Senator Wightman's daughter-in-law and granddaughter, Gail and Kate Wightman, from Lexington.

### RECESS

At 11:53 a.m., on a motion by Speaker Flood, the Legislature recessed until 1:30 p.m.

### AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Flood presiding.

### ROLL CALL

The roll was called and all members were present except Senators Giese and Pahls who were excused; and Senators Ashford, Cornett, Dierks, and Heidemann who were excused until they arrive.

### REFERENCE COMMITTEE REPORT

The Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB381	Revenue (rereferred)
LR335	Executive Board

(Signed) John Wightman, Chairperson  
 Executive Board

**COMMITTEE REPORTS**

## Enrollment and Review

**LEGISLATIVE BILL 951A.** Placed on Select File.

**LEGISLATIVE BILL 910A.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 1002.** Senator Louden renewed his amendment, AM1991, found on page 625 and considered in this day's Journal, to the committee amendment.

**SENATOR ROBERT PRESIDING**

The Louden amendment was adopted with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

Committee AM1841, found on page 559 and considered in this day's Journal, as amended, was renewed.

The committee amendment, as amended, was adopted with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 27 ayes, 13 nays, 6 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 952.** Title read. Considered.

**PRESIDENT SHEEHY PRESIDING**

Committee AM1945, found on page 567, was considered.

Pending.

**COMMITTEE REPORT**

## Enrollment and Review

**LEGISLATIVE BILL 579.** Placed on Final Reading Second.  
ST9077

(Final Reading copy)

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

1. On page 5, line 4, "(11)" has been struck and "(11)(a)" inserted; in line 11 "(b)" has been inserted before "The"; in line 13 "(a)" has been struck and "(i)" inserted; in line 19 "(b)" has been struck and "(ii)" inserted; and in line 25 "(c)" has been struck and "(iii)" inserted.

2. On page 11, line 24, "financials" has been struck and "financial statements" inserted.

3. On page 12, line 17, "organization" has been inserted after "employer".

4. On page 22, line 11, "act" has been struck and "Professional Employer Organization Registration Act" inserted.

(Signed) Jeremy Nordquist, Chairperson

### COMMITTEE REPORT

Enrollment and Review

**LEGISLATIVE BILL 817.** Placed on Select File with amendment.  
ER8176

- 1 1. In the Standing Committee amendments, AM1964:
  - 2 a. On page 1, line 14, reinstate the stricken comma; and
  - 3 b. On page 2, line 18, strike "sections" and insert
  - 4 "section".
- 5 2. On page 1, strike beginning with "handguns" in line
  - 6 1 through line 5 and insert "firearms; to amend section 69-2403,
  - 7 Reissue Revised Statutes of Nebraska, and section 28-1212.04,
  - 8 Revised Statutes Supplement, 2009; to change prohibitions regarding
  - 9 the discharge of firearms in certain cities, villages, and
  - 10 counties; to exempt permitholders under the Concealed Handgun
  - 11 Permit Act and peace officers from the requirement to obtain a
  - 12 certificate to purchase a handgun; and to repeal the original
  - 13 sections."

(Signed) Jeremy Nordquist, Chairperson

### COMMITTEE REPORTS

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 410.** Placed on General File.

**LEGISLATIVE BILL 852.** Placed on General File.

**LEGISLATIVE BILL 947.** Placed on General File.

**LEGISLATIVE BILL 767.** Placed on General File with amendment.  
AM1820

- 1 1. Strike the original sections and insert the following
  - 2 new sections:
    - 3 Section 1. Section 23-192, Revised Statutes Supplement,
    - 4 2009, is amended to read:
      - 5 23-192 (1) No ordinance adopted pursuant to sections
      - 6 23-187 to 23-193 shall be effective within the corporate boundaries
      - 7 of any incorporated city or village located in whole or in part
      - 8 within the county. No ordinance adopted pursuant to sections 23-187
      - 9 to 23-193 shall be effective within the area outside of the
      - 10 corporate boundaries of any city or village in which such city or
      - 11 village has been granted and is exercising powers by ordinance on

12 a similar subject matter. Every county ordinance adopted pursuant  
13 to sections 23-187 to 23-193 shall include one section defining the  
14 area of the county within which the county ordinance is effective.  
15 The ordinance shall be amended to reflect any changes in the area  
16 of the county's jurisdiction resulting from (a) annexation by a  
17 city or village, (b) action by a city or village to adopt an  
18 ordinance regarding similar subject matter to that of the county  
19 ordinance if the city or village ordinance is to be effective in  
20 areas beyond its corporate boundary, or (c) any changes in the  
21 area of jurisdiction of the city or village regarding such city or  
22 village ordinance.

23 (2) Before a county adopts an ordinance under sections  
1 23-187 to 23-193, the county clerk shall provide a copy of the  
2 text of the ordinance to the clerk of each city and village within  
3 the county no later than seven days after the first reading of  
4 the ordinance or the public hearing on the ordinance, whichever  
5 occurs first. Within seven days after receiving a copy of the  
6 ordinance, the city or village shall respond to the county and  
7 provide a copy of any ordinance specifying where the city or  
8 village is enforcing an ordinance on similar subject matter outside  
9 its corporate boundaries. Any ordinance adopted by the county  
10 shall not be effective in the area in which the city or village  
11 is exercising jurisdiction. Prior to the adoption of the county  
12 ordinance, the section of the ordinance that defines the area of  
13 county jurisdiction shall be amended to show the removal of the  
14 area of the jurisdiction of such city or village as indicated  
15 in the city or village ordinance provided to the county from the  
16 description of the area within which the county ordinance will be  
17 effective. An ordinance adopted under sections 23-187 to 23-193  
18 shall not be effective until fifteen days after its adoption.

19 (3) Any city or village located in whole or in part  
20 within a county that has adopted an ordinance pursuant to sections  
21 23-187 to 23-193 which (a) annexes any territory, (b) adopts  
22 an ordinance on similar subject matter to that of the county  
23 ordinance and extends the jurisdiction of the city or village under  
24 such ordinance to areas beyond its corporate boundaries, or (c)  
25 changes the area beyond the corporate boundaries of the city or  
26 village within which the city or village exercises jurisdiction  
27 by ordinance on similar subject matter to that of the county  
1 ordinance shall provide to the county clerk a copy of the ordinance  
2 establishing and delineating its jurisdiction or any change to  
3 that jurisdiction within seven days after the adoption of the  
4 relevant city or village ordinance. Upon the effective date of the  
5 city or village ordinance, the county ordinance shall cease to be  
6 effective within the area in which the city or village has assumed  
7 jurisdiction. The county board shall promptly amend its ordinance  
8 to reflect the change in the area within which the county ordinance  
9 is effective.

10 (4) The provisions of section 60-1903 shall apply to any

- 11 county having custody of an abandoned motor vehicle pursuant to a  
 12 county abandoned motor vehicle ordinance.  
 13 Sec. 2. Original section 23-192, Revised Statutes  
 14 Supplement, 2009, is repealed.

**LEGISLATIVE BILL 970.** Placed on General File with amendment.  
 AM2023

- 1 1. On page 6, lines 17 through 19, strike the new matter;  
 2 in line 19 strike "An", show as stricken, and insert "In any  
 3 county other than a county in which is located a city of the  
 4 primary class, an"; in line 20 reinstate the stricken matter; and  
 5 in line 22 after the period insert "In any county in which is  
 6 located a city of the primary class, an appeal of a decision by the  
 7 county planning commission regarding a conditional use or special  
 8 exception shall be made to the county board of commissioners or  
 9 supervisors, and an appeal of a decision by the county board of  
 10 commissioners or supervisors regarding a conditional use or special  
 11 exception shall be made to the district court.".

**LEGISLATIVE RESOLUTION 301CA.** Placed on General File with  
 amendment.

AM2022

- 1 1. On page 1, line 15; page 2, lines 3 and 4 and 7 and  
 2 8; page 3, lines 8 and 9; and page 4, lines 2 and 3, strike "in  
 3 which the petition signatures are filed" and insert "following the  
 4 general election next preceding the general election at which the  
 5 measure would be on the ballot".

**LEGISLATIVE RESOLUTION 273.** Reported to the Legislature for  
 further consideration.

**LEGISLATIVE RESOLUTION 292.** Reported to the Legislature for  
 further consideration.

**LEGISLATIVE BILL 777.** Indefinitely postponed.

**LEGISLATIVE BILL 1009.** Indefinitely postponed.

**LEGISLATIVE BILL 1015.** Indefinitely postponed.

**LEGISLATIVE BILL 1039.** Indefinitely postponed.

**LEGISLATIVE BILL 1059.** Indefinitely postponed.

(Signed) Bill Avery, Chairperson

Executive Board

**LEGISLATIVE BILL 1109.** Placed on General File with amendment.  
 AM1755

- 1 1. Insert the following new sections:  
 2 Sec. 6. Section 81-12,105.01, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:



4 81-12,105.01 (1) The Microenterprise Development Cash  
 5 Fund is created. The fund shall be administered by the Department  
 6 of Economic Development. Any money in the fund available for  
 7 investment shall be invested by the state investment officer  
 8 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
 9 State Funds Investment Act.

10 (2) The State Treasurer shall credit to the fund money  
 11 as is (a) transferred to the fund by the Legislature, (b) paid  
 12 to the state as fees, deposits, payments, and repayments relating  
 13 to the fund, both principal and interest, (c) donated as gifts,  
 14 bequests, or other contributions to such fund from public or  
 15 private entities, and (d) made available by any department or  
 16 agency of the United States if so directed by such department or  
 17 agency.

18 (3) The fund shall be used by the Department of Economic  
 19 Development for the purpose of carrying out the Microenterprise  
 20 Development Act.

21 (4) The unexpended balance in the fund on the effective  
 22 date of this act shall lapse to the General Fund on such date.

23 Sec. 7. Original section 81-12,105.01, Reissue Revised  
 1 Statutes of Nebraska, is repealed.

2 2. On page 2, strike beginning with "at" in line 8  
 3 through "ten" in line 9 and insert "six"; and in line 9 after  
 4 the period insert "The executive board shall appoint one of such  
 5 members as chairperson and one as vice-chairperson.".

6 3. On page 3, strike beginning with "It" in line 6  
 7 through line 11 and insert "It is the intent of the Legislature  
 8 that \$48,000 of General Funds be appropriated to the Legislative  
 9 Council to provide funding for the Nebraska Innovation and High  
 10 Wage Employment Act.".

11 4. Renumber the remaining section accordingly.

(Signed) John Wightman, Chairperson

## RESOLUTION

**LEGISLATIVE RESOLUTION 342.** Introduced by Utter, 33.

WHEREAS, Austin Wilson of St. Cecilia High School in Hastings, Nebraska, won the 2010 Class C State Wrestling Championship in the 145-pound division; and

WHEREAS, Austin Wilson defeated Tanner Wemhoff of David City High School 16-0 to win the state championship; and

WHEREAS, Austin Wilson finished the season as an undefeated state champion for the second year in a row; and

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

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

1. That the Legislature congratulates Austin Wilson on winning the 2010 Class C State Wrestling Championship in the 145-pound division.

2. That a copy of this resolution be sent to Austin Wilson.

Laid over.

### MESSAGE FROM THE GOVERNOR

February 26, 2010

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

Dennis Lee, 46105 South 133rd St., Suite 103, Omaha, NE 68137

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

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

### AMENDMENTS - Print in Journal

Senator Cornett filed the following amendment to LB1081:  
AM2026

(Amendments to Standing Committee amendments, AM1930)

- 1 1. On page 7, line 12, strike the underscored colon
- 2 and insert "trains"; in line 13 strike the paragraphing and "(a)
- 3 Trains"; in line 19 strike "(i)" and insert "(a)"; and in line 23
- 4 strike "(ii)" and insert "(b)".
- 5 2. On page 8, line 3, strike "; and" and insert an
- 6 underscored period; in line 4 strike the paragraphing and "(b)" and
- 7 after "positions" insert "shall"; in line 10 strike "credit" and
- 8 insert "reimbursement"; in line 24 before "The" insert "(1)"; and
- 9 strike beginning with "in" in line 26 through line 27.
- 10 3. On page 9, line 1, strike "allowance" through

11 "transferred"; in line 4 strike the underscored semicolon and  
 12 insert an underscored period; in line 8 strike "; and" and insert  
 13 an underscored period.

Senator Gay filed the following amendment to LB1036:  
 AM2066

(Amendments to Standing Committee amendments, AM1839)

- 1 1. Strike amendment 6 and insert the following new
- 2 amendments:
- 3 6. On page 20, line 25, after "may" insert "not".
- 4 10. On page 25, line 22, after "may" insert "not" and
- 5 strike "unless" and insert "if".
- 6 11. On page 32, line 1, after "cardholder" insert "is at
- 7 least sixteen years of age and".
- 8 2. On page 1, strike beginning with the semicolon in line
- 9 14 through the last quotation mark in line 15; and in line 22 after
- 10 the first comma insert "line 1, strike 'unless' and insert 'if;
- 11 and in" and strike the second comma.
- 12 3. On page 2, strike beginning with "line" in line 3
- 13 through the semicolon in line 4 and insert "after line 17 insert
- 14 the following new subsection:
- 15 '(d) The age restrictions of the Revised Uniform
- 16 Anatomical Gift Act do not nullify any designation of gift made
- 17 on a driver's license or state identification card prior to the
- 18 operative date of this act by a person younger than sixteen years
- 19 of age which was valid when made. Such person shall be considered a
- 20 donor under the act, and if such a donor who is an unemancipated
- 21 minor dies, a parent of the donor who is reasonably available may
- 22 revoke or amend an anatomical gift of the donor's body or part.';
- 1 4. Renumber the remaining amendments accordingly.

Senator Lautenbaugh filed the following amendment to LB888:  
 AM2041

- 1 1. Insert the following new section:
- 2 Sec. 100. Section 21-2654, Revised Statutes Supplement,
- 3 2009, is amended to read:
- 4 21-2654 (1) On application to a court of competent
- 5 jurisdiction by any judgment creditor of a member or transferee,
- 6 the court may charge the transferable interest of the judgment
- 7 debtor in the limited liability company with payment of the
- 8 unsatisfied amount of the judgment with interest. To the extent of
- 9 the amounts so charged, the judgment creditor has only the rights
- 10 of the transferee to receive any distribution to which the judgment
- 11 debtor would otherwise have been entitled with respect to the
- 12 interest of the judgment debtor in the limited liability company.
- 13 (2) A charging order entered pursuant to this section
- 14 constitutes a lien on the judgment debtor's transferable interest
- 15 in the limited liability company.
- 16 (3) To the extent necessary to effectuate the collection

17 of distributions pursuant to a charging order in effect under  
 18 subsection (1) of this section, the court may (a) appoint a  
 19 receiver of the distribution subject to the charging order, and the  
 20 receiver shall have the power to make all inquiries the judgment  
 21 debtor might have made, and (b) make all other orders necessary to  
 22 give effect to the charging order.

23 (4) Upon a showing that distributions under a charging  
 1 order will not pay the judgment debt within a reasonable time, the  
 2 court may foreclose the lien and order the sale of the transferable  
 3 interest. The purchaser at the foreclosure sale only obtains the  
 4 transferable interest and does not become a member of the limited  
 5 liability company.

6 (5) At any time before completion of the foreclosure sale  
 7 under subsection (4) of this section, the member or transferee  
 8 whose transferable interest is subject to a charging order under  
 9 subsection (1) of this section may extinguish the charging order  
 10 by satisfying the judgment and filing a certified copy of the  
 11 satisfaction with the court that issued the charging order.

12 (6) At any time before completion of the foreclosure sale  
 13 under subsection (4) of this section, a limited liability company  
 14 or one or more members whose transferable interests are not subject  
 15 to the charging order may pay to the judgment creditor the full  
 16 amount due under the judgment and thereby succeed to the rights of  
 17 the judgment creditor, including the charging order.

18 ~~(3)-(7)~~ This section does not deprive any member or  
 19 transferee of the benefit of any exemption laws applicable to the  
 20 member's or transferee's interest in the limited liability company.

21 (8) This section provides the exclusive remedy by which a  
 22 person seeking to enforce a judgment against a member or transferee  
 23 may, in the capacity of judgment creditor, satisfy the judgment  
 24 from the judgment debtor's transferable interest.

25 ~~(4)~~ The entry of a charging order pursuant to this  
 26 section is the exclusive remedy by which a judgment creditor of a  
 27 member or transferee may satisfy a judgment out of the judgment  
 1 debtor's interest in the limited liability company.

2 ~~(5)~~ No creditor of a member of a limited liability  
 3 company shall have any right to obtain possession of, or otherwise  
 4 exercise legal or equitable remedies with respect to, the property  
 5 of the limited liability company.

6 ~~(6)~~ A third party shall not be liable to a judgment  
 7 creditor for distributions made by such third party directly to the  
 8 judgment debtor that were made in good faith at the direction of  
 9 the limited liability company.

10 ~~(7)~~ This section applies to all limited liability  
 11 companies authorized under the Limited Liability Company Act.

12 2. On page 52, line 25; and page 53, line 6, strike  
 13 "foreclosure" and insert "completion of the foreclosure sale".

14 3. On page 129, line 25, strike "section" and insert

- 15 "sections" and after "21-2601" insert "and 21-2654".  
16 4. Renumber the remaining sections accordingly.

### **VISITORS**

Visitors to the Chamber were Dolores Mather from Lincoln, Lonnie Hilliard, Artur Ghazinyan from Armenia, Igor Tabak from Croatia, Jasper Barenberg from Germany, Krisztina Nora Kovacs from Hungary, Sandis Sraders from Latvia, and Dr. John Bonello from Malta.

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

### **ADJOURNMENT**

At 4:03 p.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Tuesday, March 2, 2010.

Patrick J. O'Donnell  
Clerk of the Legislature

