

THIRTY-EIGHTH DAY - MARCH 9, 2010**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
SECOND SESSION****THIRTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, March 9, 2010

PRAYER

The prayer was offered by Father Paul Rutten, Lincoln.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Harms and Pahls who were excused; and Senators Cornett, Lautenbaugh, and Loudon who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-seventh day was approved.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 258. Placed on Final Reading.

LEGISLATIVE BILL 689. Placed on Final Reading.

LEGISLATIVE BILL 735. Placed on Final Reading.

LEGISLATIVE BILL 764. Placed on Final Reading.

LEGISLATIVE BILL 768. Placed on Final Reading.

LEGISLATIVE BILL 799. Placed on Final Reading.

LEGISLATIVE BILL 805. Placed on Final Reading.

LEGISLATIVE BILL 821. Placed on Final Reading.

LEGISLATIVE BILL 888. Placed on Final Reading.

ST9078

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

1. In the E & R amendments, ER8170, on page 1, line 2, "section 21-2601" has been struck and "sections 21-2601 and 21-2654" inserted.

2. On page 1, line 6, "to change provisions relating to charging orders involving limited liability companies;" has been inserted after the first semicolon.

LEGISLATIVE BILL 926. Placed on Final Reading.

LEGISLATIVE BILL 1063. Placed on Final Reading.

LEGISLATIVE RESOLUTION 295CA. Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 1018. Placed on Select File with amendment. ER8186 is available in the Bill Room.

LEGISLATIVE BILL 943. Placed on Select File with amendment. ER8182

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

LEGISLATIVE RESOLUTION 297CA. Placed on Select File with amendment.

ER8183

- 1 1. On page 3, line 9, strike the first comma and insert
- 2 "or".

LEGISLATIVE BILL 1051. Placed on Select File.

LEGISLATIVE BILL 727. Placed on Select File.

LEGISLATIVE BILL 888A. Placed on Select File.

LEGISLATIVE BILL 952. Placed on Select File with amendment. ER8185

- 1 1. On page 4, line 1, strike the period and insert an
- 2 underscored semicolon.

LEGISLATIVE BILL 882. Placed on Select File with amendment. ER8184

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 54-744, Revised Statutes Supplement,
- 4 2009, is amended to read:
- 5 54-744 (1) Except as set out in subsections (2) and
- 6 (3) of this section and section 54-776, it is the duty of the
- 7 owner or custodian of any dead animal to cause such animal, within
- 8 thirty-six hours after receiving knowledge of the death of such
- 9 animal, to be buried at least four feet below the surface of the
- 10 ground or to be completely burned on the premises where such animal

11 ~~dies unless the animal is disposed of to a duly licensed rendering~~
12 ~~establishment in this state. Such animal shall not be moved or~~
13 ~~transported from the premises where such animal has died except by~~
14 ~~the authorized agents and employees of the rendering establishment~~
15 ~~to which such carcass is disposed.~~

16 (a) Buried at least four feet below the surface of the
17 ground or completely incinerated or composted on the premises where
18 such animal dies or on an adjacent property under the ownership and
19 control of the owner or custodian. Any vehicle used by the owner
20 or custodian to transport such dead animal shall be constructed
21 in such a manner that the contents are covered and will not
22 fall, leak, or spill therefrom. Violation of this subdivision is a
23 traffic infraction as defined in section 60-672; or

1 (b) Transported by a licensed rendering establishment to
2 either a rendering establishment licensed under the Nebraska Meat
3 and Poultry Inspection Law or to a facility with a permit to
4 operate as a landfill under the Integrated Solid Waste Management
5 Act. The operator of a landfill is not required by this subdivision
6 to accept dead animals.

7 (2) ~~Livestock carcasses up to six hundred pounds may~~
8 ~~be incorporated into a composting facility on the premises where~~
9 ~~the livestock died and shall remain in such compost facility~~
10 ~~until completely composted before spreading on land. Any person~~
11 ~~incorporating livestock carcasses into a composting facility shall~~
12 ~~follow the operating procedures as set forth in the Journal of~~
13 ~~the American Veterinary Medical Association, Volume 210, No. 8.~~
14 ~~Not less than one copy of such journal, or portion thereof,~~
15 ~~shall be filed for use and examination by the public in the~~
16 ~~offices of the Clerk of the Legislature and the Secretary of~~
17 ~~State. The Department of Agriculture shall regulate the composting~~
18 ~~of livestock carcasses and shall adopt and promulgate rules~~
19 ~~and regulations governing the same. Any person incorporating~~
20 ~~livestock carcasses into a composting facility shall follow the~~
21 ~~operating procedures established by the Department of Agriculture~~
22 ~~in consultation with the University of Nebraska Institute of~~
23 ~~Agriculture and Natural Resources. -which rules and regulations~~
24 ~~may incorporate or may modify the operating procedures set forth in~~
25 ~~this subsection.~~

26 (3) An animal carcass or carcass part may be transported
27 by the owner or the owner's agent to a veterinary clinic
1 or veterinary diagnostic laboratory for purposes of performing
2 diagnostic procedures.

3 (4) In addition to methods listed in subsections (1)
4 and (2) of this section, animal carcasses or carcass parts may
5 be disposed of by a veterinary clinic or veterinary diagnostic
6 laboratory by alkaline hydrolysis tissue digestion. For purposes
7 of this section, alkaline hydrolysis tissue digestion means a
8 process that utilizes an alkaline agent and heat to catalyze the
9 decomposition and reduction of biological tissues. This section

10 shall not exempt the products of alkaline hydrolysis tissue
 11 digestion from any applicable law, rule, or regulation governing
 12 disposal of wastes.
 13 ~~(4)~~(5) Carcasses disposed of in compliance with this
 14 section or section 54-744.01 are exempt from the requirements for
 15 disposal of solid waste under the Integrated Solid Waste Management
 16 Act.

17 Sec. 2. This act becomes operative on October 1, 2010.

18 Sec. 3. Original section 54-744, Revised Statutes
 19 Supplement, 2009, is repealed.

20 2. On page 1, line 3, after the semicolon insert "to
 21 provide a penalty; to provide an operative date;".

LEGISLATIVE BILL 956. Placed on Select File with amendment.
 ER8187

- 1 1. On page 19, line 5, strike "subdivision (2) of" and
- 2 show as stricken.
- 3 2. On page 24, line 6, strike "section" and insert "act".

LEGISLATIVE BILL 877. Placed on Select File with amendment.
 ER8188

- 1 1. On page 1, line 1, after "sections" insert
- 2 "77-202.04,"; and in line 3 strike "and 77-5016" and insert
- 3 "77-5016, 77-5018, and 77-5019".

(Signed) Jeremy Nordquist, Chairperson

COMMITTEE REPORTS

Natural Resources

LEGISLATIVE BILL 862. Placed on General File with amendment.
 AM2004

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 2-3226.01, Revised Statutes Cumulative
- 4 Supplement, 2008, is amended to read:
- 5 2-3226.01 (1) In order to implement its duties and
- 6 obligations under the Nebraska Ground Water Management and
- 7 Protection Act and in addition to other powers authorized by law,
- 8 the board of a district with jurisdiction that ~~includes a river~~
- 9 ~~subject to an interstate compact among three or more states and~~
- 10 ~~that also includes one or more irrigation districts within the~~
- 11 ~~compact is part of a river basin for which the district has, in~~
- 12 accordance with section 46-715, adopted an integrated management
- 13 plan which references section 2-3226.04 and explicitly states
- 14 its intent to utilize qualified projects described in section
- 15 2-3226.04 may issue negotiable bonds and refunding bonds of the
- 16 district and entitled river-flow enhancement bonds, with terms
- 17 determined appropriate by the board, payable by (a) funds granted

18 to such district by the state or federal government for one or
19 more qualified projects, (b) the occupation tax authorized by
20 section 2-3226.05, or (c) the levy authorized by section 2-3225.
21 The district may issue the bonds or refunding bonds directly,
22 or such bonds may be issued by any joint entity as defined
23 in section 13-803 whose member public agencies consist only of
1 qualified natural resources districts or by any joint public
2 agency as defined in section 13-2503 whose participating public
3 agencies consist only of qualified natural resources districts, in
4 connection with any joint project which is to be owned, operated,
5 or financed by the joint entity or joint public agency for the
6 benefit of its member natural resources districts. For the payment
7 of such bonds or refunding bonds, the district may pledge one or
8 more permitted payment sources.

9 (2) Within forty-five days after receipt of a written
10 request by the Natural Resources Committee of the Legislature, the
11 qualified natural resources districts shall submit a written report
12 to the committee containing an explanation of existing or planned
13 activities for river-flow enhancement, the revenue source for
14 implementing such activities, and a description of the estimated
15 benefit or benefits to the district or districts.

16 (3) Beginning on April 1, 2008, if a district uses the
17 proceeds of a bond issued pursuant to this section for the purposes
18 described in subdivision (1) of section 2-3226.04 or the state
19 uses funds for those same purposes, the agreement to acquire water
20 rights by purchase or lease pursuant to such subdivision shall
21 identify (a) the method of payment, (b) the distribution of funds
22 by the party or parties receiving payments, (c) the water use or
23 rights subject to the agreement, and (d) the water use or rights
24 allowed by the agreement. If any irrigation district is party
25 to the agreement, the irrigation district shall allocate funds
26 received under such agreement among its users or members in a
27 reasonable manner, giving consideration to the benefits received
1 and the value of the rights surrendered for the specified contract
2 period.

3 Sec. 2. Section 2-3226.05, Revised Statutes Cumulative
4 Supplement, 2008, is amended to read:

5 2-3226.05 (1) The district may levy an occupation tax
6 upon the activity of irrigation of agricultural lands within
7 such district on an annual basis, not to exceed ten dollars per
8 irrigated acre, the proceeds of which may be used for the purpose
9 of ~~(a) repaying principal and interest on any bonds or refunding~~
10 ~~bonds issued pursuant to section 2-3226.01 for one or more projects~~
11 ~~under section 2-3226.04, (b) or for the repayment of financial~~
12 ~~assistance received by the district pursuant to section 2-3226.07,~~
13 ~~or (c) payment of all or any part of the costs and expenses of~~
14 ~~one or more qualified projects described in section 2-3226.04. If~~
15 ~~such district has more than one river basin as described in section~~
16 ~~2-1504 within its jurisdiction, such district shall confine such~~

17 occupation tax authorized in this section to the geographic area
 18 affected by an integrated management plan adopted in accordance
 19 with section 46-715.

20 (2) Acres classified by the county assessor as irrigated
 21 shall be subject to such district's occupation tax unless, on or
 22 before July 1, 2007, and on or before March 1 in each subsequent
 23 year, the record owner certifies to the district the nonirrigation
 24 status of such acres.

25 (3) Any such occupation tax shall remain in effect so
 26 long as the natural resources district has bonds outstanding which
 27 have been issued stating such occupation tax as an available source
 1 for payment and for the purpose of paying all or any part of the
 2 costs and expenses of one or more projects authorized pursuant to
 3 section 2-3226.04.

4 (4) Such occupation taxes shall be certified to,
 5 collected by, and accounted for by the county treasurer at the
 6 same time and in the same manner as general real estate taxes,
 7 and such occupation taxes shall be and remain a perpetual lien
 8 against such real estate until paid. Such occupation taxes shall
 9 become delinquent at the same time and in the same manner as
 10 general real property taxes. The county treasurer shall publish and
 11 post a list of delinquent occupation taxes with the list of real
 12 property subject to sale for delinquent property taxes provided
 13 for in section 77-1804. In addition, the list shall be provided to
 14 natural resources districts which levied the delinquent occupation
 15 taxes. The list shall include the record owner's name, the parcel
 16 identification number, and the amount of delinquent occupation tax.
 17 For services rendered in the collection of the occupation tax, the
 18 county treasurer shall receive the fee provided for collection of
 19 general natural resources district money under section 33-114.

20 (5) Such lien shall be inferior only to general taxes
 21 levied by political subdivisions of the state. When such occupation
 22 taxes have become delinquent and the real property on which the
 23 irrigation took place has not been offered at any tax sale, the
 24 district may proceed in district court in the county in which the
 25 real estate is situated to foreclose in its own name the lien
 26 in the same manner and with like effect as a foreclosure of a
 27 real estate mortgage, except that sections 77-1903 to 77-1917 shall
 1 govern when applicable.

2 Sec. 3. Original sections 2-3226.01 and 2-3226.05,
 3 Revised Statutes Cumulative Supplement, 2008, are repealed.

LEGISLATIVE BILL 1010. Placed on General File with amendment.
 AM2029

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

3 Section 1. Sections 1 to 7 of this act are procedures for
 4 the use of eminent domain by a natural resources district to take

5 private real property for a trail.

6 Sec. 2. For purposes of sections 1 to 7 of this act:

7 (1) Private real property does not include any public
8 land such as real property under the general management of the
9 Board of Educational Lands and Funds;

10 (2) District means a natural resources district;

11 (3) Trail means a thoroughfare or track across real
12 property used for recreational purposes; and

13 (4) Supermajority means sixty-seven percent or more.

14 Sec. 3. Before establishing a trail, the district shall
15 consider, at a public hearing, all of the following:

16 (1) The proposed route for the trail, including maps and
17 illustrations, and the mode of travel to be permitted;

18 (2) The areas adjacent to such route to be utilized
19 by the district for scenic, historic, natural, cultural, or
20 developmental purposes;

21 (3) The characteristics that make the proposed route
22 suitable as a trail;

23 (4) The plans for developing, operating, and maintaining
1 the proposed trail;

2 (5) Any anticipated problems enforcing the proper use of
3 the proposed trail or hazards to private real property adjacent to
4 such trail;

5 (6) The current status of the real property ownership and
6 current and potential use of the real property in and along the
7 proposed route;

8 (7) The estimated cost of acquisition of the real
9 property, or an interest therein, needed for the proposed route;
10 and

11 (8) The extent and type of private real property
12 interest needed to establish the proposed trail, the right-of-way
13 acquisition process to be followed, and the circumstances under
14 which eminent domain may be utilized.

15 Sec. 4. If the district decides to establish the trail
16 after following the procedure under section 3 of this act, the
17 district may acquire private real property, or an interest therein,
18 to develop and maintain the trail by:

19 (1) Seeking to secure the written consent of the
20 private real property owners affected by the trail to enter
21 into negotiations and proceeding in good faith to reach negotiated
22 agreements with such owners for the private real property, or an
23 interest therein needed; or

24 (2) If all reasonable efforts to secure written consent
25 and negotiated agreements to acquire private real property, or
26 an interest therein, have failed, the district board may, by
27 resolution adopted by a supermajority of the district board at a
1 public meeting, elect to conduct a proceeding to determine whether
2 to use the power of eminent domain to acquire such property. Such
3 proceeding shall be a public hearing with general notice to the

4 public and specific notice by registered mail to all private real
5 property owners whose property would be subject to condemnation by
6 eminent domain. The public hearing shall be held no sooner than
7 forty-five days after the date the resolution is adopted. At the
8 public hearing, the district board shall receive evidence on the
9 question of whether to acquire private property by eminent domain
10 for the purpose of constructing the trail. The district board
11 may, by vote of a supermajority of its members, elect to proceed
12 with eminent domain to acquire such property if the district board
13 finds, by clear and convincing evidence received at the public
14 hearing, that all of the following criteria are met:

15 (a) Whether the trail has been publicized at a public
16 hearing held in accordance with section 3 of this act in the area
17 where the trail is planned and reasonable notice of the hearing was
18 provided to affected private real property owners;

19 (b) Whether good faith attempts to negotiate agreements
20 meeting the requirements of subdivision (1) of this section with
21 the affected private real property owners have been made and have
22 failed for some or all of the private real property that is
23 determined by the district board to be necessary for the trail to
24 be developed;

25 (c) Whether all other trail route alternatives have been
26 considered, with an evaluation of the extent to which private real
27 property may be involved and which may require the exercise of
1 eminent domain for each alternate route;

2 (d) Whether in locating the proposed trail consideration
3 was given to the directness of the route; trail design and costs;
4 safety to trail users, vehicle operators, and adjacent persons; and
5 adverse impacts and intrusions upon private real property owners or
6 persons using such property;

7 (e) Whether good faith attempts have been made to
8 address the concerns of affected private real property owners
9 regarding trail design, privacy, land protection, management, and
10 maintenance; and

11 (f) Whether any development and management of the trail
12 is designed to harmonize with and complement any established forest
13 or agricultural plan for the affected private real property.

14 Sec. 5. Acquisition of private real property, or an
15 interest therein, and any utilization of eminent domain approved
16 under sections 1 to 7 of this act to establish a proposed trail
17 shall be conducted in the manner and subject to the requirements
18 provided in sections 25-2501 to 25-2506 and 76-701 to 76-726.

19 Sec. 6. (1) A private real property owner or lessee
20 of property adjoining a trail has no duty (a) to maintain or
21 repair the trail or (b) to protect users of the trail from danger
22 resulting from conditions on the trail unless such conditions are
23 the result of an intentional or negligent act of such owner or
24 lessee.

25 (2) A negotiated written agreement between a district and
26 a private real property owner regarding the acquisition of real
27 property, or an interest therein, by the district to establish and
1 maintain a trail shall clearly express both parties' rights and
2 obligations, including the obligation of the district to maintain
3 the trail and the liability of the district for property damage or
4 personal injury, or both, to users of the trail.

5 Sec. 7. An affected private real property owner may
6 appeal the decision of the district board to use eminent domain
7 under sections 1 to 7 of this act by petition in error to the
8 district court of the county where the affected private real
9 property is located. No petition to condemn private real property
10 affected by the proposed trail shall be filed in county court until
11 any error proceeding under this section is final.

12 Sec. 8. Section 2-3234, Revised Statutes Supplement,
13 2009, is amended to read:

14 2-3234 Except as provided in section 2-3226.11 and
15 sections 1 to 7 of this act, each district shall have the
16 power and authority to exercise the power of eminent domain when
17 necessary to carry out its authorized purposes within the limits
18 of the district or outside its boundaries. Exercise of eminent
19 domain shall be governed by the provisions of sections 76-704 to
20 76-724, except that whenever any district seeks to acquire the
21 right to interfere with the use of any water being used for power
22 purposes in accordance with sections 46-204, 70-668, 70-669, and
23 70-672 and is unable to agree with the user of such water upon
24 the compensation to be paid for such interference, the procedure
25 to condemn property shall be followed in the manner set forth in
26 sections 76-704 to 76-724 and no other property shall be included
27 in such condemnation. No district shall contract for delivery of
1 water to persons within the corporate limits of any village, city,
2 or metropolitan utilities district, nor in competition therewith
3 outside such corporate limits, except by consent of and written
4 agreement with the governing body of such political subdivision.
5 A village, city, or metropolitan utilities district may negotiate
6 and, if necessary, exercise the power of eminent domain for the
7 acquisition of water supply facilities of the district which are
8 within its boundaries.

9 Sec. 9. The Revisor of Statutes shall assign sections 1
10 to 7 of this act within Chapter 2, article 32.

11 Sec. 10. Original section 2-3234, Revised Statutes
12 Supplement, 2009, is repealed.

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

(Signed) Chris Langemeier, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 353. Introduced by Flood, 19.

WHEREAS, the Elkhorn Valley Lady Falcons won the 2010 Class D-1 Girls' State Basketball Championship; and

WHEREAS, Elkhorn Valley earned a trip to the championship game by defeating previously unbeaten Silver Lake High School 62-51 in the state semifinals; and

WHEREAS, Elkhorn Valley then defeated East Butler High School 57-52 in the championship game, giving Elkhorn Valley its first state title in girls' basketball since 1982; and

WHEREAS, Elkhorn Valley's coaches, Brendan Dittmer and Kristi Werner, provided outstanding guidance and leadership throughout the season; and

WHEREAS, Elkhorn Valley team members include Lisa Henseleit, Kyleigh Parham, Jamie Henseleit, Sadie Rich, April Osborn, Halle Dittrich, Katie Dusel, Jennifer Crabb, Audrey Osborn, Sonya Legate, Cami Oelsigle, Lacey Kessler, and Emily Rood.

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

1. That the Legislature congratulates the Elkhorn Valley Lady Falcons on winning the 2010 Class D-1 Girls' State Basketball Championship.

2. That a copy of this resolution be sent to the Elkhorn Valley Lady Falcons and their coaches.

Laid over.

GENERAL FILE

LEGISLATIVE RESOLUTION 284CA. Read. Considered.

Committee AM1906, found on page 624, was considered.

Pending.

COMMITTEE REPORT

Urban Affairs

LEGISLATIVE BILL 977. Placed on General File with amendment. AM2100

- 1 1. Strike the original sections and insert the following
- 2 new section:
- 3 Section 1. Beginning January 1, 2015, any capital
- 4 improvement project undertaken by a state agency, a state
- 5 college, or the University of Nebraska shall achieve Energy
- 6 Star certification. If there is a conflict between Energy Star
- 7 requirements and the 2003 International Energy Conservation Code

8 made applicable to state buildings by section 72-805, the more
 9 stringent standard shall apply. For purposes of this section:
 10 (1) Capital improvement project means a project defined
 11 in subdivisions (1)(a) through (c) of section 81-188.02; and
 12 (2) Energy Star means the energy efficiency program of
 13 the United States Department of Energy and the United States
 14 Environmental Protection Agency.

(Signed) Amanda McGill, Chairperson

BILL ON FIRST READING

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

LEGISLATIVE BILL 1106A. Introduced by Nordquist, 7.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1106, One Hundred First Legislature, Second Session, 2010; and to reduce an appropriation.

RESOLUTIONS

LEGISLATIVE RESOLUTION 354. Introduced by Price, 3; McCoy, 39.

WHEREAS, Kyle Rhodes, of Troop 363, 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, Kyle 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. For his Eagle Scout community service project, Kyle made improvements to a slide and barn at a camp for disabled children; and

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

WHEREAS, Kyle, 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, SECOND SESSION:

1. That the Legislature congratulates Kyle Rhodes on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Kyle Rhodes.

Laid over.

LEGISLATIVE RESOLUTION 355. Introduced by Price, 3; Cornett, 45; Mello, 5.

WHEREAS, the Bellevue West Thunderbirds won the 2010 Class A Girls' State Basketball Championship; and

WHEREAS, Bellevue West defeated Millard West High School 51-38 in the championship game; and

WHEREAS, Bellevue West's victory gave the school its second straight state championship in Class A and third in the last four years; 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 Bellevue West Thunderbirds on winning the 2010 Class A Girls' State Basketball Championship.

2. That a copy of this resolution be sent to the Thunderbirds and their head coach, Matt Fritsche.

Laid over.

GENERAL FILE

LEGISLATIVE RESOLUTION 284CA. Committee AM1906, found on page 624 and considered in this day's Journal, was renewed.

SENATOR ROBERT PRESIDING

PRESIDENT SHEEHY PRESIDING

Pending.

MOTION - Print in Journal

Senators Heidemann, Conrad, Fulton, Hansen, Mello, Nelson, Nordquist, and Wightman filed the following motion:

Suspend the rules, Rule 8, Sec. 5, to allow the Appropriations Committee to place appropriations bills on General File later than the 40th legislative day and to permit the Legislature to pass the appropriations bills after the 50th legislative day.

RESOLUTIONS**LEGISLATIVE RESOLUTION 356.** Introduced by Gloor, 35.

WHEREAS, the Grand Island Senior High School wrestling team won the 2010 Class A State Wrestling Championship, the school's second team championship in a row; and

WHEREAS, the state championship capped off a dominating season for Grand Island Senior High School, with the team winning its district tournament for the fourth straight year and winning the Top of the Rockies Tournament in Lafayette, Colorado; and

WHEREAS, Grand Island Senior High School had five individual champions and eleven individual medalists in scoring 228.5 points to win the state championship; and

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

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

1. That the Legislature congratulates the Grand Island Senior High School wrestling team on winning the 2010 Class A State Wrestling Championship.

2. That a copy of this resolution be sent to the Grand Island Senior High School wrestling team and their coach, Mike Schadwinkel.

Laid over.

LEGISLATIVE RESOLUTION 357. Introduced by Adams, 24.

WHEREAS, the Seward Bluejays girls' basketball team won the 2010 Class B Girls' State Basketball Championship at the Bob Devaney Sports Complex in Lincoln on March 6; and

WHEREAS, the Seward Bluejays won back-to-back state championships and two perfect winning seasons; and

WHEREAS, the Bluejays beat the second ranked Gretna Dragons 68-45, capping off two perfect seasons with fifty straight wins; and

WHEREAS, the Seward Bluejays had a twenty-six-point average winning margin over their opponents this season.

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

1. That the Legislature congratulates Coach Tom Tvrdy and the Seward Bluejays girls' basketball team for winning the 2010 Class B Girls' State Basketball Championship.

2. That a copy of this resolution be sent to Coach Tvrdy.

Laid over.

LEGISLATIVE RESOLUTION 358. Introduced by Howard, 9.

WHEREAS, an estimated 463,000 children are in out-of-home care in the United States; and

WHEREAS, National Foster Care Month has been celebrated throughout the United States since 1988; and

WHEREAS, the purpose of National Foster Care Month is to increase awareness about the needs of children and teens in foster care, issue a national call to action for individuals to create a positive impact on the lives of children in out-of-home care, raise positive awareness about the issues involved in the foster care system, and support year-round efforts of agencies and organizations involved in foster care; and

WHEREAS, National Foster Care Month recognizes the caring commitment of foster care families throughout the United States; and

WHEREAS, National Foster Care Month also recognizes the significant challenges within the system and looks toward future solutions; and

WHEREAS, the theme of National Foster Care Month 2010 is to encourage individuals to give any time they can to do something positive that will change a life for a child in foster care.

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

1. That the Legislature recognizes May 2010 as Foster Care Month in Nebraska and encourages communities to participate in activities designed to increase public awareness about foster care and rally around Nebraska's most vulnerable children.

2. That a copy of this resolution be sent to the Department of Health and Human Services.

Laid over.

LEGISLATIVE RESOLUTION 359. Introduced by Nelson, 6; Adams, 24; Carlson, 38; Cook, 13; Giese, 17; Janssen, 15; Nordquist, 7; Pirsch, 4; Wightman, 36.

WHEREAS, March 12, 2010, marks the 98th anniversary of Girl Scouts of the USA, founded by Juliette Gordon Low in 1912 in Savannah, Georgia; and

WHEREAS, throughout its distinguished history, Girl Scouting has inspired millions of girls and women with courage, confidence, and character to make the world a better place; and

WHEREAS, through the Girl Scout Leadership Experience, girls develop the skills that will serve them throughout their lives so that they may contribute to their communities; and

WHEREAS, Girl Scouting increases girls' awareness of the opportunities in math, science, sports, technology, and many other fields of interest that can expand their horizons; and

WHEREAS, more than three million current Girl Scout members nationwide will be celebrating this American tradition and welcoming girls from every background to join.

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

1. That the Legislature recognizes the importance of Girl Scouting in the leadership development of America's girls.

2. That the Legislature recognizes the week of March 7, 2010, as Girl Scout Week in Nebraska.

3. That a copy of this resolution be sent to Girl Scouts - Spirit of Nebraska.

Laid over.

LEGISLATIVE RESOLUTION 360. Introduced by Pirsch, 4.

WHEREAS, Matt Lenagh of Millard North High School won the 2010 Class A State Wrestling Championship in the 189-pound division; and

WHEREAS, Matt Lenagh defeated Alan Taylor of Grand Island Senior High School 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 Matt Lenagh on winning the 2010 Class A State Wrestling Championship in the 189-pound division.

2. That a copy of this resolution be sent to Matt Lenagh.

Laid over.

LEGISLATIVE RESOLUTION 361. Introduced by Pirsch, 4.

WHEREAS, Kevin Humphrey of Boys Town High School won the 2010 Class B State Wrestling Championship in the 160-pound division; and

WHEREAS, Kevin Humphrey defeated Bryce Lewis of Minden High School 9-7 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 Kevin Humphrey on winning the 2010 Class B State Wrestling Championship in the 160-pound division.

2. That a copy of this resolution be sent to Kevin Humphrey.

Laid over.

LEGISLATIVE RESOLUTION 362. Introduced by Pirsch, 4.

WHEREAS, Kavon Jones of Boys Town High School won the 2010 Class B State Wrestling Championship in the 130-pound division; and

WHEREAS, Kavon Jones defeated Adam Joseph of Adams Central High School 10-6 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 Kavon Jones on winning the 2010 Class B State Wrestling Championship in the 130-pound division.

2. That a copy of this resolution be sent to Kavon Jones.

Laid over.

LEGISLATIVE RESOLUTION 363. Introduced by Pirsch, 4.

WHEREAS, Shaquil Barrett of Boys Town High School won the 2010 Class B State Wrestling Championship in the 215-pound division; and

WHEREAS, Shaquil Barrett defeated Brock Sherman of Crete High School 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 Shaquil Barrett on winning the 2010 Class B State Wrestling Championship in the 215-pound division.

2. That a copy of this resolution be sent to Shaquil Barrett.

Laid over.

AMENDMENT - Print in Journal

Senator McGill filed the following amendment to LR295CA:
AM2114

(Amendments to Final Reading copy)

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

3 Section 1. At the primary election in May 2010 the
4 following proposed amendment to the Constitution of Nebraska shall
5 be submitted to the electors of the State of Nebraska for approval
6 or rejection:

7 To add a new section 4 to Article XIII.; is amended to read:

8 XIII-4 Notwithstanding any other provision in this

9 Constitution, the Legislature may also authorize any county, city,

10 or village to acquire, own, develop, and lease or finance real

11 and personal property, other than property used or to be used
 12 for sectarian instruction or study or as a place for devotional
 13 activities or religious worship, to be used, during the term of any
 14 revenue bonds issued, only by nonprofit enterprises as determined
 15 by law and to issue revenue bonds for the purpose of defraying
 16 the cost of acquiring and developing or financing such property
 17 by construction, purchase, or otherwise. Such bonds shall not
 18 become general obligation bonds of the governmental subdivision
 19 by which such bonds are issued, and such governmental subdivision
 20 shall have no authority to impose taxes for the payment of such
 21 bonds. Notwithstanding the provisions of Article VIII, section 2,
 22 of this Constitution, the acquisition, ownership, development, use,
 1 or financing of any real or personal property pursuant to the
 2 provisions of this section shall not affect the imposition of any
 3 taxes or the exemption therefrom by the Legislature pursuant to
 4 this Constitution. The acquiring, owning, developing, and leasing
 5 or financing of such property shall be deemed for a public purpose,
 6 but the governmental subdivision shall not have the right to
 7 acquire such property for the purposes specified in this section by
 8 condemnation. The principal of and interest on any bonds issued may
 9 be secured by a pledge of the lease and the revenue therefrom and
 10 by mortgage upon such property. No such governmental subdivision
 11 shall have the power to operate any such property as a business or
 12 in any manner except as the lessor thereof.

13 Sec. 2. The proposed amendment shall be submitted to the
 14 electors in the manner prescribed by the Constitution of Nebraska,
 15 Article XVI, section 1, with the following ballot language:

16 A constitutional amendment to authorize the use of
 17 revenue bonds to develop and lease property for use by nonprofit
 18 enterprises as determined by law.

19 For

20 Against.

UNANIMOUS CONSENT - Add Cointroducers

Senators Mello and Nordquist asked unanimous consent to add their names as cointroducers to LB563. No objections. So ordered.

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB594. No objections. So ordered.

Senator Wallman asked unanimous consent to add his name as cointroducer to LB780. No objections. So ordered.

Senators Howard and Krist asked unanimous consent to add their names as cointroducers to LB1110. No objections. So ordered.

Senator Sullivan asked unanimous consent to add her name as cointroducer to LR353. No objections. So ordered.

VISITORS

Visitors to the Chamber were Kaitlin Grode from Omaha; 48 fourth-grade students and teachers from Avery Elementary, Bellevue; and 5 seventh- and eighth-grade students, teacher, and sponsor from St. Wenceslaus, Dodge.

RECESS

At 11:58 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., Senator Stuthman presiding.

ROLL CALL

The roll was called and all members were present except Senators Harms and Pahls who were excused; and Senators Coash, Cornett, and Sullivan who were excused until they arrive.

NOTICE OF COMMITTEE HEARING

Natural Resources

Room 1525

Friday, March 26, 2010 8:30 a.m.

Perry Van Newkirk - Nebraska Oil and Gas Conservation Commission

(Signed) Chris Langemeier, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 364. Introduced by Avery, 28.

WHEREAS, John Garver will celebrate his ninetieth birthday on March 26, 2010; and

WHEREAS, John Garver came to Nebraska in 1949 as a refugee from World War II era Poland; and

WHEREAS, John Garver worked for many years on the Chicago, Burlington and Quincy Railroad as a carman and freight car inspector, retiring in 1982; and

WHEREAS, for sixty years John Garver has lived in the same Lincoln home and attended St. Mary's Catholic Church across the street from the State Capitol; and

WHEREAS, the celebration of John Garver's ninetieth birthday is worthy of recognition by the Legislature.

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

1. That the Legislature wishes John Garver a very happy ninetieth birthday.

2. That a copy of this resolution be sent to John Garver's son, Jim Garver.

Laid over.

LEGISLATIVE RESOLUTION 365. Introduced by Avery, 28.

WHEREAS, Chase White won the 2010 Class A State Wrestling Championship in the 145-pound division; and

WHEREAS, Chase White, a senior at Lincoln High School, defeated Tyler Harris of Millard South High School with a 12-3 major decision to win the state championship; and

WHEREAS, Chase White's victory in the state championship came at the end of an undefeated season; 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 Chase White on winning the 2010 Class A State Wrestling Championship in the 145-pound division.

2. That a copy of this resolution be sent to Chase White.

Laid over.

MOTION - Override Veto on LB867

Senator Karpisek renewed his motion, MO86, found on page 752, that LB867 becomes law notwithstanding the objections of the Governor.

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

SPEAKER FLOOD PRESIDING

Senator Karpisek requested a roll call vote on his motion to override the Governor's veto.

Whereupon the President stated: "The question shall be, 'Shall the bill pass notwithstanding the objections of the Governor?' "

Voting in the affirmative, 38:

Ashford	Council	Gloor	Langemeier	Rogert
Avery	Dierks	Haar	Lautenbaugh	Schilz
Campbell	Dubas	Hadley	Louden	Utter
Carlson	Fischer	Heidemann	McGill	Wallman
Christensen	Flood	Howard	Mello	White
Conrad	Fulton	Janssen	Nordquist	Wightman
Cook	Gay	Karpisek	Pankonin	
Cornett	Giese	Krist	Price	

Voting in the negative, 9:

Adams	Hansen	McCoy	Pirsch	Sullivan
Coash	Lathrop	Nelson	Stuthman	

Excused and not voting, 2:

Harms	Pahls
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Having received a constitutional three-fifths majority voting in the affirmative, the bill passed notwithstanding the objections of the Governor.

The Chair declared the call raised.

COMMUNICATION

March 9, 2010

The Honorable John Gale
 Secretary of State
 2300 State Capitol
 Lincoln, NE 68509

Dear Mr. Secretary:

Pursuant to the provisions of 84-503, R.R.S., we are forwarding LB867 with a certificate attached thereto signed by the President of the Legislature certifying the passage of LB867, notwithstanding the objections of the Governor.

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

PJO:jk
 Enc.

CERTIFICATE

Legislative Bill 867, having been returned by the Governor with his objections thereto, and after reconsideration having passed the Legislature by the constitutional majority, has become law this 9th day of March 2010.

(Signed) Mike Flood
President of the Legislature

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 332, 333, 336, 337, 338, 339, 340, 341, 342, 343, 344, and 345 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 332, 333, 336, 337, 338, 339, 340, 341, 342, 343, 344, and 345.

COMMITTEE REPORTS

Health and Human Services

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Bernard Kanger Jr. - Board of Emergency Medical Services

Aye: 7 Senators Campbell, Gay, Gloor, Howard, Pankonin, Stuthman, Wallman. Nay: 0. Absent: 0. Present and not voting: 0.

LEGISLATIVE BILL 849. Placed on General File with amendment. AM2120 is available in the Bill Room.

LEGISLATIVE BILL 1110. Placed on General File with amendment. AM2124

- 1 1. On page 9, strike beginning with "If" in line 8
- 2 through line 13; and in line 14 strike "subdivision" and insert
- 3 "subsection, unless the recipient qualifies for coverage under
- 4 Title XIX of the federal Social Security Act, as amended.".
- 5 2. On page 10, lines 2 and 3, strike "dentistry,
- 6 optometry, and other".

(Signed) Tim Gay, Chairperson

GENERAL FILE

LEGISLATIVE RESOLUTION 284CA. Committee AM1906, found on page 624 and considered in this day's Journal, was renewed.

The committee amendment was adopted with 36 ayes, 1 nay, 10 present and not voting, and 2 excused and not voting.

Senator Utter moved for a call of the house. The motion prevailed with 37 ayes, 0 nays, and 12 not voting.

Senator Utter requested a roll call vote on the advancement of the resolution.

Voting in the affirmative, 37:

Adams	Cornett	Gloor	McCoy	Schilz
Ashford	Council	Haar	McGill	Sullivan
Avery	Dierks	Hadley	Mello	Utter
Campbell	Dubas	Howard	Nordquist	Wallman
Carlson	Fischer	Karpisek	Pankonin	White
Christensen	Flood	Krist	Pirsch	
Conrad	Gay	Langemeier	Price	
Cook	Giese	Lathrop	Rogert	

Voting in the negative, 6:

Coash	Janssen	Louden
Hansen	Lautenbaugh	Stuthman

Present and not voting, 4:

Fulton	Heidemann	Nelson	Wightman
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Excused and not voting, 2:

Harms	Pahls
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Advanced to Enrollment and Review Initial with 37 ayes, 6 nays, 4 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 1014. Title read. Considered.

Committee AM1979, found on page 681, was considered.

Senator Adams renewed his amendment, AM2058, found on page 730, to the committee amendment.

SENATOR STUTHMAN PRESIDING

Pending.

ANNOUNCEMENT

The Chair announced today is Senator Hadley's birthday.

COMMITTEE REPORTS

Judiciary

LEGISLATIVE BILL 864. Placed on General File with amendment.
AM1679

- 1 1. Strike the original sections and insert the following
2 new sections:
3 Section 1. Section 47-619, Revised Statutes Cumulative
4 Supplement, 2008, is amended to read:
5 47-619 Sections 47-619 to 47-634 and section 3 of this
6 act shall be known and may be cited as the Community Corrections
7 Act.
8 Sec. 2. Section 47-624, Revised Statutes Cumulative
9 Supplement, 2008, is amended to read:
10 47-624 The council shall:
11 (1) Develop standards for eligible community correctional
12 facilities and programs in which offenders can participate, taking
13 into consideration the following factors:
14 (a) Qualifications of staff;
15 (b) Suitability of programs;
16 (c) Offender needs;
17 (d) Probation population;
18 (e) Parole population; and
19 (f) Other applicable criminal justice data;
20 (2) Develop and implement a plan to establish statewide
21 operation and use of a continuum of community correctional
22 facilities and programs;
23 (3) Develop, in consultation with the probation
1 administrator and the Parole Administrator, standards for the use
2 of community correctional facilities and programs by the Nebraska
3 Probation System and the parole system;
4 ~~(4) Develop, recommend, and review sentencing guidelines~~
5 ~~for adoption by the Supreme Court as set forth in section 47-630;~~
6 (4) Collaborate with the Office of Probation
7 Administration, the Office of Parole Administration, and the
8 Department of Correctional Services on the development of
9 additional reporting centers as set forth in section 3 of this act;
10 (5) Analyze and mandate the consistent use of offender
11 risk assessment tools;
12 ~~(6) Develop standards for eligibility of probationers and~~
13 ~~parolees in certain community correctional facilities and programs;~~

14 ~~(7)-(6)~~ Educate the courts, ~~and~~ the Board of Parole,
 15 criminal justice system stakeholders, and the general public about
 16 the availability and use of community correctional facilities and
 17 programs;

18 ~~(8)-(7)~~ Enter into contracts, if necessary, for carrying
 19 out the purposes of the Community Corrections Act;

20 ~~(9)-(8)~~ In order to ensure adequate funding for substance
 21 abuse treatment programs for probationers, consult with the
 22 probation administrator as provided in section 29-2262.07 and
 23 develop or assist with the development of programs as provided in
 24 subdivision (14) of section 29-2252;

25 ~~(10)-(9)~~ In order to ensure adequate funding for
 26 substance abuse treatment programs for parolees, consult with the
 27 Office of Parole Administration as provided in section 83-1,107.02
 1 and develop or assist with the development of programs as provided
 2 in subdivision (8) of section 83-1,102;

3 ~~(11)-(10)~~ If necessary to perform the duties of the
 4 council, hire, contract for, or otherwise obtain the services of
 5 consultants, researchers, aides, and other necessary support staff;

6 ~~(12)-(11)~~ Study substance abuse and mental health
 7 treatment services in and related to the criminal justice
 8 system, recommend improvements, and evaluate the implementation of
 9 improvements;

10 ~~(13)~~ Study, develop, and implement minimum standards for
 11 the development and use of community correctional facilities and
 12 programs;

13 ~~(14)~~ Develop and implement a plan for statewide use of
 14 community correctional facilities and programs;

15 (12) Research and evaluate existing community corrections
 16 facilities and programs, within the limits of available funding;

17 (13) Develop standardized definitions of outcome measures
 18 for community corrections facilities and programs, including, but
 19 not limited to, recidivism, employment, and substance abuse;

20 (14) Report annually to the Legislature and the Governor
 21 on the development and performance of community corrections
 22 facilities and programs. The report shall include the following:

23 (a) A description of community corrections facilities and
 24 programs, endorsed by the council, currently serving offenders in
 25 Nebraska, which includes the following information:

26 (i) The target population and geographic area served by
 27 each facility or program, eligibility requirements, and the total
 1 number of offenders utilizing the facility or program over the past
 2 year;

3 (ii) Services provided to offenders at the facility or in
 4 the program;

5 (iii) The costs of operating the facility or program and
 6 the cost per offender; and

7 (iv) The funding sources for the facility or program;

8 (b) The progress made in expanding community corrections
9 facilities and programs statewide and an analysis of the need for
10 additional community corrections services;

11 (c) An analysis of the impact community corrections
12 facilities and programs have on the number of offenders
13 incarcerated within the Department of Correctional Services; and

14 (d) The recidivism rates and outcome data for
15 probationers, parolees, and problem-solving court clients
16 participating in community corrections programs;

17 (15) Grant funds to entities including local governmental
18 agencies, nonprofit organizations, and behavioral health services
19 which will support the intent of the act; and

20 (16) Perform such other duties as may be necessary to
21 carry out the policy of the state established in the act.

22 Sec. 3. (1)(a) The council shall collaborate with
23 the Office of Probation Administration, the Office of Parole
24 Administration, and the Department of Correctional Services in
25 developing a plan for the implementation and funding of reporting
26 centers in Nebraska.

27 (b) The plan shall include recommended locations for at
1 least one reporting center in each judicial district that currently
2 lacks such a center and shall prioritize the recommendations for
3 additional reporting centers based upon need.

4 (c) The plan shall also identify and prioritize the need
5 for expansion of reporting centers in those judicial districts
6 which currently have a reporting center but have an unmet need for
7 additional reporting center services due to capacity, distance, or
8 demographic factors.

9 (2) The council shall submit the reporting center
10 expansion plan to the chairperson of the Sentencing and Recidivism
11 Committee of the Legislature, as created in Legislative Resolution
12 171, One Hundred First Legislature, First Session, 2009, by
13 December 1, 2010. The plan shall be implemented as state funding
14 allows until each judicial district has at least one reporting
15 center.

16 Sec. 4. Original sections 47-619 and 47-624, Revised
17 Statutes Cumulative Supplement, 2008, are repealed.

LEGISLATIVE BILL 880. Placed on General File with amendment.
AM2015 is available in the Bill Room.

(Signed) Brad Ashford, Chairperson

Business and Labor

LEGISLATIVE BILL 563. Placed on General File with amendment.
AM2079

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

3 Section 1. Sections 1 to 12 of this act shall be known
4 and may be cited as the Employee Classification Act.

5 Sec. 2. For purposes of the Employee Classification Act:

6 (1) Commissioner means the Commissioner of Labor;

7 (2) Contractor means an individual, partnership, limited
8 liability company, corporation, or other business entity engaged
9 in a delivery service or a construction contractor business, as
10 construction and contractor are defined in section 48-2103;

11 (3) Delivery service means the transport and delivery of
12 goods, products, supplies, or raw materials upon the highways of
13 this state;

14 (4) Department means the Department of Labor; and

15 (5) Performing services means the performance of
16 construction labor or delivery services for remuneration.

17 Sec. 3. (1) An individual performing construction labor
18 services for a contractor is presumed an employee and not an
19 independent contractor for purposes of the Employee Classification
20 Act, unless:

21 (a) The individual meets the criteria found in
22 subdivision (5) of section 48-604;

23 (b) The individual has been registered as a contractor
1 pursuant to the Contractor Registration Act at least six months
2 prior to commencing construction work for the contractor; and

3 (c) The individual has been assigned a combined tax rate
4 pursuant to subdivision (4) of section 48-649 or the employees of
5 the individual are exempted from unemployment insurance coverage
6 pursuant to subdivision (6) of section 48-604.

7 (2) An individual performing delivery services for
8 a contractor is presumed an employee and not an independent
9 contractor for purposes of the Employee Classification Act, unless
10 the individual is exempted from unemployment insurance coverage
11 pursuant to subdivision (6)(n) or (6)(q) of section 48-604.

12 (3) The act shall not be construed to affect or apply
13 to a common-law or statutory action providing for recovery in tort
14 and shall not be construed to affect or change the common-law
15 interpretation of independent contractor status as it relates to
16 tort liability or a workers' compensation claim.

17 Sec. 4. It is a violation of the Employee Classification
18 Act for a contractor to designate an individual as an independent
19 contractor who would be properly classified as an employee under
20 section 3 of this act.

21 Sec. 5. The department shall establish and operate a
22 hotline and web site for individuals to report suspected violations

23 of the Employee Classification Act. The hotline and web site
24 may be operated in conjunction with the requirements of the
25 Contractor Registration Act. At a minimum, the department shall
26 require the reporting individual to provide contact information and
27 a description of the suspected violation including the name of
1 the business and jobsite location. The department shall keep the
2 identity of the reporting individual confidential.

3 Sec. 6. The department shall timely investigate all
4 credible reports made pursuant to section 5 of this act.

5 Sec. 7. In addition to any other fines or penalties
6 provided by law, any contractor who violates the Employee
7 Classification Act shall be assessed, by the commissioner, a five
8 hundred dollar fine per each misclassified individual for the first
9 offense and a five thousand dollar fine per each misclassified
10 individual for each second and subsequent offense.

11 Sec. 8. Upon finding a contractor has violated the
12 Employee Classification Act, the commissioner shall instigate
13 proceedings pursuant to the Employment Security Law to collect
14 any unpaid combined taxes and interest. The commissioner shall
15 share any findings with the Department of Revenue for analysis
16 of violations of the Nebraska Revenue Act of 1967. Upon receipt,
17 the Department of Revenue shall promptly investigate and proceed
18 with the collection of income tax not withheld plus interest
19 and penalties. The commissioner and Department of Revenue shall
20 refer their findings to the appropriate prosecuting authority for
21 appropriate criminal prosecution under the Employment Security
22 Law, the Nebraska Revenue Act of 1967, or the Nebraska Workers'
23 Compensation Act.

24 Sec. 9. The department shall annually provide a report to
25 the Legislature regarding compliance with and enforcement of the
26 Employee Classification Act. The report shall include, but not be
27 limited to, the number of reports received from both its hotline
1 and web site, the number of investigated reports, the findings
2 of the reports, the amount of combined tax, interest, and fines
3 collected, the number of referrals to the Department of Revenue
4 and appropriate prosecuting authority, and the outcome of such
5 referrals.

6 Sec. 10. Every contractor shall post in a conspicuous
7 place at the job site or place of business in English and Spanish
8 the following notice:

9 (1) Every individual working for a contractor has the
10 right to be properly classified by the contractor as an employee
11 rather than an independent contractor if the individual does not
12 meet the requirements of an independent contractor under the law
13 known as the Employee Classification Act.

14 (2) If you believe you or someone else has not been
15 properly classified as an employee or an independent contractor
16 under the Employee Classification Act, contact the Department of
17 Labor.

18 Sec. 11. The state or any political subdivision entering
19 into a contract for construction shall require that each contractor
20 who performs construction services pursuant to the contract submit
21 an affidavit attesting that each individual performing services
22 for such contractor is properly classified under the Employee
23 Classification Act, such contractor has completed a federal
24 I-9 immigration form on file for each individual performing
25 services, such contractor has complied with section 4-114, and such
26 contractor has no reasonable basis to believe that such individual
27 is an undocumented worker.

1 Sec. 12. Any contractor who knowingly provides a false
2 affidavit under section 11 of this act to the state or political
3 subdivision shall be subject to the penalties of perjury and upon a
4 second or subsequent violation shall not be permitted to contract
5 with the state or any political subdivision for a period of three
6 years after the date of discovery of the falsehood.

7 Sec. 13. Section 48-621, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 48-621 (1) The administrative fund shall consist of the
10 Employment Security Administration Fund and the Employment Security
11 Special Contingent Fund. Each fund shall be maintained as a
12 separate and distinct account in all respects, as follows:

13 (a) There is hereby created in the state treasury a
14 special fund to be known as the Employment Security Administration
15 Fund. All money credited to this fund is hereby appropriated and
16 made available to the Commissioner of Labor. All money in this
17 fund shall be expended solely for the purposes and in the amounts
18 found necessary as defined by the specific federal programs, state
19 statutes, and contract obligations for the proper and efficient
20 administration of all programs of the Department of Labor. The
21 fund shall consist of all money appropriated by this state and
22 all money received from the United States of America or any
23 agency thereof, including the Department of Labor and the Railroad
24 Retirement Board, or from any other source for such purpose.
25 Money received from any agency of the United States or any other
26 state as compensation for services or facilities supplied to
27 such agency, any amounts received pursuant to any surety bond or
1 insurance policy for losses sustained by the Employment Security
2 Administration Fund or by reason of damage to equipment or supplies
3 purchased from money in such fund, and any proceeds realized from
4 the sale or disposition of any equipment or supplies which may no
5 longer be necessary for the proper administration of such programs
6 shall also be credited to this fund. All money in this fund
7 shall be deposited, administered, and disbursed in the same manner
8 and under the same conditions and requirements as is provided by
9 law for other special funds in the state treasury. Any balances
10 in this fund, except balances of money therein appropriated from
11 the General Fund of this state, shall not lapse at any time but
12 shall be continuously available to the commissioner for expenditure

13 consistent with the Employment Security Law. Any money in the
14 Employment Security Administration Fund available for investment
15 shall be invested by the state investment officer pursuant to
16 the Nebraska Capital Expansion Act and the Nebraska State Funds
17 Investment Act; and

18 (b) There is hereby created in the state treasury a
19 special fund to be known as the Employment Security Special
20 Contingent Fund. Any money in the Employment Security Special
21 Contingent Fund available for investment shall be invested by
22 the state investment officer pursuant to the Nebraska Capital
23 Expansion Act and the Nebraska State Funds Investment Act. All
24 money collected under section 48-655 as interest on delinquent
25 contributions, less refunds, shall be credited to this fund from
26 the clearing account of the Unemployment Compensation Fund at the
27 end of each calendar quarter. Such money shall not be expended
1 or available for expenditure in any manner which would permit its
2 substitution for or a corresponding reduction in federal funds
3 which would in the absence of such money be available to finance
4 expenditures for the administration of the unemployment insurance
5 law, but nothing in this section shall prevent the money from being
6 used as a revolving fund to cover expenditures necessary and proper
7 under the law for which federal funds have been duly requested
8 but not yet received, subject to the charging of such expenditures
9 against such federal funds when received. The money in this fund
10 may be used by the Commissioner of Labor only as follows:

11 (i) To replace within a reasonable time any money
12 received by this state pursuant to section 302 of the federal
13 Social Security Act, as amended, and required to be paid under
14 section 48-622;

15 (ii) To meet special extraordinary and contingent
16 expenses which are deemed essential for good administration but
17 which are not provided in grants from the Secretary of Labor of the
18 United States and, for this purpose, no expenditures shall be made
19 from this fund except on written authorization by the Governor at
20 the request of the Commissioner of Labor;

21 (iii) To be transferred to the Nebraska Community College
22 Aid Cash Fund; ~~and~~

23 (iv) To be transferred to the Job Training Cash Fund;
24 and-

25 (v) To assist with enforcement of the Employee
26 Classification Act.

27 (2)(a) Money credited to the account of this state in
1 the Unemployment Trust Fund by the United States Secretary of the
2 Treasury pursuant to section 903 of the Social Security Act may
3 not be requisitioned from this state's account or used except for
4 the payment of benefits and for the payment of expenses incurred
5 for the administration of the Employment Security Law and public
6 employment offices. Such money may be requisitioned pursuant to
7 section 48-619 for the payment of benefits. Such money may also

8 be requisitioned and used for the payment of expenses incurred
9 for the administration of the Employment Security Law and public
10 employment offices but only pursuant to a specific appropriation
11 by the Legislature and only if the expenses are incurred and
12 the money is requisitioned after the date of enactment of an
13 appropriation law which specifies the purposes for which such
14 money is appropriated and the amounts appropriated therefor. Such
15 appropriation is subject to the following conditions:

16 (i) The period within which such money may be obligated
17 is limited to a period ending not more than two years after the
18 effective date of the appropriation law; and

19 (ii) The amount which may be obligated is limited to an
20 amount which does not exceed the amount by which the aggregate of
21 the amounts transferred to the account of this state pursuant to
22 section 903 of the Social Security Act exceeds the aggregate of the
23 amounts used by this state pursuant to the Employment Security Law
24 and charged against the amounts transferred to the account of this
25 state.

26 (b) For purposes of subdivision (2)(a)(ii) of this
27 section, the amounts obligated under an appropriation for the
1 administrative purposes described in such subdivision shall
2 be charged against transferred amounts at the exact time the
3 obligation is entered into.

4 (c) The appropriation, obligation, and expenditure or
5 other disposition of money appropriated under this subsection shall
6 be accounted for in accordance with standards established by the
7 United States Secretary of Labor.

8 (d) Money appropriated as provided in this subsection for
9 the payment of expenses of administration shall be requisitioned
10 as needed for the payment of obligations incurred under such
11 appropriation and, upon requisition, shall be credited to the
12 Employment Security Administration Fund from which such payments
13 shall be made. Money so credited shall, until expended, remain
14 a part of the Employment Security Administration Fund and, if it
15 will not be immediately expended, shall be returned promptly to the
16 account of this state in the Unemployment Trust Fund.

17 (e) Notwithstanding subdivision (2)(a) of this section,
18 money credited with respect to federal fiscal years 1999,
19 2000, and 2001 shall be used solely for the administration of
20 the unemployment compensation program and are not subject to
21 appropriation by the Legislature.

22 (3) There is hereby appropriated out of the funds made
23 available to this state in federal fiscal year 2002 under section
24 903(d) of the federal Social Security Act, as amended, the sum
25 of \$6,800,484, or so much thereof as may be necessary, to be
26 used, under the direction of the Department of Labor, for the
27 administration of the Employment Security Law and public employment
1 offices. The expenditure or other disposition of money appropriated
2 under this subsection shall be accounted for in accordance with

3 standards established by the United States Secretary of Labor.
 4 Reed Act distributions appropriated pursuant to this subsection
 5 may be amortized with federal grant funds provided pursuant to
 6 Title III of the federal Social Security Act and the federal
 7 Wagner-Peyser Act for the purpose of administering the state
 8 unemployment compensation and employment service programs to the
 9 extent allowed under such acts and the regulations adopted pursuant
 10 thereto. Except as specifically provided in this subsection, all
 11 provisions of subsection (2) of this section, except subdivision
 12 (2)(a)(i) of this section, shall apply to this appropriation.
 13 The commissioner shall submit an annual report to the Governor,
 14 the Speaker of the Legislature, and the chairpersons of the
 15 Appropriations Committee and the Business and Labor Committee
 16 of the Legislature describing expenditures made pursuant to this
 17 subsection.
 18 Sec. 14. Original section 48-621, Reissue Revised
 19 Statutes of Nebraska, is repealed.

(Signed) Steve Lathrop, Chairperson

AMENDMENT - Print in Journal

Senator Hadley filed the following amendment to LB701:
 AM2138

(Amendments to Standing Committee amendments, AM1912)

- 1 1. On page 1, line 20, after "program" insert ", subject
 2 to approval by the federal Centers for Medicare and Medicaid
 3 Services of the department's annual application amending the
 4 medicaid state plan reimbursement methodology for intermediate
 5 care facilities for the mentally retarded".

RESOLUTIONS

LEGISLATIVE RESOLUTION 366. Introduced by Langemeier, 23.

WHEREAS, the Bishop Neumann Cavaliers won the 2010 Class C-1 Girls' State Basketball Championship; and

WHEREAS, Bishop Neumann defeated Wahoo High School 58-55 in the championship game, giving Bishop Neumann its second straight state title; and

WHEREAS, Bishop Neumann finished the season with a record of twenty-three wins and two losses; and

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

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

1. That the Legislature congratulates the Bishop Neumann Cavaliers on winning the 2010 Class C-1 Girls' State Basketball Championship.

2. That a copy of this resolution be sent to the Cavaliers and their head coach, Rick Ahrens.

Laid over.

LEGISLATIVE RESOLUTION 367. Introduced by Dubas, 34.

WHEREAS, Pierce Bartling 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, Pierce Bartling has learned, been tested on, and been recognized for various scouting skills; and

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

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

WHEREAS, Pierce Bartling, 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, SECOND SESSION:

1. That the Legislature congratulates Pierce Bartling on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Pierce Bartling.

Laid over.

UNANIMOUS CONSENT - Add Cointroducers

Senator Cornett asked unanimous consent to add her name as cointroducer to LB780. No objections. So ordered.

Senator Cook asked unanimous consent to add her name as cointroducer to LB800. No objections. So ordered.

VISITORS

Visitors to the Chamber were Roger Stortenbecker and Jennifer Nelson from Lincoln; Gary Honts from Omaha; Jason Kuhr from Lincoln; and members of Leadership Nebraska City from Nebraska City.

ADJOURNMENT

At 3:58 p.m., on a motion by Senator Pankonin, the Legislature adjourned until 9:00 a.m., Wednesday, March 10, 2010.

Patrick J. O'Donnell
Clerk of the Legislature

