

FORTY-THIRD DAY - MARCH 16, 2010**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
SECOND SESSION****FORTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, March 16, 2010

PRAYER

The prayer was offered by Father Jim Hunt, St. Joseph's Catholic Church, Broken Bow.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senator Pahls who was excused; and Senators Adams, Campbell, Cornett, Gay, and Pankonin who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-second day was approved.

AMENDMENT - Print in Journal

Senator Ashford filed the following amendment to LB817:
AM2203

(Amendments to Standing Committee amendments, AM1964)

- 1 1. Insert the following new section:
- 2 Section 1. Section 2-32,101, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 2-32,101 (1) Any law enforcement officer, including, but
- 5 not limited to, any Game and Parks Commission conservation officer,
- 6 local police officer, member of the Nebraska State Patrol, or
- 7 sheriff or deputy sheriff, is authorized to enforce ~~the provisions~~
- 8 ~~of~~ sections 2-3292 to 2-32,100 and any rules and regulations
- 9 adopted and promulgated pursuant to such sections. A district
- 10 shall not employ law enforcement personnel and shall be prohibited
- 11 from expending any funds for such purpose, except as provided in
- 12 subsection (2) of this section. Each district shall provide a copy
- 13 of its rules and regulations to the appropriate law enforcement
- 14 officer. Any law enforcement officer may arrest and detain any

15 person committing a violation of the rules and regulations in a
 16 recreation area or committing any misdemeanor or felony as provided
 17 by the laws of this state.

18 (2) A natural resources district may expend funds to
 19 enter into agreements pursuant to the Interlocal Cooperation Act
 20 for the services of certified law enforcement personnel or to
 21 contract for the services of private security services to patrol
 22 and protect district-owned or managed recreation areas and to
 1 assist law enforcement officers in enforcing sections 2-3292 to
 2 2-32,100 and any rules and regulations adopted and promulgated
 3 pursuant to such sections.

4 2. On page 1, line 8, reinstate the stricken matter.

5 3. Renumber the remaining sections and correct the
 6 repealer section accordingly.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 880. Placed on Select File with amendment.
 ER8198 is available in the Bill Room.

LEGISLATIVE BILL 901. Placed on Select File with amendment.
 ER8200

1 1. In the Standing Committee amendments, AM1926:

2 a. On page 1, line 5, strike "(1)", show as stricken, and
 3 insert "(1)(a)"; in line 16 strike "(a)" and insert "(i)"; and in
 4 line 18 strike "(b)" and insert "(ii)"; and

5 b. On page 2, line 2, after the period insert
 6 paragraphing and "(b)"; in line 7 strike "(a)", show as stricken,
 7 and insert "(i)"; in line 8 strike "(b)", show as stricken, and
 8 insert "(ii)"; and in line 12 after the period insert paragraphing
 9 and "(c)".

10 2. On page 1, line 1, strike "section 43-2923" and insert
 11 "sections 43-2923 and 43-2937".

LEGISLATIVE BILL 701. Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 398. Introduced by Nordquist, 7; Mello,
 5.

WHEREAS, Mildred Walsh died March 10, 2010, at the age of ninety-
 two; and

WHEREAS, Mildred was one of the "Lynch Park Bag Ladies and Bud," a
 group of six volunteers who cleaned Lynch Park every week; and

WHEREAS, Mildred was an active member and treasurer of the Lynch Park Neighborhood Association and its Neighborhood Watch subgroup; and
 WHEREAS, Mildred served as a shining example of volunteerism and community spirit; and

WHEREAS, Mildred Walsh is survived by her son, Larry, her daughter, Charlene Holzapfel, five grandchildren, and eight great-grandchildren.

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

1. That the Legislature honors the memory of Mildred Walsh and her many contributions and achievements.

2. That the Legislature expresses and extends its sympathy and condolences to the family of Mildred Walsh.

3. That a copy of this resolution be sent to the family of Mildred Walsh.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 880A. Title read. Considered.

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 510A. Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 1 nay, 12 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 945. Title read. Considered.

Committee AM2098, found on page 752, was considered.

Senator Schilz moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 4 nays, and 19 not voting.

The committee amendment was adopted with 37 ayes, 3 nays, 7 present and not voting, and 2 excused and not voting.

Senator Hansen moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Senator Wightman moved for a call of the house. The motion prevailed with 35 ayes, 0 nays, and 14 not voting.

Senator Wightman requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 27:

Ashford	Fulton	Krist	Nordquist	Utter
Avery	Gay	Lathrop	Pankonin	Wallman
Campbell	Haar	Lautenbaugh	Pirsch	Wightman
Conrad	Hadley	Louden	Price	
Dierks	Harms	McCoy	Stuthman	
Dubas	Howard	Mello	Sullivan	

Voting in the negative, 19:

Adams	Cornett	Giese	Janssen	Rogert
Christensen	Council	Gloor	Karpisek	Schilz
Coash	Fischer	Hansen	Langemeier	White
Cook	Flood	Heidemann	McGill	

Present and not voting, 2:

Carlson Nelson

Excused and not voting, 1:

Pahls

Advanced to Enrollment and Review Initial with 27 ayes, 19 nays, 2 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

COMMITTEE REPORT

Health and Human Services

LEGISLATIVE BILL 999. Placed on General File.

(Signed) Tim Gay, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 399. Introduced by Christensen, 44.

WHEREAS, the Dundy County-Stratton Tigers had a tremendous 2010 season in boys' basketball; and

WHEREAS, the Tigers capped off the season by earning a berth in the 2010 Class C-2 Boys' State Basketball Tournament; 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 Dundy County-Stratton Tigers for their tremendous season in boys' basketball and for earning a berth in the 2010 Class C-2 Boys' State Basketball Tournament.

2. That a copy of this resolution be sent to the Dundy County-Stratton Tigers.

Laid over.

LEGISLATIVE RESOLUTION 400. Introduced by Christensen, 44.

WHEREAS, the Hayes Center Cardinals had a tremendous 2010 season in boys' basketball; and

WHEREAS, the Cardinals won third place at the 2010 Class D-2 Boys' State Basketball Tournament by defeating Hay Springs High School 71-66 in the third-place game; 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 Hayes Center Cardinals for their tremendous season in boys' basketball and for winning third place at the 2010 Class D-2 Boys' State Basketball Tournament.

2. That a copy of this resolution be sent to the Hayes Center Cardinals.

Laid over.

LEGISLATIVE RESOLUTION 401. Introduced by Christensen, 44.

WHEREAS, the Southern Valley Eagles had a tremendous 2010 season in girls' basketball; and

WHEREAS, the Eagles capped off the season by earning a berth in the 2010 Class C-1 Girls' State Basketball Tournament; 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 Southern Valley Eagles for their tremendous season in girls' basketball and for earning a berth in the 2010 Class C-1 Girls' State Basketball Tournament.

2. That a copy of this resolution be sent to the Southern Valley Eagles.

Laid over.

LEGISLATIVE RESOLUTION 402. Introduced by Christensen, 44.

WHEREAS, the Hitchcock County Falcons had a tremendous 2010 season in girls' basketball; and

WHEREAS, the Falcons capped off the season by earning a berth in the 2010 Class D-2 Girls' State Basketball Tournament; and

WHEREAS, the Falcons finished the year ranked ninth in Class D-2 by the Lincoln Journal Star; 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 Hitchcock County Falcons for their tremendous season in girls' basketball and for earning a berth in the 2010 Class D-2 Girls' State Basketball Tournament.

2. That a copy of this resolution be sent to the Hitchcock County Falcons.

Laid over.

LEGISLATIVE RESOLUTION 403. Introduced by Pankonin, 2.

WHEREAS, Lourdes Central Catholic High School in Nebraska City won the 2010 Nebraska Academic Decathlon State Championship in the small-school division; and

WHEREAS, to encourage academic versatility, the Academic Decathlon requires participants to prepare for ten academic events, which focus on a different theme each year; and

WHEREAS, many community members and school faculty helped students to prepare for and practice speeches, interviewing skills, and essay writing; and

WHEREAS, the Academic Decathlon was founded in 1981 and has come to be recognized as the most prestigious high school academic team competition in the United States; and

WHEREAS, the team from Lourdes Central Catholic High School has qualified every year to compete at the state level since the team's inception at the school fifteen years ago; and

WHEREAS, for the past eight years, the team from Lourdes Central Catholic High School has been the state champion six times and the runner-up twice; and

WHEREAS, over the years, students from Lourdes Central Catholic High School have been awarded over fifty thousand dollars for their efforts.

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

1. That the Legislature congratulates the Lourdes Central Catholic High School Academic Decathlon team and its coaches, Diana Harris, Mary Ann Liesemeyer, and Molly Reuland, on winning the 2010 Nebraska Academic Decathlon State Championship in the small-school division.

2. That a copy of this resolution be sent to the Lourdes Central Catholic High School Academic Decathlon team and its coaches, Diana Harris, Mary Ann Liesemeyer, and Molly Reuland.

Laid over.

AMENDMENT - Print in Journal

Senator Christensen filed the following amendment to LB1051:
AM2012

- 1 1. Strike original section 4 and insert the following new
- 2 section:
- 3 Sec. 5. Since an emergency exists, this act takes effect
- 4 when passed and approved according to law.
- 5 2. Renumber the remaining section accordingly.

UNANIMOUS CONSENT - Add Cointroducer

Senator Fischer asked unanimous consent to add her name as cointroducer to LB1036. No objections. So ordered.

VISITORS

Visitors to the Chamber were 12 ninth- and tenth-grade students, teacher, and sponsor from Madison; 22 fourth-grade students and teacher from Decatur Northeast, Lyons; Nebraska Farm Bureau Youth Ambassadors from across the state; 40 fourth-grade students and teachers from Milliken Park Elementary, Fremont; 9 fifth-grade students and teachers from Arlington; and members of Wives in Farm Economics from across the state.

RECESS

At 11:52 a.m., on a motion by Senator Loudon, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Senator Rogert presiding.

ROLL CALL

The roll was called and all members were present except Senator Pahls who was excused; and Senators Ashford, Campbell, Hadley, and Loudon who were excused until they arrive.

BILL ON FIRST READING

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

LEGISLATIVE BILL 800A. Introduced by Ashford, 20.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 800, One Hundred First

Legislature, Second Session, 2010.

MESSAGE FROM THE GOVERNOR

March 15, 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 appointed to the Foster Care Review Board:

Gabriella "Gay" McTate, 3131 North 50th, Omaha, NE 68104

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

GENERAL FILE

LEGISLATIVE BILL 935. Title read. Considered.

Committee AM2117, found on page 830, was considered.

Senator Heidemann renewed the Heidemann et al. amendment, AM2185, found on page 851, to the committee amendment.

The Heidemann et al. amendment was adopted with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

Pending.

REFERENCE COMMITTEE REPORT

The Executive Board submits the following report:

McTate, Gabriella "Gay" - Foster Care Review Board - Health and Human Services

(Signed) John Wightman, Chairperson
Executive Board

NOTICE OF COMMITTEE HEARING
 Health and Human Services

Room 1510

Tuesday, March 23, 2010 1:00 p.m.

Raymond Meester - Commission for the Deaf and Hard of Hearing
 Marcia Anderson - Foster Care Review Board
 Gabriella "Gay" McTate - Foster Care Review Board
 Susan Petersen - Commission for the Deaf and Hard of Hearing
 Camille Ohri - Child Abuse Prevention Fund Board

(Signed) Tim Gay, Chairperson

AMENDMENT - Print in Journal

Senator Sullivan filed the following amendment to LB965:
 AM2222

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following 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 two
- 10 consecutive regular meetings of the board. The resignation of a
- 11 member or any other reason for a vacancy shall be made a part
- 12 of the minutes of the school board. The school board shall give
- 13 notice of the date the vacancy occurred, the office vacated, and
- 14 the length of the unexpired term (a) in writing to the election
- 15 commissioner or county clerk and (b) by a notice published in a
- 16 newspaper of general circulation in the school district. ~~unless~~
- 17 ~~excused by a majority of the remaining members of the board.~~
- 18 (2) A person appointed to fill a vacancy on the school
- 19 board of a Class I school district by the remaining members of
- 20 the board shall hold office until the beginning of the next school
- 21 year. A board member of a Class I school district elected to fill a
- 22 vacancy at a regular or special school district meeting shall serve
- 23 for the remainder of the unexpired term or until a successor is
- 1 elected and qualified.
- 2 (3) Except as provided in subsection (4) of this section,
- 3 a vacancy in the membership of a school board of a Class II, III,
- 4 IV, V, or VI school district resulting from any cause other than
- 5 the expiration of a term shall be ~~temporarily~~ filled by appointment

6 of a qualified registered voter by the remaining members of the
 7 board. ~~A-If the vacancy occurs in a Class II school district prior~~
 8 ~~to July 1 preceding the general election in the middle of the~~
 9 ~~vacated term, the appointee shall serve until a registered voter is~~
 10 ~~elected at such general election for the remainder of the unexpired~~
 11 ~~term. If the vacancy occurs in a Class III, IV, V, or VI school~~
 12 ~~district prior to February 1 preceding the general election in~~
 13 ~~the middle of the vacated term, the appointee shall serve until a~~
 14 registered voter ~~shall be is~~ nominated at the next primary election
 15 and elected at the following general election for the remainder
 16 of the unexpired term. If the vacancy occurs on or after the
 17 applicable deadline, the appointment shall be for the remainder
 18 of the unexpired term. A registered voter appointed or elected
 19 pursuant to this subsection shall meet the same requirements as the
 20 member whose office is vacant.

21 (4) Any vacancy in the membership of a school board of a
 22 school district described in section 79-549 which does not nominate
 23 candidates at a primary election and elect members at the following
 24 general election shall be ~~temporarily~~ filled by appointment of a
 25 qualified registered voter by the remaining members of the board.
 26 ~~A-If the vacancy occurs at least twenty days prior to the first~~
 27 ~~regular caucus to be held during the term that was vacated,~~
 1 the appointee shall serve until a registered voter shall be is
 2 nominated and elected to fill the vacancy for the remainder of the
 3 term in the manner provided for nomination and election of board
 4 members in the district. If the vacancy occurred less than twenty
 5 days prior to the first regular caucus and at least twenty days
 6 prior to the second regular caucus to be held during the term that
 7 was vacated, the appointee shall serve until a registered voter is
 8 nominated and elected to fill the vacancy for the remainder of the
 9 term in the manner provided for nomination and election of board
 10 members in the district. If the vacancy occurred less than twenty
 11 days prior to the second regular caucus held during the term that
 12 was vacated or after such caucus, the appointment shall be for the
 13 remainder of the unexpired term.

14 (5) If any school board fails to fill a vacancy on the
 15 board, the vacancy may be filled by election at a special election
 16 or school district meeting called for that purpose. Such election
 17 or meeting shall be called in the same manner and subject to
 18 the same procedures as other special elections or school district
 19 meetings.

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

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

25 79-1217 (1) All educational service units shall be
 26 governed by a board to be known as the Board of Educational
 27 Service Unit No. Until the first Thursday after the first

1 Tuesday in January 2009, the educational service unit board, except
2 the board of an educational service unit with only one member
3 school district, shall be composed of one member from each county
4 and four members at large, all of whom shall reside within the
5 geographical boundaries of the educational service unit, but no
6 more than two of the members at large shall be appointed or
7 elected from the same county unless any one county within the
8 educational service unit has a population in excess of one hundred
9 fifty thousand inhabitants or the educational service unit consists
10 of only one county. Beginning on the first Thursday after the
11 first Tuesday in January 2009, the educational service unit board,
12 except the board of an educational service unit with only one
13 member school district, shall be composed of one member elected to
14 represent each election district established pursuant to section
15 79-1217.01. Successors to the members initially appointed pursuant
16 to section 79-1212 shall be elected pursuant to section 32-515.

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

3 (3) Members of the board shall receive no compensation
4 for their services but shall be reimbursed for the actual and
5 necessary expenses incurred in the performance of their duties
6 under the Educational Service Units Act as provided in sections
7 81-1174 to 81-1177.

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

13 (5) Any Class I district which is part of a Class VI
14 district shall be considered a part of the educational service
15 unit of which the Class VI district is a member. If the Class
16 VI district has removed itself from an educational service unit,
17 each Class I district which is part of such Class VI district may
18 continue its existing membership in an educational service unit
19 or may change its status relative to membership in an educational
20 service unit in accordance with section 79-1209. The patrons of a
21 Class I district maintaining membership in an educational service
22 unit pursuant to this subsection shall have the same rights and

23 privileges as other patrons of the educational service unit, and
 24 the taxable valuation of the taxable property within the geographic
 25 boundaries of such Class I district shall be subject to the
 26 educational service unit's tax levy established pursuant to section
 27 79-1225.

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

10 (7) Educational service units with only one member school
 11 district shall be governed by the school board of such school
 12 district.

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

COMMITTEE REPORT

Judiciary

LEGISLATIVE BILL 1102. Placed on General File with amendment.
 AM2234

1 1. Insert the following new sections:

2 Sec. 2. (1) For purposes of licensure and regulation
 3 pursuant to subdivision (7) of section 2-1203.01, historic
 4 horserace means a form of horserace that creates a parimutuel pool
 5 from wagers placed on a horserace previously held at a licensed
 6 racetrack.

7 (2) The State Racing Commission shall not issue a
 8 license for parimutuel wagering on historic horseraces pursuant
 9 to subdivision (7) of section 2-1203.01 unless the county board
 10 of the county in which such licensed facility is located has by
 11 resolution approved the adoption of wagering on historic horseraces
 12 within the county.

13 (3) The commission may adopt and promulgate rules and
 14 regulations to implement subdivision (7) of section 2-1203.01.

15 (4) As part of the regulation under subdivision (7)
 16 of section 2-1203.01, the commission shall require enough of the
 17 historic horserace to be televised so as to maintain the integrity
 18 of such horserace before another wager may take place or before
 19 beginning another historic horserace.

20 (5) As part of the regulation under subdivision (7) of
 21 section 2-1203.01, the commission shall impose an initial, one-time
 22 licensing fee of one thousand dollars for each machine used for
 23 parimutuel wagering on historic horseraces. The commission shall
 1 remit the fees to the State Treasurer for credit to the Historic

2 Horseracing Distribution Fund.

3 Sec. 3. (1) In addition to any other tax imposed under
4 sections 2-1201 to 2-1229 on a licensed racetrack enclosure and
5 in lieu of any other tax otherwise applicable to parimutuel
6 wagering, there is hereby imposed a tax on the gross sum wagered
7 by the parimutuel method at each licensed racetrack enclosure
8 on historic horseraces at a rate of one percent of the first
9 one hundred million dollars collected from all machines at the
10 licensed racetrack enclosure, one and one-half percent of the
11 second one hundred million dollars collected from all machines at
12 the licensed racetrack enclosure, and two percent on all money
13 collected thereafter.

14 (2) A return as required by the Tax Commissioner shall
15 be filed for a racetrack enclosure for each month during which
16 wagers on historic horseraces are accepted at the enclosure. The
17 return shall be filed with and the tax due pursuant to this section
18 shall be paid to the Department of Revenue on the tenth day of
19 the month following receipt of the tax. The Tax Commissioner shall
20 remit all revenue collected or received from the tax imposed under
21 this section to the State Treasurer for credit to the Historic
22 Horseracing Distribution Fund.

23 Sec. 4. (1) The Historic Horseracing Distribution Fund
24 is hereby created in the Department of Revenue. All costs for
25 administration of the fund shall be paid from such fund.

26 (2) All receipts in the Historic Horseracing Distribution
27 Fund in excess of the amounts sufficient to cover the costs of
1 administration shall be distributed as follows:

2 (a) Five percent of all receipts less costs of
3 administration shall be credited to the State Racing Commission
4 Cash Fund to be distributed by the State Racing Commission for
5 community betterment grants for areas within one mile of the
6 location of a licensed racetrack; and

7 (b) The remainder of all receipts shall be credited:

8 (i) One-third to the Probation Program Cash Fund to be
9 used by the Community Corrections Council for reentry programming;

10 (ii) One-third to the Violence Prevention Cash Fund to be
11 used by the Office of Violence Prevention for a grant process for
12 violence prevention programming; and

13 (iii) One-third to the Compulsive Gamblers Assistance
14 Fund.

15 (3) Any money in the Historic Horseracing Distribution
16 Fund available for investment shall be invested by the state
17 investment officer pursuant to the Nebraska Capital Expansion Act
18 and the Nebraska State Funds Investment Act.

19 2. On page 3, line 2, after "horseraces" insert "as
20 defined in section 3 of this act within a licensed racetrack
21 enclosure"; and in line 21 after "horseraces" insert "as defined in
22 section 3 of this act".

23 3. Renumber the remaining sections accordingly.

(Signed) Brad Ashford, Chairperson

BILL ON FIRST READING

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

LEGISLATIVE BILL 1094A. Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1094, One Hundred First Legislature, Second Session, 2010.

GENERAL FILE

LEGISLATIVE BILL 935. Senator Heidemann renewed his amendment, AM2169, found on page 852, to the committee amendment.

SENATOR CARLSON PRESIDING

The Heidemann amendment was adopted with 42 ayes, 0 nays, 5 present and not voting, and 2 excused and not voting.

Senator Heidemann offered the following amendment to the committee amendment:

AM2195

(Amendments to Standing Committee amendments, AM2117)

- 1 1. Purpose: Add the homestead deficit omitted in AM2117.
- 2 Amendment:
- 3 1. Insert the following new section:
- 4 Sec. 14. AGENCY NO. 16 -- DEPARTMENT OF REVENUE
- 5 Program No. 108 - Homestead Exemption

	<u>FY2009-10</u>	<u>FY2010-11</u>
7 <u>GENERAL FUND</u>	<u>3,609,000</u>	<u>-0-</u>
8 <u>PROGRAM TOTAL</u>	<u>3,609,000</u>	<u>-0-</u>

9 There is included in the appropriation to this program
10 for FY2009-10 \$3,609,000 General Funds for state aid, which shall
11 only be used for such purpose.

- 12 2. Purpose: Remove a section that is not amended.
- 13 Amendment:
- 14 1. Strike section 126.
- 15 2. On page 112, line 2, strike "226,".
- 16 3. Purpose: Correct a reference to the proper section.
- 17 Amendment:
- 18 1. On page 2, line 11, strike "74" and insert "70".
- 19 4. Purpose: Include capital construction as part of
- 20 appropriation language.
- 21 Amendment:

- 22 1. On page 1, line 16, after "education," insert "capital
 1 construction".
- 2 5. Purpose: Correct an appropriation that was in the
 3 wrong year.
- 4 Amendment:
- 5 1. On page 4, strike lines 25 and 26 and insert:
- | | | |
|------------------------|---------------|------------|
| 6 <u>CASH FUND</u> | <u>90,000</u> | <u>-0-</u> |
| 7 <u>PROGRAM TOTAL</u> | <u>90,000</u> | <u>-0-</u> |
- 8 6. Purpose: Correct an error in the Program Total and
 9 Salary Limit lines.
- 10 Amendment:
- 11 1. On page 12, strike line 16, show as stricken, and
 12 insert "PROGRAM TOTAL 3,009,344 3,111,112"; and in lines 17 and 18
 13 strike the new matter and reinstate the stricken matter.
- 14 7. Purpose: Increase the Salary Limit in the first year
 15 to allow for the 27th pay period.
- 16 Amendment:
- 17 1. On page 15, strike line 15 and insert "SALARY LIMIT
 18 1,157,887 1,151,849".
- 19 8. Purpose: Correct for an unintended reduction to the
 20 current year appropriation.
- 21 Amendment:
- 22 1. On page 20, lines 25 and 26, strike the first
 23 occurrence of "969,493" and insert "1,015,162".
- 24 9. Purpose: To correct an earmark.
- 25 Amendment:
- 26 1. On page 45, line 13, strike "\$643,965" and insert
 27 "\$637,086".
- 1 10. Purpose: Change the dollar amount in the state aid
 2 earmark to reflect the reduced appropriation amount.
- 3 Amendment:
- 4 1. On page 67, line 1, strike "\$3,714,500", show as
 5 stricken, and insert "\$3,640,210".
- 6 11. Purpose: To correct appropriations numbers that were
 7 transposed and correct the associated earmark.
- 8 Amendment:
- 9 1. On page 97, line 13, strike "7,542,817" and
 10 insert "7,569,817"; in line 17 strike "54,325,342" and insert
 11 "54,352,342".
- 12 2. On page 98, line 3, strike "\$4,277,996" and insert
 13 "\$4,304,996".
- 14 12. Renumber the remaining sections accordingly.

The Heidemann amendment was adopted with 41 ayes, 0 nays, 6 present and not voting, and 2 excused and not voting.

Committee AM2117, found on page 830 and considered in this day's Journal, as amended, was renewed.

The committee amendment, as amended, was adopted with 44 ayes, 0 nays, 3 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 45 ayes, 0 nays, 2 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 317. Title read. Considered.

Committee AM2101, found on page 828, was adopted with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 1106. Title read. Considered.

Committee AM1948, found on page 634, was adopted with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

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

LEGISLATIVE BILL 1106A. Title read. Considered.

Senator Nordquist withdrew his amendment, AM2158, found on page 816.

Senator Nordquist renewed his amendment, AM2204, found on page 903.

The Nordquist amendment was adopted with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

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

LEGISLATIVE BILL 1091. Title read. Considered.

Advanced to Enrollment and Review Initial with 28 ayes, 0 nays, 11 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 1090. Title read. Considered.

Committee AM2186, found on page 877, was adopted with 31 ayes, 0 nays, 8 present and not voting, and 10 excused and not voting.

Senator Lathrop withdrew his amendment, AM2050, found on page 701.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 7 present and not voting, and 10 excused and not voting.

RESOLUTION

LEGISLATIVE RESOLUTION 404. Introduced by Nelson, 6; Council, 11; Giese, 17; Howard, 9; Krist, 10; Lathrop, 12; Lautenbaugh, 18; Mello, 5; Nordquist, 7; Pirsch, 4; White, 8.

WHEREAS, the Academic Decathlon competition is a strenuous mental competition in which many teams enter but few prevail; and

WHEREAS, the Academic Decathlon is a scholastic competition for teams of high school students; and

WHEREAS, the Creighton Preparatory School team from Omaha, Nebraska, entered and won the Nebraska Academic Decathlon; and

WHEREAS, the Creighton Preparatory School Academic Decathlon team achieved first in the state, scoring a record 55 points out of 60 in the Super Quiz; and

WHEREAS, team members deserve special recognition for their teamwork and diverse knowledge, which contributed to the team's outstanding success so far in 2010; and

WHEREAS, the Creighton Preparatory School Academic Decathlon team will represent the State of Nebraska at the national competition to be held in Omaha, Nebraska, in April 2010; and

WHEREAS, the accomplishments of these students should be recognized by the Legislature and best wishes should be offered for success at the national competition.

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

1. That the Legislature recognizes and congratulates the members of the Creighton Preparatory School Academic Decathlon team and their coaches, Jeannie Brayman and Barb Hacke, for their outstanding success in 2010.

2. That a copy of this resolution be sent to the Creighton Preparatory School Academic Decathlon team and their coaches, Jeannie Brayman and Barb Hacke.

Laid over.

AMENDMENT - Print in Journal

Senator Cornett filed the following amendment to LB1081:
AM2224

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Sections 1 to 11 of this act shall be known
- 4 and may be cited as the Teleworker Job Creation Act.
- 5 Sec. 2. The Legislature hereby finds and declares that:
- 6 (1) Current economic conditions in the state have
- 7 resulted in unemployment, loss of jobs, and difficulty in
- 8 attracting new jobs; and
- 9 (2) It is the policy of the state to make revisions

10 in Nebraska's job training structure to encourage businesses to
11 promote the creation of and training for new jobs which can be
12 performed in the home within the state.

13 Sec. 3. For purposes of the Teleworker Job Creation Act:

14 (1) Application filing date means the date that the
15 employer files an application for an agreement with the director
16 under the act;

17 (2) Base year means the three hundred sixty-five days
18 immediately preceding the application filing date;

19 (3) Base-year employee means any individual who was
20 employed in Nebraska and subject to the Nebraska income tax on
21 compensation received from the employer or its predecessors during
22 the base year and who is employed at the project;

23 (4) Director means the Director of Economic Development;

1 (5) Employer means a corporation, partnership, limited
2 liability company, cooperative, limited cooperative association, or
3 joint venture, together with such other entities that are, or would
4 be if incorporated, members of the same unitary group as defined in
5 section 77-2734.04, that employs the teleworkers for which the job
6 training reimbursements are applied for under the act;

7 (6) Qualifying employee means a teleworker who has
8 the following characteristics: (a) The teleworker constitutes
9 an employee of the employer under section 77-2753; (b) the
10 teleworker resides in Nebraska at the time of his or her employment
11 application according to his or her statement on his or her
12 employment application; (c) the teleworker completes a qualified
13 training program; (d) the teleworker is not a base-year employee;
14 (e) the teleworker is not required to purchase a computer from
15 the employer; (f) the teleworker has passed such job-related tests
16 required under the qualified training program; (g) the teleworker
17 has passed a criminal background check as required by the employer;
18 and (h) the teleworker has been allowed to complete the hiring
19 process paperwork from his or her residence, except for any drug
20 testing and notarized proof of identity, which can be performed at
21 such location directed by the employer;

22 (7) Qualified training program means a training program
23 which has the following features: (a) The program has at least
24 fifteen hours of instruction per trainee, all of which will occur
25 in the trainee's residence; (b) trainees are each paid at least
26 the federal minimum hourly wage per hour of training performed;
27 (c) trainees are being trained as teleworkers; and (d) the program
1 requires the trainees to pass job-related tests established by the
2 employer; and

3 (8) Teleworker means a person who works for the employer
4 from his or her residence through the use of telecommunication
5 systems, such as the telephone and the Internet, for inbound-only
6 service and order-taking sales calls, which calls may also include
7 the upselling of related products or services.

8 Sec. 4. (1) To earn the job training reimbursements set

9 forth in the Teleworker Job Creation Act, an employer shall file an
10 application for an agreement with the director. An application may
11 be filed at any time on or after the effective date of this act.

12 (2) The application shall contain:

13 (a) A written statement describing the expected
14 employment of qualifying employees in this state;

15 (b) Sufficient documents, plans, and specifications as
16 required by the director to support the plan and to define a
17 project; and

18 (c) A copy of the letter submitted to the director
19 seeking approval of the employer's qualified training program.

20 (3) The application and all supporting information shall
21 be confidential except, for each project:

22 (a) The name of the employer;

23 (b) The amount of the job training reimbursement;

24 (c) The number of persons trained, with such number
25 divided into three categories: The number who reside in rural
26 areas; the number who reside in poverty areas; and the number who
27 reside in all other parts of Nebraska, based on the rural areas and
1 poverty areas described in section 6 of this act; and

2 (d) The amount of total wages and other payments subject
3 to withholding, as defined in section 77-2753, paid by the employer
4 to all teleworkers who reside in Nebraska, with such residence as
5 determined by the statement of the qualifying employee on his or
6 her employment application, within three hundred sixty-five days
7 prior to the date of application, for the year of the project, and
8 for the following twelve months.

9 The employer shall be required to provide this
10 information to the director upon written request by the director.

11 (4)(a) The director shall approve the application and
12 authorize the total amount of job training reimbursements expected
13 to be earned as a result of the project if he or she is satisfied
14 that (i) the plan in the application defines a project that meets
15 the eligibility requirements established within the Teleworker
16 Job Creation Act and (ii) such requirements will be reached
17 within three hundred sixty-five calendar days after the application
18 filing date. The director shall use the subaccount created under
19 subsection (3) of section 81-1201.21 to provide reimbursements
20 allowed by the act for the training of teleworkers.

21 (b) The director shall not approve further applications
22 once the director has approved seven project applications filed
23 before the end of fiscal year 2010-11 and the expected job training
24 reimbursements from the approved projects total one million fifty
25 thousand dollars in fiscal year 2010-11. Applications for an
26 agreement shall for purposes of this limit be approved in the order
27 in which they are received by the director.

1 (c) An employer and the director may enter into
2 agreements for more than one project, up to a total of five
3 approved project applications filed before the end of fiscal year

4 2010-11. The projects may be either sequential or concurrent.
5 No new qualifying employees shall be included in more than one
6 project for meeting the project requirements or the creation of job
7 training reimbursements. When projects overlap and the plans do
8 not clearly specify, the employer shall specify to which project
9 the employment belongs. The employer has until it submits its
10 request for reimbursement to the director to designate to which
11 project a qualifying employee belongs. The employer may not receive
12 job training reimbursements for a qualifying employee until the
13 employer designates to which project that qualifying employee
14 belongs. Such designation shall be made on such form to be filed
15 with the director as the director shall direct.

16 (5) After approval, the employer and the director shall
17 enter into a written agreement. The employer shall agree to
18 complete the project, and the director, on behalf of the State of
19 Nebraska, shall designate the approved plans of the employer as a
20 project and, in consideration of the employer's agreement, agree
21 to allow the employer to receive the job training reimbursements
22 contained in the Teleworker Job Creation Act up to the total
23 amount of job training reimbursements that were authorized by the
24 director. The application and all supporting documentation, to the
25 extent approved, shall be considered a part of the agreement. The
26 agreement shall state:

27 (a) The number of qualifying employees required by the
1 act for the project;

2 (b) The time period under the act in which the required
3 level must be met;

4 (c) The documentation the employer will need to supply
5 when requesting the job training reimbursements under the act;

6 (d) The date the application was filed; and

7 (e) The maximum amount of job training reimbursements
8 authorized.

9 Sec. 5. (1) To be eligible to file an application for an
10 agreement with the director under the Teleworker Job Creation Act,
11 the employer shall submit a description of its training program to
12 the director for review.

13 (2) If the employer's training program meets the
14 requirements to constitute a qualified training program under the
15 act, the director shall approve such program and provide the
16 employer with an approval letter.

17 Sec. 6. (1) Job training reimbursements shall be made
18 to any employer who has an approved application pursuant to the
19 Teleworker Job Creation Act and who trains at least four hundred
20 qualifying employees in a qualified training program within three
21 hundred sixty-five calendar days from the application filing date
22 and offers employment to those qualifying employees to work for
23 the employer as a teleworker. The employer shall, to the extent
24 of available job positions, give a hiring priority preference,
25 over other similarly qualified applicants, to those applicants who

26 (a) reside in Nebraska counties of less than one hundred thousand
27 inhabitants, as determined by the most recent federal decennial
1 census, with such residence as determined by the statement of
2 the qualifying employee on his or her employment application, or
3 (b) reside in areas of high concentration of poverty within the
4 corporate limits of a city or village consisting of one or more
5 contiguous census tracts, as determined by the most recent federal
6 decennial census, which contain a percentage of persons below the
7 poverty line of greater than thirty percent, and all census tracts
8 contiguous to such tract or tracts, as determined by the most
9 recent federal decennial census. Such job positions shall pay a
10 wage of at least the then-required minimum hourly wage required
11 by federal law. If the employer fails to provide such a hiring
12 priority preference to one or more of the persons entitled to
13 it, then the employer shall lose the right to one job training
14 reimbursement for each such failure.

15 (2) The amount of the job training reimbursements allowed
16 under subsection (1) of this section shall be three hundred dollars
17 for each new qualifying employee hired by the employer after the
18 application filing date, up to a total of five hundred qualifying
19 employees per project, resulting in a maximum reimbursement per
20 project of one hundred fifty thousand dollars.

21 Sec. 7. A request for job training reimbursements may be
22 filed annually or quarterly by the employer on a form required by
23 the director. Each request shall contain verification of the number
24 of qualifying employees, designated by project, for which the
25 employer has met the requirements of the Teleworker Job Creation
26 Act, and such amounts shall be paid to the employer upon approval
27 by the director.

1 Sec. 8. The Department of Economic Development shall,
2 prior to making the job training reimbursement, audit the employer
3 for compliance with the Teleworker Job Creation Act. The department
4 may utilize the subaccount created under subsection (3) of section
5 81-1201.21 to support the costs of audits and administration of the
6 Teleworker Job Creation Act.

7 Sec. 9. (1) The right to job training reimbursements
8 and the agreement under the Teleworker Job Creation Act shall
9 not be transferable except when a project covered by an agreement
10 is transferred by sale or lease to another employer or in an
11 acquisition of assets qualifying under section 381 of the Internal
12 Revenue Code of 1986.

13 (2) The acquiring employer, as of the date of
14 notification of the director of the completed transfer, shall be
15 entitled to any unused job training reimbursements and to any
16 future job training reimbursements allowable under the act.

17 Sec. 10. Interest shall not be allowable on any job
18 training reimbursements earned under the Teleworker Job Creation
19 Act.

20 Sec. 11. Participation in the Teleworker Job Creation

21 Act shall not preclude an employer from receiving tax incentives
22 or other benefits under other federal, state, or local incentive
23 programs.

24 Sec. 12. Section 81-1201.21, Revised Statutes Supplement,
25 2009, as amended by section 72, Legislative Bill 3, One Hundred
26 First Legislature, First Special Session, 2009, is amended to read:

27 81-1201.21 (1) There is hereby created the Job Training
1 Cash Fund. The fund shall be under the direction of the Department
2 of Economic Development. Money may be transferred to the fund
3 pursuant to subdivision (1)(b)(iv) of section 48-621 and from
4 the Cash Reserve Fund at the direction of the Legislature. The
5 department shall establish a subaccount for all money transferred
6 from the Cash Reserve Fund to the Job Training Cash Fund on or
7 after July 1, 2005. Any unexpended or unobligated balance remaining
8 within such subaccount on July 1, 2014, shall be transferred by the
9 State Treasurer to the Cash Reserve Fund no later than July 10,
10 2014. Any obligated amount not transferred from the subaccount that
11 remains unexpended on July 1, 2013, shall be transferred by the
12 State Treasurer to the Cash Reserve Fund no later than December 31,
13 2015. Transfers may be made from the Job Training Cash Fund to the
14 General Fund at the direction of the Legislature.

15 (2) The department shall use the Job Training Cash Fund
16 to provide reimbursements for job training activities, including
17 employee assessment, preemployment training, on-the-job training,
18 training equipment costs, and other reasonable costs related to
19 helping industry and business locate or expand in Nebraska, or
20 to provide upgrade skills training of the existing labor force
21 necessary to adapt to new technology or the introduction of new
22 product lines.

23 (3) The department shall establish a subaccount within
24 the fund to provide job training grants targeted to small
25 employers, rural employers, and poverty area employers meeting
26 one of the following criteria: (a) Employ twenty-five or fewer
27 employees, (b) located in rural areas of Nebraska, or (c) located
1 in areas of high concentration of poverty within the corporate
2 limits of a city or village consisting of one or more contiguous
3 census tracts, as determined by the most recent federal decennial
4 census, which contain a percentage of persons below the poverty
5 line of greater than thirty percent, and all census tracts
6 contiguous to such tract or tracts, as determined by the most
7 recent federal decennial census. The department shall calculate the
8 amount of prior year investment income earnings accruing to the
9 fund and allocate such amount to the subaccount for small, rural,
10 or poverty area employer grants. The subaccount shall also be used
11 as provided in the Teleworker Job Creation Act.

12 (4) Any money in the fund available for investment
13 shall be invested by the state investment officer pursuant to
14 the Nebraska Capital Expansion Act and the Nebraska State Funds
15 Investment Act.

16 Sec. 13. Original section 81-1201.21, Revised Statutes
17 Supplement, 2009, as amended by section 72, Legislative Bill 3,
18 One Hundred First Legislature, First Special Session, 2009, is
19 repealed.

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

BILL ON FIRST READING

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

LEGISLATIVE BILL 1048A. Introduced by Langemeier, 23.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1048, One Hundred First Legislature, Second Session, 2010.

COMMITTEE REPORT

Education

LEGISLATIVE BILL 1072. Placed on General File with amendment. AM2194 is available in the Bill Room.

(Signed) Greg Adams, Chairperson

VISITORS

Visitors to the Chamber were 34 fourth-grade students, teachers, and sponsors from Lincoln Christian School, Lincoln; and 32 fourth-grade students and teacher from David City.

The Doctor of the Day was Dr. Roger Meyer from Utica.

ADJOURNMENT

At 5:20 p.m., on a motion by Senator Dierks, the Legislature adjourned until 9:00 a.m., Wednesday, March 17, 2010.

Patrick J. O'Donnell
Clerk of the Legislature

