

**FORTY-SIXTH DAY - MARCH 23, 2010****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
SECOND SESSION****FORTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, March 23, 2010

**PRAYER**

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

**ROLL CALL**

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

The roll was called and all members were present except Senators Cornett, Dierks, Haar, and Louden who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-fifth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 317.** Placed on Final Reading.

**LEGISLATIVE BILL 935.** Placed on Final Reading.

**LEGISLATIVE BILL 1090.** Placed on Final Reading.

**LEGISLATIVE BILL 1091.** Placed on Final Reading.

**LEGISLATIVE BILL 1106.** Placed on Final Reading.

**LEGISLATIVE BILL 1106A.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 1048.** Placed on Select File with amendment.  
ER8211 is available in the Bill Room.

**LEGISLATIVE BILL 1048A.** Placed on Select File.

**LEGISLATIVE BILL 861.** Placed on Select File with amendment.  
ER8212

- 1 1. On page 1, strike beginning with "the" in line 1
- 2 through line 13 and insert "regulated activities; to amend sections
- 3 2-1201, 2-1219, 9-823, 28-421, 53-123.12, 53-124.13, 53-124.14,
- 4 53-125, 53-130, 53-135, 53-138.01, 53-139, 53-149, 53-172,
- 5 53-1,104, 60-4,152, 71-5730, and 79-267, Reissue Revised Statutes
- 6 of Nebraska, sections 48-1902, 53-122, 53-123.11, 53-123.13,
- 7 53-123.15, 53-124.11, 53-124.12, 53-129, 53-132, 53-133, 53-134,
- 8 53-164.01, 53-169.01, 53-403, and 60-4,119, Revised Statutes
- 9 Cumulative Supplement, 2008, and sections 53-101, 53-103, 53-124,
- 10 53-131, and 53-177, Revised Statutes Supplement, 2009; to change
- 11 provisions related to the State Racing Commission; to transfer
- 12 definitions and fee provisions in the Nebraska Liquor Control Act;
- 13 to provide for storage and warehouse facilities for farm wineries;
- 14 to change fee provisions, licensure requirements, and excise
- 15 tax provisions; to change provisions relating to distribution of
- 16 license fees in accordance with the Constitution of Nebraska; to
- 17 eliminate unconstitutional provisions and a prohibition on adding
- 18 alcohol to beer; to harmonize provisions; to repeal the original
- 19 sections; and to outright repeal section 53-174, Reissue Revised
- 20 Statutes of Nebraska.".
- 21 2. On page 2, strike line 1.

**LEGISLATIVE BILL 800A.** Placed on Select File.

**LEGISLATIVE BILL 961.** Placed on Select File with amendment.  
ER8213

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 81-1201.21, Revised Statutes
- 4 Supplement, 2009, as amended by section 72, Legislative Bill 3, One
- 5 Hundred First Legislature, First Special Session, 2009, is amended
- 6 to read:
- 7 81-1201.21 (1) There is hereby created the Job Training
- 8 Cash Fund. The fund shall be under the direction of the Department
- 9 of Economic Development. Money may be transferred to the fund
- 10 pursuant to subdivision (1)(b)(iv) of section 48-621 and from
- 11 the Cash Reserve Fund at the direction of the Legislature. The
- 12 department shall establish a subaccount for all money transferred
- 13 from the Cash Reserve Fund to the Job Training Cash Fund on or
- 14 after July 1, 2005. ~~Any unexpended or unobligated balance remaining~~
- 15 ~~within such subaccount on July 1, 2014, shall be transferred by the~~
- 16 ~~State Treasurer to the Cash Reserve Fund no later than July 10,~~
- 17 ~~2014. Any obligated amount not transferred from the subaccount that~~
- 18 ~~remains unexpended on July 1, 2013, shall be transferred by the~~
- 19 ~~State Treasurer to the Cash Reserve Fund no later than December 31,~~
- 20 ~~2015. Transfers may be made from the Job Training Cash Fund to the~~
- 21 ~~General Fund at the direction of the Legislature.~~

22 (2) The department shall use the Job Training Cash Fund  
 23 or the subaccount established in subsection (1) of this section  
 1 to provide reimbursements for job training activities, including  
 2 employee assessment, preemployment training, on-the-job training,  
 3 training equipment costs, and other reasonable costs related to  
 4 helping industry and business locate or expand in Nebraska, or  
 5 to provide upgrade skills training of the existing labor force  
 6 necessary to adapt to new technology or the introduction of new  
 7 product lines.

8 (3) The department shall establish a subaccount within  
 9 the fund to provide ~~job-training grants targeted to small~~  
 10 ~~employers, rural employers, and poverty area employers meeting~~  
 11 ~~one of the following criteria: (a) Employ twenty-five or fewer~~  
 12 ~~employees, (b) located in rural areas of Nebraska, or (c)~~  
 13 ~~located in areas of high concentration of poverty within the~~  
 14 ~~corporate limits of a city or village consisting of one or more~~  
 15 ~~contiguous census tracts, as determined by the most recent federal~~  
 16 ~~decennial census, which contain a percentage of persons below~~  
 17 ~~the poverty line of greater than thirty percent, and all census~~  
 18 ~~tracts contiguous to such tract or tracts, as determined by the~~  
 19 ~~most recent federal decennial census, for training employees and~~  
 20 potential employees of businesses that (a) employ twenty-five or  
 21 fewer employees on the application date, (b) employ, or train for  
 22 potential employment, residents of rural areas of Nebraska, or  
 23 (c) are located in or employ, or train for potential employment,  
 24 residents of high-poverty areas as defined in section 81-1203. The  
 25 department shall calculate the amount of prior year investment  
 26 income earnings accruing to the fund and allocate such amount to  
 27 the subaccount for ~~small, rural, or poverty area employer grants.~~  
 1 training grants under this subsection.

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

6 Sec. 2. Section 81-1203, Reissue Revised Statutes of  
 7 Nebraska, is amended to read:

8 81-1203 (1) A business applying for a job training  
 9 grant, other than a grant provided under subsection (3) of section  
 10 81-1201.21, shall submit a business plan to the Department of  
 11 Economic Development which includes, but is not limited to:

12 (a) The number of jobs to be created or the number of  
 13 existing positions that will be retrained;

14 (b) The nature of the business and the type of jobs to be  
 15 created or positions to be retrained;

16 (c) The estimated wage levels of the jobs to be created  
 17 or positions to be retrained; and

18 (d) A program schedule for the job training project.

19 (2) A business applying for a job training grant, other  
 20 than a grant provided under subsection (3) of section 81-1201.21,

21 must demonstrate that the job training project to be conducted  
 22 pursuant to the grant meets the following criteria:

23 (a) The wage level of the jobs created will meet the  
 24 local prevailing average;

25 (b) The jobs created will diversify the local economy;

26 (c) The goods or services produced by the company will be  
 27 export-oriented;

1 (d) Seventy-five percent of the jobs created will be  
 2 full-time jobs; and

3 (e) The new jobs will be created within three calendar  
 4 years.

5 (3) A business applying for a job training grant  
 6 under subsection (3) of section 81-1201.21 may partner with  
 7 a postsecondary educational institution; a private, nonprofit  
 8 organization holding a certificate of exemption under section  
 9 501(c)(3) of the Internal Revenue Code; or a learning community  
 10 coordinating council or school district and at least one that has  
 11 partnered with a private, nonprofit organization, whose purpose  
 12 is providing basic job and life skills training to individuals  
 13 in high poverty areas. Such projects shall be focused on job  
 14 training and job creation for persons residing in high poverty  
 15 areas within the boundaries of the partnering learning community  
 16 or school district. The application shall specify the role of the  
 17 partnering coordinating council or school district and the private,  
 18 nonprofit organization entity in identifying and training potential  
 19 job applicants for the applicant business.

20 (4) A business applying for a training grant under  
 21 subsection (3) of section 81-1201.21 may apply as a business that  
 22 has established a program under which residents of rural areas  
 23 or high-poverty areas are trained for employment or potential  
 24 employment by documenting:

25 (a) That the business has established a program designed  
 26 to fill a minimum of four positions in rural areas and a minimum of  
 27 eight positions in high-poverty areas for such business;

1 (b) A program schedule for the training project;

2 (c) The nature of the business and the number of  
 3 positions available or to be created;

4 (d) That the wage level of the positions available or to  
 5 be created will meet the local prevailing average;

6 (e) The value of the positions available or to be created  
 7 in diversifying the local economy;

8 (f) That a minimum of seventy-five percent of the  
 9 positions available or to be created will be full-time jobs;

10 (g) That the business will accept funding on behalf of  
 11 trainees and will provide a match of a minimum of twenty-five  
 12 percent of the value of the grant, either monetarily or through  
 13 in-kind services, as part of the training for each trainee;

14 (h) That any new position created will be done within  
 15 three calendar years;

16 (i) That the number of trainees will not exceed one  
 17 hundred twenty-five percent of the number of positions that will be  
 18 available at the time of application; and

19 (j) That the goods or services produced by the business  
 20 are generally exportable in nature resulting in additional money to  
 21 the community or the state and the positions available or to be  
 22 created are not local retail positions.

23 (5) Each business participating in a training grant under  
 24 subsection (3) of section 81-1201.21 shall be subject to an audit  
 25 by the Department of Economic Development and shall annually report  
 26 or provide to the department the following information:

27 (a) The percentage of trainees who have successfully  
 1 completed the training;

2 (b) The percentage of trainees that such business hired;

3 (c) An itemized description of such business's match  
 4 including expenditures per trainee; and

5 (d) A copy of the training curriculum.

6 (6) For purposes of ~~this subsection~~ ~~subsections (3)~~  
 7 through (5) of this section:

8 (a) High-poverty area means an area consisting of one or  
 9 more contiguous census tracts, as determined by the most recent  
 10 federal decennial census, which contain a percentage of persons  
 11 with incomes below the poverty line of greater than thirty percent,  
 12 and all census tracts contiguous to such tract or tracts, as  
 13 determined by the most recent federal decennial census; and

14 (b) ~~private~~ ~~Private~~ nonprofit organization means an  
 15 organization whose purpose is providing basic job and life skills  
 16 training to individuals in need of such training in rural or  
 17 high-poverty areas.

18 Sec. 3. Section 81-1205, Reissue Revised Statutes of  
 19 Nebraska, is amended to read:

20 81-1205 (1) A business which is awarded a job training  
 21 grant or a training grant shall provide annual performance reports  
 22 to the Department of Economic Development and a final performance  
 23 report upon the completion of the project. The department shall  
 24 provide an annual report by December 1 of each year to the  
 25 Appropriations Committee of the Legislature. The report shall  
 26 include information on each active grant, including specific  
 27 information regarding the number of positions to be trained,  
 1 whether new or existing employees are to be trained, the length  
 2 of time that the project has been active, the amount of funding  
 3 committed to the project, the amount of funding paid out to  
 4 date, and the projected completion date. The report shall also  
 5 provide information on grants closed during the reporting year,  
 6 including the total number of employees trained, whether new or  
 7 existing employees were trained, total project expenditures, and  
 8 the duration time of the project. The department shall also  
 9 provide information summarizing the use of community college areas  
 10 to provide training services and list specific projects where a  
 11 community college area is providing all or a component of the

12 training services. If private or inhouse training services are  
 13 used, the department shall provide information regarding the name  
 14 of the private or inhouse training service and the qualifications  
 15 of the training service.

16 (2) Up to four percent of each training grant awarded  
 17 under the program under subsection (3) of section 81-1201.21 shall  
 18 be made available to the Department of Economic Development to  
 19 finance the costs of administering such program. Such funds shall  
 20 be allocated from the subaccount within the Job Training Cash Fund  
 21 for training grants. The department shall not accept funds that do  
 22 not go directly to administering such program. The department shall  
 23 include in the annual report it provides to the Appropriations  
 24 Committee of the Legislature a summary of the administrative costs  
 25 of such program, including the percentage of each training grant  
 26 received by the department for administrative purposes and the  
 27 purpose for which it was used to carry out the intent of the  
 1 program.

2 Sec. 4. Section 81-1207, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:

4 81-1207 (1) If a business which receives a job training  
 5 grant creates fewer jobs than stated in the business plan, the  
 6 business shall repay the job training grant as provided in this  
 7 section: subsection. If less than fifty percent of the proposed  
 8 jobs are created, one hundred percent of the grant shall be repaid.  
 9 If fifty percent or more but less than seventy percent of the  
 10 proposed jobs are created, fifty percent of the grant shall be  
 11 repaid. If seventy percent or more but less than ninety percent  
 12 of the proposed jobs are created, twenty-five percent of the grant  
 13 shall be repaid. If ninety percent or more of the proposed jobs are  
 14 created, no repayment is required.

15 (2) If a business receives a training grant and fewer  
 16 trainees than stated in the business plan complete the training,  
 17 the business shall repay the grant as provided in this subsection.  
 18 For every trainee who does not complete the training, the business  
 19 shall repay fifty percent of the prorated share of such trainee's  
 20 uncompleted training costs. No dollars shall be expended from the  
 21 Job Training Cash Fund that are not used for the purposes outlined  
 22 in subsection (2) of section 81-1201.21.

23 Sec. 5. Original sections 81-1203, 81-1205, and 81-1207,  
 24 Reissue Revised Statutes of Nebraska, and section 81-1201.21,  
 25 Revised Statutes Supplement, 2009, as amended by section 72,  
 26 Legislative Bill 3, One Hundred First Legislature, First Special  
 27 Session, 2009, are repealed.

**LEGISLATIVE BILL 563.** Placed on Select File with amendment.  
 ER8214 is available in the Bill Room.

(Signed) Jeremy Nordquist, Chairperson

**MESSAGES FROM THE GOVERNOR**

March 19, 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 Commission for the Deaf and Hard of Hearing:

Diane Muelleman, 6469 Cuming Street, Omaha, NE 68132

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

March 19, 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 individuals are being reappointed to the Nebraska Railway Council:

Michael Shannon, 1105 Meadowlark, Alliance, NE 69301  
Patrick Meuret, 106 N. Franklin, Brunswick, NE 68720

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

**RESOLUTIONS****LEGISLATIVE RESOLUTION 412.** Introduced by Dierks, 40.

WHEREAS, the Ewing Tigers won the 2010 Class D-2 Boys' State Basketball Championship; and

WHEREAS, the Ewing Tigers defeated the Hampton Hawks in the championship game by a score of 41-33; and

WHEREAS, the top-ranked Ewing Tigers finished the year with a record of twenty-six wins and one loss; and

WHEREAS, the Ewing Tigers have seven graduating seniors on their championship team; and

WHEREAS, one of the seniors, Austin Kaczor, finished his high school basketball career by ranking eighth on the all-time scoring list, with a total of two thousand two hundred five career points.

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

1. That the Legislature congratulates the Ewing Tigers on winning the 2010 Class D-2 Boys' State Basketball Championship.

2. That the Legislature congratulates Head Coach Greg Appleby and Assistant Coach Ed Johnson for their excellent season and guidance of the team.

3. That a copy of this resolution be sent to Head Coach Greg Appleby.

Laid over.

**LEGISLATIVE RESOLUTION 413.** Introduced by Langemeier, 23.

**PURPOSE:** The purpose of this resolution is to study whether the Real Property Appraiser Act should be amended to provide for regulation of appraisal management companies. The study should include a review of issues raised during consideration by the Banking, Commerce and Insurance Committee in 2010 of LB 931 (Sullivan, Utter), as introduced. In order to carry out the purpose of this resolution, the committee should seek the assistance of the Real Property Appraiser Board and should consider the input of interested persons as the committee deems necessary and beneficial.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

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

Referred to the Executive Board.



**RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, and 403 were adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, and 403.

**GENERAL FILE**

**LEGISLATIVE BILL 709.** Title read. Considered.

Committee AM1824, found on page 807, was considered.

**SENATOR LANGEMEIER PRESIDING**

**SPEAKER FLOOD PRESIDING**

Senator Stuthman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 1 nay, and 21 not voting.

The committee amendment was adopted with 26 ayes, 0 nays, and 23 present and not voting.

Pending.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 1109.** Placed on Select File with amendment.  
ER8215

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Sections 1 to 5 of this act shall be known and
- 4 may be cited as the Nebraska Innovation and High Wage Employment
- 5 Act.
- 6 Sec. 2. The Legislature recognizes the importance of
- 7 innovation and high wage employment and the role that innovation
- 8 plays in the economic well-being of the state. The Innovation and
- 9 Entrepreneurship Task Force is created. The Executive Board of the
- 10 Legislative Council shall appoint six members of the Legislature
- 11 to the task force. The executive board shall appoint one of such
- 12 members as chairperson and one as vice-chairperson. The task force

13 shall develop a statewide strategic plan to cultivate a climate  
14 of entrepreneurship that results in innovation and high wage  
15 employment. The task force shall adopt policy criteria to be used  
16 in the development of the plan. The plan shall include an inventory  
17 of current state and locally sponsored programs and resources  
18 targeted to small businesses, microenterprises, and entrepreneurial  
19 endeavors in the state. The plan shall provide an overview of best  
20 practices from other states, including, but not limited to, an  
21 examination of economic gardening and angel investor programs, and  
22 provide policy options.

23 Sec. 3. The Innovation and Entrepreneurship Task Force,  
1 in consultation with the Executive Board of the Legislative  
2 Council, shall commission a nonprofit organization to provide  
3 research, analysis, and recommendations for the development of  
4 the statewide strategic plan. The nonprofit organization shall  
5 be incorporated pursuant to the Nebraska Nonprofit Corporation  
6 Act, shall be organized exclusively for nonprofit purposes within  
7 the meaning of section 501(c)(3) of the Internal Revenue Code,  
8 shall be engaged in activities to facilitate and promote the  
9 growth of potential high-growth businesses within the state,  
10 and shall be dedicated to the development and growth of the  
11 entrepreneurial economy. It is the intent of the Legislature that  
12 forty-eight thousand dollars of General Funds be appropriated  
13 to the Legislative Council to provide funding for the Nebraska  
14 Innovation and High Wage Employment Act.

15 Sec. 4. The Innovation and Entrepreneurship Task Force  
16 shall prepare and present the statewide strategic plan to the  
17 Legislature by December 1, 2010.

18 Sec. 5. The Nebraska Innovation and High Wage Employment  
19 Act terminates on January 1, 2011.

20 Sec. 6. Section 81-12,105.01, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 81-12,105.01 (1) The Microenterprise Development Cash  
23 Fund is created. The fund shall be administered by the Department  
24 of Economic Development. Any money in the fund available for  
25 investment shall be invested by the state investment officer  
26 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
27 State Funds Investment Act.

1 (2) The State Treasurer shall credit to the fund money  
2 as is (a) transferred to the fund by the Legislature, (b) paid  
3 to the state as fees, deposits, payments, and repayments relating  
4 to the fund, both principal and interest, (c) donated as gifts,  
5 bequests, or other contributions to such fund from public or  
6 private entities, and (d) made available by any department or  
7 agency of the United States if so directed by such department or  
8 agency.

9 (3) The fund shall be used by the Department of Economic  
10 Development for the purpose of carrying out the Microenterprise  
11 Development Act.

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

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

16 Sec. 8. Since an emergency exists, this act takes effect  
 17 when passed and approved according to law.

18 2. On page 1, strike beginning with the first "the"  
 19 in line 1 through line 4 and insert "economic development; to  
 20 amend section 81-12,105.01, Reissue Revised Statutes of Nebraska;  
 21 to adopt the Nebraska Innovation and High Wage Employment Act;  
 22 to provide for the lapse of the balance in the Microenterprise  
 23 Development Cash Fund to the General Fund; to repeal the original  
 24 section; and to declare an emergency.".

**LEGISLATIVE BILL 1109A.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

### COMMITTEE REPORTS

Enrollment and Review

**LEGISLATIVE BILL 727.** Placed on Final Reading.

**LEGISLATIVE BILL 742.** Placed on Final Reading.

**LEGISLATIVE BILL 763.** Placed on Final Reading.

ST9082

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

1. On pages 2 and 3, subdivision (3) has been renumbered as subdivision (4) and subdivision (4) has been renumbered as subdivision (3).

**LEGISLATIVE BILL 836.** Placed on Final Reading.

**LEGISLATIVE BILL 879.** Placed on Final Reading.

**LEGISLATIVE BILL 882.** Placed on Final Reading.

**LEGISLATIVE BILL 919.** Placed on Final Reading.

ST9084

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

1. On page 1, the matter beginning with "to" in line 2 through line 5 and all amendments thereto have been struck and "to change and eliminate procedures and population requirements for reorganization of cities of the first class as cities of the second class; to require a plan to increase a city's population; to repeal the original section; to outright repeal section 17-305.01, Reissue Revised Statutes of Nebraska; and to declare an emergency." inserted.

**LEGISLATIVE BILL 937.** Placed on Final Reading.

**LEGISLATIVE BILL 937A.** Placed on Final Reading.

**LEGISLATIVE BILL 943.** Placed on Final Reading.

**LEGISLATIVE BILL 956.** Placed on Final Reading.

**LEGISLATIVE BILL 1018.** Placed on Final Reading.

ST9083

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

1. On page 1, line 1, "to amend section 18-2506, Reissue Revised Statutes of Nebraska;" has been inserted after the semicolon; and in line 2 "; to restrict the use of municipal initiative and referendum on action permitted by the act; and to repeal the original section" has been inserted after "Act".

**LEGISLATIVE BILL 1036.** Placed on Final Reading.

**LEGISLATIVE BILL 1051.** Placed on Final Reading.

**LEGISLATIVE BILL 1087.** Placed on Final Reading.

**LEGISLATIVE RESOLUTION 284CA.** Placed on Final Reading.

**LEGISLATIVE RESOLUTION 297CA.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

### **AMENDMENT - Print in Journal**

Senator Loudon filed the following amendment to LB1002:  
AM2276

(Amendments to AM1991)

- 1 1. Strike section 9.
- 2 2. On page 3, strike beginning with "annually" in line 14
- 3 through the second occurrence of "Fund" in line 16 and insert "for
- 4 FY2010-11 transfer on the effective date of this act one hundred
- 5 thousand dollars from the General Fund to the Designated Collection
- 6 Fund".
- 7 3. Renumber the remaining section accordingly.

### **RESOLUTION**

**LEGISLATIVE RESOLUTION 414.** Introduced by Avery, 28.

WHEREAS, Aaron Welch, of Troop 21, 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, Aaron has learned, been tested on, and been recognized for various scouting skills. Aaron held the positions of patrol leader for Troop 28, historian for Troop 1120, and librarian for Troop 28; 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. Aaron earned over 60 merit badges, including Citizenship in the Community, Citizenship in the Nation, and Citizenship in the World. Aaron, for his Eagle Scout community service project, designed, built, and installed hymnal receptacles in the choir loft of St. Teresa's Parish; and

WHEREAS, only a small percentage of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Aaron has also received the Parvuli Dei emblem and the Ad Altare Dei emblem.

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

1. That the Legislature congratulates Aaron Welch on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Aaron Welch.

Laid over.

### **BILL ON FIRST READING**

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

**LEGISLATIVE BILL 918A.** Introduced by Hadley, 37.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 918, One Hundred First Legislature, Second Session, 2010.

### **REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

Meuret, Patrick - Nebraska Railway Council - Transportation and Telecommunications

Muelleman, Diane - Commission for the Deaf and Hard of Hearing - Health and Human Services

Shannon, Michael - Nebraska Railway Council - Transportation and Telecommunications

(Signed) John Wightman, Chairperson  
Executive Board

**VISITORS**

Visitors to the Chamber were students from the Creighton University School of Nursing, Omaha; members of Delta Sigma Theta Sorority from Omaha; members of the State Council of Catholic Women from across the state; and 57 fourth-grade students and teachers from Westridge Elementary, Elkhorn.

**RECESS**

At 12:01 p.m., on a motion by Senator Hansen, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

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

**ROLL CALL**

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

**RESOLUTION**

**LEGISLATIVE RESOLUTION 415.** Introduced by Pirsch, 4.

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 Harry A. Burke High School team from Omaha, Nebraska, placed second in the Nebraska Academic Decathlon; and

WHEREAS, team members Caya Simonsen, Jennifer Swenson, Eric Hilt, Mike Coonfield, Bethany Loux, Kellee Stanard, Erin Cooper, Jessica Smith, Laura Kresha, and David Houenassou deserve special recognition for their teamwork and diverse knowledge, which contributed to the team's outstanding success in 2010; and

WHEREAS, the accomplishments of students should be recognized 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 recognizes and congratulates the members of the Burke High School Academic Decathlon team and their coach, Judy Kennedy, for their outstanding success in 2010.

2. That a copy of this resolution be sent to the Burke High School Academic Decathlon team and their coach, Judy Kennedy.

Laid over.

**AMENDMENT - Print in Journal**

Senator Haar filed the following amendment to LB1014:  
AM2237

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. (1) The Teacher Performance Pay Fund is
- 4 created. The Board of Educational Lands and Funds shall remit only
- 5 (a) the income from solar and wind energy leases on school lands
- 6 and (b) the portion of the income from other leases of school
- 7 lands which relates to carbon sequestration rights, as such portion
- 8 is determined by the board, to the State Treasurer for credit to
- 9 the fund. The costs of administration related to the income from
- 10 leases of school lands shall be deducted from the fund in the
- 11 manner provided in section 72-232.02. The fund may also consist
- 12 of gifts, grants, or bequests from any source, including federal,
- 13 state, public, and private sources. The fund shall be used for the
- 14 support and maintenance of the common schools in each public school
- 15 district in the state by increasing public school teacher salaries
- 16 to provide for a higher quality of education. Any money in the fund
- 17 available for investment shall be invested by the state investment
- 18 officer pursuant to the Nebraska Capital Expansion Act and the
- 19 Nebraska State Funds Investment Act.
- 20 For purposes of this section, lease means any lease,
- 21 easement, covenant, or other such contractual arrangement.
- 22 (2) If the amount credited to the Teacher Performance Pay
- 23 Fund from solar and wind energy leases on school lands or from the
- 1 carbon sequestration rights related to other leases of school lands
- 2 exceeds the sum of ten million dollars at the end of any calendar
- 3 year, the State Treasurer shall transfer such amount in excess of
- 4 ten million dollars from the Teacher Performance Pay Fund to the
- 5 temporary school fund.
- 6 (3) Beginning January 15, 2016, and on or before the
- 7 third Monday in January of each year thereafter, the State
- 8 Treasurer shall make a complete exhibit of all money belonging to
- 9 the Teacher Performance Pay Fund, excluding any amount transferred
- 10 under subsection (2) of this section, and deliver such exhibit duly
- 11 certified to the Commissioner of Education. On or before February
- 12 25 after such delivery, the Commissioner of Education shall make
- 13 the apportionment of such funds to each school district according
- 14 to the pro rata enumeration of children who are five through
- 15 eighteen years of age in each district last returned from the
- 16 school district. The calculation of apportionment for each school
- 17 fiscal year shall include any corrections to the prior school
- 18 fiscal year's apportionment.
- 19 (4) The Commissioner of Education shall certify the
- 20 amount of the apportionment of the Teacher Performance Pay Fund
- 21 as provided in subsection (3) of this section to the Director of

22 Administrative Services. The Director of Administrative Services  
23 shall draw a warrant on the State Treasurer in favor of the  
24 various districts for the respective amounts so certified by the  
25 Commissioner of Education.

26 (5) Each school district shall use the funds received  
27 under subsection (4) of this section for teacher performance  
1 pay. For purposes of this section, teacher performance pay is  
2 a systematic process for measuring teachers' performance and  
3 linking the measurements to changes in teacher pay. Indicators  
4 of teacher performance may include, but are not limited to,  
5 improving professional skills and knowledge, classroom performance  
6 or instructional behavior, and instructional outcomes. Teacher  
7 performance pay may include predetermined bonus amounts and payout  
8 criteria. Each school district that receives funds under subsection  
9 (4) of this section for teacher performance pay shall utilize such  
10 funds as a supplement to the salary schedule provided in local  
11 collective-bargaining agreements. For purposes of distribution of  
12 such funds only, the Legislature finds that teacher performance  
13 pay measurements, criteria, and payout amounts are mandatory topics  
14 of collective bargaining. If a school district that receives funds  
15 under subsection (4) of this section has not included a system  
16 for teacher performance pay within its local collective-bargaining  
17 agreement, such funds shall be returned to the State Treasurer  
18 within one month of receipt of such funds. The State Treasurer  
19 shall immediately credit any funds returned under this subsection  
20 to the Teacher Performance Pay Fund.

21 (6) The Teacher Performance Pay Fund shall terminate  
22 on June 30, 2020, unless at least seventy-five percent of the  
23 school districts receiving funds under subsection (4) of this  
24 section have included a system for teacher performance pay within  
25 their respective local collective-bargaining agreements by January  
26 1, 2020. To determine whether the fund shall terminate, the  
27 Commissioner of Education, on or after January 1, 2020, shall  
1 collect data from each school district to determine whether at  
2 least seventy-five percent of the school districts have included a  
3 system for teacher performance pay within their respective local  
4 collective-bargaining agreements. If the required percentage has  
5 not been met, the commissioner shall notify the State Treasurer.  
6 The State Treasurer shall then transfer any amounts credited to  
7 the fund from solar and wind energy leases on school lands or from  
8 the carbon sequestration rights related to other leases of school  
9 lands from the Teacher Performance Pay Fund to the temporary school  
10 fund and transfer any remaining unexpended balance in the Teacher  
11 Performance Pay Fund to the General Fund on June 30, 2020, and the  
12 Teacher Performance Pay Fund shall thereafter terminate.

13 Sec. 2. Section 79-1007.13, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 79-1007.13 The department shall calculate a special  
16 recepts allowance for each district equal to the amount of



17 special education, state ward, and accelerated or differentiated  
 18 curriculum program receipts and the receipts from the Teacher  
 19 Performance Pay Fund included in local system formula resources  
 20 under subdivisions (7), (8), (16), ~~and (17)~~, and (18) of section  
 21 79-1018.01 attributable to the school district.

22 Sec. 3. Section 79-1018.01, Reissue Revised Statutes of  
 23 Nebraska, is amended to read:

24 79-1018.01 Except as otherwise provided in this section,  
 25 local system formula resources include other actual receipts  
 26 available for the funding of general fund operating expenditures  
 27 as determined by the department for the second school fiscal  
 1 year immediately preceding the school fiscal year in which aid  
 2 is to be paid. Receipts from the Community Improvements Cash Fund  
 3 and receipts acquired pursuant to the Low-Level Radioactive Waste  
 4 Disposal Act shall not be included. Other actual receipts include:

5 (1) Public power district sales tax revenue;  
 6 (2) Fines and license fees;  
 7 (3) Tuition receipts from individuals, other districts,  
 8 or any other source except receipts derived from adult education,  
 9 receipts derived from summer school tuition, receipts derived from  
 10 early childhood education tuition, and receipts from educational  
 11 entities as defined in section 79-1201.01 for providing distance  
 12 education courses through the Distance Education Council until July  
 13 1, 2008, and the Educational Service Unit Coordinating Council on  
 14 and after July 1, 2008, to such educational entities;

15 (4) Transportation receipts;  
 16 (5) Interest on investments;  
 17 (6) Other miscellaneous noncategorical local receipts,  
 18 not including receipts from private foundations, individuals,  
 19 associations, or charitable organizations;

20 (7) Special education receipts;  
 21 (8) Special education receipts and non-special education  
 22 receipts from the state for wards of the court and wards of the  
 23 state;

24 (9) All receipts from the temporary school fund.  
 25 Beginning with the calculation of aid for school fiscal year  
 26 2002-03 and each school fiscal year thereafter, receipts from  
 27 the temporary school fund shall only include receipts pursuant  
 1 to section 79-1035 and the receipt of funds pursuant to section  
 2 79-1036 for property leased for a public purpose as set forth in  
 3 subdivision (1)(a) of section 77-202;

4 (10) Motor vehicle tax receipts received on or after  
 5 January 1, 1998;

6 (11) Pro rata motor vehicle license fee receipts;  
 7 (12) Other miscellaneous state receipts excluding revenue  
 8 from the textbook loan program authorized by section 79-734;

9 (13) Impact aid entitlements for the school fiscal year  
 10 which have actually been received by the district to the extent  
 11 allowed by federal law;

- 12 (14) All other noncategorical federal receipts;
- 13 (15) All receipts pursuant to the enrollment option
- 14 program under sections 79-232 to 79-246;
- 15 (16) Receipts under the federal Medicare Catastrophic
- 16 Coverage Act of 1988, as such act existed on May 8, 2001, as
- 17 authorized pursuant to sections 43-2510 and 43-2511 but only to the
- 18 extent of the amount the local system would have otherwise received
- 19 pursuant to the Special Education Act; ~~and~~
- 20 (17) Receipts for accelerated or differentiated
- 21 curriculum programs pursuant to sections 79-1106 to 79-1108.03;
- 22 and-
- 23 (18) Receipts from the Teacher Performance Pay Fund
- 24 pursuant to section 1 of this act.
- 25 Sec. 4. Section 79-1028.01, Revised Statutes Supplement,
- 26 2009, is amended to read:
- 27 79-1028.01 (1) For ~~school fiscal year 2008-09 and each~~
- 1 school fiscal year, ~~hereafter,~~ a school district may exceed its
- 2 maximum general fund budget of expenditures minus the special
- 3 education budget of expenditures by a specific dollar amount for:
- 4 (a) Expenditures for repairs to infrastructure damaged by
- 5 a natural disaster which is declared a disaster emergency pursuant
- 6 to the Emergency Management Act;
- 7 (b) Expenditures for judgments, except judgments or
- 8 orders from the Commission of Industrial Relations, obtained
- 9 against a school district which require or obligate a school
- 10 district to pay such judgment, to the extent such judgment is not
- 11 paid by liability insurance coverage of a school district;
- 12 (c) Expenditures pursuant to the Retirement Incentive
- 13 Plan authorized in section 79-855 or the Staff Development
- 14 Assistance authorized in section 79-856;
- 15 (d) Expenditures of incentive payments or base fiscal
- 16 year incentive payments to be received in such school fiscal year
- 17 pursuant to section 79-1011;
- 18 (e) Expenditures of amounts received from educational
- 19 entities as defined in section 79-1201.01 for providing distance
- 20 education courses through the Educational Service Unit Coordinating
- 21 Council to such educational entities;
- 22 (f) Either (i) the first and second school fiscal years
- 23 the district will be participating in Network Nebraska for the
- 24 full school fiscal year or (ii) school fiscal year 2008-09, if
- 25 the school district participated in Network Nebraska for all of
- 26 school fiscal year 2007-08, for the difference of the estimated
- 27 expenditures for such school fiscal year for telecommunications
- 1 services, access to data transmission networks that transmit data
- 2 to and from the school district, and the transmission of data on
- 3 such networks as such expenditures are defined by the department
- 4 for purposes of the distance education and telecommunications
- 5 allowance minus the dollar amount of such expenditures for the

6 second school fiscal year preceding the first full school fiscal  
 7 year the district participates in Network Nebraska;  
 8 (g) Expenditures to pay another school district for the  
 9 transfer of land from such other school district;  
 10 (h) Expenditures in school fiscal years 2009-10 through  
 11 2013-14 to pay for employer contributions pursuant to subsection  
 12 (2) of section 79-958 to the School Retirement System of the  
 13 State of Nebraska to the extent that such expenditures exceed the  
 14 employer contributions under such subsection that would have been  
 15 made at a contribution rate of seven and thirty-five hundredths  
 16 percent; ~~and~~

17 (i) Expenditures in school fiscal years 2009-10 through  
 18 2013-14 to pay for school district contributions pursuant to  
 19 subdivision (1)(c)(i) of section 79-9,113 to the Class V School  
 20 Employees Retirement System to the extent that such expenditures  
 21 exceed the school district contributions under such subdivision  
 22 that would have been made at a contribution rate of seven and  
 23 thirty-seven hundredths percent; ~~and~~

24 ~~(2) For school fiscal year 2009-10 and each school fiscal~~  
 25 ~~year thereafter, a school district may exceed its maximum general~~  
 26 ~~fund budget of expenditures minus the special education budget of~~  
 27 ~~expenditures by a specific dollar amount for (a) expenditures~~

1 ~~(j) Expenditures for sums agreed to be paid by a school~~  
 2 ~~district to certificated employees in exchange for a voluntary~~  
 3 ~~termination occurring prior to July 1, 2009; ~~and (b) expenditures~~~~

4 ~~(k) Expenditures for new elementary attendance sites in~~  
 5 ~~the first year of operation or the first year of operation after~~  
 6 ~~being closed for at least one school year if such elementary~~  
 7 ~~attendance site will most likely qualify for the elementary site~~  
 8 ~~allowance in the immediately following school fiscal year as~~  
 9 ~~determined by the state board; ~~and~~~~

10 ~~(l) Expenditures in school fiscal years 2016-17 and~~  
 11 ~~2017-18 of amounts received from the Teacher Performance Pay Fund~~  
 12 ~~pursuant to section 1 of this act.~~

13 ~~(3)-(2) The state board shall approve, deny, or modify~~  
 14 ~~the amount allowed for any exception to the maximum general fund~~  
 15 ~~budget of expenditures minus the special education budget of~~  
 16 ~~expenditures pursuant to this section.~~

17 Sec. 5. Section 79-1035.02, Reissue Revised Statutes of  
 18 Nebraska, is amended to read:

19 79-1035.02 The temporary school fund is the holding fund  
 20 to which (1) the net income from the school lands, except for  
 21 the income less costs of administration derived from solar and  
 22 wind energy leases on school lands and from carbon sequestration  
 23 rights related to other leases of school lands which is credited  
 24 to the Teacher Performance Pay Fund under section 1 of this  
 25 act, (2) the interest, dividends, and any other income from the  
 26 permanent school fund, the net income from the school lands,  
 27 and (3) the money from all other sources required or provided

1 by law are credited as described in Article VII, section 9, of  
 2 the Constitution of Nebraska. The entire balance of the temporary  
 3 school fund, including all interest and any other income therefrom,  
 4 shall be exclusively used for the support and maintenance of the  
 5 common schools in each public school district in the state as the  
 6 Legislature provides, in accordance with Article VII, section 9,  
 7 of the Constitution of Nebraska, and shall be distributed to each  
 8 public school district annually.  
 9 Sec. 6. Original sections 79-1007.13, 79-1018.01, and  
 10 79-1035.02, Reissue Revised Statutes of Nebraska, and section  
 11 79-1028.01, Revised Statutes Supplement, 2009, are repealed.

### GENERAL FILE

**LEGISLATIVE BILL 801.** Title read. Considered.

Committee AM1972, found on page 802, was adopted with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 42 ayes, 0 nays, 6 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 1094.** Title read. Considered.

Committee AM1953, found on page 803, was adopted with 28 ayes, 0 nays, 20 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 10 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 1094A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 15 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 842.** Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 2 nays, 14 present and not voting, and 1 excused and not voting.

### RESOLUTIONS

**LEGISLATIVE RESOLUTION 416.** Introduced by Campbell, 25.

WHEREAS, Justin Smith Morrill was born on April 14, 1810, in Strafford, Vermont, the son of a blacksmith; and

WHEREAS, Justin Smith Morrill, after his formal education ended, entered the world of commerce at age fifteen; and

WHEREAS, Justin Smith Morrill retired from business at age thirty-eight to live the life of a gentleman farmer in Strafford, Vermont; and

WHEREAS, in 1854, Justin Smith Morrill was elected to represent Vermont's second congressional district in the United States House of Representatives, serving a total of six terms in that chamber; and

WHEREAS, in 1866, Justin Smith Morrill was elected United States Senator from Vermont, an office to which he was reelected five times for a combined total of forty-three years representing Vermont in Congress; and

WHEREAS, in 1857, when higher education was generally restricted to the teaching of theology, medicine, and philosophy to affluent white men, Representative Morrill introduced a bill in Congress that changed the course of American higher education by creating a national system of land-grant colleges to teach subjects related to agriculture and mechanic arts to Americans from all walks of life in order to, as Morrill wrote, "promote the liberal and practical education of the industrial classes"; and

WHEREAS, since passage of the Morrill Act of 1862, more than twenty-three million students have graduated from the one hundred five land-grant colleges it brought into being, including the University of Nebraska-Lincoln; and

WHEREAS, the two hundredth anniversary of the birth of Justin Smith Morrill will be celebrated on April 14, 2010.

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

1. That the Legislature commemorates the two hundredth anniversary of the birth of Justin Smith Morrill on April 14, 2010.

2. That a copy of this resolution be sent to F. Edwin Harvey, Director of the Justin Smith Morrill Scholars Program at the College of Agricultural Sciences and Natural Resources of the University of Nebraska-Lincoln.

3. That a copy of this resolution be sent to the Vermont Division for Historic Preservation.

Laid over.

#### **LEGISLATIVE RESOLUTION 417.** Introduced by Dubas, 34.

WHEREAS, Nathan M. Steele 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, Nathan 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 a small percentage of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout.

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

1. That the Legislature congratulates Nathan M. Steele on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Nathan M. Steele.

Laid over.

**LEGISLATIVE RESOLUTION 418.** Introduced by Dubas, 34.

WHEREAS, the Heartland Lutheran Red Hornets had a tremendous 2010 season in boys' basketball; and

WHEREAS, the Red Hornets capped off the season by earning a berth in the 2010 Class D-2 Boys' State Basketball Tournament, marking the school's first appearance at the 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 Heartland Lutheran Red Hornets for their tremendous season in boys' basketball and for earning a berth in the 2010 Class D-2 Boys' State Basketball Tournament.
2. That a copy of this resolution be sent to the Heartland Lutheran Red Hornets.

Laid over.

**LEGISLATIVE RESOLUTION 419.** Introduced by Pankonin, 2.

PURPOSE: To study the need to create a licensing process for boat dealers in Nebraska. The study shall include, but not be limited to:

- (1) The current requirements for selling boats;
- (2) The current selling practices of boat dealers;
- (3) The processes involved in regulating a group of private entities such as boat dealers; and
- (4) Whether any current state agency or board is capable of regulating boat dealers within their limited authority.

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

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

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

Referred to the Executive Board.

**GENERAL FILE**

**LEGISLATIVE BILL 862.** Title read. Considered.

Committee AM2004, found on page 768, was considered.

Senator Harms renewed his amendment, AM2197, found on page 882, to the committee amendment.

Senator Schilz moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 2 nays, and 22 not voting.

The Harms amendment lost with 6 ayes, 22 nays, 20 present and not voting, and 1 excused and not voting.

Senator Louden renewed his amendment, AM2200, found on page 883, to the committee amendment.

Senator Louden moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Senator Louden requested a roll call vote on his amendment.

Voting in the affirmative, 5:

Harms	Howard	Louden	Stuthman	Wallman
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Voting in the negative, 39:

Adams	Cook	Gloor	Lathrop	Pirsch
Ashford	Cornett	Haar	Lautenbaugh	Price
Avery	Council	Hadley	McCoy	Rogert
Campbell	Dubas	Hansen	McGill	Schilz
Carlson	Fischer	Heidemann	Mello	Utter
Christensen	Flood	Karpisek	Nelson	White
Coash	Fulton	Krist	Nordquist	Wightman
Conrad	Giese	Langemeier	Pankonin	

Present and not voting, 3:

Dierks	Gay	Sullivan
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Excused and not voting, 2:

Janssen            Pahls

The Louden amendment lost with 5 ayes, 39 nays, 3 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

The committee amendment was adopted with 41 ayes, 2 nays, 4 present and not voting, and 2 excused and not voting.

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

Voting in the affirmative, 43:

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

Voting in the negative, 3:

Harms            Louden            Stuthman

Present and not voting, 1:

Howard

Excused and not voting, 2:

Janssen            Pahls

Advanced to Enrollment and Review Initial with 43 ayes, 3 nays, 1 present and not voting, and 2 excused and not voting.



**RESOLUTIONS****LEGISLATIVE RESOLUTION 420.** Introduced by Gay, 14.

WHEREAS, Christine Overkamp began her teaching career as a classroom aide in 1983 at St. Columbkille School in Papillion; and

WHEREAS, Christine Overkamp obtained a degree in teaching from Peru State College in 1988 and received a master's degree in school administration from Creighton University in 1995; and

WHEREAS, Christine Overkamp returned to St. Columbkille School as assistant principal in 1995; and

WHEREAS, Christine Overkamp has served as St. Columbkille School's principal since 1996.

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

1. That the Legislature recognizes Christine Overkamp for her dedication to St. Columbkille School and commends her for the twenty-seven years she has devoted to nurturing the academic, intellectual, and creative growth of Nebraska's children and wishes her success in her future educational endeavors.

2. That a copy of this resolution be sent to St. Columbkille Principal Christine Overkamp.

Laid over.

**LEGISLATIVE RESOLUTION 421.** Introduced by Nebraska Retirement Systems Committee: Pankonin, 2, Chairperson; Heidemann, 1; Karpisek, 32; Loudon, 49; Mello, 5; Nordquist, 7.

**PURPOSE:** The purpose of this study is to examine the public employees retirement systems administered by the Public Employees Retirement Board, including the State Employees Retirement System of the State of Nebraska, the Retirement System for Nebraska Counties, the School Retirement System of the State of Nebraska, the Nebraska State Patrol Retirement System, and the Nebraska Judges Retirement System. The study may also examine the Class V School Employees Retirement System administered under the Class V School Employees Retirement Act.

The study will examine issues as they relate to the funding needs, benefits, contributions, and administration of each retirement system.

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

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

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

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 422.** Introduced by Nebraska Retirement Systems Committee: Pankonin, 2, Chairperson; Heidemann, 1; Karpisek, 32; Louden, 49; Mello, 5; Nordquist, 7.

**PURPOSE:** The purpose of this study is to review and update the General Principles of Sound Retirement Planning. The General Principles of Sound Retirement Planning are utilized by the Nebraska Retirement Systems Committee of the Legislature as a guide to evaluate proposed legislation and issues regarding Nebraska's public retirement systems. The General Principles are also used by the Legislature as a guide for each of the retirement systems administered by the Public Employees Retirement Board and those systems not administered by the board.

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

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

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

Referred to the Executive Board.

### COMMITTEE REPORTS

#### Judiciary

**LEGISLATIVE BILL 840.** Placed on General File.

**LEGISLATIVE BILL 843.** Placed on General File.

**LEGISLATIVE BILL 984.** Placed on General File.

**LEGISLATIVE BILL 1084.** Placed on General File with amendment. AM2259

- 1 1. On page 7, line 16, after "given" insert "to the
- 2 person who owns, keeps, harbors, maintains, or controls such pet
- 3 animal or equine and to any lienholder or security interest holder
- 4 of record".

(Signed) Brad Ashford, Chairperson

### AMENDMENTS - Print in Journal

Senator Utter filed the following amendment to LB952:

AM2176

- 1 1. On page 8, line 3, strike "2010" and insert "2016".

Senator Adams filed the following amendment to LB952:  
AM2171

1 1. On page 3, line 17, strike "or natural gas".

### GENERAL FILE

**LEGISLATIVE BILL 950.** Title read. Considered.

### SENATOR COOK PRESIDING

Committee AM2087, found on page 872, was adopted with 33 ayes, 1 nay, 12 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

### AMENDMENTS - Print in Journal

Senator Nordquist filed the following amendment to LB1106A:  
AM2300

(Amendments to Final Reading copy)

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

3 Section 1. There is hereby appropriated \$6,250 from the  
4 General Fund and \$18,750 from federal funds for FY2010-11 to the  
5 Department of Health and Human Services, for Program 33, to aid in  
6 carrying out the provisions of Legislative Bill 1106, One Hundred  
7 First Legislature, Second Session, 2010.

8 No expenditures for permanent and temporary salaries and  
9 per diems for state employees shall be made from funds appropriated  
10 in this section.

11 Sec. 2. There is hereby appropriated (1) \$75,423 from  
12 the General Fund and \$187,192 from federal funds for FY2010-11 and  
13 (2) \$78,850 from the General Fund and \$192,204 from federal funds  
14 for FY2011-12 to the Department of Health and Human Services, for  
15 Program 344, to aid in carrying out the provisions of Legislative  
16 Bill 1106, One Hundred First Legislature, Second Session, 2010.

17 No expenditures for permanent and temporary salaries and  
18 per diems for state employees shall be made from funds appropriated  
19 in this section.

20 Sec. 3. There is hereby appropriated (1) \$1,351,834 from  
21 federal funds for FY2010-11 and (2) \$1,252,249 from federal funds  
22 for FY2011-12 to the Department of Health and Human Services, for  
1 Program 348, to aid in carrying out the provisions of Legislative  
2 Bill 1106, One Hundred First Legislature, Second Session, 2010.

3 No expenditures for permanent and temporary salaries and  
4 per diems for state employees shall be made from funds appropriated  
5 in this section.

6 Sec. 4. The General Fund appropriation for FY2010-11 to

7 the Department of Health and Human Services, for Program 348, is  
 8 hereby reduced by \$1,119,224.

9 The reduction made pursuant to this section is to aid in  
 10 carrying out the provisions of Legislative Bill 1106, One Hundred  
 11 First Legislature, Second Session, 2010.

Senators Sullivan and Utter filed the following amendment to LB931:  
 AM2248

(Amendments to Standing Committee amendments, AM2047)

1 1. Strike sections 1, 3, 5, 6, 7, and 8 and insert the

2 following new sections:

3 Sec. 26. Section 81-885, Revised Statutes Supplement,  
 4 2009, is amended to read:

5 81-885 Sections 81-885 to 81-885.55 and section 28 of  
 6 this act shall be known and may be cited as the Nebraska Real  
 7 Estate License Act.

8 Sec. 28. (1) The Real Property Appraiser Act shall not  
 9 apply to a person licensed under the Nebraska Real Estate License  
 10 Act who, in the ordinary course of his or her business, gives a  
 11 broker's price opinion or comparative market analysis, except that  
 12 such opinion or analysis shall not be referred to as an appraisal.

13 (2) No compensation, fee, or other consideration shall be  
 14 charged for a broker's price opinion or comparative market analysis  
 15 other than a real estate commission or brokerage fee charged or  
 16 paid for brokerage services rendered in connection with the sale  
 17 of the real estate involved unless the opinion or analysis is in  
 18 writing, is signed by the preparer, includes the date on which it  
 19 was prepared, and contains or has attached thereto the following  
 20 disclosure in bold fourteen-point type: This opinion or analysis  
 21 is not an appraisal. It is intended only for the benefit of  
 22 the addressee for the purpose of assisting buyers or sellers or  
 1 prospective buyers or sellers in deciding the listing, offering,  
 2 or sale price of the real property or for lending purposes in  
 3 a transaction other than a federally related transaction. This  
 4 opinion or analysis is not governed by the Real Property Appraiser  
 5 Act.

6 (3) A broker's price opinion or comparative market  
 7 analysis prepared for an existing or potential lienholder  
 8 originating, extending, renewing, or modifying a loan in a  
 9 transaction other than a federally related transaction may not be  
 10 used as the sole basis to determine the value of the real estate  
 11 for the purpose of originating a loan secured by such real estate,  
 12 and the person giving the opinion or analysis must be engaged  
 13 directly by the lienholder or its agent. Such person shall have no  
 14 duty to inquire as to any other basis used to determine such value.

15 2. On page 5, strike beginning with "licensed" in line 11  
 16 through the semicolon on page 6, line 10, show the old matter as  
 17 stricken, and insert "referred to in subsection (1) of section 28  
 18 of this act;".

19 3. On page 49, lines 23 and 24; and page 50, lines 5 and  
 20 6, strike "obtaining, extending, or modifying financing" and insert  
 21 "originating, extending, renewing, or modifying a loan".

22 4. On page 49, line 24; and page 50, line 6, strike  
 23 "federally-related" and insert "federally related".

24 5. On page 49, line 25; and page 50, line 7, strike  
 25 beginning with the comma through "act".

26 6. On page 50, line 11, strike the second "and" and show  
 27 as stricken; in line 16 strike the period, show as stricken, and  
 1 insert an underscored semicolon; after line 16 insert the following  
 2 new subdivisions:

3 "(17) Federal financial institution regulatory agency  
 4 means: (1) The Board of Governors of the Federal Reserve System;  
 5 (2) the Federal Deposit Insurance Corporation; (3) the Office  
 6 of the Comptroller of the Currency; (4) the Office of Thrift  
 7 Supervision; (5) the National Credit Union Administration; or (6)  
 8 the successors of any of those agencies; and

9 (18) Federally related transaction means a real  
 10 estate-related transaction that: (1) Requires the services of an  
 11 appraiser; and (2) is engaged in, contracted for, or regulated  
 12 by a federal financial institution regulatory agency."; in line  
 13 17 strike "76-2201," and "76-2203,"; in line 18 strike "76-2209,  
 14 76-2211,"; in line 22 after the second comma insert "and section  
 15 81-885, Revised Statutes Supplement, 2009,"; in line 23 strike  
 16 "section is" and insert "sections are"; and in line 24 strike  
 17 "Section" and insert "Sections" and after the comma insert  
 18 "76-2209, and 76-2211,".

19 7. Renumber the remaining sections accordingly.

## NOTICE OF COMMITTEE HEARING

Judiciary

Room 1113

Tuesday, March 30, 2010 1:00 p.m.

Brenda Smith - Crime Victim's Reparations Committee  
 Candice Batton - Crime Victim's Reparations Committee

LR411

(Signed) Brad Ashford, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 1079.** Title read. Considered.

Committee AM2164, found on page 878, was considered.

Senator Cornett offered the following amendment to the committee amendment:

AM2269

(Amendments to Standing Committee amendments, AM2164)

- 1 1. Strike sections 3 and 9.
- 2 2. On page 5, line 2; page 8, lines 11 and 16; and page
- 3 10, line 13, strike "7" and insert "6".
- 4 3. Renumber the remaining sections accordingly.

### SENATOR LANGEMEIER PRESIDING

### SENATOR COOK PRESIDING

### SPEAKER FLOOD PRESIDING

Senator Price moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 3 nays, and 21 not voting.

The Cornett amendment was adopted with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

Senator Campbell offered the following amendment to the committee amendment:

AM2274

(Amendments to Standing Committee amendments, AM2164)

- 1 1. On page 12, line 27, reinstate the stricken matter.
- 2 2. On page 13, lines 1 through 8, reinstate the stricken
- 3 matter; and strike lines 9 through 19.

Senator Stuthman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 9 nays, and 15 not voting.

Senator Campbell moved for a call of the house. The motion prevailed with 42 ayes, 0 nays, and 7 not voting.

Senator Campbell requested a roll call vote on her amendment.

Voting in the affirmative, 25:

Adams	Dierks	Gloor	Howard	Rogert
Avery	Dubas	Haar	Karpisek	Schilz
Campbell	Fischer	Hansen	Krist	Stuthman
Carlson	Flood	Harms	Nelson	Sullivan
Christensen	Giese	Heidemann	Pankonin	Wightman

Voting in the negative, 13:

Cornett	Hadley	Lautenbaugh	Pirsch	Wallman
Fulton	Langemeier	Louden	Price	
Gay	Lathrop	McCoy	Utter	

Present and not voting, 8:

Coash	Cook	McGill	Nordquist
Conrad	Council	Mello	White

Excused and not voting, 3:

Ashford	Janssen	Pahls
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The Campbell amendment was adopted with 25 ayes, 13 nays, 8 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator White offered the following motion:

MO92

Reconsider the vote taken on AM2274.

Senator White moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Senator White moved for a call of the house. The motion prevailed with 36 ayes, 0 nays, and 13 not voting.

The White motion to reconsider prevailed with 25 ayes, 18 nays, 3 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

The Campbell amendment, AM2274, found in this day's Journal, was reconsidered.

Senator Campbell withdrew and refiled her amendment, AM2274.

Senator Dierks moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 5 nays, and 17 not voting.

Senator Cornett moved for a call of the house. The motion prevailed with 42 ayes, 0 nays, and 7 not voting.

Senator Cornett requested a roll call vote, in reverse order, on the committee amendment, as amended.

Voting in the affirmative, 25:

Christensen	Flood	Hadley	Louden	Pirsch
Conrad	Fulton	Hansen	McCoy	Price
Cornett	Gay	Langemeier	McGill	Rogert
Dierks	Giese	Lathrop	Mello	Utter
Dubas	Haar	Lautenbaugh	Nordquist	White

Voting in the negative, 18:

Adams	Coash	Heidemann	Pankonin	Wallman
Avery	Fischer	Howard	Schilz	Wightman
Campbell	Gloor	Karpisek	Stuthman	
Carlson	Harms	Nelson	Sullivan	

Present and not voting, 3:

Cook	Council	Krist
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Excused and not voting, 3:

Ashford	Janssen	Pahls
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The committee amendment, as amended, was adopted with 25 ayes, 18 nays, 3 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Cornett moved for a call of the house. The motion prevailed with 38 ayes, 0 nays, and 11 not voting.

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

Voting in the affirmative, 23:

Christensen	Fulton	Hansen	McCoy	Price
Conrad	Gay	Langemeier	McGill	Utter
Cornett	Giese	Lathrop	Mello	White
Dierks	Haar	Lautenbaugh	Nordquist	
Flood	Hadley	Louden	Pirsch	

Voting in the negative, 18:

Adams	Coash	Harms	Nelson	Sullivan
Avery	Dubas	Heidemann	Pankonin	Wightman
Campbell	Fischer	Howard	Schilz	
Carlson	Gloor	Karpisek	Stuthman	

Present and not voting, 5:



Cook                      Council                      Krist                      Rogert                      Wallman

Excused and not voting, 3:

Ashford                      Janssen                      Pahls

Failed to advance to Enrollment and Review Initial with 23 ayes, 18 nays, 5 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

### AMENDMENT - Print in Journal

Senator Fischer filed the following amendment to LB820:  
AM2264

(Amendments to Standing Committee amendments, AM1932)

- 1     1. Insert the following new section:
- 2     Section 1. Section 60-6,289, Revised Statutes Cumulative
- 3     Supplement, 2008, is amended to read:
- 4     60-6,289 (1) No vehicle unladen or with load shall exceed
- 5     a height of fourteen feet, six inches, except:
- 6     (a) Combines or vehicles used in transporting combines,
- 7     to be engaged in harvesting within or without the state, moving
- 8     into or through the state during daylight hours when the overall
- 9     height does not exceed fifteen feet, six inches;
- 10    (b) Livestock forage vehicles with or without load that
- 11    comply with subsection (2) of section 60-6,305;
- 12    (c) Farm equipment or implements of husbandry being
- 13    driven, picked up, or delivered during daylight hours by farm
- 14    equipment dealers shall not exceed fifteen feet, six inches;
- 15    (d) Self-propelled specialized mobile equipment with a
- 16    fixed load when the requirements of subdivision (2)(i) of section
- 17    60-6,288 are met; ~~or~~
- 18    (e) Vehicles which have been issued a permit pursuant to
- 19    section 60-6,299; or
- 20    (f) Vehicles with a baled livestock forage load that
- 21    comply with subsection (4) of section 60-6,305 when the overall
- 22    height does not exceed fifteen feet, six inches.
- 1     (2) No person shall be required to raise, alter,
- 2     construct, or reconstruct any underpass, bridge, wire, or other
- 3     structure to permit the passage of any vehicle having a height,
- 4     unladen or with load, in excess of twelve feet, six inches. The
- 5     owners, lessees, and operators, jointly and severally, of vehicles
- 6     exceeding twelve feet, six inches, in height shall assume the risk
- 7     of loss to the vehicle or its load and shall be liable for any
- 8     damages that result to overhead obstructions from operation of a
- 9     vehicle exceeding twelve feet, six inches, in height.
- 10    2. On page 6, line 17, strike "section" and insert

- 11 "sections 60-6,289 and"; and in line 18 strike "is" and insert  
 12 "are".  
 13 3. Renumber the remaining sections accordingly.

### **MOTION - Print in Journal**

Senator Avery filed the following motion to LB948:

MO91

Unanimous consent to bracket until April 14, 2010.

### **AMENDMENTS - Print in Journal**

Senator Hadley filed the following amendment to LB952:

AM2172

- 1 1. On page 3, strike beginning with the comma in line 23  
 2 through "Agency" in line 24; and in line 24 after the period insert  
 3 "For purposes of this subdivision, sewer program designed to remedy  
 4 combined sewer overflow means a wastewater collection system which  
 5 conveys sanitary wastewater, domestic, commercial, and industrial  
 6 wastewater, and storm water through a single pipe to a publicly  
 7 owned treatment works for treatment prior to discharge to surface  
 8 waters.".

Senator McCoy filed the following amendment to LB952:

AM2173

- 1 1. On page 3, line 23, strike "used" and insert  
 2 "defined"; and in line 24 before the period insert "on January  
 3 1, 2010".

Senator Fischer filed the following amendment to LB952:

AM2174

- 1 1. On page 8, line 1, after "replacement" insert "if  
 2 the total plan requires approval from the federal Environmental  
 3 Protection Agency and has received such approval".

### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Janssen asked unanimous consent to add his name as cointroducer to LR292. No objections. So ordered.

### **VISITORS**

Visitor to the Chamber was Christina Buchholz from Lincoln.

The Doctor of the Day was Dr. Tom Wolf from Fremont.

**ADJOURNMENT**

At 9:19 p.m., on a motion by Senator Mello, the Legislature adjourned until 9:00 a.m., Wednesday, March 24, 2010.

Patrick J. O'Donnell  
Clerk of the Legislature

