

FIFTY-FIFTH DAY - APRIL 7, 2010**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
SECOND SESSION****FIFTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, April 7, 2010

PRAYER

The prayer was offered by Pastor Stephen Floyd, Church of the Nazarene, Falls City.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Stuthman presiding.

The roll was called and all members were present except Senators Hansen, Janssen, Lautenbaugh, and White who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-fourth day was approved.

REFERENCE COMMITTEE REPORT2010 Resolutions calling for an Interim Study

LR324	Interim study to examine the need for public utility ratepayer assistance programs in the state	Urban Affairs
LR334	Interim study to determine whether Nebraska's insurance laws should be amended to provide requirements relating to health benefit plan prescription drug coverage	Banking, Commerce and Insurance
LR372	Interim study to examine the potential effect of national health care reform proposals on Nebraska	Health and Human Services
LR384	Interim study to examine the fire sprinkler mandate contained in 2009 building codes	Urban Affairs

LR406	Interim study to determine whether Nebraska's insurance laws should be amended by adopting the Physician and Patient Prescription Protection Act	Banking, Commerce and Insurance
LR409	Interim study to examine the subject of online voter registration	Government, Military and Veterans Affairs
LR413	Interim study to determine whether the Real Property Appraiser Act should be amended to provide for regulation of appraisal management companies	Banking, Commerce and Insurance
LR419	Interim study to determine the need to create a licensing process for boat dealers in Nebraska	Transportation and Telecommunications
LR421	Interim study to examine the public employees retirement systems administered by the Public Employees Retirement Board	Nebraska Retirement Systems
LR422	Interim study to review and update the General Principles of Sound Retirement Planning	Nebraska Retirement Systems
LR423	Interim study to examine the way Nebraska awards electoral votes in presidential elections	Government, Military and Veterans Affairs
LR424	Interim study to examine whether Nebraska should update the Uniform Commercial Code, Article 9, relating to secured transactions	Banking, Commerce and Insurance
LR425	Interim study to examine issues relating to brain injuries	Health and Human Services
LR426	Interim study to examine the honeybee industry in Nebraska	Agriculture
LR427	Interim study to determine if hospitals in Nebraska are communicating their community benefit to community members and how newly licensed hospitals affect the cost of health care	Health and Human Services
LR430	Interim study to examine Nebraska's laws regarding a person's right to self-defense by the use of force and to review the Castle Doctrine laws in other states	Judiciary
LR431	Interim study to examine how private sources of money given to public institutions should be disclosed	Government, Military and Veterans Affairs
LR432	Interim study to examine Nebraska's child support collection methods	Judiciary

LR433	Interim study to examine student expression in Nebraska's public schools	Education
LR434	Interim study to examine the factors contributing to childhood obesity, as well as its consequences	Health and Human Services
LR435	Interim study to examine issues relating to oil and natural gas pipelines in the State of Nebraska	Natural Resources
LR436	Interim study to review, assess, and provide recommendations relating to the implementation of the Nebraska Health Care Funding Act	Appropriations and Health and Human Services
LR437	Interim study relating to levy exceptions and budget exceptions as they are used with interlocal agreements	Revenue
LR438	Interim study of issues arising out of LB752 regarding the Nebraska Trust Company Act	Banking, Commerce and Insurance
LR439	Interim study to review recent changes in federal law regarding health care insurance and to identify administrative and legislative responses which Nebraska will need to make	Banking, Commerce and Insurance
LR440	Interim study to examine issues relating to mobile home parks	Health and Human Services
LR442	Interim study to examine issues under the jurisdiction of the Transportation and Telecommunications Committee	Transportation and Telecommunications
LR443	Interim study to review and monitor the progress of the National Broadband Plan proposed by the Federal Communications Commission	Transportation and Telecommunications
LR444	Interim study to examine how the law of division fences and the law of trespass affect the ability of landowners to carry out necessary management of trees and other vegetation	Agriculture
LR445	Interim study to examine the capabilities and resources available to the Dept. of Agriculture to meet the response protocols of state and federal livestock disease eradication programs	Agriculture

LR446	Interim study to examine options for a long-term management framework for vegetation within streambeds and immediate riparian areas	Agriculture
LR447	Interim study to examine issues relating to modern agricultural practices and food distribution systems	Agriculture
LR448	Interim study to examine funding alternatives to continue the Water Resources Cash Fund	Agriculture and Natural Resources
LR449	Interim study to examine energy efficiency financing options and sources of funds for residential, commercial, and industrial property owners	Urban Affairs and Natural Resources
LR450	Interim study to examine the establishment of an electronic waste recycling program in Nebraska	Natural Resources
LR451	Interim study to examine issues relating to the Small Business Regulatory Flexibility Act proposed by LB709	Business and Labor
LR453	Interim study to examine what are described as food deserts or areas where access to healthy, affordable food choices is limited	Agriculture
LR454	Interim study to conduct research and provide recommendations regarding for-profit, specialty, or physician-owned hospitals	Health and Human Services
LR459	Interim study to examine Nebraska's level of preparedness for emergencies and disasters, especially in relation to the state's children	Health and Human Services
LR460	Interim study relating to the implementation and funding of the medicaid state plan amendment or waiver for secure residential and subacute behavioral health services	Health and Human Services and Appropriations
LR461	Interim study to examine the federal Americans with Disabilities Act as it relates to parking accessibility for handicapped or disabled persons	Urban Affairs

LR462	Interim study to examine the issues of payment responsibility and payment rates for medical care of county inmates and those in emergency protective custody	Health and Human Services
LR463	Interim study to examine the feasibility of implementing a program similar to the StateStat management accountability process used for executive agencies in the State of Maryland	Appropriations
LR464	Interim study to examine staffing requirements for nursing homes	Health and Human Services
LR465	Interim study to examine the benefits associated with constructing another nuclear power plant in Fort Calhoun, Nebraska	Natural Resources
LR466	Interim study to examine the operation and accomplishments of the Drug Use Review and preferred drug list activities of the Division of Medicaid and Long-Term Care of the Department of Health and Human Services	Health and Human Services
LR467	Interim study to conduct research and provide recommendations for implementing the federal Patient Protection and Affordable Care Act	Health and Human Services
LR468	Interim study to examine the impact of the State of Nebraska's potential adoption of the 2009 International Energy Conservation Code	Urban Affairs
LR469	Interim study to examine the economic development program options available for municipalities	Urban Affairs
LR470	Interim study to examine the issue of how political subdivisions may be impacted by the 2010 United State Census	Government, Military and Veterans Affairs
LR471	Interim study to examine issues under the jurisdiction of the Government, Military and Veterans Affairs Committee	Government, Military and Veterans Affairs
LR472	Interim study to examine the issue of using electronic and digital signatures on initiative and referendum petitions	Government, Military and Veterans Affairs

LR473	Interim study to examine the correlative rights doctrine relating to the use of ground water and clarify a definition for Nebraska statutes	Natural Resources
LR474	Interim study to examine aquifer depletions in the State of Nebraska	Natural Resources
LR475	Interim study to examine issues relating to restricted use chemical application and the need to improve systems of notification of pesticide applications	Agriculture
LR477	Interim study to examine the issues relating to the sustainability of public retirement plans	Nebraska Retirement Systems
LR478	Interim study to examine proposals to create a statewide water planning commission or agency focusing on the development of a statewide water plan to manage Nebraska's water resources	Natural Resources
LR479	Interim study to review matters under the jurisdiction of the Judiciary Committee	Judiciary
LR481	Interim study to examine the practice of prescribed burning such as controlled burns and the function of prescribed burning in managing plant and animal communities	Natural Resources
LR482	Interim study to examine changes in Nebraska's demographics and the effect on governmental services	Executive Board
LR483	Interim study to examine issues relating to solicitation of accident victims and motor vehicle insurance fraud	Banking, Commerce and Insurance
LR484	Interim study to examine issues relating to the towing industry	Transportation and Telecommunications
LR485	Interim study to examine issues relating to the shortage of social workers	Health and Human Services
LR486	Interim study to examine issues relating to the health, safety, and working conditions of Nebraska meat and poultry workers	Business and Labor

LR487	Interim study to examine the impact of adopting tax incentives for films, television shows, commercials, music, web-based content, or Internet-delivered content produced in Nebraska	Revenue
LR488	Interim study to analyze the provisions of LB756, a bill to adopt the Nebraska Uniform Real Property Transfer on Death Act, with current Nebraska law	Judiciary
LR489	Interim study to examine raising revenue from misdemeanors and felonies or from other sources to help fund a grant program for rural emergency medical services	Health and Human Services
LR490	Interim study to examine imposing a limitation on how much a school's state aid can change from one year to the next	Education
LR491	Interim study to examine requiring a boating education course in order to reduce the number of accidents	Natural Resources
LR492	Interim study to examine issues relating to adding a fiftieth senator to the Legislature	Government, Military and Veterans Affairs
LR493	Interim study to determine whether there are enough resources present in school to detect and treat mental illness in school-age children	Health and Human Services
LR494	Interim study to examine the effect of Nebraska's workers' compensation statutes on businesses, other than agricultural operations, that employ only related employees	Business and Labor
LR495	Interim study to examine district probation offices	Judiciary
LR496	Interim study to examine issues relating to state and local taxation of wind energy electrical generation facilities	Revenue
LR497	Interim study to examine urban and commercial area development laws, policies, and programs	Revenue and Urban Affairs
LR498	Interim study of the Tax Expenditure Reporting Act and to suggest additional duties or information to be reported under the act	Revenue

LR499	Interim study to examine tax laws, policies, and programs that address the tax burdens of low-income persons and households	Revenue
LR500	Interim study to examine the tax laws, policies, and programs of the State of Nebraska	Revenue
LR501	Interim study to examine costs to the state and infant and child outcomes associated with not providing prenatal services through the medicaid program to low-income women in Nebraska	Health and Human Services
LR502	Interim study to review the status of trauma care in Nebraska	Health and Human Services
LR503	Interim study to determine whether Nebraska should enact the Revised Uniform Unincorporated Nonprofit Associations Act	Banking, Commerce and Insurance
LR504	Interim study to examine policies and programs for addressing property tax relief, including existing and alternative policies	Revenue
LR505	Interim study to examine issues relating to making the Local Civic, Cultural, and Convention Center Financing Act applicable to county governments	Revenue
LR506	Interim study to examine state and local property tax valuation and exemption protest and appeal processes and procedures	Revenue
LR507	Interim study to examine ways to streamline all levels of government, including, but not limited to elimination, consolidation, or reassignment	Government, Military and Veterans Affairs
LR508	Interim study to examine the availability of land for hunters in the State of Nebraska	Natural Resources
LR509	Interim study to explore the implementation of ACCESS Nebraska relating to public benefits processing	Appropriations and Health and Human Services
LR510	Interim study to examine issues relating to refunds of local option sales taxes under the Nebraska Advantage Act	Revenue

LR511	Interim study to examine issues relating to expanding the Local Civic, Cultural, and Convention Center Financing Act so that incentives could be used to help employers create new jobs in small communities	Revenue
LR512	Interim study to examine the responsibilities of Nebraska nonprofit corporations and health care delivery systems when implementing LB403, 2009, relating to immigration	Health and Human Services
LR513	Interim study to review the implementation of the Nebraska Behavioral Health Services Act by the Division of Behavioral Health of the Department of Health and Human Services	Health and Human Services
LR514	Interim study to examine Nebraska's capacity to best serve lower-educated workers through adult education programs	Education
LR515	Interim study to examine the benefits associated with the pulse oximetry procedure performed on newborns	Health and Human Services
LR516	Interim study to analyze the current Vehicle and Titling Registration (VTR) System that is developed and maintained by the Department of Motor Vehicles	Transportation and Telecommunications
LR517	Interim study to review the operations and usefulness of the Regulation of Health Professions Act	Health and Human Services
LR518	Interim study to review the efficiency associated with the fact that the Department of Motor Vehicles is solely responsible for issuance of drivers' licenses, permits, and state identification cards and collection of fees	Transportation and Telecommunications
LR519	Interim study to examine issues relating to Firearms Freedom Acts which have been enacted or introduced by other state legislatures	Government, Military and Veterans Affairs
LR520	Interim study to examine the impact of illegal immigration on the state's budget	Appropriations

LR521	Interim study to examine whether Nebraska should repeal provisions allowing persons not lawfully present in the United States to pay resident tuition at postsecondary educational institutions	Education
LR522	Interim study to examine the legality of the State of Nebraska knowingly offering state benefits to illegal immigrants	Judiciary
LR523	Interim study to examine the impact of LB436 which established a statewide net metering policy	Natural Resources
LR524	Interim study to examine regulation of renewable energy generation in other states and in regional transmission organizations	Natural Resources
LR525	Interim study to examine Nebraska's laws on unlawful intrusion, stalking, and criminal trespass	Judiciary
LR526	Interim study to examine the governing structure and function of Nebraska's higher education system	Education
LR527	Interim study to examine issues under the jurisdiction of the General Affairs Committee	General Affairs
LR528	Interim study to examine issues regarding area restrictions in the Nebraska Liquor Control Act	General Affairs
LR533	Interim study to examine the State Natural Gas Regulation Act	Urban Affairs
LR534	Interim study to examine aspects of the Nebraska Economic Forecasting Advisory Board	Appropriations and Revenue
LR535	Interim study to evaluate and identify the objectives of the Criminalistics Laboratory Division of the Nebraska State Patrol	Appropriations and Judiciary
LR536	Interim study to examine gross receipts taxation in other states	Revenue

(Signed) John Wightman, Chairperson
Executive Board

SELECT FILE

LEGISLATIVE BILL 507A. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 594. ER8220, found on page 1139, was adopted.

Senator Dierks renewed his amendment, AM2386, found on page 1260.

SENATOR CARLSON PRESIDING

The Dierks amendment was adopted with 33 ayes, 5 nays, 8 present and not voting, and 3 excused and not voting.

Pending.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 1048. Placed on Final Reading.
ST9098

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

1. On page 1, lines 2 through 9 and all amendments thereto have been struck and "70-1001, 70-1001.01, 70-1013, 70-1014, 70-1014.01, 76-710.04, 77-105, 77-202, and 79-1018.01, Reissue Revised Statutes of Nebraska, and section 13-518, Revised Statutes Supplement, 2009; to define and redefine terms; to state intent regarding renewable energy facilities; to change provisions relating to hearings regarding electric generation facilities; to provide for approval of certified renewable export facilities as prescribed; to change provisions relating to eminent domain; to require registration and marking of certain wind measurement equipment; to exempt certain property from property taxation; to provide for a nameplate capacity tax as prescribed; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original sections." inserted.

LEGISLATIVE BILL 1048A. Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 549. Introduced by Cook, 13.

WHEREAS, Linda Reall was a longtime member of the Florence Kiwanis Club and a longtime board member of the Florence Historical Foundation; and

WHEREAS, Linda Reall volunteered for numerous community projects over the years, and the project that she was best known for was saving the historic Keirle House, which was built in 1905 in the heart of Florence; and

WHEREAS, Linda Reall spent half of her life educating troubled girls at Uta Halee Girls Village; and

WHEREAS, Linda Reall's life legacy was to encourage people to become involved, volunteer, and actively support their local community; and

WHEREAS, Linda Reall passed away on April 3, 2010.

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 Linda Reall and her many contributions and achievements.

2. That the Legislature expresses and extends its sympathy and condolences to the family of Linda Reall.

3. That a copy of this resolution be sent to the family of Linda Reall.

Laid over.

AMENDMENT - Print in Journal

Senator Hadley filed the following amendment to LB420:
AM2479

(Amendments to Final Reading copy)

- 1 1. Strike the original sections and insert the following
2 new sections:
3 Section 1. Section 77-2704.12, Reissue Revised Statutes
4 of Nebraska, is amended to read:
5 77-2704.12 (1) Sales and use taxes shall not be imposed
6 on the gross receipts from the sale, lease, or rental of and the
7 storage, use, or other consumption in this state of purchases by
8 (a) any nonprofit organization created exclusively for religious
9 purposes, (b) any nonprofit organization providing services
10 exclusively to the blind, (c) any nonprofit private educational
11 institution established under sections 79-1601 to 79-1607, (d) any
12 nonprofit private college or university established under sections
13 85-1101 to 85-1111, (e) any nonprofit (i) hospital, (ii) health
14 clinic when two or more hospitals or the parent corporations of
15 the hospitals own or control the health clinic for the purpose of
16 reducing the cost of health services or when the health clinic
17 receives federal funds through the United States Public Health
18 Service for the purpose of serving populations that are medically
19 underserved, (iii) skilled nursing facility, (iv) intermediate care
20 facility, (v) assisted-living facility, (vi) intermediate care
21 facility for the mentally retarded, (vii) nursing facility, (viii)
22 home health agency, (ix) hospice or hospice service, or (x) respite
1 care service licensed under the Health Care Facility Licensure Act,
2 (f) any nonprofit licensed child-caring agency, (g) any nonprofit
3 licensed child placement agency, or (h) any nonprofit organization
4 certified by the Department of Health and Human Services to
5 provide community-based services for persons with developmental
6 disabilities.
7 (2) Any organization listed in subsection (1) of this
8 section shall apply for an exemption on forms provided by the

9 Tax Commissioner. The application shall be approved and a numbered
10 certificate of exemption received by the applicant organization in
11 order to be exempt from the sales and use tax.

12 (3) The appointment of purchasing agents shall be
13 recognized for the purpose of altering the status of the
14 construction contractor as the ultimate consumer of building
15 materials which are physically annexed to the structure and
16 which subsequently belong to the owner of the organization or
17 institution. The appointment of purchasing agents shall be in
18 writing and occur prior to having any building materials annexed
19 to real estate in the construction, improvement, or repair. The
20 contractor who has been appointed as a purchasing agent may apply
21 for a refund of or use as a credit against a future use tax
22 liability the tax paid on inventory items annexed to real estate
23 in the construction, improvement, or repair of a project for a
24 licensed not-for-profit institution.

25 (4) Any organization listed in subsection (1) of this
26 section which enters into a contract of construction, improvement,
27 or repair upon property annexed to real estate without first
1 issuing a purchasing agent authorization to a contractor or
2 repairperson prior to the building materials being annexed to
3 real estate in the project may apply to the Tax Commissioner for
4 a refund of any sales and use tax paid by the contractor or
5 repairperson on the building materials physically annexed to real
6 estate in the construction, improvement, or repair.

7 (5) Any person purchasing, storing, using, or
8 otherwise consuming building materials in the performance of any
9 construction, improvement, or repair by or for any institution
10 enumerated in subsection (1) of this section which is licensed upon
11 completion although not licensed at the time of construction or
12 improvement, which building materials are annexed to real estate
13 and which subsequently belong to the owner of the institution,
14 shall pay any applicable sales or use tax thereon. Upon becoming
15 licensed and receiving a numbered certificate of exemption,
16 the institution organized not for profit shall be entitled to
17 a refund of the amount of taxes so paid in the performance
18 of such construction, improvement, or repair and shall submit
19 whatever evidence is required by the Tax Commissioner sufficient
20 to establish the total sales and use tax paid upon the building
21 materials physically annexed to real estate in the construction,
22 improvement, or repair.

23 (6) Subsections (1) through (5) of this section apply to
24 transactions occurring before July 1, 2013. Subsections (7) through
25 (15) of this section apply to transactions occurring on or after
26 July 1, 2013.

27 (7) Sales and use taxes shall not be imposed on the
1 gross receipts from the sale, lease, or rental of and the storage,
2 use, or other consumption in this state of purchases by (a) any
3 nonprofit organization created exclusively for religious purposes,

4 (b) any nonprofit organization providing services exclusively
5 to the blind, (c) any nonprofit private educational institution
6 established under sections 79-1601 to 79-1607, or (d) any nonprofit
7 private college or university established under sections 85-1101 to
8 85-1111.

9 (8) Sales and use taxes shall not be imposed on the
10 gross receipts from the sale, lease, or rental of and the storage,
11 use, or other consumption in this state of purchases by (a)
12 any nonprofit licensed child-caring agency, (b) any nonprofit
13 licensed child placement agency, or (c) any nonprofit organization
14 certified by the Department of Health and Human Services to
15 provide community-based services for persons with developmental
16 disabilities. The exemptions in this subsection are limited to
17 purchases made for use in the exempt health care activities or
18 services that are licensed or certified by the Department of Health
19 and Human Services.

20 (9) Sales and use taxes shall not be imposed on the gross
21 receipts from the sale, lease, or rental of and the storage, use,
22 or other consumption in this state of purchases by any nonprofit
23 licensed hospital. The exemption in this subsection is limited to
24 purchases made for use at the facility or the portion of a facility
25 that is licensed under the Health Care Facility Licensure Act,
26 for use in the exempt health care activities or services that are
27 licensed under the act, or for use at a nonprofit health clinic
1 exempt under subsection (10) of this section.

2 (10)(a) Sales and use taxes shall not be imposed on
3 the gross receipts from the sale, lease, or rental of and the
4 storage, use, or other consumption in this state of purchases by
5 any nonprofit health clinic if one or more nonprofit hospitals or
6 the parent corporations of the nonprofit hospitals own or control
7 the nonprofit health clinic for the purpose of reducing the cost of
8 health services or if the nonprofit health clinic receives federal
9 funds through the United States Public Health Service for the
10 purpose of serving populations that are medically underserved.

11 (b) For purposes of this subsection, nonprofit health
12 clinic means:

13 (i) Rural health clinic as defined by 42 U.S.C. 1395x,
14 as such section existed on January 1, 2010, and organized not for
15 profit; or

16 (ii) Health clinic as defined in section 71-416 and
17 organized not for profit.

18 (c) The exemptions in this subsection are limited to
19 purchases made by a nonprofit health clinic for use at the
20 nonprofit health clinic.

21 (11) Sales and use taxes shall not be imposed on the
22 gross receipts from the sale, lease, or rental of and the
23 storage, use, or other consumption in this state of purchases
24 by any nonprofit licensed (a) nursing facility, (b) skilled
25 nursing facility, (c) assisted-living facility, (d) intermediate

26 care facility, (e) intermediate care facility for the mentally
27 retarded, (f) home health agency, (g) hospice or hospice service,
1 or (h) respite care service. The exemptions in this subsection are
2 limited to purchases made for use at the facility or the portion
3 of a facility that is licensed under the Health Care Facility
4 Licensure Act or for use in the exempt health care activities or
5 services licensed under the act.

6 (12) Any organization listed in subsections (7) through
7 (11) of this section shall apply for an exemption on forms provided
8 by the Tax Commissioner. The application shall be approved and
9 a numbered certificate of exemption received by the applicant
10 organization in order to be exempt from the sales and use tax.

11 (13) The appointment of purchasing agents shall be
12 recognized for the purpose of altering the status of the
13 construction contractor as the ultimate consumer of building
14 materials which are physically annexed to the structure and
15 which subsequently belong to the owner of the organization or
16 institution. The appointment of purchasing agents shall be in
17 writing and occur prior to having any building materials annexed
18 to real estate in the construction, improvement, or repair. The
19 contractor who has been appointed as a purchasing agent may apply
20 for a refund of or use as a credit against a future use tax
21 liability the tax paid on inventory items annexed to real estate
22 in the construction, improvement, or repair of a project for a
23 licensed not-for-profit institution.

24 (14) Any organization listed in subsections (7) through
25 (11) of this section which enters into a contract of construction,
26 improvement, or repair upon property annexed to real estate without
27 first issuing a purchasing agent authorization to a contractor
1 or repairperson prior to the building materials being annexed to
2 real estate in the project may apply to the Tax Commissioner for
3 a refund of any sales and use tax paid by the contractor or
4 repairperson on the building materials physically annexed to real
5 estate in the construction, improvement, or repair.

6 (15) Any person purchasing, storing, using, or
7 otherwise consuming building materials in the performance of any
8 construction, improvement, or repair by or for any institution
9 enumerated in subsections (7) through (11) of this section which
10 is licensed upon completion although not licensed at the time of
11 construction or improvement, which building materials are annexed
12 to real estate and which subsequently belong to the owner of the
13 institution, shall pay any applicable sales or use tax thereon.
14 Upon becoming licensed and receiving a numbered certificate of
15 exemption, the institution organized not for profit shall be
16 entitled to a refund of the amount of taxes so paid in the
17 performance of such construction, improvement, or repair and shall
18 submit whatever evidence is required by the Tax Commissioner
19 sufficient to establish the total sales and use tax paid upon
20 the building materials physically annexed to real estate in the

21 construction, improvement, or repair.

22 Sec. 2. Original section 77-2704.12, Reissue Revised
23 Statutes of Nebraska, is repealed.

24 2. On page 1, strike lines 2 through 6 and insert

25 "77-2704.12, Reissue Revised Statutes of Nebraska; to change
26 provisions relating to sales and use tax exemptions for certain
27 nonprofit entities; and to repeal the original section."

SELECT FILE

LEGISLATIVE BILL 594. Senator McGill withdrew her amendment, AM2496, found on page 1312.

Senator McGill offered the following amendment:
AM2509

(Amendments to E & R amendments, ER8220)

1 1. Insert the following new section:

2 Sec. 12. Section 28-327.01, Revised Statutes Supplement,
3 2009, is amended to read:

4 28-327.01 (1) The Department of Health and Human Services
5 shall cause to be published the following easily comprehensible
6 printed materials:

7 (a) Geographically indexed materials designed to inform
8 the woman of public and private agencies and services available to
9 assist a woman through pregnancy, upon childbirth, and while the
10 child is dependent, including adoption agencies and agencies and
11 services for prevention of unintended pregnancies, which materials
12 shall include a comprehensive list of the agencies available,
13 a description of the services they offer, and a description of
14 the manner, including telephone numbers and addresses in which
15 such agencies may be contacted or printed materials including a
16 toll-free, twenty-four-hour-a-day telephone number which may be
17 called to orally obtain such a list and description of agencies in
18 the locality of the caller and of the services they offer;

19 (b) Materials designed to inform the woman of the
20 probable anatomical and physiological characteristics of the unborn
21 child at two-week gestational increments from the time when a woman
22 can be known to be pregnant to full term, including pictures or
1 drawings representing the development of unborn children at the
2 two-week gestational increments, and any relevant information on
3 the possibility of the unborn child's survival. Any such pictures
4 or drawings shall contain the dimensions of the unborn child and
5 shall be realistic and appropriate for the stage of pregnancy
6 depicted. The materials shall be objective, nonjudgmental, and
7 designed to convey only accurate scientific information about
8 the unborn child at the various gestational ages. The materials
9 shall also contain objective information describing the methods of
10 abortion procedures commonly employed, the medical risks commonly
11 associated with each such procedure, the possible detrimental

12 psychological effects of abortion, the medical risks commonly
13 associated with abortion, and the medical risks commonly associated
14 with carrying a child to term; and

15 (c) A comprehensive list of health care providers,
16 facilities, and clinics that offer to have ultrasounds performed by
17 a person at least as qualified as a registered nurse licensed under
18 the Uniform Credentialing Act, including and specifying those that
19 offer to perform such ultrasounds free of charge. The list shall be
20 arranged geographically and shall include the name, address, hours
21 of operation, and telephone number of each entity.

22 (2) The printed materials shall be printed in a typeface
23 large enough to be clearly legible.

24 (3) The printed materials required under this section
25 shall be available from the department upon the request by any
26 person, facility, or hospital for an amount equal to the cost
27 incurred by the department to publish the materials.

1 (4) The Department of Health and Human Services shall
2 make available on its Internet web site a printable publication
3 of geographically indexed materials designed to inform the woman
4 of public and private agencies with services available to assist
5 a woman with mental health concerns, following a risk factor
6 evaluation. Such services shall include, but not be limited to,
7 outpatient and crisis intervention services and crisis hotlines.
8 The materials shall include a comprehensive list of the agencies
9 available, a description of the services offered, and a description
10 of the manner in which such agencies may be contacted, including
11 addresses and telephone numbers of such agencies, as well as a
12 toll-free, twenty-four-hour-a-day telephone number to be provided
13 by the department which may be called to orally obtain the names of
14 the agencies and the services they provide in the locality of the
15 woman. The department shall update the publication as necessary.

16 2. On page 17, line 19, after the first comma insert
17 "28-327.01,".

18 3. Renumber the remaining sections accordingly.

The McGill amendment was adopted with 34 ayes, 1 nay, 12 present and not voting, and 2 excused and not voting.

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

Voting in the affirmative, 36:

Adams	Gay	Janssen	Nelson	Sullivan
Carlson	Giese	Karpisek	Nordquist	Utter
Coash	Gloor	Krist	Pankonin	Wallman
Dierks	Hadley	Langemeier	Pirsch	Wightman
Dubas	Hansen	Lathrop	Price	
Fischer	Harms	Lautenbaugh	Rogert	
Flood	Heidemann	McCoy	Schilz	
Fulton	Howard	Mello	Stuthman	

Voting in the negative, 7:

Avery	Conrad	Council	McGill
Campbell	Cook	Haar	

Present and not voting, 4:

Ashford	Christensen	Cornett	Louden
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Excused and not voting, 2:

Pahls	White
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Advanced to Enrollment and Review for Engrossment with 36 ayes, 7 nays, 4 present and not voting, and 2 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 999. Title read. Considered.

PRESIDENT SHEEHY PRESIDING

Senator Campbell withdrew her amendment, AM2321, found on page 1060.

Senator Campbell asked unanimous consent to withdraw her amendment, AM2366, found on page 1110, and replace it with the Campbell et al. substitute amendment, AM2503, found on page 1314. No objections. So ordered.

Senator Stuthman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 34 ayes, 1 nay, and 14 not voting.

The Campbell et al. amendment was adopted with 41 ayes, 0 nays, 5 present and not voting, and 3 excused and not voting.

Senator Gay withdrew his amendments, AM2395 and AM2399, found on pages 1147 and 1160.

Senator Hansen withdrew his amendment, AM2400, found on page 1147.

Senator Cornett withdrew her amendments, AM2389, and AM2397, found on pages 1147 and 1159.

Senator McCoy withdrew his amendment, AM2391, found on page 1159.

Senator Karpisek withdrew his amendments, AM2392 and AM2396, found on pages 1159 and 1165.

Senator Carlson withdrew his amendment, AM2394, found on page 1159.

Senator Conrad withdrew her amendment, AM2393, found on page 1160.

Senator Cornett withdrew her amendment, AM2374, found on page 1111.

Senator Hansen withdrew his amendment, AM2280, found on page 1111.

Senator Gay withdrew his amendment, AM2363, found on page 1115.

Senator Conrad withdrew her amendment, AM2361, found on page 1115.

Senator Karpisek withdrew his amendment, AM2360, found on page 1115.

Senator McCoy withdrew his amendment, AM2359, found on page 1119.

Senator Lautenbaugh withdrew his amendment, AM2357, found on page 1119.

Senator Carlson withdrew his amendment, AM2362, found on page 1130.

Advanced to Enrollment and Review Initial with 41 ayes, 2 nays, 3 present and not voting, and 3 excused and not voting.

RESOLUTION

Pursuant to Rule 4, Sec. 5(b), LR540 was adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LR540.

RESOLUTION

LEGISLATIVE RESOLUTION 550. Introduced by Council, 11; Ashford, 20; Cook, 13; Krist, 10; Mello, 5; Nordquist, 7.

WHEREAS, Luigi Waites was born Lewis Waites on July 10, 1927, in Omaha, Nebraska; and

WHEREAS, a self-taught Luigi Waites began playing drums professionally at the age of twelve; and

WHEREAS, Luigi Waites performed with such greats as Ella Fitzgerald, Sarah Vaughan, Dinah Washington, Dizzy Gillespie, Jean Luc Ponty, Ramsey Lewis, Lionel Hampton, Bob Darch, and James Brown; and

WHEREAS, Luigi Waites was active in working with a wide variety of K-12 schools and colleges in sixteen states; and

WHEREAS, Luigi Waites taught and inspired young musicians for more than sixty years; and

WHEREAS, in 1960, Luigi Waites founded The Contemporaries, a multicultural, independent marching corps, which dispensed with the traditional military style marching and instead featured jazz rhythms; and

WHEREAS, Luigi Waites was named Nebraska Artist of the Year in 1996; and

WHEREAS, in honor of twenty years of service on the board of the Omaha Summer Arts Festival, the Luigi Waites Main Stage was dedicated to honor him; and

WHEREAS, the Omaha Press Club named Luigi Waites the 81st Face on the Bar Room Floor in 2000; and

WHEREAS, an honorary high school diploma was bestowed on Luigi Waites at Omaha North High School in 2003; and

WHEREAS, Luigi Waites was inducted into the Omaha Black Music Hall of Fame in 2005; and

WHEREAS, Luigi Waites was awarded the Lifetime Achievement Award at the Omaha Entertainment Awards Ceremony in 2007; and

WHEREAS, Luigi Waites was named best jazz artist at the Omaha Entertainment Awards Ceremony in 2009; and

WHEREAS, Luigi Waites and his band, Luigi Inc., have performed for more than one thousand seven hundred consecutive Sundays in Omaha; and

WHEREAS, Luigi Waites died in Omaha, Nebraska, on April 6, 2010.

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 Luigi Waites for his talent, dedication, and service to the people of Nebraska.

2. That the Legislature expresses and extends its sympathy and condolences to the family of Luigi Waites.

3. That a copy of this resolution be sent to the family of Luigi Waites.

Laid over.

AMENDMENT - Print in Journal

Senator Flood filed the following amendment to LB771:
AM2504

(Amendments to E & R amendments, ER8237)

- 1 1. Strike section 7 and insert the following new section:
 2 Sec. 7. Section 28-931.01, Reissue Revised Statutes of
 3 Nebraska, is amended to read:
 4 28-931.01 (1) A person commits the offense of assault on
 5 an officer using a motor vehicle if
 6 (a) By using a motor vehicle to run over or to strike an
 7 officer or employee or by using a motor vehicle to collide with an
 8 officer's or employee's motor vehicle, he or she intentionally and
 9 knowingly causes bodily injury ~~to~~
 10 (i) To a peace officer, a probation officer, or an
 11 employee of the Department of Correctional Services; or
 12 (ii) To an employee of the Department of Health and Human
 13 Services if the person committing the offense is committed as a
 14 dangerous sex offender under the Sex Offender Commitment Act; and
 15 ~~(a) by using a motor vehicle to run over or to strike such officer~~
 16 ~~or employee or (b) by using a motor vehicle to collide with such~~
 17 ~~officer's or employee's motor vehicle;~~
 18 (b) The offense is committed while such officer or
 19 employee is engaged in the performance of his or her duties.
 20 (2) Assault on an officer using a motor vehicle shall be
 21 a Class IIIA felony.

WITHDRAW - Cointroducer

Senator Janssen withdrew his name as cointroducer to LB996.

VISITORS

Visitors to the Chamber were Jordan Utech from Bellevue; Todd and Logan Bell from Grand Island; Steve and Julia Ourecky from Omaha; 34 twelfth-grade students from Syracuse; 41 fourth-grade students and teachers from Howard Elementary, Fremont; 10 tenth- through twelfth-grade students and teacher from Norris School District 160, Firth; and 40 third- and fourth-grade students and teachers from Belle Ryan Elementary, Omaha.

RECESS

At 11:59 a.m., on a motion by Senator Stuthman, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Carlson, Cornett, Dubas, Gloor, Lathrop, and Wallman who were excused until they arrive.

COMMITTEE REPORT

Enrollment and Review

LEGISLATIVE BILL 771. Placed on Select File with amendment. ER8237 is available in the Bill Room.

(Signed) Jeremy Nordquist, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 551. Introduced by Fischer, 43.

WHEREAS, the Stuart High School speech team won first place in Class D-2 at the 2010 Nebraska State Speech Tournament held at the University of Nebraska at Kearney on March 20, 2010; and

WHEREAS, Jordan Kunz took first place in the Entertainment category; and

WHEREAS, Caitlin Kunz took second place in the Entertainment category and third place in the Informative category; and

WHEREAS, Tomas Salinas took second place in the Humorous category; and

WHEREAS, Brittany Kaup took second place in the Poetry category; and

WHEREAS, Ms. Brenda Larabee coached the Stuart High School speech team through a successful season, ending with a State Speech title.

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

1. That the Legislature congratulates the Stuart High School speech team on winning first place in Class D-2 at the 2010 Nebraska State Speech Tournament.

2. That a copy of this resolution be sent to the Stuart High School speech team and their coach, Ms. Brenda Larabee.

Laid over.

RESOLUTION

LEGISLATIVE RESOLUTION 541. Read. Considered.

Senator Ashford offered the following amendment:

FA75

Strike the existing sections and substitute the following: "The Legislature resolves that a moratorium on all new construction by all colleges and universities cease immediately until the Legislature determines this economic crisis ends."

Senator Ashford withdrew his amendment.

Senator Ashford offered the following amendment:

FA76

Add the following new language: All work on new construction projects which commence subsequent to this project at each public postsecondary education institution in Nebraska shall not begin until otherwise directed by the Legislature.

Senator Ashford withdrew his amendment.

LR541 was adopted with 43 ayes, 0 nays, 5 present and not voting, and 1 excused and not voting.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR541.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 252. Placed on Final Reading.

LEGISLATIVE BILL 411. Placed on Final Reading.

LEGISLATIVE BILL 695. Placed on Final Reading.

LEGISLATIVE BILL 696. Placed on Final Reading.

LEGISLATIVE BILL 706. Placed on Final Reading.

LEGISLATIVE BILL 713. Placed on Final Reading.

LEGISLATIVE BILL 732. Placed on Final Reading.

LEGISLATIVE BILL 759. Placed on Final Reading.

LEGISLATIVE BILL 760. Placed on Final Reading.

LEGISLATIVE BILL 792. Placed on Final Reading.

ST9101

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

1. On page 22, line 17, "and" has been inserted after the semicolon.

LEGISLATIVE BILL 813. Placed on Final Reading.

LEGISLATIVE BILL 861. Placed on Final Reading.

ST9099

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

1. In lieu of the Christensen amendment, FA73, in the Coash amendment, AM2163, on page 1, line 19, "sixty percent" has been struck and "two-thirds" inserted.

2. In the E & R amendments, ER8212, on page 1, line 3, "9-647," has been inserted after the second comma; in line 4 "53-179," has been inserted after the last comma; and in line 11 "to provide authorization to change the hours for sales of alcoholic liquor and for the conduct of lotteries under the Nebraska County and City Lottery Act;" has been inserted after the semicolon.

3. In the Standing Committee amendments, AM2140:

a. On page 8, line 24, "9" has been struck and "10" inserted;

b. On page 9, line 7, "8, 10, 45, and 49" has been struck and "9, 11, 46, and 50" inserted;

c. On page 10, lines 14 and 20, "8 to 49" has been struck and "9 to 50" inserted; and in line 15 "56" has been struck and "57" inserted;

d. On page 33, lines 15 and 23 "56" has been struck and "57" inserted;

e. On page 34, line 27, "20" has been struck and "21" inserted;

f. On page 36, line 23; page 37, line 26; page 42, line 10; page 56, line 1; page 62, line 11; and page 71, line 11, "56" has been struck and "57" inserted;

g. On page 43, line 9, "I" has been struck and "1" inserted; in line 10 "II" has been struck and "2" inserted; in line 11 "III" has been struck and "3" inserted; in line 12 "IV" has been struck and "4" inserted; and in line 13 "V" has been struck and "5" inserted;

h. On page 65, line 25, "16 and 37" has been struck and "17 and 38" inserted;

i. On page 78, line 8, "9" has been struck and "10" inserted; and in line 18 "30" has been struck and "31" inserted;

j. On page 80, lines 7 and 16, "30" has been struck and "31" inserted;

k. On page 81, line 10, "15" has been struck and "16" inserted;

l. On page 82, line 16, "9" has been struck and "10" inserted; and

m. On page 83, line 17, "9-647," has been inserted after the second comma; and in line 19 "53-179," has been inserted after the third comma.

LEGISLATIVE BILL 933. Placed on Final Reading.

LEGISLATIVE BILL 961. Placed on Final Reading.

LEGISLATIVE BILL 978. Placed on Final Reading.

LEGISLATIVE BILL 986. Placed on Final Reading.

LEGISLATIVE BILL 997. Placed on Final Reading.

LEGISLATIVE BILL 1047. Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

MESSAGE FROM THE GOVERNOR

April 7, 2010

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 373, 820, 864, 880, 880A, 901e, 924, 965, 970, 975, and 1081e were received in my office on April 1, 2010.

These bills were signed and delivered to the Secretary of State on April 7, 2010.

Sincerely,
(Signed) Dave Heineman
Governor

SELECT FILE

LEGISLATIVE BILL 563. ER8214, found on page 984, was adopted.

Senator Lathrop asked unanimous consent to withdraw his amendment, AM2365, found on page 1245, and replace it with his substitute amendment, AM2500, found on page 1312. No objections. So ordered.

Senator Price renewed his amendment, AM2506, found on page 1315, to the Lathrop amendment.

SENATOR SULLIVAN PRESIDING**PRESIDENT SHEEHY PRESIDING**

Pending.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 758. Placed on Final Reading.
LEGISLATIVE BILL 789. Placed on Final Reading.
LEGISLATIVE BILL 809. Placed on Final Reading.
LEGISLATIVE BILL 829. Placed on Final Reading.
LEGISLATIVE BILL 844. Placed on Final Reading.
LEGISLATIVE BILL 852. Placed on Final Reading.
LEGISLATIVE BILL 872. Placed on Final Reading.
LEGISLATIVE BILL 884. Placed on Final Reading.
LEGISLATIVE BILL 894. Placed on Final Reading.

LEGISLATIVE BILL 907. Placed on Final Reading.
LEGISLATIVE BILL 908. Placed on Final Reading.
LEGISLATIVE BILL 934. Placed on Final Reading.
LEGISLATIVE BILL 947. Placed on Final Reading.
LEGISLATIVE BILL 993. Placed on Final Reading.
LEGISLATIVE BILL 1055. Placed on Final Reading.
LEGISLATIVE BILL 1065. Placed on Final Reading.
LEGISLATIVE BILL 1085. Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

COMMITTEE REPORT
Business and Labor

LEGISLATIVE BILL 1020. Placed on General File with amendment.
AM2512 is available in the Bill Room.

(Signed) Steve Lathrop, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 552. Introduced by Pankonin, 2.

WHEREAS, Travis John Barrett, son of Kevin and Lora Barrett and a junior at Lourdes Central Catholic High School, has completed the requirements to attain 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, Travis has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, Travis served his troop in a variety of leadership roles, including senior patrol leader, patrol leader, assistant patrol leader, historian, librarian, quartermaster, bugler, troop guide, Order of the Arrow representative, and scribe. To achieve the rank of Eagle Scout, Travis earned twenty-two merit badges and completed a community service project approved by the troop and the scout council; and

WHEREAS, for his Eagle Scout community service project, Travis landscaped the front of his church, St. Benedict's Catholic Church, to beautify the church and prevent erosion on the steep slopes of the church's property; and

WHEREAS, in addition to his scouting achievements, Travis is a member of the Academic Decathlon and speech teams at Lourdes Central Catholic High School and the 4-H Youth and Adults in Action leadership group.

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

1. That the Legislature congratulates Travis John Barrett for the exemplary achievement of fulfilling the requirements for obtaining the rank of Eagle Scout.
2. That a copy of this resolution be sent to Travis John Barrett.

Laid over.

SELECT FILE

LEGISLATIVE BILL 563. The Price amendment, AM2506, found on page 1315 and considered in this day's Journal, to the Lathrop amendment, was renewed.

Senator Janssen moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 2 nays, and 20 not voting.

Senator White requested a record vote on the Price amendment.

Senator Price requested a roll call vote on his amendment.

Voting in the affirmative, 5:

Janssen	Nelson	Price	Schilz	Stuthman
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Voting in the negative, 21:

Adams	Cornett	Haar	Mello	White
Campbell	Council	Howard	Nordquist	
Carlson	Dubas	Karpisek	Rogert	
Conrad	Flood	Lathrop	Sullivan	
Cook	Giese	McGill	Wallman	

Present and not voting, 18:

Ashford	Dierks	Hansen	Lautenbaugh	Utter
Avery	Fischer	Harms	McCoy	Wightman
Christensen	Fulton	Heidemann	Pankonin	
Coash	Hadley	Langemeier	Pirsch	

Excused and not voting, 5:

Gay	Gloor	Krist	Louden	Pahls
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The Price amendment lost with 5 ayes, 21 nays, 18 present and not voting, and 5 excused and not voting.

Senator Lathrop offered the following amendment to his amendment:
AM2513

(Amendments to AM2500)

- 1 1. On page 2, line 5, strike "at least six months".

The Lathrop amendment was adopted with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

The Lathrop amendment, AM2500, found on page 1312 and considered in this day's Journal, as amended, was renewed.

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

Senator Price withdrew his amendments, AM2299 and AM2453, found on pages 1025 and 1285.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 563A. Senator Lathrop renewed his amendment, AM2480, found on page 1312.

The Lathrop amendment was adopted with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 931. ER8224, found on page 1228, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 1014. ER8222, found on page 1235, was adopted.

Senator Haar offered the following amendment:
AM2508

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. (1)(a) Beginning in 2016, the Commissioner of
- 4 Education shall annually collect data from each school district
- 5 prior to February 25 and determine whether at least seventy-five
- 6 percent of the school districts have included a system for
- 7 distributing apportionment funds attributable to income from solar
- 8 or wind energy leases on school lands for teacher performance pay
- 9 within such districts' local collective-bargaining agreements for
- 10 the ensuing school fiscal year.
- 11 (b)(i) If the seventy-five percent requirement has been
- 12 met for the year, the Commissioner of Education shall use
- 13 the separate accounting provided by the State Treasurer under
- 14 subdivision (1)(b) of section 79-1035 to determine the amount
- 15 of the apportionment to each school district under section

16 79-1035 that is attributable to income from solar or wind energy
17 leases on school lands. The commissioner shall notify each school
18 district of such amount within five days after certification of
19 the apportionment required pursuant to subsection (3) of section
20 79-1035. Each school district shall use the amount of apportionment
21 funds specified in the notice provided by the commissioner for
22 the purpose of teacher performance pay. Such amount shall be
23 used as a supplement to the salary schedule as provided in local
1 collective-bargaining agreements. For purposes of distribution of
2 such funds only, the Legislature finds that teacher performance
3 pay measurements, criteria, and payout amounts are mandatory topics
4 of collective bargaining. If a school district has not included a
5 system for distributing apportionment funds attributable to income
6 from solar or wind energy leases on school lands for teacher
7 performance pay within its local collective-bargaining agreement,
8 the amount of apportionment funds specified in the notice provided
9 by the commissioner shall be returned to the State Treasurer within
10 one month of receipt of such funds. The State Treasurer shall
11 immediately credit any funds returned under this section to the
12 temporary school fund. Any funds returned under this section shall
13 be redistributed from the temporary school fund in the following
14 year and shall no longer be designated as income attributable to
15 solar or wind energy leases on school lands; or

16 (i) If the seventy-five percent requirement has not been
17 met for the year, then subdivision (1)(b)(i) of this section shall
18 not apply for that year.

19 (2) If the seventy-five percent requirement has not been
20 met in 2016, 2017, or 2018, then this section shall not apply in
21 2019 or any year thereafter.

22 (3) For purposes of this section:

23 (a) Lease means any lease, easement, covenant, or other
24 such contractual arrangement; and

25 (b) Teacher performance pay means a systematic process
26 for measuring teachers' performance and linking the measurements
27 to changes in teacher pay. Indicators of teacher performance may
1 include improving professional skills and knowledge, classroom
2 performance or instructional behavior, and instructional outcomes.
3 Teacher performance pay may include predetermined bonus amounts and
4 payout criteria.

5 Sec. 2. Section 79-1018.01, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 79-1018.01 Except as otherwise provided in this section,
8 local system formula resources include other actual receipts
9 available for the funding of general fund operating expenditures
10 as determined by the department for the second school fiscal
11 year immediately preceding the school fiscal year in which aid
12 is to be paid. Receipts from the Community Improvements Cash Fund
13 and receipts acquired pursuant to the Low-Level Radioactive Waste
14 Disposal Act shall not be included. Other actual receipts include:

- 15 (1) Public power district sales tax revenue;
- 16 (2) Fines and license fees;
- 17 (3) Tuition receipts from individuals, other districts,
18 or any other source except receipts derived from adult education,
19 receipts derived from summer school tuition, receipts derived from
20 early childhood education tuition, and receipts from educational
21 entities as defined in section 79-1201.01 for providing distance
22 education courses through the Distance Education Council until July
23 1, 2008, and the Educational Service Unit Coordinating Council on
24 and after July 1, 2008, to such educational entities;
- 25 (4) Transportation receipts;
- 26 (5) Interest on investments;
- 27 (6) Other miscellaneous noncategorical local receipts,
1 not including receipts from private foundations, individuals,
2 associations, or charitable organizations;
- 3 (7) Special education receipts;
- 4 (8) Special education receipts and non-special education
5 receipts from the state for wards of the court and wards of the
6 state;
- 7 (9) All receipts from the temporary school fund.
8 Beginning with the calculation of aid for school fiscal year
9 2002-03 and each school fiscal year thereafter, receipts from the
10 temporary school fund shall only include (a) receipts pursuant
11 to section 79-1035, to the extent that such receipts for the
12 calculation of aid for school fiscal year 2018-19 and each school
13 fiscal year thereafter are not returned to the temporary school
14 fund pursuant to section 1 of this act, and (b) the receipt of
15 funds pursuant to section 79-1036 for property leased for a public
16 purpose as set forth in subdivision (1)(a) of section 77-202;
- 17 (10) Motor vehicle tax receipts received on or after
18 January 1, 1998;
- 19 (11) Pro rata motor vehicle license fee receipts;
- 20 (12) Other miscellaneous state receipts excluding revenue
21 from the textbook loan program authorized by section 79-734;
- 22 (13) Impact aid entitlements for the school fiscal year
23 which have actually been received by the district to the extent
24 allowed by federal law;
- 25 (14) All other noncategorical federal receipts;
- 26 (15) All receipts pursuant to the enrollment option
27 program under sections 79-232 to 79-246;
- 1 (16) Receipts under the federal Medicare Catastrophic
2 Coverage Act of 1988, as such act existed on May 8, 2001, as
3 authorized pursuant to sections 43-2510 and 43-2511 but only to the
4 extent of the amount the local system would have otherwise received
5 pursuant to the Special Education Act; and
- 6 (17) Receipts for accelerated or differentiated
7 curriculum programs pursuant to sections 79-1106 to 79-1108.03.
- 8 Sec. 3. Section 79-1028.01, Revised Statutes Supplement,
9 2009, is amended to read:

- 10 79-1028.01 (1) For ~~school fiscal year 2008-09 and each~~
11 school fiscal year, ~~thereafter~~, a school district may exceed its
12 maximum general fund budget of expenditures minus the special
13 education budget of expenditures by a specific dollar amount for:
- 14 (a) Expenditures for repairs to infrastructure damaged by
15 a natural disaster which is declared a disaster emergency pursuant
16 to the Emergency Management Act;
 - 17 (b) Expenditures for judgments, except judgments or
18 orders from the Commission of Industrial Relations, obtained
19 against a school district which require or obligate a school
20 district to pay such judgment, to the extent such judgment is not
21 paid by liability insurance coverage of a school district;
 - 22 (c) Expenditures pursuant to the Retirement Incentive
23 Plan authorized in section 79-855 or the Staff Development
24 Assistance authorized in section 79-856;
 - 25 (d) Expenditures of incentive payments or base fiscal
26 year incentive payments to be received in such school fiscal year
27 pursuant to section 79-1011;
 - 1 (e) Expenditures of amounts received from educational
2 entities as defined in section 79-1201.01 for providing distance
3 education courses through the Educational Service Unit Coordinating
4 Council to such educational entities;
 - 5 (f) Either (i) the first and second school fiscal years
6 the district will be participating in Network Nebraska for the
7 full school fiscal year or (ii) school fiscal year 2008-09, if
8 the school district participated in Network Nebraska for all of
9 school fiscal year 2007-08, for the difference of the estimated
10 expenditures for such school fiscal year for telecommunications
11 services, access to data transmission networks that transmit data
12 to and from the school district, and the transmission of data on
13 such networks as such expenditures are defined by the department
14 for purposes of the distance education and telecommunications
15 allowance minus the dollar amount of such expenditures for the
16 second school fiscal year preceding the first full school fiscal
17 year the district participates in Network Nebraska;
 - 18 (g) Expenditures to pay another school district for the
19 transfer of land from such other school district;
 - 20 (h) Expenditures in school fiscal years 2009-10 through
21 2013-14 to pay for employer contributions pursuant to subsection
22 (2) of section 79-958 to the School Retirement System of the
23 State of Nebraska to the extent that such expenditures exceed the
24 employer contributions under such subsection that would have been
25 made at a contribution rate of seven and thirty-five hundredths
26 percent; ~~and~~
 - 27 (i) Expenditures in school fiscal years 2009-10 through
1 2013-14 to pay for school district contributions pursuant to
2 subdivision (1)(c)(i) of section 79-9,113 to the Class V School
3 Employees Retirement System to the extent that such expenditures
4 exceed the school district contributions under such subdivision

5 that would have been made at a contribution rate of seven and
6 thirty-seven hundredths percent;

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

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

14 ~~(k) Expenditures for new elementary attendance sites in~~
15 ~~the first year of operation or the first year of operation after~~
16 ~~being closed for at least one school year if such elementary~~
17 ~~attendance site will most likely qualify for the elementary site~~
18 ~~allowance in the immediately following school fiscal year as~~
19 ~~determined by the state board; and-~~

20 ~~(l) Any expenditures in school fiscal years 2016-17~~
21 ~~and 2017-18 of amounts specified in the notice provided by the~~
22 ~~Commissioner of Education pursuant to section 1 of this act for~~
23 ~~teacher performance pay.~~

24 ~~(3)-(2) The state board shall approve, deny, or modify~~
25 ~~the amount allowed for any exception to the maximum general fund~~
26 ~~budget of expenditures minus the special education budget of~~
27 ~~expenditures pursuant to this section.~~

1 Sec. 4. Section 79-1035, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 79-1035 ~~(4)-(1)(a)~~ The State Treasurer shall, each year
4 on or before the third Monday in January, make a complete exhibit
5 of all money belonging to the permanent school fund and the
6 temporary school fund as returned to him or her from the several
7 counties, together with the amount derived from other sources,
8 and deliver such exhibit duly certified to the Commissioner of
9 Education.

10 ~~(b) Beginning in 2016 and each year thereafter, the~~
11 ~~exhibit required in subdivision (1)(a) of this section shall~~
12 ~~include a separate accounting, not to exceed an amount of ten~~
13 ~~million dollars, of the income from solar and wind energy leases~~
14 ~~on school lands. The Board of Educational Lands and Funds shall~~
15 ~~provide the State Treasurer with the information necessary to make~~
16 ~~the exhibit required by this subsection. Separate accounting shall~~
17 ~~not be made for income from solar or wind energy leases on school~~
18 ~~lands that exceeds the sum of ten million dollars.~~

19 ~~(2) On or before February 25 following receipt of the~~
20 ~~exhibit from the State Treasurer pursuant to subsection (1) of this~~
21 ~~section, the Commissioner of Education shall make the apportionment~~
22 ~~of the temporary school fund to each school district as follows:~~
23 ~~From the whole amount there shall be paid to those districts in~~
24 ~~which there are school or saline lands, which lands are used for a~~
25 ~~public purpose, an amount in lieu of tax money that would be raised~~
26 ~~if such lands were taxable, to be fixed in the manner prescribed~~

27 in section 79-1036; and the remainder shall be apportioned to the
 1 districts according to the pro rata enumeration of children who are
 2 five through eighteen years of age in each district last returned
 3 from the school district. The calculation of apportionment for
 4 each school fiscal year shall include any corrections to the prior
 5 school fiscal year's apportionment.

6 ~~(2)~~(3) The Commissioner of Education shall certify
 7 the amount of the apportionment of the temporary school fund as
 8 provided in subsection ~~(1)~~(2) of this section to the Director
 9 of Administrative Services. The Director of Administrative Services
 10 shall draw a warrant on the State Treasurer in favor of the
 11 various districts for the respective amounts so certified by the
 12 Commissioner of Education.

13 (4) For purposes of this section, lease means any lease,
 14 easement, covenant, or other such contractual arrangement.

15 Sec. 5. The Revisor of Statutes shall assign section 1 of
 16 this act to Chapter 79.

17 Sec. 6. Original sections 79-1018.01 and 79-1035, Reissue
 18 Revised Statutes of Nebraska, and section 79-1028.01, Revised
 19 Statutes Supplement, 2009, are repealed.

The Haar amendment was adopted with 31 ayes, 0 nays, 12 present and not
 voting, and 6 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 507A. Placed on Final Reading.

LEGISLATIVE BILL 712. Placed on Final Reading.

ST9100

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

1. In the E & R amendments, ER8225:

a. Section 41 and all amendments thereto have been struck and the
 following new section inserted:

Sec. 46. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18,
 19, 20, 21, 22, 24, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41,
 42, 43, 44, 45, and 48 of this act become operative three calendar months
 after the adjournment of this legislative session. Section 23 of this act
 becomes operative on January 1, 2011. The other sections of this act become
 operative on their effective date.

b. On page 22, line 18, "18" has been struck and "22" inserted;

c. On page 28, line 11; and page 29, line 6, "26" has been struck and "30"
 inserted;

d. On page 44, line 9, "37" has been struck and "42" inserted;

e. On page 47, line 26; and page 48, line 9, "28-201, 28-502, 28-503, 28-504," has been inserted after "25-2804,"; and

f. On page 48, line 13, "47-502," has been inserted after the first comma; in line 18 "to change penalty provisions relating to criminal attempt and arson;" has been inserted after the semicolon; and in line 21 ", reduction of jail sentences," has been inserted after "enforcement".

LEGISLATIVE BILL 780. Placed on Final Reading.

LEGISLATIVE BILL 1072. Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 553. Introduced by Heidemann, 1.

WHEREAS, Alex Allen Gottwald, son of Allen and the late Ann Gottwald and a member of Troop 353 in Nebraska City, Nebraska, 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, Alex 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, Alex's community service project consisted of landscaping the front of his church, St. Joseph's Catholic Church, by planting roses along the pathway, thereby helping to beautify the church; and

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

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

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

1. That the Legislature congratulates Alex Allen Gottwald on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Alex Allen Gottwald.

Laid over.

AMENDMENT - Print in Journal

Senator Heidemann filed the following amendment to LB779:
AM2510

(Amendments to E & R amendments, ER8221)

- 1 1. On page 5, line 27, strike "any" and insert "
- 2 (a) Any".
- 3 2. On page 6, line 7, after the semicolon insert "and";
- 4 and after line 7 insert the following new subdivision:
- 5 "(b) Any racetrack licensed by the State Racing
- 6 Commission, including concession areas, parking facilities,
- 7 and onsite administrative offices connected with operating the
- 8 racetrack";.

SELECT FILE

LEGISLATIVE BILL 987. ER8234, found on page 1291, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 987A. Senator Heidemann renewed his amendment, AM2444, found on page 1297.

The Heidemann amendment was adopted with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

VISITORS

Visitors to the Chamber were Thomas Geardino from Malcolm; Jack Bauerle, Hayley Vitosh, and Kayla Schilke from Imperial; members of North Platte Youth Leadership Academy from North Platte; Chris Anderson from Lincoln; Dan Zichek from Lincoln; and Jonathan Herroon from Lincoln.

ADJOURNMENT

At 4:57 p.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Thursday, April 8, 2010.

Patrick J. O'Donnell
Clerk of the Legislature

