

FORTY-SEVENTH DAY - MARCH 16, 2011**LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION****FORTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 16, 2011

PRAYER

The prayer was offered by Senator Wallman.

ROLL CALL

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

The roll was called and all members were present except Senators Council and Krist who were excused; and Senators Ashford, Christensen, Conrad, Cornett, Heidemann, Lautenbaugh, Loudon, Nelson, Nordquist, and Schilz who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-sixth day was approved.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 544. Placed on Select File.

LEGISLATIVE BILL 100. Placed on Select File.

LEGISLATIVE BILL 230. Placed on Select File.

(Signed) Tyson Larson, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 124. Introduced by Cook, 13; Ashford, 20; Council, 11; Howard, 9; Nordquist, 7; Pirsch, 4.

WHEREAS, the Omaha Central Eagles won the 2011 Class A Boys' State Basketball Championship with a 52-48 victory over Omaha Bryan; and

WHEREAS, the Eagles have won an unprecedented five Class A titles in six seasons; and

WHEREAS, the Eagles finished the season ranked first in the final Top 10 rankings for the seventh time; and

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

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

1. That the Legislature congratulates the Omaha Central Eagles on winning the 2011 Class A Boys' State Basketball Championship.

2. That a copy of this resolution be sent to the Eagles and their head coach, Eric Behrens.

Laid over.

LEGISLATIVE RESOLUTION 125. Introduced by Flood, 19.

WHEREAS, the Norfolk Catholic Knights won the 2011 Class C-1 Boys' State Basketball Championship; and

WHEREAS, the Norfolk Catholic Knights, ranked second coming into the tournament, won the title with a 56-45 victory over the Minden Whippets, who were ranked fourth; and

WHEREAS, team members Ethan Brozek, Erik Becker, Kory Schaefer, Ben Uhing, Scott Zach, Tanner Bessmer, Drew Farlee, Luke Lyons, Jordan Molacek, Jared Uhlir, Brandon Becker, Jordan Bellar, Connor Ketter, Riley Knake, Jared Maguire, and Dylan Borer gave the Knights their first state title in school history; and

WHEREAS, the team was led by Head Coach Shane Anderson, Assistant Coach Doug Moore, Assistant Coach Josh Clark, and Manager Rick Winch; and

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

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

1. That the Norfolk Catholic Knights be congratulated for winning the 2011 Class C-1 Boys' State Basketball Championship.

2. That a copy of this resolution be sent to the Knights and Head Coach Shane Anderson.

Laid over.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, and 116 were adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, and 116.

GENERAL FILE

LEGISLATIVE BILL 387. Senator B. Harr renewed his amendment, AM804, found on page 873, to the Hadley amendment.

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

Senator B. Harr requested a roll call vote on his amendment.

Voting in the affirmative, 11:

Avery	Hansen	Lathrop	Schumacher
Cook	Harr, B.	McGill	Smith
Haar, K.	Howard	Pahls	

Voting in the negative, 29:

Adams	Cornett	Harms	Lautenbaugh	Schilz
Bloomfield	Dubas	Heidemann	Louden	Sullivan
Brasch	Fischer	Janssen	McCoy	Utter
Campbell	Flood	Karpisek	Pankonin	Wallman
Carlson	Gloor	Langemeier	Pirsch	Wightman
Conrad	Hadley	Larson	Price	

Present and not voting, 5:

Christensen	Coash	Fulton	Mello	Nelson
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Excused and not voting, 4:

Ashford	Council	Krist	Nordquist
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The B. Harr amendment lost with 11 ayes, 29 nays, 5 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Utter renewed his amendment, AM805, found on page 880, to the Hadley amendment.

The Utter amendment was adopted with 38 ayes, 0 nays, 6 present and not voting, and 5 excused and not voting.

Senator Hadley renewed his amendment, AM636, found on page 830 and considered on page 873, as amended.

The Hadley amendment, as amended, was adopted with 35 ayes, 1 nay, 9 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 6 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 387A. Title read. Considered.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

COMMITTEE REPORT
Health and Human Services

LEGISLATIVE BILL 177. Placed on General File with amendment. AM713 is available in the Bill Room.

(Signed) Kathy Campbell, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 126. Introduced by Larson, 40.

WHEREAS, Teran Boyer, a senior at Plainview High School, won the 2011 Class D State Wrestling Championship in the 152-pound division; and

WHEREAS, Teran Boyer defeated Wyatt Schake of Amherst High School 8-3 in the championship match; and

WHEREAS, Teran Boyer finished his senior wrestling season with a record of 40-0, and his season gave Plainview High School its third undefeated state champion in the history of the wrestling program; and

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

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

1. That the Legislature congratulates Teran Boyer on winning the 2011 Class D State Wrestling Championship in the 152-pound division.
2. That a copy of this resolution be sent to Teran Boyer.

Laid over.

LEGISLATIVE RESOLUTION 127. Introduced by Larson, 40.

WHEREAS, Dominic Miller, a senior at Crofton High School, won the 2011 Class C State Wrestling Championship in the 135-pound division; and

WHEREAS, Dominic Miller defeated John Essink of Syracuse High School 6-0 in the championship match; and

WHEREAS, the win gave Dominic Miller his second straight state title and a season record of 34-1; and

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

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

1. That the Legislature congratulates Dominic Miller on winning the 2011 Class C State Wrestling Championship in the 135-pound division.

2. That a copy of this resolution be sent to Dominic Miller.

Laid over.

LEGISLATIVE RESOLUTION 128. Introduced by Larson, 40.

WHEREAS, Corby Forbes, a sophomore at Plainview High School, won the 2011 Class D State Wrestling Championship in the 112-pound division; and

WHEREAS, Corby Forbes defeated Drew Smith of Elkhorn Valley High School 3-2 in overtime in the championship match; and

WHEREAS, the win gave Corby Forbes his first state title, and he ended his sophomore wrestling season with a record of 34-1; and

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

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

1. That the Legislature congratulates Corby Forbes on winning the 2011 Class D State Wrestling Championship in the 112-pound division.

2. That a copy of this resolution be sent to Corby Forbes.

Laid over.

LEGISLATIVE RESOLUTION 129. Introduced by Janssen, 15; Howard, 9; Larson, 40; Price, 3; Schilz, 47.

WHEREAS, on Saturday, March 12, 2011, the University of Nebraska at Omaha Maverick wrestling team won the 2011 Division II National Wrestling Championship; and

WHEREAS, the Maverick wrestling team has now won three consecutive national championships, as well as six of the last eight national championships; and

WHEREAS, Mario Morgan (141 pounds), Esai Dominguez (149 pounds), George Ivanov (157 pounds), Ryan Pankoke (174 pounds), Aaron Denson (184 pounds), Matt Baker (197 pounds), and Taylor Escamilla (285 pounds) earned All-American status; and

WHEREAS, Mario Morgan (141 pounds), Ryan Pankoke (174 pounds), and Aaron Denson (184 pounds) won individual national championships; and

WHEREAS, the Maverick wrestling team has brought pride and honor to the State of Nebraska.

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

1. That the Legislature congratulates the University of Nebraska at Omaha Maverick wrestling team on winning the 2011 Division II National Wrestling Championship.

2. That the Legislature recognizes the achievements of the team's wrestlers, coaches, and staff.

3. That a copy of this resolution be sent to the University of Nebraska at Omaha and to each coach and member of the 2011 University of Nebraska at Omaha Maverick wrestling team.

Laid over.

AMENDMENTS - Print in Journal

Senator Fischer filed the following amendment to LB84:
AM827

- 1 1. On page 15, line 2, strike "five" and insert "four".

Senator Cornett filed the following amendment to LB389:
AM766

- 1 1. On page 1, after line 7 insert the following new
2 subdivision:
3 "(2) Distressed area means a municipality, a county
4 with a population of fewer than one hundred thousand inhabitants
5 according to the most recent federal decennial census, an
6 unincorporated area within a county, or a census tract in Nebraska
7 that (a) has an unemployment rate which exceeds the statewide
8 average unemployment rate, (b) has a per capita income below the
9 statewide average per capita income, or (c) had a population
10 decrease between the two most recent federal decennial censuses";
11 in line 8 strike "(2)" and insert "(3)"; in line 10 strike "(3)"
12 and insert "(4)"; in line 15 strike "(4)" and insert "(5)"; and in
13 line 17 strike "(5)" and insert "(6)".
14 2. On page 2, line 2, strike "(6)" and insert "(7)"; in
15 line 11 strike "(7)" and insert "(8)"; and in line 14 strike "(8)"
16 and insert "(9)".
17 3. On page 3, line 3, after "approved" insert "if
18 the business meets the qualifications in subsection (3) of this

19 section".

20 4. On page 4, strike beginning with "The" in line 5
 21 through line 6; and in line 17 after "approved" insert "if the
 22 pass-through entity meets the qualifications in subsection (3) of
 23 this section".

1 5. On page 5, strike beginning with "The" in line 9
 2 through the period in line 11.

3 6. On page 6, line 2, after "approved" insert "if the
 4 individual, trust, or pass-through entity meets the qualifications
 5 in subsection (1) of this section"; and strike lines 17 through
 6 20 and insert "eligible for a refundable tax credit equal to
 7 thirty-five percent of its qualified investment in a qualified
 8 small business, except that if the qualified small business is
 9 located in a distressed area the qualified investor or qualified
 10 fund is eligible for a refundable tax credit equal to forty percent
 11 of its qualified investment in the qualified small business.".

GENERAL FILE

LEGISLATIVE BILL 541. Title read. Considered.

SPEAKER FLOOD PRESIDING

PRESIDENT SHEEHY PRESIDING

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 17 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 465. Title read. Considered.

Advanced to Enrollment and Review Initial with 31 ayes, 2 nays, 13 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 385. Title read. Considered.

Senator Mello offered the following amendment:

AM839

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

3 Section 1. Section 66-1015, Reissue Revised Statutes of
 4 Nebraska, is amended to read:

5 66-1015 (1) The Energy Conservation Improvement Fund is
 6 created. There shall be a separate subaccount within the fund for
 7 each eligible entity remitting matching funds and administering
 8 a program of eligible energy conservation improvements. The fund
 9 shall be administered by the department. Funds shall be remitted
 10 by the department to the State Treasurer for deposit in the proper
 11 subaccount of the fund from state sales taxes and matching funds

12 remitted by the eligible entity as provided in subsection (2) of
13 this section.

14 (2) Commencing July 1, 2009, any eligible entity may
15 designate state sales taxes collected from customers for deposit
16 in the subaccount of the fund for that eligible entity. Any such
17 designation shall be accompanied by an equal amount of matching
18 funds from the eligible entity. The total amount designated in any
19 calendar year shall not exceed five percent of the total state
20 sales tax collected in the prior calendar year. The total amount
21 designated in any calendar year by all eligible entities shall not
22 exceed the amount established by the Appropriations Committee of
23 the Legislature as part of the appropriations process.

1 (3) The department shall adopt a form to (a) designate
2 part of the state sales tax to be remitted for administering a
3 program of eligible energy conservation improvements and (b) remit
4 the matching funds.

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

9 Sec. 2. Original section 66-1015, Reissue Revised
10 Statutes of Nebraska, is repealed.

11 Sec. 3. Since an emergency exists, this act takes effect
12 when passed and approved according to law.

Pending.

COMMITTEE REPORTS

Banking, Commerce and Insurance

LEGISLATIVE BILL 315. Placed on General File with amendment.
AM842

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

3 Section 1. Section 21-2024, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 21-2024 (1) Every corporation incorporated under the
6 Business Corporation Act shall have the purpose of engaging in any
7 lawful business unless a more limited purpose shall be set forth in
8 the articles of incorporation.

9 (2) A corporation engaging in a business subject to
10 regulation under another law of this state may incorporate under
11 the act only if permitted by, and subject to all limitations of,
12 such other law.

13 (3) Corporations shall not be organized under the act
14 to perform any personal services as specified in section 21-2202
15 except for personal services rendered by a designated broker as
16 defined in section 81-885.01.

17 (4) A designated broker as defined in section 81-885.01
 18 may be organized as a corporation under the Business Corporation
 19 Act.

20 Sec. 2. Section 21-2201, Reissue Revised Statutes of
 21 Nebraska, is amended to read:

22 21-2201 Sections 21-2201 to 21-2222 and section 3 of this
 23 act shall be known and may be cited as the Nebraska Professional
 1 Corporation Act.

2 Sec. 3. A designated broker as defined in section
 3 81-885.01 may be organized as a professional corporation under
 4 the Nebraska Professional Corporation Act.

5 Sec. 4. Original sections 21-2024 and 21-2201, Reissue
 6 Revised Statutes of Nebraska, are repealed.

7 Sec. 5. Since an emergency exists, this act takes effect
 8 when passed and approved according to law.

LEGISLATIVE BILL 345. Placed on General File with amendment.
 AM273

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

3 Section 1. Sections 1 to 8 of this act shall be known and
 4 may be cited as the Small Business Innovation Act.

5 Sec. 2. It is the intent of the Legislature to evolve
 6 Nebraska's economic development and job creation policies in
 7 order to remain competitive by adopting recommendations from
 8 the statewide strategic plan developed by the Innovation and
 9 Entrepreneurship Task Force. The strategic plan recognizes that
 10 Nebraska's current policy tools targeted to fostering high-wage
 11 job growth among small businesses, entrepreneurs, and innovators
 12 have not kept pace with other states and jurisdictions. Nebraska
 13 has a clear opportunity to improve our entrepreneurial ecosystem
 14 by adopting proactive policy solutions with demonstrated positive
 15 results.

16 Sec. 3. For purposes of the Small Business Innovation
 17 Act:

18 (1) Department means the Department of Economic
 19 Development;

20 (2) Nebraska-based growth business means a corporation,
 21 partnership, limited liability company, limited partnership, or
 22 limited liability partnership registered with the Secretary of
 23 State that has five to fifty employees and annual sales revenue of
 1 no less than five hundred thousand dollars and no more than two
 2 million five hundred thousand dollars; and

3 (3) Small business innovation means the provision of
 4 technical resources to locally owned and operated Nebraska-based
 5 growth businesses to foster development, growth, and high-wage job
 6 creation.

7 Sec. 4. The department may enter into a contract with a
 8 Nebraska-based nonprofit entity, small business development center,

9 community development corporation, Nebraska-based institution of
10 higher education, chamber of commerce, or regional development
11 district for the purpose of carrying out the Small Business
12 Innovation Act.

13 Sec. 5. (1) The Legislature hereby establishes a
14 statewide pilot program to support and assist up to forty
15 Nebraska-based growth businesses. At least one-half of the
16 businesses assisted under the Small Business Innovation Act shall
17 be located in counties with a population of fewer than fifty
18 thousand inhabitants.

19 (2) The pilot program shall provide technical assistance
20 to Nebraska-based growth businesses that includes:

21 (a) Economic gardening components and information
22 tools, including industry trends, industry financial data, state
23 and national demographic trends, competitive intelligence, and
24 marketing lists; and

25 (b) Decisionmaking tools, including strategy analysis,
26 management team makeup, capital referrals, and labor referrals.

27 Sec. 6. It is the intent of the Legislature to reallocate
1 two hundred thousand dollars of General Funds appropriated for
2 FY2011-12 and one hundred seventy-five thousand dollars of General
3 Funds appropriated for FY2012-13 for the purpose of providing tax
4 credits under the Community Development Assistance Act in order
5 to supplement funding allocated to carry out the Small Business
6 Innovation Act.

7 Sec. 7. The department shall prepare and present a
8 report to the Legislature by January 1, 2013, on the Small
9 Business Innovation Act that includes, but is not limited to,
10 businesses assisted, aggregate change in sales revenue, number of
11 jobs created, and range of newly created jobs that includes an
12 average wage.

13 Sec. 8. The Small Business Innovation Act terminates on
14 January 1, 2013.

15 Sec. 9. Section 13-208, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 13-208 The total amount of tax credit granted for
18 programs approved and certified under the Community Development
19 Assistance Act by the department for any fiscal year shall not
20 exceed three hundred fifty thousand dollars, except that for fiscal
21 years 2011-12 and 2012-13, the total amount of tax credit granted
22 under the act shall not exceed two hundred thousand dollars.

23 Sec. 10. Original section 13-208, Reissue Revised
24 Statutes of Nebraska, is repealed.

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

(Signed) Rich Pahls, Chairperson

Revenue

LEGISLATIVE BILL 357. Placed on General File.

(Signed) Abbie Cornett, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 130. Introduced by Coash, 27; Fulton, 29.

WHEREAS, Nick and Kathleen Lenzen have led the Nebraska Christian Home Educators Association for over twenty years as president and co-president, respectively; and

WHEREAS, the Lenzens have consistently presented testimony before the Legislature on behalf of Nebraska home schoolers; and

WHEREAS, the Lenzens have acted as monitors of and liaisons to the State Department of Education in relation to home schooling; and

WHEREAS, the Lenzens have maintained a membership record and supervised the distribution of the Nebraska Christian Home Educators Association newsletter to assist, challenge, encourage, and inform home schooling families in educating their children; and

WHEREAS, the Lenzens have served as a resource for families establishing local support groups; and

WHEREAS, the Lenzens have coordinated the annual Conference and Curriculum Fair with nationally known speakers, workshops, and curriculum vendors; and

WHEREAS, the Lenzens have sponsored an annual Graduate Recognition for home school graduates; and

WHEREAS, the Lenzens continue to advocate for home schooling and home schooling families across the State of Nebraska.

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

1. That the Legislature congratulates Nick and Kathleen Lenzen on twenty years of service to the Nebraska Christian Home Educators Association.

2. That a copy of this resolution be sent to Nick and Kathleen Lenzen.

Laid over.

UNANIMOUS CONSENT - Add Cointroducers

Senator Ashford asked unanimous consent to add his name as cointroducer to LR121. No objections. So ordered.

Senator Hadley asked unanimous consent to add his name as cointroducer to LB600. No objections. So ordered.

Senator Cornett asked unanimous consent to add her name as cointroducer to LB357. No objections. So ordered.

VISITORS

Visitors to the Chamber were Senator Utter's wife, daughter-in-law, and grandson, Kathy Utter from Hastings, Ann Utter from West Point, and Vince Utter from Ames, Iowa and Melanie Swift from Sioux City, Iowa; 6 high school students and sponsors from Plainview; 24 fifth-grade students, teacher, and sponsors from Clarmar Elementary, Fremont; Senator Carlson's wife, Margo Carlson, and Jolene Nelson and Kathy Nantkes from Holdrege and Harold and Milrae Korb from Hastings; Sherm and Peggy Bixby from Lincoln; 50 fourth-grade students, teachers, and sponsors from Betz Elementary, Bellevue; and 45 fourth- and fifth-grade students, teachers, and sponsors from Harrison Elementary, Omaha.

ADJOURNMENT

At 11:58 a.m., on a motion by Senator Wightman, the Legislature adjourned until 9:00 a.m., Thursday, March 17, 2011.

Patrick J. O'Donnell
Clerk of the Legislature