

FORTIETH DAY - MARCH 12, 2013**LEGISLATIVE JOURNAL****ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION****FORTIETH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, March 12, 2013

PRAYER

The prayer was offered by Senator Avery.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Gloor presiding.

The roll was called and all members were present except Senator Cook who was excused; and Senator Janssen who was excused until he arrives.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-ninth day was approved.

MOTION - Print in Journal

Senator Davis filed the following motion to LB644:
MO24
Withdraw bill.

NOTICE OF COMMITTEE HEARING

Transportation and Telecommunications

Room 1113

Tuesday, March 19, 2013 1:30 p.m.

Donna Hammack - Nebraska Information Technology Commission
Brad Moline - Nebraska Information Technology Commission
LB617

(Signed) Annette Dubas, Chairperson

COMMITTEE REPORTS

Health and Human Services

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

Jeromy Warner - State Board of Health

Aye: 7 Campbell, Cook, Crawford, Gloor, Howard, Krist, Watermeier.
Nay: 0. Absent: 0. Present and not voting: 0.

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

Elizabeth Neeley - Foster Care Advisory Committee

Aye: 7 Campbell, Cook, Crawford, Gloor, Howard, Krist, Watermeier.
Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Kathy Campbell, Chairperson

ANNOUNCEMENT

Senator Coash designates LB505 as his priority bill.

COMMITTEE REPORT

Enrollment and Review

LEGISLATIVE BILL 225A. Placed on Final Reading.

(Signed) John Murante, Chairperson

COMMITTEE REPORT

Enrollment and Review

LEGISLATIVE BILL 170. Placed on Select File with amendment.
ER26 is available in the Bill Room.

(Signed) John Murante, Chairperson

NOTICE OF COMMITTEE HEARINGS
Judiciary

Room 1113

Wednesday, March 20, 2013 1:30 p.m.

LB293
LB451
LB602
LB352

Thursday, March 21, 2013 1:30 p.m.

LB171
LB592
LB392
LB319
LB335

(Signed) Brad Ashford, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 92. Introduced by Scheer, 19.

WHEREAS, the Madison High School wrestling team won the 2013 Class C State Dual Championship; and

WHEREAS, the Madison High School wrestling team showed outstanding determination, teamwork, and skill in winning the state championship; and

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

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

1. That the Legislature congratulates the Madison High School wrestling team on winning the 2013 Class C State Dual Championship.

2. That a copy of this resolution be sent to the Madison High School wrestling team.

Laid over.

NOTICE OF COMMITTEE HEARINGS

Appropriations

Room 1524

Monday, March 25, 2013 1:30 p.m.

LB4

LB285

LB119

LB157

LB187

LB20

LB234

Agency 25 - Health and Human Services

Agency 25 Department of Health and Human Services - Operations

Agency 25 Department of Health and Human Services - Medicaid and Long
Term Care

Agency 25 Department of Health and Human Services - Public Health

Agency 25 Department of Health and Human Services - Veterans Homes

Tuesday, March 26, 2013 1:30 p.m.

LB375

LB268

LB425

Agency 25 - Health and Human Services

Agency 25 Department of Health and Human Services - Developmental
DisabilitiesAgency 25 Department of Health and Human Services - Children and
Family Services

Agency 25 Department of Health and Human Services - Behavioral Health

(Signed) Heath Mello, Chairperson

ANNOUNCEMENT

The Chair announced March 10 was Senator Seiler's birthday.

GENERAL FILE**LEGISLATIVE RESOLUTION 41CA.** Senator McCoy renewed his motion, MO19, found on page 612 and considered on pages 637 and 649, to recommit to the General Affairs Committee.

The McCoy motion to recommit to committee failed with 11 ayes, 16 nays, 20 present and not voting, and 2 excused and not voting.

Senator Lautenbaugh offered the following amendment:

AM581

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. At the general election in November 2014 the
- 4 following proposed amendment to the Constitution of Nebraska shall
- 5 be submitted to the electors of the State of Nebraska for approval
- 6 or rejection:
- 7 To amend Article III, section 24:
- 8 III-24 (1) Except as provided in this section, the
- 9 Legislature shall not authorize any game of chance or any
- 10 lottery or gift enterprise when the consideration for a chance
- 11 to participate involves the payment of money for the purchase of
- 12 property, services, or a chance or admission ticket or requires an
- 13 expenditure of substantial effort or time.
- 14 (2) The Legislature may authorize and regulate a state
- 15 lottery pursuant to subsection (3) of this section and other
- 16 lotteries, raffles, and gift enterprises which are intended solely
- 17 as business promotions or the proceeds of which are to be used
- 18 solely for charitable or community betterment purposes without
- 19 profit to the promoter of such lotteries, raffles, or gift
- 20 enterprises.
- 21 (3)(a) The Legislature may establish a lottery to be
- 22 operated and regulated by the State of Nebraska. The proceeds of
- 23 the lottery shall be appropriated by the Legislature for the costs
- 1 of establishing and maintaining the lottery and for the following
- 2 purposes, as directed by the Legislature:
- 3 (i) The first five hundred thousand dollars after the
- 4 payment of prizes and operating expenses shall be transferred to
- 5 the Compulsive Gamblers Assistance Fund;
- 6 (ii) Forty-four and one-half percent of the money
- 7 remaining after the payment of prizes and operating expenses and
- 8 the initial transfer to the Compulsive Gamblers Assistance Fund
- 9 shall be transferred to the Nebraska Environmental Trust Fund to be
- 10 used as provided in the Nebraska Environmental Trust Act;
- 11 (iii) Forty-four and one-half percent of the money
- 12 remaining after the payment of prizes and operating expenses
- 13 and the initial transfer to the Compulsive Gamblers Assistance Fund
- 14 shall be used for education as the Legislature may direct;
- 15 (iv) Ten percent of the money remaining after the payment
- 16 of prizes and operating expenses and the initial transfer to
- 17 the Compulsive Gamblers Assistance Fund shall be transferred to
- 18 the Nebraska State Fair Board if the most populous city within
- 19 the county in which the fair is located provides matching funds
- 20 equivalent to ten percent of the funds available for transfer. Such
- 21 matching funds may be obtained from the city and any other private
- 22 or public entity, except that no portion of such matching funds
- 23 shall be provided by the state. If the Nebraska State Fair ceases
- 24 operations, ten percent of the money remaining after the payment

25 of prizes and operating expenses and the initial transfer to the
 26 Compulsive Gamblers Assistance Fund shall be transferred to the
 27 General Fund; and

1 (v) One percent of the money remaining after the payment
 2 of prizes and operating expenses and the initial transfer to the
 3 Compulsive Gamblers Assistance Fund shall be transferred to the
 4 Compulsive Gamblers Assistance Fund.

5 (b) No lottery game shall be conducted as part of the
 6 lottery unless the type of game has been approved by a majority of
 7 the members of the Legislature.

8 (4) Nothing in this section shall be construed to
 9 prohibit (a) the enactment of laws providing for the licensing
 10 and regulation of wagering on the results of live, replayed, and
 11 delayed horseraces, wherever run, either within or outside of the
 12 state, by the parimutuel method, when such wagering is conducted
 13 by licensees within a licensed racetrack enclosure or (b) the
 14 enactment of laws providing for the licensing and regulation of
 15 bingo games conducted by nonprofit associations which have been
 16 in existence for a period of five years immediately preceding
 17 the application for license, except that bingo games cannot be
 18 conducted by agents or lessees of such associations on a percentage
 19 basis.

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

23 A constitutional amendment to provide for enactment of
 24 laws providing for licensing and regulation of wagering on live,
 25 replayed, and delayed horseraces, wherever run, either within or
 26 outside of the state, by the parimutuel method, when such wagering
 27 is conducted by licensees within a licensed racetrack enclosure.

1 For

2 Against.

Senator Karpisek offered the following amendment to the Lautenbaugh amendment:

FA23

Amend AM581

On page 3, line 10 strike "~~and~~" and insert "or"

Senator Karpisek withdrew his amendment.

Senator Lautenbaugh offered the following amendment to his amendment:

FA24

Amend AM581

On page 3, line 10 strike "replayed and delayed" and insert "or replayed at a later date or time"

Senator Lautenbaugh asked unanimous consent to withdraw his amendment, FA24, found in this day's Journal, and replace it with his substitute amendment, FA26. No objections. So ordered.

FA26

Amend AM581

On page 3, line 10, strike "replayed and delayed", and insert "or replayed", and on line 25, strike "replayed and delayed" and insert "or replayed".

SPEAKER ADAMS PRESIDING

SENATOR GLOOR PRESIDING

Pending.

RESOLUTIONS

LEGISLATIVE RESOLUTION 93. Introduced by Sullivan, 41.

WHEREAS, the Pierce Lady Bluejays basketball team won the 2013 Class C-1 Girls' State Basketball Championship; and

WHEREAS, this was the first appearance by the Pierce Lady Bluejays in the state tournament since 1995; and

WHEREAS, the Pierce Lady Bluejays defeated top-ranked Kearney Catholic High School for the second time this season to win the championship; and

WHEREAS, the Pierce Lady Bluejays finished their season with a record of twenty-three wins and four losses; 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 THIRD LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the Pierce Lady Bluejays and their coaches on winning the 2013 Class C-1 Girls' State Basketball Championship.

2. That a copy of this resolution be sent to coach Darren Sindelar and the Pierce Lady Bluejays basketball team.

Laid over.

LEGISLATIVE RESOLUTION 94. Introduced by Larson, 40.

WHEREAS, the Wynot Blue Devils basketball team won the 2013 Class D-2 Boys' State Basketball Championship, defeating Spalding/Spalding Academy by a score of 57-56 in double overtime; and

WHEREAS, the Wynot Blue Devils basketball team ended the season with a record of 25-3; 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 THIRD LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the Wynot Blue Devils basketball team on winning the 2013 Class D-2 Boys' State Basketball Championship.

2. That a copy of this resolution be sent to the Wynot Blue Devils basketball team and their coach, Lee Heimes.

Laid over.

COMMITTEE REPORTS

Revenue

LEGISLATIVE BILL 55. Placed on General File.

LEGISLATIVE BILL 573. Placed on General File.

LEGISLATIVE BILL 104. Placed on General File with amendment.
AM525

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 77-5715, Revised Statutes Cumulative
- 4 Supplement, 2012, is amended to read:
- 5 77-5715 (1) For a tier 2, tier 3, tier 4, or tier 5
- 6 project, qualified business means any business engaged in:
- 7 (a) The conducting of research, development, or testing
- 8 for scientific, agricultural, animal husbandry, food product, or
- 9 industrial purposes;
- 10 (b) The performance of data processing,
- 11 telecommunication, insurance, or financial services. For purposes
- 12 of this subdivision, financial services includes only financial
- 13 services provided by any financial institution subject to tax
- 14 under Chapter 77, article 38, or any person or entity licensed by
- 15 the Department of Banking and Finance or the federal Securities
- 16 and Exchange Commission and telecommunication services includes
- 17 community antenna television service, Internet access, satellite
- 18 ground station, call center, or telemarketing;
- 19 (c) The assembly, fabrication, manufacture, or processing
- 20 of tangible personal property;
- 21 (d) The administrative management of the taxpayer's
- 22 activities, including headquarter facilities relating to such
- 23 activities or the administrative management of any of the
- 1 activities of any business entity or entities in which the taxpayer
- 2 or a group of its shareholders holds any direct or indirect
- 3 ownership interest of at least ten percent, including headquarter
- 4 facilities relating to such activities;
- 5 (e) The storage, warehousing, distribution,
- 6 transportation, or sale of tangible personal property;
- 7 (f) The sale of tangible personal property if the
- 8 taxpayer derives at least seventy-five percent or more of the

9 sales or revenue attributable to such activities relating to the
10 project from sales to consumers who are not related persons and are
11 located outside the state;

12 (g) The sale of software development services, computer
13 systems design, product testing services, or guidance or
14 surveillance systems design services or the licensing of technology
15 if the taxpayer derives at least seventy-five percent of the sales
16 or revenue attributable to such activities relating to the project
17 from sales or licensing either to customers who are not related
18 persons and located outside the state or to the United States
19 Government, including sales of such services, systems, or products
20 delivered by providing the customer with software or access to
21 software over the Internet or by other electronic means, regardless
22 of whether the software or data accessed by customers is stored on
23 a computer owned by the applicant, the customer, or a third party
24 and regardless of whether the computer storing the software or data
25 is located at the project;

26 (h) The research, development, and maintenance of an
27 Internet web portal. For purposes of this subdivision, Internet web
1 portal means an Internet site that allows users to access, search,
2 and navigate the Internet;

3 (i) The research, development, and maintenance of a data
4 center; ~~or~~

5 (j) The production of electricity by using one or more
6 sources of renewable energy to produce electricity for sale. For
7 purposes of this subdivision, sources of renewable energy includes,
8 but is not limited to, wind, solar, geothermal, hydroelectric,
9 biomass, and transmutation of elements; or

10 ~~(j)-(k)~~ Any combination of the activities listed in this
11 subsection.

12 (2) For a tier 1 project, qualified business means any
13 business engaged in:

14 (a) The conducting of research, development, or testing
15 for scientific, agricultural, animal husbandry, food product, or
16 industrial purposes;

17 (b) The assembly, fabrication, manufacture, or processing
18 of tangible personal property;

19 (c) The sale of software development services, computer
20 systems design, product testing services, or guidance or
21 surveillance systems design services or the licensing of technology
22 if the taxpayer derives at least seventy-five percent of the sales
23 or revenue attributable to such activities relating to the project
24 from sales or licensing either to customers who are not related
25 persons and are located outside the state or to the United States
26 Government, including sales of such services, systems, or products
27 delivered by providing the customer with software or access to
1 software over the Internet or by other electronic means, regardless
2 of whether the software or data accessed by customers is stored on
3 a computer owned by the applicant, the customer, or a third party

4 and regardless of whether the computer storing the software or data
5 is located at the project; or

6 (d) Any combination of activities listed in this
7 subsection.

8 (3) For a tier 6 project, qualified business means any
9 business except a business excluded by subsection (4) of this
10 section.

11 (4) Except for business activity described in subdivision
12 (1)(f) of this section, qualified business does not include any
13 business activity in which eighty percent or more of the total
14 sales are sales to the ultimate consumer of (a) food prepared
15 for immediate consumption or (b) tangible personal property which
16 is not assembled, fabricated, manufactured, or processed by the
17 taxpayer or used by the purchaser in any of the activities listed
18 in subsection (1) or (2) of this section.

19 Sec. 2. Original section 77-5715, Revised Statutes
20 Cumulative Supplement, 2012, is repealed.

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

LEGISLATIVE BILL 296. Placed on General File with amendment.
AM354

- 1 1. On page 14, strike beginning with "account" in line 6
- 2 through "the" in line 8.

(Signed) Galen Hadley, Chairperson

Executive Board

LEGISLATIVE BILL 613. Placed on General File with amendment.
AM467

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

3 Section 1. The Legislature finds that the economy is
4 constantly changing, requiring the need to continually review and
5 update the state tax laws. Furthermore, the Legislature finds that
6 state, county, and other local tax policies are interdependent and
7 that there are consequences, intended and otherwise, that need to
8 be studied when adjustments are made to the state tax laws, such as
9 instability for state, county, and other local governments. The Tax
10 Modernization Committee's purpose is to review and study Nebraska's
11 tax law, including, but not limited to, sales and use taxes, income
12 taxes, property taxes, and other miscellaneous taxes and credits.

13 Sec. 2. The Tax Modernization Committee is created as a
14 special legislative committee. The committee shall be composed of
15 the following individuals:

16 (1) The members of the Revenue Committee of the
17 Legislature;

18 (2) The chairperson of the Appropriations Committee of

19 the Legislature;

20 (3) The chairperson of the Health and Human Services
21 Committee of the Legislature;

22 (4) The chairperson of the Education Committee of the
23 Legislature;

1 (5) The chairperson of the Agriculture Committee of the
2 Legislature; and

3 (6) The chairperson of the Legislature's Planning
4 Committee.

5 Sec. 3. The chairperson of the Revenue Committee of the
6 Legislature shall serve as the chairperson of the Tax Modernization
7 Committee. The committee shall meet as often as necessary to
8 accomplish the objectives established in sections 1 to 7 of this
9 act. At least one meeting shall be held concurrently with a
10 meeting of the Legislative Council called by the chairperson of the
11 Executive Board of the Legislative Council for such purpose.

12 Sec. 4. The Tax Modernization Committee shall consider,
13 but is not limited to, the following six elements for successful
14 tax modernization:

15 (1) Fairness. The committee shall review the tax burden
16 for sales and use taxes, income taxes, property taxes, and
17 miscellaneous taxes of different taxpayers, from Nebraska families
18 to Nebraska businesses, from small businesses to big businesses,
19 and within different industry sectors in the state. The tax system
20 should treat people equitably;

21 (2) Competitiveness. Any changes to the tax system should
22 ensure that Nebraska continues to attract high-paying jobs and
23 investment to the state, while keeping and protecting the jobs and
24 businesses we already have. The committee shall review how Nebraska
25 compares to other states regarding business taxes and identify ways
26 to improve business tax competitiveness;

27 (3) Simplicity and compliance. A tax system should
1 be easy to understand and follow. The committee shall make
2 recommendations to ensure that compliance with Nebraska's tax
3 system is simple for individuals and businesses and to ensure
4 efficient administration by the state;

5 (4) Stability. A stable tax system has revenue that is
6 relatively reliable over time and not subject to unpredictable
7 fluctuations. The committee shall not only address the stability
8 of Nebraska's current tax system but shall also ensure that any
9 recommended changes will maintain or improve stability;

10 (5) Adequacy. The tax modernization process should create
11 a tax system that provides adequate revenue to fund critical state
12 services. The tax structure should allow revenue to keep pace with
13 spending needs; and

14 (6) Complementary tax systems. Updating of the tax system
15 should address the interrelationships of tax systems within the
16 state revenue system as a whole.

17 Sec. 5. The Legislature finds that community discourse

18 and involvement is essential to the success of the Tax
 19 Modernization Committee. The committee shall engage the public in
 20 a variety of ways.

21 Sec. 6. The Tax Modernization Committee shall examine
 22 previous studies, including, but not limited to, the Tax Policy
 23 Reform Commission from 2005 to 2007 and the comprehensive tax
 24 study done by Syracuse University from 1986 to 1988, and ascertain
 25 which recommendations from such studies can be utilized in the
 26 committee's research. The committee may require any state agency
 27 or political subdivision to provide information relevant to the
 1 committee's work, and the state agency or political subdivision
 2 shall provide the information requested within thirty days after
 3 the request. The committee may hold public hearings and, pursuant
 4 to section 50-406 and the Rules of the Nebraska Unicameral
 5 Legislature, may exercise its authority to administer oaths, issue
 6 subpoenas, compel attendance of witnesses and the production of
 7 documents, and cause depositions of witnesses to be taken in the
 8 manner prescribed by law for taking depositions in civil actions
 9 in the district court. The committee shall issue a report to the
 10 Executive Board of the Legislative Council and the Governor by
 11 December 15, 2013, containing any recommendations to update state,
 12 county, and local tax policies and corresponding proposed language
 13 for legislation. The report submitted to the Legislature shall be
 14 submitted electronically. The committee shall also identify areas
 15 of concern that require further in-depth analysis and study.

16 Sec. 7. Once the report required under section 6 of
 17 this act has been submitted, the Tax Modernization Committee shall
 18 continue meeting as necessary until December 31, 2015.

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

(Signed) John Wightman, Chairperson

Health and Human Services

LEGISLATIVE BILL 361. Placed on General File.

LEGISLATIVE BILL 23. Placed on General File with amendment.
 AM538

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

3 Section 1. Section 68-1801, Reissue Revised Statutes of
 4 Nebraska, is amended to read:

5 68-1801 Sections 68-1801 to 68-1809 and section 4 of this
 6 act shall be known and may be cited as the ICF/MR Reimbursement
 7 Protection Act.

8 Sec. 2. Section 68-1804, Revised Statutes Cumulative
 9 Supplement, 2012, is amended to read:

10 68-1804 (1) The ICF/MR Reimbursement Protection Fund is

11 created. Any money in the fund available for investment shall be
 12 invested by the state investment officer pursuant to the Nebraska
 13 Capital Expansion Act and the Nebraska State Funds Investment Act.
 14 Interest and income earned by the fund shall be credited to the
 15 fund.

16 (2) For fiscal year 2004-05, proceeds from the tax
 17 imposed under section 68-1803 shall be allocated as follows:

18 (a) First, fifty-five thousand dollars to the department
 19 for administration of the fund;

20 (b) Second, payment to intermediate care facilities for
 21 the mentally retarded for the cost of the tax;

22 (c) Third, three hundred thousand dollars, in addition
 23 to any federal medicaid matching funds, for increases in payments
 1 to non-state operated intermediate care facilities for the mentally
 2 retarded which shall be such facilities' only increase in payments
 3 for such fiscal year;

4 (d) Fourth, three hundred twelve thousand dollars, in
 5 addition to any federal medicaid matching funds, for payment to
 6 providers of community-based services for the purpose of reducing
 7 the waiting list of persons with developmental disabilities; and

8 (e) Fifth, any money remaining in the fund after the
 9 allocations required by subdivisions (2)(a) through (d) of this
 10 section have been made shall be transferred to the General Fund.

11 (3) For FY2005-06 through FY2010-11, proceeds from the
 12 tax imposed pursuant to section 68-1803 shall be remitted to the
 13 State Treasurer for credit as follows:

14 (a) To the ICF/MR Reimbursement Protection Fund for
 15 allocation as described in this subdivision: (i) Fifty-five
 16 thousand dollars for administration of the fund; (ii) the amount
 17 needed to reimburse intermediate care facilities for the mentally
 18 retarded for the cost of the tax; (iii) three hundred thousand
 19 dollars for payment of rates to non-state operated intermediate
 20 care facilities; and (iv) three hundred twelve thousand dollars
 21 for community-based services for persons with developmental
 22 disabilities; and

23 (b) To the General Fund: The remainder of the proceeds.

24 (2) Beginning July 1, 2014, the department shall use
 25 the ICF/MR Reimbursement Protection Fund, including the matching
 26 federal financial participation under Title XIX of the Social
 27 Security Act, as amended, for purposes of enhancing rates
 1 paid under the medical assistance program to intermediate care
 2 facilities for the mentally retarded and for an annual contribution
 3 to community-based programs for persons with developmental
 4 disabilities as specified in subsection (4) of this section,
 5 exclusive of the reimbursement paid under the medical assistance
 6 program and any other state appropriations to intermediate care
 7 facilities for the mentally retarded.

8 (4)(3) For FY2011-12 and each fiscal year thereafter,
 9 through FY2013-14, proceeds from the tax imposed pursuant to

10 section 68-1803 shall be remitted to the State Treasurer for credit
 11 to the ICF/MR Reimbursement Protection Fund for allocation as
 12 follows:

13 (a) First, fifty-five thousand dollars for administration
 14 of the fund;

15 (b) Second, the amount needed to reimburse intermediate
 16 care facilities for the mentally retarded for the cost of the tax;

17 (c) Third, three hundred twelve thousand dollars
 18 for community-based services for persons with developmental
 19 disabilities;

20 (d) Fourth, six hundred thousand dollars or such lesser
 21 amount as may be available in the fund for non-state-operated
 22 intermediate care facilities for the mentally retarded, in addition
 23 to any continuation appropriations percentage increase provided
 24 by the Legislature to nongovernmental intermediate care facilities
 25 for the mentally retarded under the medical assistance program,
 26 subject to approval by the federal Centers for Medicare and
 27 Medicaid Services of the department's annual application amending
 1 the medicaid state plan reimbursement methodology for intermediate
 2 care facilities for the mentally retarded; and

3 (e) Fifth, the remainder of the proceeds to the General
 4 Fund.

5 (4) For FY2014-15 and each fiscal year thereafter, the
 6 ICF/MR Reimbursement Protection Fund shall be used as follows:

7 (a) First, fifty-five thousand dollars to the department
 8 for administration of the fund;

9 (b) Second, payment to the intermediate care facilities
 10 for the mentally retarded for the cost of the tax;

11 (c) Third, three hundred twelve thousand dollars, in
 12 addition to any federal medicaid matching funds, for payment
 13 to providers of community-based services for persons with
 14 developmental disabilities; and

15 (d) Fourth, rebase rates under the medical assistance
 16 program in accordance with the medicaid state plan as defined
 17 in section 68-907. In calculating rates, the proceeds of the tax
 18 provided for in section 68-1803 and not utilized under subdivisions
 19 (a), (b), and (c) of this subsection shall be used to enhance
 20 rates in non-state-operated intermediate care facilities for the
 21 mentally retarded by increasing the annual inflation factor to the
 22 extent allowed by such proceeds and any funds appropriated by the
 23 Legislature.

24 Sec. 3. Section 68-1806, Reissue Revised Statutes of
 25 Nebraska, is amended to read:

26 68-1806 (1) Until July 1, 2014:

27 ~~(+)~~(a) Collection of the tax imposed by section 68-1803
 1 shall be discontinued if:

2 ~~(+)~~(i) The amendment to the state medicaid plan
 3 described in section 68-1805 is disapproved by the Centers for
 4 Medicare and Medicaid Services;

5 ~~(b)-(ii)~~ The department reduces rates paid to
 6 intermediate care facilities for the mentally retarded to an amount
 7 less than the rates effective September 1, 2003; or
 8 ~~(c)-(iii)~~ The department or any other state agency
 9 attempts to utilize the money in the ICF/MR Reimbursement
 10 Protection Fund for any use other than uses permitted pursuant to
 11 the ICF/MR Reimbursement Protection Act; and-

12 ~~(2)-(b)~~ If collection of the tax is discontinued as
 13 provided in ~~subsection (1)-subdivision (a)~~ of this ~~section-~~
 14 subsection, all money in the fund shall be returned to the
 15 intermediate care facilities for the mentally retarded from which
 16 the tax was collected on the same basis as the tax was assessed.

17 (2) Beginning on July 1, 2014:

18 (a) The department shall discontinue collection of the
 19 tax provided for in section 68-1803:

20 (i) If federal financial participation to match the
 21 payments by intermediate care facilities for the mentally retarded
 22 pursuant to section 68-1803 becomes unavailable under federal law
 23 or the rules and regulations of the Centers for Medicare and
 24 Medicaid Services of the United States Department of Health and
 25 Human Services; or

26 (ii) If money in the ICF/MR Reimbursement Protection Fund
 27 is appropriated, transferred, or otherwise expended for any use
 1 other than uses permitted pursuant to the ICF/MR Reimbursement
 2 Protection Act; and

3 (b) If collection of the tax provided for in section
 4 68-1803 is discontinued as provided in subdivision (a) of this
 5 subsection, the money in the ICF/MR Reimbursement Protection Fund
 6 shall be returned to the intermediate care facilities for the
 7 mentally retarded from which the tax was collected on the same
 8 basis as collected.

9 Sec. 4. The department shall collect the tax provided for
 10 in section 68-1803 and remit the tax to the State Treasurer for
 11 credit to the ICF/MR Reimbursement Protection Fund. Beginning July
 12 1, 2014, no proceeds from the tax provided for in section 68-1803,
 13 including the federal match, shall be placed in the General Fund
 14 unless otherwise provided in the ICF/MR Reimbursement Protection
 15 Act.

16 Sec. 5. Original sections 68-1801 and 68-1806, Reissue
 17 Revised Statutes of Nebraska, and section 68-1804, Revised Statutes
 18 Cumulative Supplement, 2012, are repealed.

LEGISLATIVE BILL 216. Placed on General File with amendment.
 AM502

1 1. Strike original section 13 and insert the following
 2 new section:

3 Sec. 13. (1) On or before July 1, 2013, the Nebraska
 4 Children's Commission shall appoint a Young Adult Voluntary
 5 Services and Support Advisory Committee to make recommendations

6 to the department and the Nebraska Children's Commission for a
 7 statewide implementation plan meeting the program requirements of
 8 the Young Adult Voluntary Services and Support Act. The committee
 9 shall provide a written report regarding the initial implementation
 10 of the program to the Nebraska Children's Commission, the Health
 11 and Human Services Committee of the Legislature, the department,
 12 and the Governor by October 1, 2013. The report to the Legislature
 13 shall be submitted electronically. The committee shall meet on
 14 a biannual basis thereafter to advise the department and the
 15 Nebraska Children's Commission regarding ongoing implementation of
 16 the program and shall provide a written report regarding ongoing
 17 implementation, including program participation and early discharge
 18 rates and reasons obtained from the department, to the Nebraska
 19 Children's Commission, the Health and Human Services Committee of
 20 the Legislature, the department, and the Governor by December 15th
 21 of each year. The report to the Legislature shall be submitted
 22 electronically.

23 (2) The members of the Young Adult Voluntary Services
 1 and Support Advisory Committee shall include, but not be limited
 2 to: (a) Representatives from all three branches of government,
 3 those representatives from the legislative and judicial branches
 4 of government shall be nonvoting, ex officio; (b) no less than
 5 three young adults currently or previously in foster care, which
 6 may be filled on a rotating basis by members of Project Everlast
 7 or a similar youth support or advocacy group; (c) one or more
 8 representatives from a child welfare advocacy organization; (d)
 9 one or more representatives from a child welfare service agency;
 10 and (e) one or more representatives from an agency providing
 11 independent living services.

12 (3) Members of the committee shall be appointed for terms
 13 of two years. The Nebraska Children's Commission shall appoint
 14 the chairperson of the committee and may fill vacancies on the
 15 committee as they occur.

16 2. On page 2, strike beginning with "former" in line 5
 17 through the second comma in line 6 and insert "youth transitioning
 18 out of foster care placements and into adulthood in becoming
 19 self-sufficient"; and in line 17 after "Services" insert "or its
 20 contractor".

21 3. On page 4, line 6, after "at" insert "least at"; in
 22 lines 9, 10, and 12 strike "group home" and insert "foster care
 23 facility"; and in line 16 after the last comma insert "transitional
 24 living facilities".

25 4. On page 5, line 7, after the period insert "Case
 26 management shall include the development of a case plan, developed
 27 jointly by the department and the young adult, that includes
 1 a description of the identified housing situation or living
 2 arrangement and the resources to assist the young adult in the
 3 transition from the program to adulthood. The case plan shall
 4 incorporate the independent living transition proposal in section

5 43-1311.03."

6 5. On page 7, line 3, after "sign" insert ", and the
7 young adult shall be provided a copy of.".

8 6. On page 10, strike beginning with "that" in line 3
9 through line 22 and insert "describing the young adult's current
10 situation, including the young adult's name, date of birth, and
11 current address and the reasons why it is in the young adult's best
12 interests to receive extended services and support. The department
13 shall also provide the juvenile court with a copy of the signed
14 voluntary services and support agreement, a copy of the case plan,
15 and any other information the department or the young adult wants
16 the court to consider.".

17 7. On page 11, line 22, after the period insert "The
18 department is not required to have legal counsel present at such
19 hearings.".

20 8. On page 12, line 6, strike the comma.

21 9. On page 13, line 1, strike "or a contracted entity";
22 in line 6 after the period insert "The department is not required
23 to have legal counsel present at such reviews."; in line 7 strike
24 "or contracted entity conducting these reviews"; and in line 8
25 after "approach" insert "in conducting such reviews".

26 10. On page 24, line 17, strike "fourteen" and insert
27 "sixteen"; in lines 19 and 21 after "before" insert "attaining
1 nineteen years of age or"; and in lines 20 and 22 after "care"
2 insert "to independent living".

LEGISLATIVE BILL 343. Placed on General File with amendment.
AM451 is available in the Bill Room.

LEGISLATIVE BILL 420. Placed on General File with amendment.
AM555

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

3 Section 1. Section 38-1425, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 38-1425 (1) Except as otherwise provided in subsection
6 (2) of this section or section 71-20,121, the right to control the
7 disposition of the remains of a deceased person, except in the case
8 of a minor subject to section 23-1824 and unless other directions
9 have been given by the decedent in the form of a testamentary
10 disposition or a pre-need contract, vests in the following persons
11 in the order named:

12 (a) Any person authorized to direct the disposition of
13 the decedent's body pursuant to a notarized affidavit authorizing
14 such disposition and signed and sworn to by the decedent. Such
15 an affidavit shall be sufficient legal authority for authorizing
16 disposition without additional authorization from the decedent, the
17 decedent's family, or the decedent's estate. Such person shall not
18 be considered an attorney in fact pursuant to sections 30-3401 to

19 30-3432;

20 (b) The surviving spouse of the decedent;

21 (c) If the surviving spouse is incompetent or not
 22 available or if there is no surviving spouse, the decedent's
 23 surviving adult children. If there is more than one adult child,
 1 any adult child, after confirmation in writing of the notification
 2 of all other adult children, may direct the manner of disposition
 3 unless the funeral establishment or crematory authority receives
 4 written objection to the manner of disposition from another adult
 5 child;

6 (d) The decedent's surviving parents;

7 (e) The persons in the next degree of kinship under the
 8 laws of descent and distribution to inherit the estate of the
 9 decedent. If there is more than one person of the same degree, any
 10 person of that degree may direct the manner of disposition;

11 (f) A guardian of the person of the decedent at the time
 12 of such person's death;

13 (g) The personal representative of the decedent;

14 (h) The State Anatomical Board or county board in the
 15 case of an indigent person or any other person the disposition of
 16 whose remains is the responsibility of the state or county; or

17 (i) A representative of an entity described in section
 18 38-1426 that has arranged with the funeral establishment or
 19 crematory authority to cremate a body part in the case of body
 20 parts received from such entity described in section 38-1426.

21 (2) If the decedent died during active military service,
 22 as provided in 10 U.S.C. 1481 (a)(1) through (8), in any branch
 23 of the United States armed forces, United States reserve forces,
 24 or national guard, the person authorized by the decedent to direct
 25 disposition pursuant to section 564 of Public Law 109-163, as
 26 listed on the decedent's United States Department of Defense record
 27 of emergency data, DD Form 93, or its successor form, shall take
 1 priority over all other persons described in subsection (1) of this
 2 section.

3 (2)-(3) A funeral director, funeral establishment,
 4 crematory authority, or crematory operator shall not be subject
 5 to criminal prosecution or civil liability for carrying out the
 6 otherwise lawful instructions of the person or persons described
 7 in this section if the funeral director or crematory authority or
 8 operator reasonably believes such person is entitled to control the
 9 final disposition of the remains of the deceased person.

10 (3)-(4) The liability for the reasonable cost of the
 11 final disposition of the remains of the deceased person devolves
 12 jointly and severally upon all kin of the decedent in the same
 13 degree of kindred and upon the estate of the decedent and, in cases
 14 when the county board has the right to control disposition of the
 15 remains under subdivision (1)(h) of this section, upon the county
 16 in which death occurred from funds available for such purpose.

17 Sec. 2. Original section 38-1425, Reissue Revised

18 Statutes of Nebraska, is repealed.
 19 Sec. 3. Since an emergency exists, this act takes effect
 20 when passed and approved according to law.

(Signed) Kathy Campbell, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 95. Introduced by Scheer, 19.

WHEREAS, the Newman Grove High School girls' bowling team won the 2013 Class D Nebraska High School Bowling Federation State Championship; and

WHEREAS, the team members showed remarkable skill and perseverance in winning the state championship; and

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

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

1. That the Legislature congratulates the Newman Grove High School girls' bowling team on winning the 2013 Class D Nebraska High School Bowling Federation State Championship.

2. That a copy of this resolution be sent to the Newman Grove High School girls' bowling team and to the team's coach, Tim Krueger.

Laid over.

ANNOUNCEMENT

The Judiciary Committee designates LB561 and LB44 as its priority bills.

AMENDMENT - Print in Journal

Senator Chambers filed the following amendment to LR41CA:

FA25

Amend AM581

Page 3, line 9 strike and show as stricken "prohibit" and insert "permit"

VISITORS

Visitors to the Chamber were 19 students and teacher from Madison High School Youth Leadership; 25 Girl Scouts and sponsors from eastern Nebraska; 42 members of the Norfolk Area/Madison County Chamber; Mark Spadaro of Dyna-Tech Aviation, Omaha; and 34 fourth-grade students and teacher from Jackson Elementary, Omaha.

The Doctor of the Day was Dr. Joshua Brautigam from Omaha.

ADJOURNMENT

At 11:59 a.m., on a motion by Senator Dubas, the Legislature adjourned until 9:00 a.m., Wednesday, March 13, 2013.

Patrick J. O'Donnell
Clerk of the Legislature