

**THIRTY-NINTH DAY - MARCH 5, 2007****LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE  
FIRST SESSION****THIRTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, March 5, 2007

**PRAYER**

The prayer was offered by Pastor Rod Lyon, Conestoga Parish of the United Methodist Church, Denton, Pleasant Dale, and Raymond.

**ROLL CALL**

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

The roll was called and all members were present except Senators Carlson, Christensen, Heidemann, Karpisek, and Pedersen who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-eighth day was approved.

**COMMITTEE REPORTS  
Enrollment and Review****Correctly Engrossed**

The following bills were correctly engrossed: LBs 83, 124, 145, 231, 248, and 347.

ST9011

Enrollment and Review Change to LB 248

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

1. On page 6, line 11, "32-1606" has been struck and "39-1606" inserted.

ST9010

## Enrollment and Review Change to LB 347

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

1. On page 1, line 2, "14-551," has been struck; in line 3 the second "and" has been struck; and in line 5 ", and section 14-553, Reissue Revised Statutes of Nebraska, as amended by section 1, Legislative Bill 206, One Hundredth Legislature, First Session, 2007" has been inserted after "2006".

(Signed) Amanda McGill, Chairperson

**COMMITTEE REPORTS**  
**Health and Human Services**

**LEGISLATIVE BILL 480.** Placed on General File.

**LEGISLATIVE BILL 245.** Placed on General File - Com AM542.  
 AM542

1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 Section 1. Section 71-3305, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 71-3305 (1) Except as otherwise provided in subsection  
 6 (2) of this section, any political subdivision as defined in  
 7 section 13-702; that provides the water supply ~~of for human~~  
 8 consumption for any city or village for human consumption having a  
 9 population of one thousand or more inhabitants shall add fluoride  
 10 to such water supply or have sufficient amounts of naturally  
 11 occurring fluoride in such water supply as provided in the  
 12 ~~amount and manner prescribed by the rules and regulations of the~~  
 13 Department of Health and Human Services Regulation and Licensure.  
 14 (2) ~~Fluoride shall not be added to the water supply of~~  
 15 ~~any city or village in which the voters have, after September 2,~~  
 16 ~~1973, adopted an ordinance by initiative prohibiting the adding of~~  
 17 ~~fluoride to its water supply. The procedure for the adoption of~~  
 18 ~~any such ordinance shall be that provided in sections 18-2501 to~~  
 19 ~~18-2536. No such ordinance may be adopted in a city or village~~  
 20 ~~receiving, or which has contracted to receive, its water supply,~~  
 21 ~~or any part thereof, from another political subdivision, or public~~  
 22 ~~or private entity, which adds fluoride to its water supply in~~  
 23 ~~compliance with subsection (1) of this section, or section 71-3306,~~  
 1 ~~or which has available only purchased fluoridated water with which~~  
 2 ~~to supply such city or village. In any city or village which is~~  
 3 subject to the requirements of subsection (1) of this section,  
 4 which does not have sufficient amounts of naturally occurring  
 5 fluoride in its water supply, and in which fluoride is not added  
 6 to its water supply, the voters of the city or village may adopt  
 7 an ordinance, after the effective date of this act, but before May

8 1, 2009, to prohibit the adding of fluoride to the water supply of  
 9 such city or village. The ordinance may be placed on the ballot by  
 10 a majority vote of the governing body of the city or village or by  
 11 initiative pursuant to sections 18-2501 to 18-2538.

12 Sec. 2. Original section 71-3305, Reissue Revised  
 13 Statutes of Nebraska, is repealed.

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

**LEGISLATIVE BILL 400.** Placed on General File - Com AM543.  
 AM543

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

3 Sec. 2. The department shall conduct an audit of drug  
 4 rebate payments owed to the state from the sale of prescription  
 5 drugs under the medical assistance program to ensure timely  
 6 and accurate payments by all manufacturers. Manufacturers of  
 7 prescription drugs that are subject to the audit requirement  
 8 of this section shall fully cooperate with the department during  
 9 such audit. The department shall use generally accepted government  
 10 auditing principles and standards in conducting such audit. The  
 11 department shall prepare and submit a report of such audit to the  
 12 committee on or before July 1, 2008. This section terminates on  
 13 July 2, 2008.

**LEGISLATIVE BILL 426.** Placed on General File - Com AM523.  
 AM523

1 1. On page 9, line 14, after "any" insert "non-alcohol".

2 2. On page 14, strike lines 6 and 7 and insert "Renewal  
 3 shall also require payment of the applicable fee established by the  
 4 department in rules and regulations".

5 3. On page 16, line 7, strike "may" and insert "shall";  
 6 and in line 19 after the period insert "The immunity granted  
 7 by this section shall not apply to any person causing damage or  
 8 injury by his or her willful, wanton, or grossly negligent act of  
 9 commission or omission".

**LEGISLATIVE RESOLUTION 10.** Reported to the Legislature for  
 further consideration with the following amendment:

AM545

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

3 WHEREAS, the Legislature regards the health of our  
 4 children to be of paramount importance to families in our state;  
 5 and

6 WHEREAS, the Legislature regards poor child health as a  
 7 threat to the educational achievement and social and psychological  
 8 well-being of the children of our state; and

9 WHEREAS, the Legislature considers protecting the health

10 of our children to be essential to their well-being and the quality  
 11 of life in our state; and

12 WHEREAS, the Legislature considers "Kids Connection",  
 13 the children's health insurance program of this state which has  
 14 enrolled 111,919 uninsured children since its inception in 1998, to  
 15 be an integral part of the arrangements for health benefits for the  
 16 children of the State of Nebraska; and

17 WHEREAS, the Legislature recognizes the value of "Kids  
 18 Connection" in preserving child wellness, preventing and treating  
 19 childhood disease, improving health outcomes, and reducing overall  
 20 health costs; and

21 WHEREAS, the Legislature considers the federal funding  
 22 available for "Kids Connection" to be indispensable to providing  
 23 health benefits for children of modest means.

1 NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE  
 2 HUNDREDTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

3 1. The Legislature urges the members of Nebraska's  
 4 congressional delegation to ensure that Congress timely  
 5 reauthorizes the State Children Health Insurance Program (SCHIP) to  
 6 assure appropriate federal funding.

7 2. The Legislature urges the Governor to use his best  
 8 efforts to work with the Nebraska congressional delegation to  
 9 ensure that SCHIP is reauthorized in a timely manner.

(Signed) Joel Johnson, Chairperson

### **Transportation and Telecommunications**

**LEGISLATIVE BILL 661.** Placed on General File - Com AM455.  
 (Amendment is printed separately and available in the Bill Room, Room  
 1104.)

(Signed) Deb Fischer, Chairperson

### **Government, Military and Veterans Affairs**

**LEGISLATIVE BILL 252.** Placed on General File.

**LEGISLATIVE BILL 477.** Indefinitely postponed.

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Carlos Castillo - Department of Administrative Services

VOTE: Aye: Senators Adams, Aguilar, Avery, Friend, Mines, Pahls, Rogert.  
 Nay: None. Pass: Senator Karpisek. Absent: None.

(Signed) Ray Aguilar, Chairperson

### **Natural Resources**

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

Mark Graham - Nebraska Power Review Board

VOTE: Aye: Senators Carlson, Christensen, Dubas, Fischer, Hudkins, Loudon. Nay: None. Absent: Senators Kopplin, Wallman.

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

Ronald H. Stave - Game and Parks Commission

VOTE: Aye: Senators Carlson, Christensen, Dubas, Fischer, Hudkins, Loudon. Nay: None. Absent: Senators Kopplin, Wallman.

(Signed) LeRoy Loudon, Chairperson

### **GENERAL FILE**

**LEGISLATIVE BILL 497.** Title read. Considered.

Committee AM496, found on page 696, was adopted with 41 ayes, 0 nays, 5 present and not voting, and 3 excused and not voting.

Senator White offered the following amendment:

FA34

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

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

Advanced to E & R for review with 42 ayes, 0 nays, 5 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 395.** The first committee amendment, FA15, found on page 564, was renewed.

The Johnson amendment, FA21, found on page 568 and considered on page 574, to the first committee amendment, was renewed.

Senator Erdman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 5 nays, and 16 not voting.

Senator Johnson moved for a call of the house. The motion prevailed with 32 ayes, 0 nays, and 17 not voting.

The Johnson amendment was adopted with 49 ayes, 0 nays, and 0 not voting.

The Chair declared the call raised.

Pending.

### **SPEAKER FLOOD PRESIDING**

#### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 35, 36, and 38 were adopted.

#### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 35, 36, and 38.

### **SENATOR LANGEMEIER PRESIDING**

#### **GENERAL FILE**

**LEGISLATIVE BILL 395.** The first committee amendment, FA15, found on page 564 and considered in this day's Journal, was renewed.

Senator Gay moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 34 ayes, 0 nays, and 15 not voting.

The first committee amendment, as amended, was adopted with 41 ayes, 0 nays, 7 present and not voting, and 1 excused and not voting.

Pending.

#### **MOTION - Suspend Rules**

Senator Ashford offered the following motion:

Suspend Rule 3, Section 13, for Friday, March 9, 2007, to permit scheduling of public hearings on certain gubernatorial appointments by the Judiciary Committee.

The Ashford motion prevailed with 39 ayes, 0 nays, 9 present and not voting, and 1 excused and not voting.

**NOTICE OF COMMITTEE HEARING**

**Judiciary**  
Room 1113

Friday, March 9, 2007

1:30 p.m.

Scot Adams - Community Corrections Council  
 Scott Arnold - Crime Victim's Reparations Committee  
 Robert L. Boozer - Board of Parole  
 Kermit Brashear - Community Corrections Council  
 Catherine Cook - Community Corrections Council  
 Jeffrey Davis - Community Corrections Council  
 Thomas Dorwart - Community Corrections Council  
 Julie Hippen - Community Corrections Council  
 Joe Kelly - Community Corrections Council  
 Robert Lindemeier - Community Corrections Council  
 James Riskowski - Crime Victim's Reparations Committee  
 Alan Smith - Community Corrections Council

(Signed) Brad Ashford, Chairperson

**COMMITTEE REPORTS**  
**Enrollment and Review**

**LEGISLATIVE BILL 286.** Placed on Select File - ER8034.

(Amendment is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 255.** Placed on Select File.

**LEGISLATIVE BILL 34.** Placed on Select File - ER8035.

ER8035

1 1. Strike the original section and all amendments thereto  
 2 and insert the following new section:  
 3 Section 1. The State-Tribal Relations Committee is hereby  
 4 established as a special legislative committee with the intent of  
 5 fostering better relationships between the state and the federally  
 6 recognized Indian tribes within the state. The Executive Board  
 7 of the Legislative Council shall appoint seven members of the  
 8 Legislature to the committee. The appointments shall be based on  
 9 interest and knowledge. The chairperson and vice-chairperson of the  
 10 State-Tribal Relations Committee shall also be designated by the  
 11 executive board. All appointments shall be made within the first  
 12 six days of the legislative session in odd-numbered years. Members  
 13 shall serve two-year terms corresponding with legislative sessions  
 14 and may be reappointed for consecutive terms. The committee shall  
 15 meet as necessary to, among other things, consider, study, monitor,

16 and review legislation that impacts state-tribal relations issues  
17 and to present draft legislation and policy recommendations to the  
18 appropriate standing committee of the Legislature.

**LEGISLATIVE BILL 349.** Placed on Select File.

**LEGISLATIVE BILL 192.** Placed on Select File - ER8039.  
ER8039

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 85-1412, Revised Statutes Cumulative
- 4 Supplement, 2006, is amended to read:
- 5 85-1412 The commission shall have the following
- 6 additional powers and duties:
- 7 (1) Conduct surveys and studies as may be necessary to
- 8 undertake the coordination function of the commission pursuant
- 9 to section 85-1403 and request information from governing
- 10 boards and appropriate administrators of public institutions and
- 11 other governmental agencies for research projects. All public
- 12 institutions and governmental agencies receiving state funds
- 13 shall comply with reasonable requests for information under this
- 14 subdivision. Public institutions may comply with such requests
- 15 pursuant to section 85-1417;
- 16 (2) Recommend to the Legislature and the Governor
- 17 legislation it deems necessary or appropriate to improve
- 18 postsecondary education in Nebraska and any other legislation it
- 19 deems appropriate to change the role and mission provisions in
- 20 sections 85-917 to 85-966.01;
- 21 (3) Establish any advisory committees as may be necessary
- 22 to undertake the coordination function of the commission pursuant
- 23 to section 85-1403 or to solicit input from affected parties
- 1 such as students, faculty, governing boards, administrators
- 2 of the public institutions, administrators of the private
- 3 nonprofit institutions of postsecondary education and proprietary
- 4 institutions in the state, and community and business leaders
- 5 regarding the coordination function of the commission;
- 6 (4) Participate in or designate an employee or employees
- 7 to participate in any committee which may be created to prepare
- 8 a coordinated plan for the delivery of educational programs and
- 9 services in Nebraska through the telecommunications system;
- 10 (5) Seek a close liaison with the State Board of
- 11 Education and the State Department of Education in recognition
- 12 of the need for close coordination of activities between elementary
- 13 and secondary education and postsecondary education;
- 14 (6) Administer the Integrated Postsecondary Education
- 15 Data System or other information system or systems to provide the
- 16 commission with timely, comprehensive, and meaningful information
- 17 pertinent to the exercise of its duties. The information system
- 18 shall be designed to provide comparable data on each public

19 institution. The commission shall also administer the uniform  
 20 information system prescribed in sections 85-1421 to 85-1427 known  
 21 as the Nebraska Educational Data System. Public institutions shall  
 22 supply the appropriate data for the information system or systems  
 23 required by the commission;

24 (7) Administer the ~~Community Scholarship Foundation~~  
 25 Access College Early Scholarship Program Act and the Nebraska  
 26 Scholarship Act;

27 (8) Accept and administer loans, grants, and programs  
 1 from the federal or state government and from other sources, public  
 2 and private, for carrying out any of its functions, including  
 3 the administration of privately endowed scholarship programs. Such  
 4 loans and grants shall not be expended for any other purposes than  
 5 those for which the loans and grants were provided. The commission  
 6 shall determine eligibility for such loans, grants, and programs,  
 7 and such loans and grants shall not be expended unless approved by  
 8 the Governor;

9 (9) Consistent with section 85-1620, approve, in a  
 10 timely manner, new baccalaureate degree programs to be offered  
 11 at private postsecondary career schools as defined in section  
 12 85-1603. The commission may charge a reasonable fee based on  
 13 its administrative costs for authorizations pursuant to this  
 14 subdivision and section 85-1620. The commission shall report such  
 15 action to the Commissioner of Education;

16 (10) Pursuant to sections 85-1101 to 85-1104, authorize  
 17 out-of-state institutions of higher or postsecondary education to  
 18 offer courses or degree programs in this state;

19 (11) Pursuant to sections 85-1105 to 85-1111, approve  
 20 or disapprove petitions to establish new private colleges in this  
 21 state;

22 (12) On or before December 1, 2000, and on or before  
 23 December 1 every two years thereafter, submit to the Legislature  
 24 and the Governor a report of its objectives and activities and  
 25 any new private colleges in Nebraska and the implementation of any  
 26 recommendations of the commission for the preceding two calendar  
 27 years;

1 (13) Provide staff support for interstate compacts on  
 2 postsecondary education; and

3 (14) Request inclusion of the commission in any existing  
 4 grant review process and information system.

5 Sec. 2. Sections 2 to 9 of this act shall be known and  
 6 may be cited as the Access College Early Scholarship Program Act.

7 Sec. 3. For purposes of the Access College Early  
 8 Scholarship Program Act:

9 (1) Commission means the Coordinating Commission for  
 10 Postsecondary Education;

11 (2) Extreme hardship means any event, including fire,  
 12 illness, accident, or job loss, that has recently resulted in a  
 13 significant financial difficulty for a student or the student's

14 parent or legal guardian;

15 (3) Postsecondary educational institution means a  
 16 two-year or four-year college or university in Nebraska which is a  
 17 member institution of an accrediting body recognized by the United  
 18 States Department of Education; and

19 (4) Student means a student attending a Nebraska high  
 20 school.

21 Sec. 4. The Access College Early Scholarship Program is  
 22 established. The purpose of the program is to provide financial  
 23 assistance to low-income students who are taking courses for credit  
 24 at a postsecondary educational institution while still enrolled in  
 25 high school. The program shall be administered by the commission.

26 Sec. 5. A student is eligible for the Access College  
 27 Early Scholarship Program if:

1 (1) Such student or the student's parent or legal  
 2 guardian is eligible to receive:

3 (a) Supplemental Security Income;

4 (b) Food stamps;

5 (c) Free or reduced-price lunches under United States  
 6 Department of Agriculture child nutrition programs;

7 (d) Aid to families with dependent children; or

8 (e) Assistance under the Special Supplemental Nutrition  
 9 Program for Women, Infants, and Children; or

10 (2) The student or the student's parent or legal guardian  
 11 has experienced an extreme hardship.

12 Sec. 6. (1) An applicant for the Access College Early  
 13 Scholarship Program shall complete an application form developed  
 14 and provided by the commission and shall forward the form to his  
 15 or her guidance counselor. The guidance counselor shall verify the  
 16 student's eligibility under the Access College Early Scholarship  
 17 Program Act and shall forward the information to the commission  
 18 for review within fifteen days following receipt of the form from  
 19 the student. Notification of tuition and fees shall be provided  
 20 to the commission by the student, high school, or postsecondary  
 21 educational institution as determined by the commission.

22 (2) The commission shall review the application and  
 23 verify the student's eligibility under the act. The commission  
 24 shall notify the student and the student's guidance counselor of  
 25 the verification of eligibility and the estimated award amount in  
 26 writing within thirty days following receipt of the form from the  
 27 student's guidance counselor. The scholarship award shall equal the  
 1 tuition and fees accrued by the student from the postsecondary  
 2 educational institution. The commission shall forward such amount  
 3 directly to the postsecondary educational institution as payment of  
 4 such student's tuition and fees.

5 (3) The commission shall make such payments in the order  
 6 the applications are received by the commission until funds are  
 7 inadequate to fulfill any remaining scholarships.

8 (4) There is no limit on the number of scholarships a

9 student may receive under the act.

10 Sec. 7. The commission shall prepare a biennial report  
 11 on scholarships awarded pursuant to the Access College Early  
 12 Scholarship Program Act and shall submit the report to the Clerk of  
 13 the Legislature. The report shall include, but not be limited to,  
 14 the number and amount of scholarships awarded and the postsecondary  
 15 educational institutions attended by scholarship recipients.

16 Sec. 8. A student or the student's parent or legal  
 17 guardian may request in writing a review of any adverse decision  
 18 by requesting such review within twenty days following notice of  
 19 the adverse decision, addressed to the executive director of the  
 20 commission. The review shall be pursuant to the Administrative  
 21 Procedure Act.

22 Sec. 9. The commission may adopt and promulgate rules  
 23 and regulations to carry out the Access College Early Scholarship  
 24 Program Act.

25 Sec. 10. Original section 85-1412, Revised Statutes  
 26 Cumulative Supplement, 2006, is repealed.

27 Sec. 11. The following sections are outright repealed:

- 1 Sections 85-2001, 85-2002, 85-2003, 85-2004, 85-2005, 85-2006,
- 2 85-2007, 85-2008, 85-2009, and 85-2010, Revised Statutes Cumulative
- 3 Supplement, 2006.

**LEGISLATIVE BILL 295.** Placed on Select File - ER8036.

(Amendment is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 136.** Placed on Select File - ER8037.

ER8037

- 1 1. On page 10, line 11, after the first comma insert
- 2 "and".

**LEGISLATIVE BILL 537.** Placed on Select File - ER8038.

ER8038

- 1 1. On page 1, line 4, after "a" insert "Nebraska-based".

(Signed) Amanda McGill, Chairperson

## ANNOUNCEMENTS

The Transportation and Telecommunications Committee designates LB 661 as its priority bill.

Senator Dierks designates LB 629 as his priority bill.

The Legislative Performance Audit Committee designates LB 653 as its priority bill.

Senator McDonald designates LB 143 as her priority bill.

Senator Adams designates LB 562 as his priority bill.

### RESOLUTION

**LEGISLATIVE RESOLUTION 42.** Introduced by Heidemann, 1.

WHEREAS, the Falls City Sacred Heart Lady Irish won the Class D-2 Volleyball State Championship; and

WHEREAS, the Lady Irish compiled a season record of twenty wins and eleven losses; and

WHEREAS, the outstanding individual players, as well as the entire volleyball team, should be recognized for their excellent volleyball season; and

WHEREAS, we should continue to recognize the achievements of our young people in all positive areas of endeavor.

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

1. That Emmalena Kelly, Erin Bangert, Amanda Vonderschmidt, Liz Bieker, Toni Kean, Rachel Aitken, Katelyn Wheeler, Darcy Stice, Veronica Keithley, Emily Hutfles, Kathryn Bieker, Morgan Handley, Miranda Chandler, Rachel Bieker, Alicia Goltz, Macie Kuker, Janey Malcolm, and Danielle Tramp be congratulated for their achievement in claiming the Class D-2 State Volleyball Title.

2. That coaches Lori Harring and Kim Schmoldt be applauded for their efforts in teaching and providing guidance to the young women on the team.

3. That a copy of this resolution be sent to Head Coach Lori Harring.

Laid over.

### UNANIMOUS CONSENT - Add Cointroducers

Senator Pedersen asked unanimous consent to add his name as cointroducer to LB 20. No objections. So ordered.

Senator Howard asked unanimous consent to add her name as cointroducer to LB 551. No objections. So ordered.

### WITHDRAW - Cointroducer

Senator Hudkins withdrew her name as cointroducer to LB 173.

### VISITORS

Visitors to the Chamber were Lyle McKlem from Raymond; 29 twelfth-grade students and teachers from Wilcox and Hildreth; Tom and Cara Perkins from Scottsbluff; members of Guiding Star Girl Scouts and sponsors from western Nebraska; Lisa Frick from Lexington and Margie Nowak from

York; and members of Delta Kappa Gamma International Teacher Honorary Society from across the state.

**ADJOURNMENT**

At 12:00 p.m., on a motion by Senator Cornett, the Legislature adjourned until 9:00 a.m., Tuesday, March 6, 2007.

Patrick J. O'Donnell  
Clerk of the Legislature

