

THIRTY-THIRD DAY - FEBRUARY 28, 2008**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
SECOND SESSION****THIRTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, February 28, 2008

PRAYER

The prayer was offered by Pastor Harry Riggs, First Baptist Church, Lincoln.

ROLL CALL

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

The roll was called and all members were present except Senators Lautenbaugh and Pankonin who were excused; and Senators Ashford, Cornett, Dubas, Engel, Flood, Heidemann, Nantkes, Stuthman, Synowiecki, and White who were excused until they arrive.

SENATOR MCDONALD PRESIDING**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-second day was approved.

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of February 27, 2008, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Jensen, Ronald L./Jensen Associates, Inc.
Liberty Healthcare Corporation

Mueller, Monica
Motorola, Inc.

Pappas, James E.

Bellevue Public Schools

Peetz, Natalie, Peetz & Company
Omaha Zoological Society

REPORT

The following report was received by the Legislature:

Education, Department of

Nebraska State Rehabilitation Council 2007 Annual Report

GENERAL FILE

LEGISLATIVE BILL 962. Title read. Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 7 present and not voting, and 8 excused and not voting.

COMMITTEE REPORT

Revenue

LEGISLATIVE BILL 710. Placed on General File.

(Signed) Ray Janssen, Chairperson

AMENDMENT - Print in Journal

Senator Avery filed the following amendment to LB912:
AM2059

- 1 1. On page 2, line 5, strike "(1)", show as stricken, and
- 2 insert "(1)(a)"; in lines 5, 7, and 8 strike the new matter and
- 3 reinstate the stricken matter; and in line 8 after the semicolon
- 4 insert "and
- 5 (b) Beginning with applications for financial assistance
- 6 received on or after February 1, 2008, associated hotel means any
- 7 publicly or privately owned facility in which the public may, for a
- 8 consideration, obtain sleeping accommodations and which is located
- 9 within four hundred fifty yards of an eligible facility, measured
- 10 from the eligible facility but not from any parking facility or
- 11 other structure:".

RESOLUTIONS**LEGISLATIVE RESOLUTION 252.** Introduced by Avery, 28.

WHEREAS, Spencer Wolfe of Lincoln, Nebraska, was awarded the rank of Eagle Scout on June 28, 2007; and

WHEREAS, Spencer was the 50th Eagle Scout in his troop, Troop 12, which is one of the oldest troops in Lincoln, and while in this troop received 39 merit badges; and

WHEREAS, Spencer graduated from Lincoln Southwest High School where he was a four-year letter winner on the wrestling team, was a member of the National Honor Society, was in the orchestra, volunteered at the Humane Society, and was a youth deacon at his church; and

WHEREAS, Spencer is currently a freshman at the University of Nebraska at Kearney; and

WHEREAS, the attainment of Eagle Scout is an honor and is deserving of recognition.

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

1. That the members of the Legislature congratulate Spencer on his accomplishment.

2. That a copy of this resolution be sent to Spencer.

Laid over.

LEGISLATIVE RESOLUTION 253. Introduced by Hansen, 42.

WHEREAS, Shane Williams, an esteemed resident of North Platte and a student at North Platte High School, has achieved national recognition for exemplary volunteer service by receiving the 2008 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Shane Williams earned this award by giving generously of his time and energy by working on the state's annual NEBRASKAland Days celebration since he was ten years old, leading his high school class in collecting canned goods for an annual food drive over the past four years, and coordinating the complete remodeling of the NEBRASKAland Days' offices, including raising money for the remodeling project, recruiting and organizing volunteer help for the project, and working on all aspects of the project; and

WHEREAS, the success of the State of Nebraska, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Shane Williams, who use their considerable talents and resources to serve others.

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

1. That the Legislature congratulates and honors Shane Williams as a recipient of the 2008 Prudential Spirit of Community Award, recognizes his outstanding record of volunteer service, peer leadership, and community spirit, and extends its best wishes for his continued success and happiness.

Laid over.

LEGISLATIVE RESOLUTION 254. Introduced by Fischer, 43.

WHEREAS, Matt Spain is the winner of the 285-pound Class B 2008 State Championship in wrestling; and

WHEREAS, Matt, a senior at Valentine High School, defeated Hadley Cooksley of Grand Island Northwest in the finals of the 285-pound division of the Class B 2008 State Championship at the Qwest Center in Omaha; and

WHEREAS, Matt's record as a senior wrestler at Valentine High School is 28-2, with 108 career wins; and

WHEREAS, Matt has placed three times at state championships during his high school career, placing 6th in 2006, 6th in 2007, and 1st in 2008; and

WHEREAS, Matt's father was also a state champion wrestler at Valentine.

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

1. That Matt Spain be congratulated for this exemplary achievement at the Class B 2008 State Championship in wrestling.

2. That a copy of this resolution be sent to Matt Spain.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 914. Title read. Considered.

Committee AM1676, found on page 419, was adopted with 28 ayes, 0 nays, 14 present and not voting, and 7 excused and not voting.

Senator Janssen withdrew his amendment, AM1834, found on page 571.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 10 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 822. Title read. Considered.

Committee AM1737, found on page 681, was adopted with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 29 ayes, 0 nays, 14 present

and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 1147. Title read. Considered.

Committee AM1999, found on page 675, was adopted with 27 ayes, 0 nays, 15 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review Initial with 27 ayes, 0 nays, 15 present and not voting, and 7 excused and not voting.

LEGISLATIVE RESOLUTION 4CA. Read. Considered.

SENATOR STUTHMAN PRESIDING

Senator Avery requested to pass over LR4CA.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 606A. Introduced by Ashford, 20.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 606, One Hundredth Legislature, Second Session, 2008; and to declare an emergency.

LEGISLATIVE BILL 1001A. Introduced by White, 8.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1001, One Hundredth Legislature, Second Session, 2008; and to declare an emergency.

MOTION - Print in Journal

Senator Erdman filed the following motion to LB1014:

MO136

Bracket until April 1, 2008.

GENERAL FILE

LEGISLATIVE BILL 952. Title read. Considered.

Senator Lathrop offered the following amendment:

FA185

Strike sections 2-5.

SPEAKER FLOOD PRESIDING

Pending.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 240, 241, and 242 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 240, 241, and 242.

GENERAL FILE

LEGISLATIVE BILL 952. The Lathrop amendment, FA185, found in this day's Journal, was renewed.

The Lathrop amendment was adopted with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 11 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 1049. Title read. Considered.

Pending.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 797. Placed on Select File with amendment.
ER8169

- 1 1. On page 2, line 6, strike "and 71-7009" and insert
- 2 "71-7009, and 71-7011".
- 3 2. On page 18, line 20, strike "68-1017,".

LEGISLATIVE BILL 1014. Placed on Select File with amendment.
ER8172

- 1 1. In the Standing Committee amendment, AM2006:
- 2 a. On page 4, line 25, strike "(1)", show as stricken,
- 3 and insert "(a)"; and in line 26 strike "(2)", show as stricken,
- 4 and insert "(b)";
- 5 b. On page 5, line 20, strike the second comma;
- 6 c. On page 12, lines 12 and 13, strike "effective date of
- 7 this act" and insert "operative date of this section";
- 8 d. On page 14, line 1, after the first "district" insert
- 9 "court district";
- 10 e. On page 16, line 20, strike "costs", show as stricken,
- 11 and insert "cost"; and in line 21 strike "contributes", show as
- 12 stricken, and insert "contribute";
- 13 f. On page 17, line 12, strike "sections" and insert

- 14 "this section and section" and strike "and 24-1302";
- 15 g. On page 20, lines 20 and 21, strike "Conducting
- 16 hearings" and insert "Hearings conducted";
- 17 h. On page 25, line 16, strike "," and insert "and,";
- 18 i. On page 30, line 11, strike the second comma and show
- 19 as stricken;
- 20 j. On page 36, line 23, after "creditor" insert an
- 21 underscored comma;
- 22 k. On page 49, line 9, after the second "motion" insert
- 23 an underscored comma;
- 1 l. On page 53, lines 7 and 15, strike "43-1408" and
- 2 insert "43-1418";
- 3 m. On page 57, line 8, after "court" insert an
- 4 underscored comma;
- 5 n. On page 60, line 5, strike the commas; in line 7
- 6 strike the second comma; and in line 15 strike the first comma;
- 7 o. On page 65, line 15, strike "(a)", show as stricken,
- 8 and insert "(1)"; in line 20 strike "(b)", show as stricken, and
- 9 insert "(2)"; and in line 23 strike "(c)", show as stricken, and
- 10 insert "(3)";
- 11 p. On page 66, line 2, strike "(d)", show as stricken,
- 12 and insert "(4)"; and in line 11 strike "(e)", show as stricken,
- 13 and insert "(5)";
- 14 q. On page 76, line 8, before "The" insert "(2)"; and in
- 15 line 17 strike "(2)", show as stricken, and insert "(3)";
- 16 r. On page 77, line 15, strike "(3)", show as stricken,
- 17 and insert "(4)"; in line 17 strike "(4)", show as stricken, and
- 18 insert "(5)"; and in line 21 strike "(5)", show as stricken, and
- 19 insert "(6)";
- 20 s. On page 99, line 4, strike "35" and insert "28"; in
- 21 line 6 strike "43-1408" and insert "43-1418"; in line 11 strike
- 22 "72" and insert "73"; and in line 14 strike "73" and insert "72";
- 23 and
- 24 t. On page 100, line 13, strike "sections are" and insert
- 25 "section is"; and in line 14 strike "Sections 43-2927 and" and
- 26 insert "Section".
- 27 2. On page 1, strike beginning with "24-730" in
- 1 line 1 through line 14 and insert "24-508, 24-730, 24-809.04,
- 2 24-1205, 25-534, 25-1129, 25-1130, 29-1816, 42-357, 43-272.01,
- 3 43-276, 43-1311, 43-1312, 43-1411.01, 43-1608, 43-1609, 43-1610,
- 4 43-1611, 43-1612, and 43-1613, Reissue Revised Statutes of
- 5 Nebraska, sections 24-312, 24-517, 24-1204, 24-1206, 24-1301,
- 6 24-1302, 25-2704, 25-2733, 25-2740, 43-247, 43-2,129, 43-2404.02,
- 7 43-3001, 79-215, 84-917, and 86-2,107, Revised Statutes Cumulative
- 8 Supplement, 2006, and sections 24-301.02, 24-503, 42-353, 42-359,
- 9 42-364, 42-364.13, 42-371, 43-2,119, 43-2922, 43-2923, 43-2924,
- 10 43-2927, 43-2928, 43-2929, 43-2930, 43-2932, 43-2934, 43-2936,
- 11 43-2937, and 43-2943, Revised Statutes Supplement, 2007; to
- 12 change and eliminate provisions relating to judgeships, judicial

13 vacancies, judicial hearings, court duties and authority,
 14 jurisdiction, retired judges, referees, the Judicial Resources
 15 Commission, appeals, clerk magistrates, facilitated conferencing,
 16 mediators, support orders, support order liens, the Parenting Act,
 17 domestic relations matters, parenting plans, compulsory school
 18 attendance, and service of documents other than summons; to provide
 19 for court referral to mediation or another form of alternative
 20 dispute resolution, problem solving court programs, determination
 21 of criminal charge versus juvenile code adjudication, paternity
 22 proceedings, procedures and requirements for certain decrees, and
 23 admissibility of certified copies of school records; to permit
 24 jurors to take notes; to state intent; to eliminate duplicative
 25 and conflicting provisions; to harmonize provisions; to provide
 26 duties for the Revisor of Statutes; to provide operative dates;
 27 to provide for severability; to repeal the original sections; to
 1 outright repeal sections 25-1133, 25-2734, and 43-261, Reissue
 2 Revised Statutes of Nebraska, and section 43-2931, Revised Statutes
 3 Supplement, 2007; and to declare an emergency."
 4 3. On page 2, strike line 1.

LEGISLATIVE BILL 606. Placed on Select File with amendment.
 ER8170

1 1. In the Standing Committee amendments, AM1884, on page
 2 4, line 16, after "thereafter" insert an underscored comma.
 3 2. On page 1, strike beginning with "courts" in line 1
 4 through line 3 and insert "public health and welfare; to amend
 5 section 71-7608, Revised Statutes Supplement, 2007; to adopt the
 6 Stem Cell Research Act; to provide funding; to repeal the original
 7 section; and to declare an emergency."

LEGISLATIVE BILL 1096. Placed on Select File with amendment.
 ER8171

1 1. Strike the original sections and all amendments
 2 thereto and insert the following new sections:
 3 Section 1. The Legislature finds that matters relating to
 4 emergency medical first response and fire protection are matters of
 5 state concern, particularly in larger cities that rely primarily or
 6 entirely upon volunteers to provide these services. Recognizing the
 7 increasing complexity and difficulty of providing these services,
 8 the stringent and growing training demands made upon volunteers,
 9 the demographics of an aging population, the economic pressures
 10 that deny or inhibit employers from granting the opportunity for
 11 volunteers to respond to emergency calls during business hours, and
 12 the economic costs to residents and businesses of financing either
 13 a paid or partly paid emergency response system, the Legislature
 14 hereby declares the necessity of establishing a system and process
 15 whereby certain cities of the first class would be required to
 16 review, study, and modify on a continuing basis their emergency
 17 response systems, with appropriate public input, based upon local

18 conditions and circumstances.

19 Sec. 2. Not later than January 5, 2009, each city of the
20 first class with a population in excess of thirty-seven thousand
21 five hundred inhabitants shall employ a full-time fire chief with
22 appropriate training, credentials, and experience and for whom
23 firefighting or emergency medical first response is a full-time
1 career. The fire chief shall be appointed by the mayor with
2 the approval of the city council. The fire chief shall have the
3 immediate superintendence of the fire prevention, fire suppression,
4 and emergency medical first response services and the facilities
5 and equipment related to such services of the city. The fire
6 chief shall promulgate, implement, and enforce rules governing the
7 actions and conduct of volunteer members of the department so as to
8 be in conformity with the personnel policies of the city.

9 Sec. 3. (1) In addition to such other duties as may be
10 performed by the fire chief employed pursuant to section 2 of this
11 act, he or she shall keep and maintain full and complete records
12 regarding the twelve-month period ending thirty days prior to the
13 annual report of the chief to the city council as provided for in
14 subsection (2) of this section. Such records include, but are not
15 limited to, the number of volunteers in active volunteer service
16 providing emergency response services to the city including their
17 ages, the amount and type of training received by each volunteer
18 during the course of his or her time of service as an active
19 volunteer, the number of new volunteers recruited during such
20 period, the number of volunteers who ceased to be active volunteers
21 during that period, the basic information regarding each volunteer
22 specified in section 35-1309.01, the number and nature of calls or
23 requests for emergency services, the response time for each call,
24 to be calculated from the time of receipt of the dispatch to the
25 time of arrival of the first fire or rescue emergency response
26 vehicle at the site of the request, the number of volunteers
27 responding to each call, and the time each call was received. The
1 city council may specify any additional information to be gathered
2 or collected by the fire chief or as the fire chief may recommend.

3 (2) The fire chief shall collate and analyze the
4 information gathered pursuant to subsection (1) of this section
5 and shall, no less than once in any twelve-month period, on a
6 date specified by the city council, provide a report to the
7 city council at a regular council meeting on the prior year's
8 experience regarding the volunteer department and shall make such
9 recommendations as he or she deems appropriate.

10 Sec. 4. Section 35-901, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 35-901 (1) For purposes of this section, volunteer
13 department shall mean volunteer fire department or volunteer
14 first-aid, rescue, or emergency squad or volunteer fire company
15 serving any city, village, county, township, or rural or suburban
16 fire protection district.

17 (2) ~~Each-Except~~ as provided in subsection (4) of this
 18 section, each volunteer department may establish a volunteer
 19 department trust fund. All general donations, ~~or~~ contributions,
 20 bequests, or annuities made to the volunteer department and all
 21 money raised by or for the volunteer department shall be deposited
 22 in the trust fund. The trust fund shall be under the control
 23 of the volunteer department, and the volunteer department may
 24 make expenditures from the trust fund as it deems necessary. The
 25 treasurer of the volunteer department shall be the custodian of the
 26 trust fund.

27 (3) The trust fund shall not be considered public funds
 1 or funds of any city, village, county, township, or rural or
 2 suburban fire protection district for any purpose, including the
 3 Nebraska Budget Act, nor shall any city, village, county, township,
 4 or rural or suburban fire protection district incur any liability
 5 solely by reason of any expenditure from such fund except liability
 6 for property when any city, village, county, township, or rural
 7 or suburban fire protection district receives title to property
 8 acquired with money from such fund.

9 (4)(a) If the total amount of expenditures and receipts
 10 in the trust fund exceeds one hundred thousand dollars in
 11 any twelve-month period, the volunteer department shall inform
 12 any city, village, county, township, or rural or suburban fire
 13 protection district receiving service from the department and such
 14 entity may examine or cause to be examined all books, accounts,
 15 vouchers, records, and expenditures with regard to the trust fund.

16 (b) Funds, fees, or charges solicited, collected, or
 17 received by a volunteer department that are (i) in consequence
 18 of the performance of fire or rescue services by the volunteer
 19 department at a given place and time, (ii) accomplished through the
 20 use by the volunteer department of equipment owned by the taxing
 21 authority supporting such department and provided to the volunteer
 22 department for that purpose, and (iii) paid by or on behalf of
 23 the recipient of those services shall not be deposited in a trust
 24 fund authorized by this section. Such funds are public funds of the
 25 taxing authority supporting the volunteer department and are deemed
 26 to have been collected by the volunteer department as the agent of
 27 the taxing authority and are held by the department on its behalf.

1 If such funds are in the possession of a volunteer department,
 2 the taxing authority shall cause all the books, accounts, records,
 3 vouchers, expenditures, and statements regarding such funds to be
 4 examined and independently audited at the expense of the taxing
 5 authority by a qualified professional auditor or the Auditor of
 6 Public Accounts for the immediately preceding five years.

7 ~~(4)-(5)~~ Nothing in this section shall be construed or
 8 deemed to permit a violation of the Nebraska Liquor Control Act.

9 ~~(5)-(6)~~ All expenditures of public funds as defined in
 10 the Nebraska Budget Act for support of a volunteer department or
 11 its purposes shall be submitted as claims, approved by the taxing

12 authority supporting such department or its purposes, and published
 13 as required by law. All such claims shall be properly itemized for
 14 proposed expenditure or reimbursement for costs already incurred
 15 and paid except as may be otherwise permitted pursuant to section
 16 35-106.

17 ~~(6)-(7)~~ All money raised pursuant to the Nebraska Bingo
 18 Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card
 19 Lottery Act, and the Nebraska Small Lottery and Raffle Act shall be
 20 subject to such acts with respect to the deposit and expenditure of
 21 such money.

22 (8) No volunteer department shall solicit, charge, or
 23 collect any funds, fees, or charges as described in subdivision
 24 (4)(b) of this section without the express authorization of the
 25 taxing authority supporting the department by vote of a majority
 26 of the members of the governing body of such taxing authority.
 27 Such authorization shall not extend beyond a twelve-month period
 1 but may be renewed at the discretion of the taxing authority in
 2 the same manner in which it was initially granted. Upon collection
 3 or receipt, such funds, fees, or charges shall be remitted to
 4 the designated officer of the taxing authority for deposit to
 5 the account of the taxing authority. The taxing authority may
 6 appropriate and expend some or all of such funds for the support of
 7 a service award benefit program adopted and conducted pursuant to
 8 the Volunteer Emergency Responders Recruitment and Retention Act.

9 Sec. 5. Original section 35-901, Reissue Revised Statutes
 10 of Nebraska, is repealed.

11 2. On page 1, line 4, strike "a city" and insert "certain
 12 cities"; in line 5 strike "the use of a"; and in line 6 strike
 13 "fund" and insert "funds".

(Signed) Amanda McGill, Chairperson

AMENDMENTS - Print in Journal

Senator Erdman filed the following amendment to LB1049:
 AM2047

1 1. On page 2, line 16, strike "Solely for purposes of
 2 appointment, the" and insert "The"; and in line 18 after the period
 3 insert "When a member ceases to meet the qualifications for his or
 4 her initial appointment, the office shall be immediately vacated.".

5 2. On page 3, line 7, after the period insert "An
 6 appointment made for the remainder of the term shall not be
 7 considered a full term.".

Senator Schimek filed the following amendment to LB1049:
 AM2109

1 1. On page 2, line 18, after the period insert "No
 2 individual shall be appointed or reappointed to the commission if
 3 that appointment or reappointment would cause the number of members

4 of one gender to be greater than one-half of the membership of the
5 commission, except that an individual serving on the effective date
6 of this act may complete his or her term."

UNANIMOUS CONSENT - Add Cointroducers

Senator Pahls asked unanimous consent to add his name as cointroducer to LB606 and LB1096. No objections. So ordered.

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB962. No objections. So ordered.

Senator Howard asked unanimous consent to add her name as cointroducer to LB1001. No objections. So ordered.

VISITORS

Visitors to the Chamber were Senator Carlson's son, Nathan Carlson, from Holdrege; Mary Finley, Connie Johnson, and Anna McManus; and Marie Kubat, Marjorie Vandenack, and Virginie Davidsaver from Omaha.

The Doctor of the Day was Dr. Geoff Cooper from Bellevue.

ADJOURNMENT

At 11:57 a.m., on a motion by Speaker Flood, the Legislature adjourned until 10:00 a.m., Tuesday, March 4, 2008.

Patrick J. O'Donnell
Clerk of the Legislature