

FIRST DAY - NOVEMBER 4, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SPECIAL SESSION****FIRST DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, November 4, 2009

PRAAYER

The prayer was offered by Senator Campbell.

ROLL CALL

Pursuant to a proclamation by the Honorable Governor of the State of Nebraska, Dave Heineman, the One Hundred First Legislature, First Special Session of the Legislature of Nebraska, assembled in the George W. Norris Legislative Chamber of the State Capitol, at the hour of 3:00 p.m., Wednesday, November 4, 2009, and was called to order by President Sheehy.

The roll was called and the following members were present:

Adams, Greg L.	Gloor, Mike	Nelson, John E.
Avery, Bill	Haar, Ken	Nordquist, Jeremy J.
Campbell, Kathy	Hadley, Galen	Pahls, Rich
Carlson, Tom	Hansen, Thomas F.	Pankonin, Dave
Christensen, Mark	Harms, John N.	Pirsch, Pete
Coash, Colby	Heidemann, Lavon L.	Price, Scott
Conrad, Danielle	Howard, Gwen	Rogert, Kent
Cook, Tanya	Janssen, Charlie	Schilz, Ken
Cornett, Abbie	Karpisek, Russ	Stuthman, Arnie
Council, Brenda J.	Krist, Bob	Sullivan, Kate
Dierks, Cap	Langemeier, Chris	Utter, Dennis
Dubas, Annette M.	Lathrop, Steve	Wallman, Norm
Fischer, Deb	Lautenbaugh, Scott	White, Tom
Flood, Mike	Louden, LeRoy J.	Wightman, John M.
Fulton, Tony	McCoy, Beau	
Gay, Tim	McGill, Amanda	
Giese, Robert J.	Mello, Heath	

The following member was excused:

Ashford, Brad

DECLARATION

Pursuant to a proclamation issued by the Honorable Dave Heineman, Governor of Nebraska, we are here and now assembled in the One Hundred First Legislature, First Special Session of the Nebraska Legislature. I, as President of the Legislature, declare that we are now open for the transaction of business.

(Signed) Rick Sheehy
President of the Legislature

PROCLAMATION

BY VIRTUE OF THE AUTHORITY VESTED in the Governor by Article IV, Section 8, of the Nebraska Constitution, I, Dave Heineman, as Governor of the State of Nebraska, believing that an extraordinary occasion has arisen, DO HEREBY CALL the Legislature of Nebraska to convene in extraordinary session at the State Capitol on November 4, 2009, at 3:00 p.m. for the purpose of considering and enacting legislation on only the following subjects:

1. To reduce or eliminate appropriations and reappropriations approved by the 101st Legislature;
2. To reduce or eliminate certain transfers from the State General Fund;
3. To authorize, increase, or make certain transfers to the State General Fund or to certain cash funds;
4. To modify or eliminate intent language and earmarks accompanying appropriations approved by the 101st Legislature;
5. To adopt statutory modifications necessary to reduce state aid appropriations and make formula adjustments contained in the Tax Equity and Educational Opportunities Support Act; and
6. To appropriate funds for the necessary expenses of the extraordinary session herein called.

I direct that members of the Legislature of the State of Nebraska be notified of the convening of this extraordinary session by presenting to each of them a copy of this Proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand and cause of the Great Seal of the State of Nebraska to be affixed this 2nd day of November, in the year of our Lord Two Thousand and Nine.

(Signed) Dave Heineman
Governor

Attest:

(Signed) John Gale
Secretary of State

RESIGNATION

August 12, 2009

The Honorable Dave Heineman
Governor
State of Nebraska
P.O. Box 94848, State Capitol
Lincoln, NE 68509-4848

Dear Governor Heineman:

Please accept this letter as notification that I am resigning from my position as State Senator for the 10th Legislative District in the State of Nebraska. My last day of employment will be August 16, and per the responsibilities outlined under section 32-562, subsection (3), of the Nebraska Revised Statutes, I am delivering this notice to you directly in written form.

It has been a privilege, and an honor to serve the citizens of this state. I want to take this opportunity to thank the citizens of Legislative District 10, and the citizens of Nebraska, for allowing me the opportunity to serve them for the past seven years in this capacity.

Sincerely,
(Signed) Michael J. Friend
District 10

Cc: Patrick O'Donnell, Clerk of the Legislature

MESSAGE FROM THE GOVERNOR

September 11, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

I hereby appoint Robert J. Krist to fill the vacancy in the 10th Legislative District created by the resignation of Senator Mike Friend. This appointment takes effect on September 11, 2009.

Sincerely,
(Signed) Dave Heineman
Governor

GUBERNATORIAL APPOINTMENT

Greetings To All Who Shall See These Presents Know Ye, that I, Dave Heineman, on behalf of the State of Nebraska and as Governor, do hereby appoint Robert J. Krist as a member of the Legislature for the 10th District.

Reposing special trust in your ability, integrity and patriotism, I do authorize and empower you to discharge the duties of said appointment, according to law.

This appointment shall take effect on September 11, 2009, and continue until January 5, 2011, provided you shall satisfactorily perform all the duties imposed by law.

(Signed) Dave Heineman
Governor

(Signed) John A. Gale
Secretary of State

CERTIFICATE

State of Nebraska

United States of America,)	
) ss.	Secretary of State
State of Nebraska)	

I, John A. Gale, Secretary of State of the State of Nebraska do hereby certify that Bob Krist has been appointed as a Member of the Nebraska Unicameral Legislature from the Tenth District for the unexpired term of Mike Friend. The term beginning September 11, 2009, shall continue until January 5, 2011, or such time as he shall satisfactorily perform all the duties imposed upon such officer by law, and until a successor is duly elected and qualified.

I further certify that the foregoing appointment was made by Governor Dave Heineman under the authority granted by the Constitution and by Section 32-566 of the Revised Statutes of Nebraska.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this Fourth day of November in the year of our Lord, two thousand and nine.

(SEAL)

John A. Gale, Secretary of State

of the Secretary of State and are a matter of public record.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this Fourth day of November in the year of our Lord, two thousand and nine.

(SEAL)

John A. Gale, Secretary of State

DISTRICT/NAME	ELECTED
1 Lavon L. Heidemann	November 4, 2008
2 Dave Pankonin	November 7, 2006
3 Scott Price	November 4, 2008
4 Pete Pirsch	November 7, 2006
5 Heath Mello	November 4, 2008
6 John E. Nelson	November 7, 2006
7 Jeremiah Nordquist	November 4, 2008
8 Tom White	November 7, 2006
9 Gwen Howard	November 4, 2008
10 Bob Krist	Appointed September 11, 2009
11 Brenda J. Council	November 4, 2008
12 Steve Lathrop	November 7, 2006
13 Tanya Cook	November 4, 2008
14 Tim Gay	November 7, 2006
15 Charlie Janssen	November 4, 2008
16 Kent Rogert	November 7, 2006
17 Robert J. Giese	November 4, 2008
18 Scott Lautenbaugh	(2 year term) November 4, 2008
19 Mike Flood	November 4, 2008
20 Brad Ashford	November 7, 2006
21 Ken Haar	November 4, 2008
22 Arnie Stuthman	November 7, 2006
23 Chris Langemeier	November 4, 2008
24 Greg L. Adams	November 7, 2006
25 Kathy Campbell	November 4, 2008
26 Amanda M. McGill	November 7, 2006
27 Colby Coash	November 4, 2008
28 Bill Avery	November 7, 2006
29 Tony Fulton	November 4, 2008
30 Norman Wallman	November 7, 2006
31 Rich Pahls	November 4, 2008
32 Russ Karpisek	November 7, 2006
33 Dennis Utter	November 4, 2008
34 Annette M. Dubas	November 7, 2006
35 Mike Gloor	November 4, 2008
36 John Wightman	November 7, 2006
37 Galen Hadley	November 4, 2008
38 Tom Carlson	November 7, 2006

39	Beau McCoy	November 4, 2008
40	Cap Dierks	November 7, 2006
41	Kate Sullivan	November 4, 2008
42	Thomas F. Hansen	November 7, 2006
43	Deb Fischer	November 4, 2008
44	Mark Christensen	November 7, 2006
45	Abbie Cornett	November 4, 2008
46	Danielle Conrad	November 7, 2006
47	Ken Schilz	November 4, 2008
48	John N. Harms	November 7, 2006
49	LeRoy J. Louden	November 4, 2008

MESSAGES FROM THE GOVERNOR

June 29, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed as the Chief Executive Officer for the Department of Health and Human Services:

Kerry T. Winterer, 12388 Rose Lane, Omaha, NE 68154

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate of appointment and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

July 6, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed

as the Director for the Department of Roads:

Monty W. Fredrickson, 7106 Beaver Creek Lane, Lincoln, NE 68516

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate of appointment and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

July 15, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed as the Director for the Department of Aeronautics:

Ronnie D. Mitchell, 306 Martin Dr. North, Bellevue, NE 68005

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate of appointment and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

July 21, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individuals are being appointed to the State Emergency Response Commission:

John Baroni, 1306 Earl Court, Plattsmouth, NE 68048

Kimberly Plouzek, 1417 County Road D, Dorchester, NE 68343

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background materials are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

July 23, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed as the Director of the Division of Developmental Disabilities of the Department of Health and Human Services:

Jodi Fenner, Dept. of Health and Human Services, P.O. Box 95026, Lincoln, NE 68509

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

July 23, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed as a member of the Boiler Safety Code Advisory Board:

Robert Kirkpatrick, 6315 Huntington Ave., Lincoln, NE 68507

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

July 23, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individuals are being reappointed to the Community Corrections Council:

Robert Lindemeier, 219 N. Bryan, North Platte, NE 69101
Joe Kelly, 5822 Fieldcrest Way, Lincoln, NE 68512

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

August 13, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed as Adjutant General for the State of Nebraska:

Col. Judd Lyons, 6405 Country Squire Lane, Omaha, NE 68152

The aforementioned appointee is respectfully submitted for your

consideration. Copies of the appointment certificate and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

August 28, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individuals are being appointed to the Nebraska Rural Health Advisory Commission:

Mark Goodman, 706 Pierce Street, Omaha, NE 68108
Shawn Kralik, 438 23rd, West Point, NE 68788
Suzanne Minarick Greenquist, 3811 X Street, Lincoln, NE 68503

Contingent upon your approval, the following individuals are being reappointed to the Nebraska Rural Health Advisory Commission:

Michael Sitorius, 8115 Jackson St., Omaha, NE 68114
Roger Wells, 1518 Jay Street, St. Paul, NE 68873
Rebecca Schroeder, 212 W 9th Street, Curtis, NE 69025

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background materials are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

September 4, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed as a member of the Motor Vehicle Industry Licensing Board:

Jeffrey Scherer, 150 Beemer Road, Beemer, NE 68716

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

September 4, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed as a member of the Boiler Safety Code Advisory Board:

Kurt Eberspacher, 4332 W. McKelvie Road, Lincoln, NE 68524

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

September 8, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individuals are being reappointed to the State Board of Health:

Dr. Edward Discoe, 1454 28th Avenue, Columbus, NE 68601
Dr. Russell Hopp, 5610 Farnam St., Omaha, NE 68132
Dr. Kenneth Kester, 7500 S. 91st Street, Lincoln, NE 68526
Dr. Gary Westerman, 2500 California Plaza, Omaha, NE 68178

Contingent upon your approval, the following individuals are being appointed to the State Board of Health:

Luisa Rounds, 5022 Decatur St., Omaha, NE 68104
Rich Robinson, 9912 Blue Water Circle, Lincoln, NE 68527

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background materials are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

September 9, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Coordinating Commission for Postsecondary Education:

William "Scott" Wilson, 7753 Hidden Valley Dr., Papillion, NE 68046

The aforementioned appointee is respectfully submitted for your consideration. Copies of the appointment certificate and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

September 25, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed as a member of the Commission for the Blind and Visually Impaired:

Michael Hansen, 5635 Lenox Avenue, Lincoln, NE 68510

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

September 28, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed as a member of the Crime Victim's Reparations Committee:

G. Randall "Rand" Hansen, 909 N. 96th St., #101, Omaha, NE 68114-2508

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

September 30, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being reappointed as a member of the State Highway Commission:

Donna Wanitschke, 1611 Stagecoach Road, Grand Island, NE 68801

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

October 5, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed as the State Investment Officer:

Jeffrey W. States, NE Investment Council, 941 "O" Street, Suite 500,
Lincoln, NE 68508

The aforementioned appointee is respectfully submitted for your consideration. A copy of the appointment letter from the Investment Council and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

October 5, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individuals are being appointed to the Environmental Quality Council:

Michelle Bucklin, 8092 Keystone Dr., Omaha, NE 68134
Dr. Ethel Williams, 10536 Spaulding Circle, Omaha, NE 68134
Lance Hedquist, 1615 First Avenue, South Sioux City, NE 68776

Contingent upon your approval, the following individuals are being reappointed to the Environmental Quality Council:

Rodney Gangwish, 52685 70th Road, Shelton, NE 68876
Mark Whitehead, 2537 Randolph St., Lincoln, NE 68510
Mark Czaplewski, 2207 Woodridge Place, Grand Island, NE 68801
Robert Hall, 957 North Beech, Wahoo, NE 68066
Alden Zuhlke, 52771 860 Road, Brunswick, NE 68720
Joe Citta Jr., P.O. Box 699, Columbus, NE 68602

The aforementioned appointees are respectfully submitted for your consideration. Copies of the appointment certificates and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

October 7, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individuals are being appointed to the Community Corrections Council:

Dallas Massey, 90379 28th Avenue, Scottsbluff, NE 69361
Travis Parker, 6101 S. 96th Street, Lincoln, NE 68526
Frank Peak, 5523 N. 34th St., Omaha, NE 68111

The aforementioned appointees are respectfully submitted for your consideration. Copies of the appointment certificates and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

October 7, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Nebraska Arts Council:

Stephanie Metz O'Keefe, 9838 Harney Parkway North, Omaha, NE 68114

Contingent upon your approval, the following individuals are being reappointed to the Nebraska Arts Council:

David Gardels, 110 North 54th Street, Omaha, NE 68132
Joanne Medlock, HC 14, Box 100, Valentine, NE 69201
Sandra Schroeder, 201 Bridge Road, Norfolk, NE 68701

The aforementioned appointees are respectfully submitted for your consideration. Copies of the appointment certificates and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

October 7, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being reappointed to the Board of Educational Lands and Funds:

M. Jane Keller, 303 West Highway 20, Bassett, NE 68714

The aforementioned appointee is respectfully submitted for your consideration. A copy of the certificate of appointment and background information are included for your review.

Sincerely,

(Signed) Dave Heineman
Governor

Enclosures

October 7, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Nebraska Rural Health Advisory Commission:

Margaret Ann "Peggy" Rogers, 1111 West First Street, McCook, NE 69001

The aforementioned appointee is respectfully submitted for your consideration. A copy of the certificate of appointment and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

October 21, 2009

Mr. President, Speaker Flood and
Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Crime Victim's Reparations Committee:

Michael McLarney, 1103 Leavenworth Street, Omaha, NE 68102

The aforementioned appointee is respectfully submitted for your consideration. A copy of the certificate of appointment and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

October 21, 2009

Mr. President, Speaker Flood and
Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being reappointed to the State Electrical Board:

Tom Ourada, 1130 East 13th Street, Crete, NE 68333

The aforementioned appointee is respectfully submitted for your consideration. A copy of the certificate of appointment and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

October 21, 2009

Mr. President, Speaker Flood and
Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being reappointed to the Nebraska Oil and Gas Conservation Commission:

Thomas Sonntag, 1024 6th Avenue, Sidney, NE 69162

The aforementioned appointee is respectfully submitted for your consideration. A copy of the certificate of appointment and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

October 22, 2009

Mr. President, Speaker Flood and
Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being
reappointed to the Nebraska Investment Council:

John Dinkel, 2206 Koenigstein Ave., Norfolk, NE 68701

The aforementioned appointee is respectfully submitted for your
consideration. A copy of the certificate of appointment and background
information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

October 22, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individuals are being
reappointed to the Nebraska Educational Telecommunications Commission:

Kenneth Bird, 7303 Western Avenue, Omaha, NE 68114
Phillip Dudley Jr., 1820 North Elm, Hastings, NE 68901
J. Richard Shoemaker, 611 Patterson, Cambridge, NE 69002

The aforementioned appointees are respectfully submitted for your
consideration. Copies of the certificates and background materials are
included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

October 26, 2009

Mr. President, Speaker Flood

and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individual is being appointed to the Nebraska Power Review Board:

Rick Morehouse, 3135 Primrose Drive, Scottsbluff, NE 69361

Contingent upon your approval, the following individual is being reappointed to the Nebraska Power Review Board:

Michael Siedschlag, 13511 Charles Circle, Omaha, NE 68154

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

EXECUTIVE BOARD REPORT

The Executive Board reported the following committee assignments made over the interim:

Senator Pirsch has been appointed to the Revenue Committee and no longer serves on the Government, Military and Veterans Affairs Committee and Senator Krist has been appointed to the General Affairs Committee, Urban Affairs Committee, and Government, Military and Veterans Affairs Committee.

Senator Utter has been appointed to fill the vacancy on the Legislative Performance Audit Committee.

Senator Council has been appointed to the State Council for Juvenile Interstate Compact (LB237, 2009).

ANNOUNCEMENT

The Children's Behavioral Health Oversight Committee elected Senator Campbell as Chairperson and Senator Dubas as Vice Chairperson.

REPORTS

The following reports were received by the Legislature:

Agriculture, Department of

Commercial Dog and Cat Operator Inspection Act Fiscal Report for 2008/2009

Arts Council, Nebraska

Nebraska Arts and Humanities Cash Fund Report

Attorney General, Nebraska

2008 Annual Report, For the People

Auditor of Public Accounts

Lottery, Nebraska, Audit Report

Nebraska Public Employees Retirement Systems - State and County Employees Retirement Plan for the year ended December 31, 2008

Revenue, Department of, Cigarette Tax Receipts, Attestation Report for the fiscal year ended June 30, 2009

Correctional Services, Department of

34th Annual Report and Statistical Summary

Certification of Inmate Population above Design Capacity in Nebraska's Correctional System

Criminal Justice, Commission on Law Enforcement and

Nebraska Crime Victim's Reparations Program Report for fiscal year 07/08

Economic Development, Department of

Nebraska Affordable Housing Trust Fund 2008 Annual Report

Proposed 2008 Annual Performance Evaluation Report for the Housing and Community Development Programs Consolidated Plan

Energy Office, Nebraska

Monthly Consensus Estimate of General Fund Receipts

Fire Marshal, State

Number of Volunteer Members Report

Fiscal Office, Legislative

State of Nebraska FY2009-10/FY2010-11 Biennial Report

Game and Parks Commission

Game Law Investigation Cash Fund Annual Report

Health and Human Services

Annual Report to the Legislature for the Women's Health Initiative

Division of Developmental Disabilities, Beatrice State Developmental Center Baseline Quarterly Reports

Investment Finance Authority, Nebraska (NIFA)

2006 Series A, B, C, D, E and F Community Development Loan Notes (City of Lincoln Program-2006) Reports

Clean Water State Revolving Fund Bonds Notice

Clean Water State Revolving Fund Revenue Bonds Series 2009B Notice

Clean Water State Revolving Fund Revenue Bonds Series 2009B Quarterly Report

Community Development Loan Notes (City of Lincoln Program - 2009) 2009 Multiple Series

Drinking Water State Revolving Fund Revenue Bonds Series 2008 A,
 Quarterly Report
 Nebraska Investment Finance Authority Agricultural Loans Report for
 Fiscal Year 9/16/09 ending June 30, 2009
 Single Family Housing Bonds and General Obligation Bonds Notice

Labor, Department of

Significant Modifications to Nebraska's Strategic State Plans for PY09

Natural Resources, Department of

Annual Report and Plan of Work for the Nebraska State Water Planning
 and Review Process

Water Resources Cash Fund Uses for the Previous Fiscal Year 2008-2009

Performance Audit, Legislative

2008-2009 Annual Report

Public Service Commission

2009 Annual Report on Telecommunications

Retirement Systems, Public Employees

County Employees' Retirement System Cash Balance Benefit Fund,
 Actuarial Valuation Results as of January 1, 2009 for County Fiscal
 Year Ending June 30, 2011

County Equal Retirement Benefit Fund, Actuarial Valuation Results as of
 January 1, 2009 for Fiscal Year Ending June 30, 2010

State Employees' Retirement System Cash Balance Benefit Fund,
 Actuarial Valuation Results as of January 1, 2009 for State Fiscal Year
 Ending June 30, 2011

State Equal Retirement Benefit Fund, Actuarial Valuation Results as of
 January 1, 2009 for State Fiscal Year Ending June 30, 2010

Revenue, Nebraska Department of

Monthly Consensus Estimate of General Fund Receipts

Nebraska Lottery 2009 Annual Report

Nebraska Tax Incentives Annual Report to the Nebraska Legislature

Roads, Nebraska Department of

Board of Public Roads Classifications and Standards Minutes for April
 and May 2009

State Highway Commission Quarterly Report

Traffic Crash Facts Annual Report

State Fair Board

Expenditures from State Fair Funds Account, July 1, 2008 through June
 30, 2009

COMMUNICATION

Received a copy of House Joint Resolution 27 in accordance with Uniform
 Rule 49B from the state of Alaska relating to sovereign powers of the state.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1. Introduced by Speaker Flood, 19; at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2009, LB 35A, section 3, Laws 2009, LB 314, sections 21 and 41, Laws 2009, LB 315, sections 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 50, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 70, 71, 72, 74, 75, 77, 78, 79, 85, 90, 91, 92, 93, 94, 96, 97, 98, 99, 100, 101, 103, 104, 106, 107, 108, 110, 111, 112, 113, 114, 115, 118, 119, 120, 121, 122, 123, 124, 125, 127, 131 133, 134, 136, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 177, 178, 179, 181, 182, 183, 184, 185, 187, 188, 189, 190, 191, 192, 193, 195, 196, 196, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 218, 219, 220, 222, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, and 282, and Laws 2009, LB 545A, section 1; to define terms; to appropriate and reappropriate funds; to state intent; to change appropriations as prescribed; to change transfers; to provide for transfers; to harmonize provisions; to repeal the original sections; to outright repeal Laws 2009, LB 315, sections 80, 81, 82, 83, 84, 86, 87, 88, and 89; and to declare an emergency.

LEGISLATIVE BILL 2. Introduced by Speaker Flood, 19; at the request of the Governor.

A BILL FOR AN ACT relating to funds; to amend section 77-3,111, Reissue Revised Statutes of Nebraska, sections 71-5714 and 72-1001, Revised Statutes Cumulative Supplement, 2008, and sections 9-812 and 82-331, Revised Statutes Supplement, 2009; to provide for and eliminate certain fund transfers; to harmonize provisions; to repeal the original sections; to outright repeal sections 90-513 and 90-514, Revised Statutes Supplement, 2009; and to declare an emergency.

LEGISLATIVE BILL 3. Introduced by Speaker Flood, 19; at the request of the Governor.

A BILL FOR AN ACT relating to state funds; to amend sections 2-1222, 2-1503.01, 2-1577, 2-1587, 2-15,122, 2-1808, 2-2317, 2-2627, 2-3413, 2-3633, 2-3763, 2-3812, 2-4018, 3-126, 13-2704, 24-227.01, 24-229, 25-2921, 25-3002, 29-2259.02, 29-2262.07, 29-3921, 33-102, 35-1203, 37-345, 38-157, 46-1121, 46-1403, 50-437, 54-197, 54-635, 57-919,

66-739, 70-1020, 71-222.02, 71-4732, 72-1249.02, 72-2009, 76-549, 77-3,110, 77-4310.03, 77-5031, 79-810, 79-1320, 81-188.01, 81-201.05, 81-2,147.11, 81-2,162.27, 81-2,291, 81-528, 81-5,153, 81-8,110.07, 81-8,194, 81-1120.23, 81-1201.22, 81-1252, 81-1278, 81-1413.01, 81-1428, 81-15,121, 81-15,165, 81-15,180, 81-1607.01, 81-1634, 81-2004.01, 81-2004.05, 81-2105, 81-3524, 82-108.02, 82-316, 83-913.01, 84-321, 84-409, 84-414, 84-1227, 85-1419, 85-1803, 86-127, 86-312, 86-463, 88-545.01, 88-552, and 89-1,100, Reissue Revised Statutes of Nebraska, sections 48-1,116, 49-14,140, 50-114.05, 53-117.06, 53-304, 54-857, 54-2428, 55-131, 59-1608.04, 60-3,218, 61-210, 61-218, 66-4,100, 71-5661, 71-5714, 71-8612, 72-2211, 72-2501, 76-2226, and 77-5601, Revised Statutes Cumulative Supplement, 2008, and sections 1-111, 2-958.01, 2-5106, 47-632, 57-705, 60-2132, 66-1521, 66-1839, 77-1342, 81-885.15, 81-1201.21, 81-15,160, 81-3119, 81-3432, and 84-510, Revised Statutes Supplement, 2009; provide for transfers to the General Fund; to eliminate obsolete provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 4. Introduced by Speaker Flood, 19; at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the expenses incurred during the One Hundred First Legislature, First Special Session, 2009; and to declare an emergency.

LEGISLATIVE BILL 5. Introduced by Education Committee: Adams, 24, Chairperson; Avery, 28; Giese, 17; Haar, 21; Howard, 9; Sullivan, 41; Lautenbaugh, 18.

A BILL FOR AN ACT relating to state aid to schools; to amend sections 79-1005.01, 79-1007.15, 79-1007.19, and 79-1008.01, Reissue Revised Statutes of Nebraska, and sections 77-3446, 79-1001, 79-1003, 79-1007.11, 79-1007.23, and 79-1023, Revised Statutes Supplement, 2009; to redefine terms; to change and eliminate provisions relating to disbursement of income tax receipts, calculation of formula need, elementary site allowance, teacher education adjustment, and instructional time allowance and expenditure limits as prescribed; to provide for calculation of a teacher education allowance; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 6. Introduced by Carlson, 38.

A BILL FOR AN ACT relating to animals; to amend sections 28-1006, 28-1012, and 29-820, Reissue Revised Statutes of Nebraska, section 54-630, Revised Statutes Cumulative Supplement, 2008, and sections 54-627 and 54-628, Revised Statutes Supplement, 2009; to change inspection provisions of the Commercial Dog and Cat Operator Inspection Act; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 7. Introduced by Carlson, 38.

A BILL FOR AN ACT relating to agriculture; to amend section 2-2634, Reissue Revised Statutes of Nebraska; to change pesticide registration and renewal fees; to repeal the original section; and to declare an emergency.

RESOLUTION**LEGISLATIVE RESOLUTION 1.** Introduced by Harms, 48; Loudon, 49.

WHEREAS, the Scottsbluff girls' golf team won the 2009 Class B Girls' State Golf Tournament; and

WHEREAS, the Bearcats' win was their second straight Class B state title and their fourth title in the last seven years; and

WHEREAS, the Bearcats' win also capped off their second consecutive perfect season; and

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

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

1. That the Legislature congratulates the Scottsbluff girls' golf team on winning the 2009 Class B Girls' State Golf Tournament.

2. That a copy of this resolution be sent to the Bearcats and their coach, Mike Klein.

Laid over.

EASE

The Legislature was at ease from 3:19 p.m. until 3:33 p.m.

REFERENCE COMMITTEE REPORT

The Executive Board submits the following report:

LB/LR	Committee
LB1	Appropriations
LB2	Appropriations
LB3	Appropriations
LB4	General File
LB5	Education
LB6	Agriculture
LB7	Agriculture

(Signed) John Wightman, Chairperson
Executive Board

EASE

The Legislature was at ease from 3:34 p.m. until 3:53 p.m.

REFERENCE COMMITTEE REPORT

The Executive Board submits the following report:

- Baroni, John - State Emergency Response Commission - Government, Military and Veterans Affairs
- Bird, Kenneth - Nebraska Educational Telecommunications Commission - Education
- Bucklin, Michelle - Environmental Quality Council - Natural Resources
- Citta, Joe, Jr. - Environmental Quality Council - Natural Resources
- Czaplewski, Mark - Environmental Quality Council - Natural Resources
- Dinkel, John - Nebraska Investment Council - Nebraska Retirement Systems
- Discoe, Edward - State Board of Health - Health and Human Services
- Dudley, Phillip, Jr. - Nebraska Educational Telecommunications Commission - Education
- Eberspacher, Kurt - Boiler Safety Code Advisory Board - Business and Labor
- Fenner, Jodi, Director of the Division of Developmental Disabilities - Department of Health and Human Services - Health and Human Services
- Fredrickson, Monty W., Director - Department of Roads - Transportation and Telecommunications
- Gangwish, Rodney - Environmental Quality Council - Natural Resources
- Gardels, David - Nebraska Arts Council - General Affairs
- Goodman, Mark - Nebraska Rural Health Advisory Commission - Health and Human Services
- Greenquist, Suzanne Minarick - Nebraska Rural Health Advisory Commission - Health and Human Services
- Hall, Robert - Environmental Quality Council - Natural Resources
- Hansen, G. Randall "Rand" - Crime Victim's Reparations Committee - Judiciary
- Hansen, Michael - Commission for the Blind and Visually Impaired - Health and Human Services
- Hedquist, Lance - Environmental Quality Council - Natural Resources
- Hopp, Russell - State Board of Health - Health and Human Services
- Keller, M. Jane - Board of Educational Lands and Funds - Education
- Kelly, Joe - Community Corrections Council - Judiciary
- Kester, Kenneth - State Board of Health - Health and Human Services
- Kirkpatrick, Robert - Boiler Safety Code Advisory Board - Business and Labor
- Kralik, Shawn - Nebraska Rural Health Advisory Commission - Health and Human Services
- Lindemeier, Robert - Community Corrections Council - Judiciary
- Lyons, Judd, Adjutant General - Military Department - Government, Military and Veterans Affairs
- Massey, Dallas - Community Corrections Council - Judiciary

McLarney, Michael - Crime Victim's Reparations Committee - Judiciary
Medlock, Joanne - Nebraska Arts Council - General Affairs
Mitchell, Ronnie D., Director - Department of Aeronautics - Government,
Military and Veterans Affairs
Morehouse, Rick - Nebraska Power Review Board - Natural Resources
O'Keefe, Stephanie Metz - Nebraska Arts Council - General Affairs
Ourada, Tom - State Electrical Board - General Affairs
Parker, Travis - Community Corrections Council - Judiciary
Peak, Frank - Community Corrections Council - Judiciary
Plouzek, Kimberly - State Emergency Response Commission - Government,
Military and Veterans Affairs
Robinson, Rich - State Board of Health - Health and Human Services
Rogers, Margaret Ann "Peggy" - Nebraska Rural Health Advisory
Commission - Health and Human Services
Rounds, Luisa - State Board of Health - Health and Human Services
Scherer, Jeffrey - Motor Vehicle Industry Licensing Board - Transportation
and Telecommunications
Schroeder, Rebecca - Nebraska Rural Health Advisory Commission - Health
and Human Services
Schroeder, Sandra - Nebraska Arts Council - General Affairs
Shoemaker, J. Richard - Nebraska Educational Telecommunications
Commission - Education
Siedschlag, Michael - Nebraska Power Review Board - Natural Resources
Sitorius, Michael - Nebraska Rural Health Advisory Commission - Health
and Human Services
Sonntag, Thomas - Nebraska Oil and Gas Conservation Commission -
Natural Resources
States, Jeffrey W., State Investment Officer - Nebraska Investment Council -
Nebraska Retirement Systems
Wanitschke, Donna - State Highway Commission - Transportation and
Telecommunications
Wells, Roger - Nebraska Rural Health Advisory Commission - Health and
Human Services
Westerman, Gary - State Board of Health - Health and Human Services
Whitehead, Mark - Environmental Quality Council - Natural Resources
Williams, Ethel - Environmental Quality Council - Natural Resources
Wilson, William "Scott" - Coordinating Commission for Postsecondary
Education - Education
Winterer, Kerry T., Chief Executive Officer - Department of Health and
Human Services - Health and Human Services
Zuhlke, Alden - Environmental Quality Council - Natural Resources

(Signed) John Wightman, Chairperson
Executive Board

NOTICE OF COMMITTEE HEARINGS
Business and Labor

Room 2102

Thursday, November 5, 2009 9:00 a.m.

Kurt Eberspacher - Boiler Safety Code Advisory Board
Robert Kirkpatrick - Boiler Safety Code Advisory Board

(Signed) Steve Lathrop, Chairperson

Education

Room 1525

Thursday, November 5, 2009 10:30 a.m.

M. Jane Keller - Board of Educational Lands and Funds
William "Scott" Wilson - Coordinating Commission for Postsecondary
Education
Kenneth Bird - Nebraska Educational Telecommunications Commission
Phillip Dudley Jr. - Nebraska Educational Telecommunications Commission
J. Richard Shoemaker - Nebraska Educational Telecommunications
Commission

(Signed) Greg Adams, Chairperson

General Affairs

Room 1510

Thursday, November 5, 2009 11:00 a.m.

Tom Ourada - State Electrical Board
David Gardels - Nebraska Arts Council
Joanne Medlock - Nebraska Arts Council
Stephanie Metz O'Keefe - Nebraska Arts Council
Sandra Schroeder - Nebraska Arts Council

(Signed) Russ Karpisek, Chairperson

Government, Military and Veterans Affairs

Room 1507

Friday, November 6, 2009 1:15 p.m.

Judd Lyons - Military Department
 Ronnie D. Mitchell - Department of Aeronautics
 John Baroni - State Emergency Response Commission
 Kimberly Plouzek - State Emergency Response Commission

(Signed) Bill Avery, Chairperson

Health and Human Services

Room 1510

Friday, November 6, 2009 9:30 a.m.

Jodi Fenner - Department of Health and Human Services
 Kerry T. Winterer - Department of Health and Human Services

Friday, November 6, 2009 10:30 a.m.

Mark Goodman - Nebraska Rural Health Advisory Commission
 Suzanne Minarick Greenquist - Nebraska Rural Health Advisory Commission
 Shawn Kralik - Nebraska Rural Health Advisory Commission
 Margaret Ann "Peggy" Rogers - Nebraska Rural Health Advisory
 Commission
 Rebecca Schroeder - Nebraska Rural Health Advisory Commission
 Michael Sitorius - Nebraska Rural Health Advisory Commission
 Roger Wells - Nebraska Rural Health Advisory Commission

Friday, November 6, 2009 1:15 p.m.

Michael Hansen - Commission for the Blind and Visually Impaired

Friday, November 6, 2009 1:30 p.m.

Edward Discoe - State Board of Health
 Russell Hopp - State Board of Health
 Kenneth Kester - State Board of Health
 Rich Robinson - State Board of Health
 Luisa Rounds - State Board of Health
 Gary Westerman - State Board of Health

(Signed) Tim Gay, Chairperson

Judiciary

Room 1113

Friday, November 6, 2009 10:00 a.m.

G. Randall "Rand" Hansen - Crime Victim's Reparations Committee
Michael McLarney - Crime Victim's Reparations Committee
Joe Kelly - Community Corrections Council
Robert Lindemeier - Community Corrections Council
Dallas Massey - Community Corrections Council
Travis Parker - Community Corrections Council
Frank Peak - Community Corrections Council

(Signed) Brad Ashford, Chairperson

Natural Resources

Room 1507

Thursday, November 5, 2009 1:30 p.m.

Thomas Sonntag - Nebraska Oil and Gas Conservation Commission
Rick Morehouse - Nebraska Power Review Board
Michael Siedschlag - Nebraska Power Review Board
Michelle Bucklin - Environmental Quality Council
Joe Citta Jr. - Environmental Quality Council
Mark Czaplowski - Environmental Quality Council
Rodney Gangwish - Environmental Quality Council
Robert Hall - Environmental Quality Council
Lance Hedquist - Environmental Quality Council
Mark Whitehead - Environmental Quality Council
Ethel Williams - Environmental Quality Council
Alden Zuhlke - Environmental Quality Council

(Signed) Chris Langemeier, Chairperson

Nebraska Retirement Systems

Room 1525

Tuesday, November 10, 2009 12:15 p.m.

Jeffrey W. States - Nebraska Investment Council
John Dinkel - Nebraska Investment Council

Tuesday, November 17, 2009 12:15 p.m.

Presentation of annual actuarial reports to the Retirement Committee on the defined benefit plans

(Signed) Dave Pankonin, Chairperson

Transportation and Telecommunications

Room 1113

Friday, November 6, 2009 8:30 a.m.

Monty W. Fredrickson - Department of Roads
 Donna Wanitschke - State Highway Commission
 Jeffrey Scherer - Motor Vehicle Industry Licensing Board

(Signed) Deb Fischer, Chairperson

Appropriations

Room 1524

Thursday, November 5, 2009 1:30 p.m.

LB1

LB2

LB3

Agency 87 - Accountability and Disclosure Commission

Agency 7 - Governor

Agency 8 - Lieutenant Governor

Agency 5 - Supreme Court

Agency 9 - Secretary of State

Agency 10 - Auditor of Public Accounts

Agency 11 - Attorney General

Agency 12 - State Treasurer

Agency 14 - Public Service Commission

Agency 21 - State Fire Marshal

Agency 3 - Legislative Council

Agency 46 - Correctional Services, Department of

Agency 64 - State Patrol, Nebraska

Agency 78 - Nebraska Commission on Law Enforcement and Criminal
 Justice

Agency 94 - Public Advocacy, Commission on

Friday, November 6, 2009 9:15 a.m.

Agency 56 - Wheat Board, Nebraska

Agency 18 - Agriculture, Department of

Agency 29 - Natural Resources, Department of

Agency 39 - Brand Committee, Nebraska

Agency 52 - State Fair Board

Agency 60 - Ethanol Board, Nebraska
 Agency 61 - Dairy Industry Development Board, Nebraska
 Agency 17 - Aeronautics, Department of
 Agency 27 - Roads, Department of
 Agency 31 - Military Department
 Agency 33 - Game and Parks Commission
 Agency 53 - Real Property Appraiser Board

Friday, November 6, 2009 1:30 p.m.

Agency 23 - Labor, Department of
 Agency 35 - Liquor Control Commission, Nebraska
 Agency 62 - Land Surveyors, State Board of Examiners for
 Agency 66 - Abstracters Board of Examiners
 Agency 93 - Tax Equalization and Review Commission
 Agency 41 - State Real Estate Commission
 Agency 30 - Electrical Board, State
 Agency 54 - Historical Society, Nebraska State
 Agency 57 - Oil and Gas Conservation Commission, Nebraska
 Agency 65 - Administrative Services, Department of
 Agency 71 - Nebraska Energy Office
 Agency 74 - Power Review Board, Nebraska
 Agency 13 - Education, Department of

Monday, November 9, 2009 9:15 a.m.

Agency 47 - Educational Telecommunications Commission, Nebraska
 Agency 51 - University of Nebraska System
 Agency 75 - Investment Council, Nebraska
 Agency 77 - Industrial Relations, Commission of
 Agency 85 - Public Employees Retirement Board, Nebraska
 Agency 19 - Banking, Department of
 Agency 34 - Library Commission, Nebraska
 Agency 48 - Coordinating Commission for Postsecondary Education
 Agency 50 - Nebraska State College System
 Agency 83 - Community College Aid

Monday, November 9, 2009 1:30 p.m.

Agency 22 - Insurance, Department of
 Agency 24 - Motor Vehicles, Department of
 Agency 32 - Educational Lands And Funds, Board of
 Agency 40 - Motor Vehicle Licensing Board, Nebraska
 Agency 81 - Commission for the Blind and Visually Impaired
 Agency 69 - Arts Council, Nebraska
 Agency 72 - Economic Development, Department of
 Agency 84 - Environmental Quality, Department of
 Agency 86 - Dry Bean Commission
 Agency 88 - Corn Development, Utilization and Marketing Board

Agency 92 - Grain Sorghum Board, Nebraska
 Agency 28 - Veterans' Affairs, Department of
 Agency 16 - Revenue, Department of
 Agency 36 - Racing Commission, Nebraska State
 Agency 58 - Board of Engineers and Architects
 Agency 73 - Landscape Architects, State Board of
 Agency 59 - Board of Geologists

Tuesday, November 10, 2009 9:15 a.m.

Agency 82 - Commission for the Deaf and Hard of Hearing
 Agency 25 - Health and Human Services
 Agency 45 - Barber Examiners, Board of
 Agency 67 - Equal Opportunity Commission
 Agency 68 - Mexican-American Commission
 Agency 70 - Foster Care Review Board, State
 Agency 76 - Indian Commission, Nebraska
 Agency 15 - Parole, Nebraska Board of
 Agency 37 - Workers' Compensation Court
 Agency 63 - Public Accountancy, Nebraska Board of

(Signed) Lavon Heidemann, Chairperson

Agriculture

Room 1507

Monday, November 9, 2009 1:30 p.m.

LB7

LB6

(Signed) Tom Carlson, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 2. Introduced by Flood, 19.

WHEREAS, the Norfolk Catholic High School boys' cross country team won the 2009 Class C Boys' State Cross Country Championship; and

WHEREAS, the win gave the Knights their fourth straight state title; and

WHEREAS, Jarren Heng was the all-class gold medalist for the second straight year, and he joined with team members Nicholas Knudson, Tyler Maguire, Cole Eisenmenger, Benjamin Uhing, and Jared Uhlir to win the title; 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 FIRST LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Legislature congratulates the Norfolk Catholic High School boys' cross country team on winning the 2009 Class C Boys' State Cross Country Championship.

2. That a copy of this resolution be sent to the Knights and their coach, Doug Zoucha.

Laid over.

LEGISLATIVE RESOLUTION 3. Introduced by Flood, 19.

WHEREAS, the Norfolk High School girls' cross country team won the 2009 Class A Girls' State Cross Country Championship; and

WHEREAS, the win gave the Panthers their second straight state title; and

WHEREAS, Emilee Aschoff became the first girl in Norfolk High history to win an individual gold medal, and she joined with team members Melissa Parks, Emily Kumm, Lauren Albin, Kelsey Doht, Stephanie Parks, and Marissa Moore to win the title; 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 FIRST LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Legislature congratulates the Norfolk High School girls' cross country team on winning the 2009 Class A Girls' State Cross Country Championship.

2. That a copy of this resolution be sent to the Panthers and their coach, Lyle Moeller.

Laid over.

ANNOUNCEMENT

Senator Adams announced the Education Committee will hold an executive session Thursday, November 5, 2009, at 1:30 p.m., in Room 1525.

ADJOURNMENT

At 4:01 p.m., on a motion by Speaker Flood, the Legislature adjourned until 10:00 a.m., Thursday, November 5, 2009.

Patrick J. O'Donnell
Clerk of the Legislature

SECOND DAY - NOVEMBER 5, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SPECIAL SESSION****SECOND DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, November 5, 2009

PRAYER

The prayer was offered by Senator Dierks.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Christensen and Fischer who were excused.

CORRECTIONS FOR THE JOURNAL

The Journal for the first day was approved.

MESSAGE FROM THE SECRETARY OF STATE

November 4, 2009

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

Dear Mr. O'Donnell,

The purpose of this letter is to inform you and the honorable members of the Legislature that I have made the following appointments requiring Legislative confirmation:

Ms. Jan Mumm, (Independent) to the Nebraska Accountability and Disclosure Commission on September 3, 2009, to serve a six-year term ending on June 30, 2015. (Resume attached).

Mr. Joe Grant, (Democrat) to the Nebraska Accountability and Disclosure Commission on September 10, 2009, to serve a six-year term ending on

June 30, 2015. (Resume attached).

These appointments were made by me pursuant to the provisions of Sections 49-14,106 through 49-14,120.

Thank you for your consideration. If you have any questions, or if I can provide additional information, please feel free to contact me.

Sincerely,
(Signed) John A. Gale
Secretary of State

Attachments

NOTICE OF COMMITTEE HEARING
Education

Room 1525

Monday, November 9, 2009 1:30 p.m.

LB5

(Signed) Greg Adams, Chairperson

BILLS ON FIRST READING

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

LEGISLATIVE BILL 8. Introduced by Council, 11.

A BILL FOR AN ACT relating to the Job Training Cash Fund; to amend section 81-1201.21, Revised Statutes Supplement, 2009; to prohibit certain transfers from the fund; and to repeal the original section.

LEGISLATIVE BILL 9. Introduced by Langemeier, 23.

A BILL FOR AN ACT relating to the Water Resources Cash Fund; to amend sections 61-218, 66-1345, and 66-1345.02, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to remittance of excise tax; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 10. Introduced by Coash, 27.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2009, LB 315, section 106; to eliminate funding for additional surveyors of community-based facilities serving persons with developmental disabilities; to provide an operative date; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 11. Introduced by Dubas, 34; Council, 11; Dierks, 40; Giese, 17; Hansen, 42; Karpisek, 32; Louden, 49; Mello, 5; Price, 3; Rogert, 16; Schilz, 47; Stuthman, 22; Sullivan, 41; Wallman, 30.

A BILL FOR AN ACT relating to agriculture; to amend sections 2-1808, 2-2317, 2-3413, 2-3633, 2-3763, 2-3960, and 2-4018, Reissue Revised Statutes of Nebraska, and section 53-304, Revised Statutes Cumulative Supplement, 2008; to state intent regarding the importance of agricultural products to the state; to prohibit the lapse of certain funds; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 12. Introduced by Stuthman, 22.

A BILL FOR AN ACT relating to electricity; to amend sections 70-1903, 70-1904, and 77-2704.57, Revised Statutes Supplement, 2009; to change provisions relating to C-BED projects; to change a sales tax exemption; to repeal the original sections; and to declare an emergency.

RESOLUTIONS

LEGISLATIVE RESOLUTION 4. Introduced by Avery, 28.

WHEREAS, the Governor has, by Proclamation dated November 2, 2009, called for the convening of an extraordinary session; and

WHEREAS, the scope of the extraordinary session is limited to budgetary reductions; and

WHEREAS, the Legislature faces a three hundred thirty-four million dollar budget shortfall; and

WHEREAS, the Governor has recommended budget reductions during the current budget biennium of two hundred eighty million dollars in General Fund spending, comprised of sixty-one million dollars in across-the-board reductions, one hundred fifty-four million dollars in specific budget reductions, and sixty-five million dollars in reductions to General Fund reappropriations, as well as transfers to the General Fund including across-the-board reductions in cash fund spending of nineteen million dollars and thirty-seven million dollars from other specific funds; and

WHEREAS, nearly every state agency must make fiscal assessments and reductions in the form of across-the-board cuts to programs and personnel; and

WHEREAS, the impact of personnel layoffs poses a far greater threat to public confidence in government than do furloughs; and

WHEREAS, furloughs equalize the budgetary sacrifices made by state agency employees.

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

1. That it is the intent of the Legislature that state agencies, when implementing budgetary reductions approved by the Legislature, employ

limited furloughs as a substitute for the elimination of state employee jobs to meet budgetary requirements.

2. That it is also the intent of the Legislature to avert layoffs, address the Governor's recommended budget reductions, and preserve essential state services all at the same time.

Laid over.

LEGISLATIVE RESOLUTION 5. Introduced by Janssen, 15.

WHEREAS, Lowell C. Johnson, of North Bend, Nebraska, was a distinguished member of the Nebraska Legislature, serving from 1981 to 1993, representing Legislative District 15; and

WHEREAS, Mr. Johnson was an esteemed member of the Public Service Commission, serving from 1994 to 2007; and

WHEREAS, Mr. Johnson served admirably on the North Bend Board of Education for twelve years; and

WHEREAS, Mr. Johnson was a longtime member of the Nebraska Republican Party's State Central Committee; and

WHEREAS, Mr. Johnson ran a successful farm and property management firm, serving as president of Johnson-Sloss Land Company in North Bend; and

WHEREAS, Mr. Johnson served his country in the United States Navy during World War II; and

WHEREAS, Mr. Johnson, a loyal friend, trusted colleague, wise counselor, and, most importantly, exceptional husband and father, died on September 1, 2009, at the age of eighty-nine.

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

1. That the Legislature extends its condolences to the family of Lowell C. Johnson and expresses its gratitude for Mr. Johnson's service to his country, state, and community.

2. That a copy of this resolution be sent to the family of Mr. Johnson.

Laid over.

EASE

The Legislature was at ease from 10:32 a.m. until 11:21 a.m.

SENATOR PIRSCH PRESIDING

REFERENCE COMMITTEE REPORT

The Executive Board submits the following report:

LB/LR	Committee
LB8	Business and Labor
LB9	Natural Resources
LB10	Appropriations
LB11	Agriculture
LB12	Natural Resources

Grant, Joe - Nebraska Accountability and Disclosure Commission -
Government, Military and Veterans Affairs
Mumm, Jan - Nebraska Accountability and Disclosure Commission -
Government, Military and Veterans Affairs

(Signed) John Wightman, Chairperson
Executive Board

NOTICE OF COMMITTEE HEARINGS

Government, Military and Veterans Affairs

Room 1507

Friday, November 6, 2009 1:15 p.m.

Jan Mumm - Nebraska Accountability and Disclosure Commission
Joe Grant - Nebraska Accountability and Disclosure Commission

(Signed) Bill Avery, Chairperson

Natural Resources

Room 1525

Friday, November 6, 2009 1:00 p.m.

LB9
LB12

(Signed) Chris Langemeier, Chairperson

VISITORS

Visitors to the Chamber were 76 fourth-grade students, teachers, and sponsors from St. Patrick's, Elkhorn.

ADJOURNMENT

At 11:22 a.m., on a motion by Senator Schilz, the Legislature adjourned until 9:00 a.m., Friday, November 6, 2009.

Patrick J. O'Donnell
Clerk of the Legislature

THIRD DAY - NOVEMBER 6, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SPECIAL SESSION****THIRD DAY**

Legislative Chamber, Lincoln, Nebraska
Friday, November 6, 2009

PRAYER

The prayer was offered by Senator Hansen.

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 Senator Christensen who was excused; and Senator Cornett who was excused until she arrives.

CORRECTIONS FOR THE JOURNAL

The Journal for the second day was approved.

COMMITTEE REPORTS**Education**

The Education 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.

M. Jane Keller - Board of Educational Lands and Funds

Aye: 6 Senators Adams, Ashford, Avery, Giese, Howard, Sullivan. Nay: 0.
Absent: 2 Senators Cornett, Haar.

The Education 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.

Kenneth Bird - Nebraska Educational Telecommunications Commission

Phillip Dudley Jr. - Nebraska Educational Telecommunications Commission

J. Richard Shoemaker - Nebraska Educational Telecommunications Commission

Aye: 6 Senators Adams, Ashford, Avery, Giese, Howard, Sullivan. Nay: 0.
Absent: 2 Senators Cornett, Haar.

The Education 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.

William "Scott" Wilson - Coordinating Commission for Postsecondary Education

Aye: 6 Senators Adams, Ashford, Avery, Giese, Howard, Sullivan. Nay: 0.
Absent: 2 Senators Cornett, Haar.

(Signed) Greg Adams, Chairperson

Natural Resources

The Natural Resources 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.

Rick Morehouse - Nebraska Power Review Board
Michael Siedschlag - Nebraska Power Review Board

Aye: 6 Senators Carlson, Cook, Dubas, Langemeier, McCoy, Schilz. Nay: 0.
Absent: 2 Senators Fischer, Haar.

The Natural Resources 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.

Michelle Bucklin - Environmental Quality Council
Joe Citta Jr. - Environmental Quality Council
Mark Czaplewski - Environmental Quality Council
Rodney Gangwish - Environmental Quality Council
Robert Hall - Environmental Quality Council
Lance Hedquist - Environmental Quality Council
Mark Whitehead - Environmental Quality Council
Ethel Williams - Environmental Quality Council
Alden Zuhlke - Environmental Quality Council

Aye: 6 Senators Carlson, Cook, Dubas, Langemeier, McCoy, Schilz. Nay: 0.
Absent: 2 Senators Fischer, Haar.

The Natural Resources 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.

Thomas Sonntag - Nebraska Oil and Gas Conservation Commission

Aye: 6 Senators Carlson, Cook, Dubas, Langemeier, McCoy, Schilz. Nay: 0.
Absent: 2 Senators Fischer, Haar.

(Signed) Chris Langemeier, Chairperson

Business and Labor

The Business and Labor 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.

Kurt Eberspacher - Boiler Safety Code Advisory Board
Robert Kirkpatrick - Boiler Safety Code Advisory Board

Aye: 7 Senators Carlson, Council, Lathrop, McGill, Schilz, Wallman, White. Nay: 0. Absent: 0.

(Signed) Steve Lathrop, Chairperson

NOTICE OF COMMITTEE HEARINGS

Agriculture

Room 1507

Monday, November 9, 2009 1:30 p.m.

LB11

(Signed) Tom Carlson, Chairperson

Business and Labor

Room 2102

Monday, November 9, 2009 9:30 a.m.

LB8

(Signed) Steve Lathrop, Chairperson

SPEAKER'S ANNOUNCEMENT

Pursuant to Rule 4, Section 8, LR4 was referred to the Reference Committee.

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of November 5, 2009, 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

American Communications Group, Inc.
Nebraska Film Association
Surgical Technologists, Association of
Angus, Mary E.
ARC of Nebraska (Withdrawn 10/26/2009)
Baker, R.J.
Elkhorn Valley Economic Development Council (Withdrawn 06/11/2009)
Benjamin, Melody
Cattlemen, Inc., Nebraska
Burson, Kathleen
PRIDE-Omaha, Inc. (Withdrawn 07/08/2009)
Ellis, Karen M.
Embarq Corp. (Withdrawn 08/07/2009)
Engle, Erin
State Farm Insurance Companies (Withdrawn 10/29/2009)
Grotrian, James
Omaha Chamber of Commerce, Greater (Withdrawn 10/29/2009)
Hack, Mace A.
Nature Conservancy, The
Jensen, Ronald L./Jensen Associates, Inc.
Liberty Healthcare Corporation (Withdrawn 10/30/2009)
Kelley and Jerram, P.C.
Metro Area Transit (Withdrawn 06/18/2009)
Omaha Airport Authority (Withdrawn 06/22/2009)
Kelley Governmental Relations, LLC
Metro Area Transit
Omaha Airport Authority
Kelley, Michael
Kelley Governmental Relations, LLC
Kelley, Sean
Kelley Governmental Relations, LLC
Kierstead, Roberta
Planned Parenthood of Nebraska & Council Bluffs (Withdrawn
05/15/2009)
Kruse, Larry D.
Glaxo Smith Kline (Withdrawn 08/28/2009)
Kutak Rock LLP
Recycle Rewards, Inc. (Withdrawn 07/13/2009)
Lamb, Amy
Occupational Therapy Association, Nebraska (Withdrawn 07/23/2009)
Lemon, Greg
Tax Research Council, Inc., Nebraska (Withdrawn 06/09/2009)
Lightner, Patricia

HSBC GR Corp. (Withdrawn 06/12/2009)
 Maddali, Anita
 Mexican American Legal Defense and Educational Fund (MALDEF)
 (Withdrawn 08/13/2009)
 Marvin, Mike
 Public Employees, AFSCME Local 61, Nebraska Association of
 (Withdrawn 10/30/2009)
 Mauk, Daniel S.
 Norfolk Area Chamber of Commerce (Withdrawn 05/29/2009)
 McDonald, Vicki
 Center For People In Need
 Moul, Maxine
 Endow Nebraska (Withdrawn 07/02/2009)
 Pearce, Denise K.
 City of Lincoln (Withdrawn 06/10/2009)
 Prouty, Nathan Kent
 Pharmaceutical Research and Manufacturers of America
 Radcliffe, Walter H. of Radcliffe & Associates
 ALLTEL Communications (Withdrawn 10/23/2009)
 Ruth Mueller Robak LLC
 Money Services Roundtable, The (Withdrawn 06/22/2009)
 Schmit Industries, Inc.
 Moylan, James (Withdrawn 06/23/2009)
 Setzepfandt, Scott
 HLR Service Corporation (Withdrawn 07/28/2009)

REPORTS

The following reports were received by the Legislature:

Parole, Board of
 Annual Report
Treasurer, State
 2008-2009 Mutual Finance Organization Report

BILLS ON FIRST READING

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

LEGISLATIVE BILL 13. Introduced by Pahls, 31.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2701.02, Reissue Revised Statutes of Nebraska, section 77-2701.35, Revised Statutes Cumulative Supplement, 2008, and section 77-2701, Revised Statutes Supplement, 2009; to impose a state sales and use tax on certain transactions in calendar year 2010; to harmonize provisions; to provide and operative date; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 14. Introduced by Loudon, 49; Carlson, 38; Dubas, 34; Hansen, 42; Stuthman, 22; Sullivan, 41.

A BILL FOR AN ACT relating to brands; to amend section 54-197, Reissue Revised Statutes of Nebraska; to prohibit transfers and lapses from the Nebraska Brand Inspection and Theft Prevention Fund; to repeal the original section; and to declare an emergency.

RESOLUTIONS

LEGISLATIVE RESOLUTION 6. Introduced by Stuthman, 22.

WHEREAS, Joseph "Big Joe" Siedlik was raised in the ethnic neighborhoods of South Omaha, where his Polish roots influenced his interest in many kinds of polka music; and

WHEREAS, Big Joe's interest in polka music led him to Columbus, Nebraska, in 1965, where he broadcast the sounds of Polish, Czech, and German polkas over the radio waves on the Big Joe Polka Show and soon after was on the air across central and eastern Nebraska; and

WHEREAS, after twenty-five years of radio broadcasts, Big Joe moved to television, where to this day the Big Joe Polka Show is viewed by polka lovers of all ages; and

WHEREAS, Big Joe was recently given recognition by the Polka Lovers of America for his fifty-plus years of promoting polka music across America.

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

1. That the Legislature congratulates Joseph "Big Joe" Siedlik for his lifetime of achievement and thanks him for his contributions to and promotion of various ethnic cultures throughout the State of Nebraska.

2. That a copy of this resolution be sent to Joseph "Big Joe" Siedlik.

Laid over.

LEGISLATIVE RESOLUTION 7. Introduced by Campbell, 25.

WHEREAS, Joseph Beran, of Lincoln, Nebraska, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, Joseph has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. For his Eagle Scout community service project, Joseph collected over sixty sacks of back-to-school supplies for neglected, abused, and low-income children in southeast Nebraska served by CEDARS Home for Children; and

WHEREAS, only five percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Joseph was awarded the rank of Eagle Scout on July 12, 2009, thereby joining other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientists, and athletes.

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

1. That the Legislature congratulates Joseph Beran on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Joseph Beran.

Laid over.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 15. Introduced by White, 8.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-4209, 77-4210, 77-4211, and 77-4212, Revised Statutes Cumulative Supplement, 2008, sections 90-510 and 90-511, Revised Statutes Supplement, 2009, and Laws 2009, LB 545A, section 1; to rename the Property Tax Credit Act and a fund; to change the property tax credit; to provide property tax relief; to change appropriations; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 16. Introduced by Haar, 21.

A BILL FOR AN ACT relating to economic development; to amend sections 2-5424, 81-12,105.01, and 81-12,128, Reissue Revised Statutes of Nebraska; to prohibit the lapse of certain funds; to prohibit reductions to General Funds; to repeal the original sections; and to declare an emergency.

COMMITTEE REPORTS

Transportation and Telecommunications

The Transportation and Telecommunications 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.

Monty W. Fredrickson, Director - Department of Roads
Jeffrey Scherer - Motor Vehicle Industry Licensing Board
Donna Wanitschke - State Highway Commission

Aye: 7 Senators Campbell, Fischer, Gay, Hadley, Janssen, Loudon, Stuthman. Nay: 0. Absent: 1 Senator Lautenbaugh.

(Signed) Deb Fischer, Chairperson

General Affairs

The General Affairs 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.

David Gardels - Nebraska Arts Council
 Joanne Medlock - Nebraska Arts Council
 Stephanie Metz O'Keefe - Nebraska Arts Council
 Sandra Schroeder - Nebraska Arts Council

Aye: 8 Senators Coash, Cook, Dierks, Dubas, Karpisek, Krist, Price, Rogert.
 Nay: 0. Absent: 0.

The General Affairs 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.

Tom Ourada - State Electrical Board

Aye: 8 Senators Coash, Cook, Dierks, Dubas, Karpisek, Krist, Price, Rogert.
 Nay: 0. Absent: 0.

(Signed) Russ Karpisek, Chairperson

EASE

The Legislature was at ease from 9:21 a.m. until 10:04 a.m.

REFERENCE COMMITTEE REPORT

The Executive Board submits the following report:

LB/LR	Committee
LB13	Revenue
LB14	Agriculture
LB15	Revenue
LB16	Appropriations
LR4	Government, Military and Veterans Affairs

(Signed) John Wightman, Chairperson
 Executive Board

NOTICE OF COMMITTEE HEARINGS

Agriculture

Room 1507

Monday, November 9, 2009 1:30 p.m.

LB14

(Signed) Tom Carlson, Chairperson

Revenue

Room 1113

Monday, November 9, 2009 11:00 a.m.

LB13

LB15

(Signed) Abbie Cornett, Chairperson

UNANIMOUS CONSENT - Add Cointroducer

Senator Giese asked unanimous consent to add his name as cointroducer to LB14. No objections. So ordered.

VISITORS

Visitor to the Chamber was Tyson Larson from O'Neill.

The Doctor of the Day was Dr. Randy Kohl from Firth.

ADJOURNMENT

At 10:04 a.m., on a motion by Senator Giese, the Legislature adjourned until 9:00 a.m., Monday, November 9, 2009.

Patrick J. O'Donnell
Clerk of the Legislature

FOURTH DAY - NOVEMBER 9, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SPECIAL SESSION****FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska
Monday, November 9, 2009

PRAYER

The prayer was offered by Senator Wallman.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Flood presiding.

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

CORRECTIONS FOR THE JOURNAL

The Journal for the third day was approved.

COMMITTEE REPORTS

Natural Resources

LEGISLATIVE BILL 12. Indefinitely postponed.

(Signed) Chris Langemeier, Chairperson

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.

Jodi Fenner, Director of the Division of Developmental Disabilities -
Department of Health and Human Services

Kerry T. Winterer, Chief Executive Officer - Department of Health and
Human Services

Aye: 6 Senators Campbell, Gay, Gloor, Howard, Pankonin, Wallman. Nay:
0. Absent: 1 Senator Stuthman.

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.

Michael Hansen - Commission for the Blind and Visually Impaired

Aye: 6 Senators Campbell, Gay, Gloor, Howard, Pankonin, Wallman. Nay: 0. Absent: 1 Senator Stuthman.

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.

Russell Hopp - State Board of Health
 Kenneth Kester - State Board of Health
 Rich Robinson - State Board of Health
 Gary Westerman - State Board of Health

Aye: 6 Senators Campbell, Gay, Gloor, Howard, Pankonin, Wallman. Nay: 0. Absent: 1 Senator Stuthman.

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.

Margaret Ann "Peggy" Rogers - Nebraska Rural Health Advisory Commission
 Rebecca Schroeder - Nebraska Rural Health Advisory Commission
 Michael Sitorius - Nebraska Rural Health Advisory Commission
 Roger Wells - Nebraska Rural Health Advisory Commission

Aye: 6 Senators Campbell, Gay, Gloor, Howard, Pankonin, Wallman. Nay: 0. Absent: 1 Senator Stuthman.

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.

Mark Goodman - Nebraska Rural Health Advisory Commission
 Suzanne Minarick Greenquist - Nebraska Rural Health Advisory Commission
 Shawn Kralik - Nebraska Rural Health Advisory Commission

Aye: 5 Senators Campbell, Gay, Gloor, Pankonin, Wallman. Nay: 0. Absent: 1 Senator Stuthman. Present and not voting: 1 Senator Howard.

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.

Edward Discoe - State Board of Health

Luisa Rounds - State Board of Health

Aye: 5 Senators Campbell, Gay, Gloor, Pankonin, Wallman. Nay: 0.
Absent: 1 Senator Stuthman. Present and not voting: 1 Senator Howard.

(Signed) Tim Gay, Chairperson

Government, Military and Veterans Affairs

The Government, Military and Veterans Affairs 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.

Joe Grant - Nebraska Accountability and Disclosure Commission

Jan Mumm - Nebraska Accountability and Disclosure Commission

Aye: 7 Senators Avery, Giese, Karpisek, Krist, Pahls, Price, Sullivan. Nay: 0. Absent: 1 Senator Janssen.

The Government, Military and Veterans Affairs 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.

Judd Lyons, Adjutant General - Military Department

Aye: 7 Senators Avery, Giese, Karpisek, Krist, Pahls, Price, Sullivan. Nay: 0. Absent: 1 Senator Janssen.

The Government, Military and Veterans Affairs 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.

Ronnie D. Mitchell, Director - Department of Aeronautics

Aye: 7 Senators Avery, Giese, Karpisek, Krist, Pahls, Price, Sullivan. Nay: 0. Absent: 1 Senator Janssen.

The Government, Military and Veterans Affairs 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.

John Baroni - State Emergency Response Commission

Kimberly Plouzek - State Emergency Response Commission

Aye: 7 Senators Avery, Giese, Karpisek, Krist, Pahls, Price, Sullivan. Nay:
0. Absent: 1 Senator Janssen.

(Signed) Bill Avery, Chairperson

NOTICE OF COMMITTEE HEARINGS

Appropriations

Room 1524

Tuesday, November 10, 2009 1:30 p.m.

LB10
LB16

(Signed) Lavon Heidemann, Chairperson

Government, Military and Veterans Affairs

Room 1507

Tuesday, November 10, 2009 1:30 p.m.

LR4

(Signed) Bill Avery, Chairperson

ATTORNEY GENERAL'S OPINION

Opinion 090010

DATE: November 6, 2009

SUBJECT: LB 15 And The Scope Of The Governor's Call For The
First Special Session Of The One-Hundred-First
Nebraska Legislature

REQUESTED BY: Senator Tom White
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General
Dale A. Comer, Assistant Attorney General

The One-Hundred-First Nebraska Legislature began its First Special Session on November 4, 2009. The Governor convened that special session, under authority of art. IV, § 8 of the Nebraska Constitution, by issuance of a Proclamation dated November 2, 2009. The Governor's Proclamation called

the Legislature into special session to consider and enact legislation on the following subjects:

1. To reduce or eliminate appropriations and reappropriations approved by the 101st Nebraska Legislature;
2. To reduce or eliminate certain transfers from the State General Fund;
3. To authorize, increase, or make certain transfers to the State General Fund or to certain cash funds;
4. To modify or eliminate intent language and earmarks accompanying appropriations approved by the 101st Legislature;
5. To adopt statutory modifications necessary to reduce state aid appropriations and make formula adjustments contained in the Tax Equity and Educational Opportunities Support Act; and
6. To appropriate funds for the necessary expenses of the extraordinary session herein called.

You have now introduced LB 15 in the special session, and you have requested our opinion as to whether that bill is within the scope of the Governor's call. Our response to your inquiry is set out below.

APPLICABLE LAW

We have discussed the law relating to the scope of a Governor's call for special sessions of the Legislature frequently in previous opinions. In 2002, we stated:

Art. IV, § 8 of the Nebraska Constitution provides as follows:

The Governor may, on extraordinary occasions, convene the Legislature by proclamation, stating therein the purpose for which they are convened, and the Legislature shall enter upon no business except that for which they are called together.

We have discussed this constitutional provision in numerous previous opinions, and we have noted that the final portion of art. IV, § 8 places an express limitation on the power of the Legislature to act during a special session. Op. Att'y Gen. No. 89069 (November 9, 1989). That limitation was described in *Arrow Club, Inc. v. Nebraska Liquor Control Commission*, 177 Neb. 686, 131 N.W.2d 134, 137 (1964):

It is well established that the Legislature while in special session can transact no business except that for which it was called together. The proclamation may state the purpose for which the Legislature is convened in broad, general terms or it may limit the

consideration to a specified phase of a general subject. The Legislature is free to determine in what manner the purpose shall be accomplished, but it must confine itself to the matters submitted to it by the proclamation.

(Citations omitted). While the court in *Arrow Club* noted the express constitutional limitation on the power of the Legislature to act in a special session, it also stated:

While the Legislature must confine itself to the matters submitted, it need not follow the views of the governor or legislate in any particular way. Within the special business or designated subjects submitted, the legislature cannot be restricted or dictated to by the governor. It is a free agent, and the governor, under the guise of definition, cannot direct or control its action. *The Legislature while in special session may enact legislation relating to, germane to, and having a natural connection with the purpose for which it was convened.* . . . The presumption is always in favor of the constitutionality of legislation, and an act should be held to be within the call if it can be done by any reasonable construction.

Id. at 689-90, 131 N.W.2d at 137 (Emphasis added).

Op. Att'y Gen. No. 02021 at 1-2 (August 13, 2002). More recently, in Op. Att'y Gen. No. 08008 (November 14, 2008), we also said:

In *Jaksha v. State*, 222 Neb. 690, 696, 385 N.W.2d 922, 926 (1986), the supreme court quoted favorably from *Stickler v. Higgins*, 269 Ky. 260, 265, 106 S.W.2d 1008, 1011 (1937), to the effect that a Kentucky constitutional provision very similar to Neb. Const. art. IV, § 8 confers upon the Governor "the power and authority to limit. . . the subjects that the Legislature might consider at [an] extraordinarily called session." The *Jaksha* court then went on to state:

We conclude that Neb. Const. art. IV, § 8, as part of the power of the executive branch of government, permits the Governor to determine when an extraordinary occasion exists, necessitating convention of a special session of the Nebraska Legislature. The subject matter restriction envisioned in Neb. Const. art. IV, § 8, empowers the Governor to set the boundaries of legislative action permissible at a special session of the Nebraska Legislature.

222 Neb. At 698, 385 N.W.2d at 927.

It is important to note in this regard that, while the supreme court has stated that during a special session the Legislature may enact legislation "relating to, germane to, and having a natural connection with the purpose for which it was convened," *Arrow Club*, 177 Neb. at 690, 131 N.W.2d at 137, the court, in fact, has "adopted a narrow view of

germaneness, limiting it to 'a specified phase of a general subject.'" Op. Att'y Gen. No. 01034 (Oct. 31, 2001) (quoting *Arrow Club*, 177 Neb. at 689, 131 N.W.2d at 137). As stated in Opinion No. 01034: "In light of the *Arrow Club* decision, it appears the Nebraska Supreme Court would take a restrictive view of what legislation is considered germane to a Governor's special session call."

Op. Att'y Gen. No. 08008 at 3-4 (November 14, 2008).

LB 15

LB 15 contains several parts. First of all, that legislation would amend various provisions of the Nebraska Property Tax Credit Act, Neb. Rev. Stat. §§ 77-4209 through 77-4212 (Cum. Supp. 2008). That Act generally provides for property tax relief for property taxes levied against all real property in the state by means of a property tax credit. The Act contemplates that General Fund monies (one hundred fifteen million dollars for tax year 2008) will be transferred to the Property Tax Credit Cash Fund for allocation to the counties to create a credit against the real property taxes which have been levied in each county. LB 15 would limit property tax relief for tax years after 2009 to property taxes levied against homesteads as they are defined in Neb. Rev. Stat. § 77-3502 (2003), i.e., certain residences, mobile homes and residential units, and it would change the form of property tax relief for those tax years from a tax credit to a homestead exemption. As a part of that process, LB 15 would replace the Property Tax Credit Act with a new Property Tax Relief Act, and the Property Tax Credit Cash Fund with a new Property Tax Relief Cash Fund. It would also establish a specific procedure for exempting a specified portion of the assessed value of all homesteads in the state from taxation.

The second portion of LB 15 would require the State Treasurer to make a number of specified transfers from the State's General Fund to the new Property Tax Relief Cash Fund. In part, those transfers would be accomplished by amending the language of existing statutes providing for transfers from the General Fund to the Property Tax *Credit* Cash Fund.

Finally, the last portion of LB 15 would amend 2009 Neb. Laws LB 545A, § 1 so as to reduce a number of General Fund appropriations for Program No. 158 – Education Aid. That Program is administered by the State Department of Education, and includes appropriations for a number of funds and purposes including the Tax Equity and Educational Opportunities Fund (state aid to local schools), funds for early childhood education, funds for core services for educational service units, funds for adult basic education, and so forth.

ANALYSIS

We have carefully reviewed LB 15, and we believe that some portions of it are within the proposed call. Other portions are not.

The initial portion of LB 15 would make substantive changes in the Nebraska Property Tax Credit Act. Among other things, it would limit the scope of property tax relief to homesteads instead of all real property in the State, and it would change the form of property tax relief from a property tax credit to a homestead exemption. In contrast, the Governor's call focuses on generating additional monies for the State's General Fund by reducing appropriations, eliminating transfers from the General Fund, authorizing and making transfers to the General Fund, and reducing state aid appropriations. It seems to us that your proposed substantive changes to the property tax credit system have little to do with generating additional monies for the State's General Fund. As a result, those changes are not germane to and do not relate to the purpose for which the special session was convened. Moreover, those changes do not fit within any of the specific subjects set out in the Governor's Proclamation. For those reasons, we do not believe that the first portion of LB 15 is within the scope of the Governor's call.

For much the same reasons, we also do not believe that the second portion of LB 15 fits within the scope of the Governor's call. That portion of the bill would require various transfers from the General Fund into a new cash fund. While that process might appear to fit within the portion of the call which allows making transfers "to certain cash funds," the proposed transfers would occur to a cash fund created by legislation outside the call. Since the call does not allow the creation of the cash fund at issue, it seems to us that transfers to it are also outside the call. In addition, those transfers appear to be in contradiction of the general purpose of the call to gather monies *into* the General Fund.

The final portion of LB 15 would reduce a number of General Fund appropriations for state aid to schools. That portion of the bill appears to fall within the first and fifth subjects set out in the Governor's call. That is, they would "reduce or eliminate appropriations and reappropriations approved by the 101st Legislature," and they would effect a statutory modification "necessary to reduce [a] state aid appropriation." For those reasons, we conclude that those portions of LB 15 do fall within the scope of the Governor's call.

Sincerely,
JON BRUNING
Attorney General
(Signed) Dale A. Comer
Assistant Attorney General

Pc: Patrick J. O'Donnell
Clerk of the Nebraska Legislature

RESOLUTION**LEGISLATIVE RESOLUTION 8.** Introduced by Stuthman, 22.

WHEREAS, Amanda Soltero was named Miss Nebraska Teen USA for 2010; and

WHEREAS, Ms. Soltero, a seventeen-year-old senior at Columbus High School, took home the crown after competing against eleven other girls; and

WHEREAS, Ms. Soltero's win came in her first pageant competition, and she follows in the footsteps of her mother, Sharon, who was crowned Mrs. Nebraska for 2005; and

WHEREAS, the Legislature recognizes the achievements of the youth of our state.

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

1. That the Legislature congratulates Amanda Soltero for being named Miss Nebraska Teen USA for 2010.

2. That a copy of this resolution be sent to Amanda Soltero.

Laid over.

ANNOUNCEMENT

The Chair announced November 8 was Senator Hansen's birthday.

The Chair announced today is Senator Cook's birthday.

MOTIONS - Approve Appointments

Senator Lathrop moved the adoption of the Business and Labor Committee report for the confirmation of the following appointment(s) found on page 45:

Boiler Safety Code Advisory Board

Kurt Eberspacher

Robert Kirkpatrick

Voting in the affirmative, 43:

Adams	Council	Hadley	Louden	Schilz
Avery	Dierks	Hansen	McCoy	Stuthman
Campbell	Dubas	Harms	McGill	Sullivan
Carlson	Fischer	Howard	Mello	Utter
Christensen	Flood	Karpisek	Nelson	Wallman
Coash	Fulton	Krist	Pahls	White
Conrad	Gay	Langemeier	Pirsch	Wightman
Cook	Gloor	Lathrop	Price	
Cornett	Haar	Lautenbaugh	Regot	

Voting in the negative, 0.

Present and not voting, 3:

Giese Heidemann Nordquist

Excused and not voting, 3:

Ashford Janssen Pankonin

The appointments were confirmed with 43 ayes, 0 nays, 3 present and not voting, and 3 excused and not voting.

Senator Adams moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 43:

Board of Educational Lands and Funds
M. Jane Keller

Voting in the affirmative, 42:

Adams	Cornett	Haar	Louden	Schilz
Ashford	Council	Hadley	McCoy	Stuthman
Avery	Dierks	Hansen	McGill	Sullivan
Campbell	Dubas	Howard	Mello	Utter
Carlson	Fischer	Karpisek	Nelson	Wallman
Christensen	Flood	Krist	Pahls	White
Coash	Fulton	Langemeier	Pirsch	
Conrad	Gay	Lathrop	Price	
Cook	Gloor	Lautenbaugh	Rogert	

Voting in the negative, 0.

Present and not voting, 4:

Giese Heidemann Nordquist Wightman

Excused and not voting, 3:

Harms Janssen Pankonin

The appointment was confirmed with 42 ayes, 0 nays, 4 present and not voting, and 3 excused and not voting.

Senator Adams moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 43:

Nebraska Educational Telecommunications Commission
Kenneth Bird
Phillip Dudley Jr.
J. Richard Shoemaker

Voting in the affirmative, 39:

Adams	Cornett	Gloor	Lautenbaugh	Rogert
Ashford	Council	Haar	Louden	Schilz
Avery	Dierks	Hadley	McCoy	Stuthman
Campbell	Dubas	Howard	McGill	Sullivan
Christensen	Fischer	Karpisek	Mello	Utter
Coash	Flood	Krist	Pahls	Wallman
Conrad	Fulton	Langemeier	Pirsch	White
Cook	Gay	Lathrop	Price	

Voting in the negative, 0.

Present and not voting, 7:

Carlson	Hansen	Nelson	Wightman
Giese	Heidemann	Nordquist	

Excused and not voting, 3:

Harms	Janssen	Pankonin
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The appointments were confirmed with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

Senator Adams moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 44:

Coordinating Commission for Postsecondary Education
William "Scott" Wilson

Voting in the affirmative, 39:

Adams	Cornett	Gloor	Lautenbaugh	Rogert
Ashford	Council	Haar	Louden	Schilz
Avery	Dierks	Hadley	McCoy	Stuthman
Campbell	Dubas	Howard	McGill	Sullivan
Carlson	Fischer	Karpisek	Mello	Utter
Christensen	Flood	Krist	Pahls	Wallman
Coash	Fulton	Langemeier	Pirsch	White
Cook	Gay	Lathrop	Price	

Voting in the negative, 0.

Present and not voting, 7:

Conrad	Hansen	Nelson	Wightman
Giese	Heidemann	Nordquist	

Excused and not voting, 3:

Harms Janssen Pankonin

The appointment was confirmed with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

UNANIMOUS CONSENT - Add Cointroducers

Senators Carlson, Cook, Dierks, Hadley, Karpisek, McGill, and Sullivan asked unanimous consent to add their names as cointroducers to LB16. No objections. So ordered.

ADJOURNMENT

At 9:19 a.m., on a motion by Senator Gay, the Legislature adjourned until 9:00 a.m., Tuesday, November 10, 2009.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTH DAY - NOVEMBER 10, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SPECIAL SESSION****FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, November 10, 2009

PRAYER

The prayer was offered by Senator Hadley.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Flood presiding.

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

CORRECTIONS FOR THE JOURNAL

The Journal for the fourth day was approved.

COMMITTEE REPORTS

Revenue

LEGISLATIVE BILL 13. Indefinitely postponed.

LEGISLATIVE BILL 15. Indefinitely postponed.

(Signed) Abbie Cornett, Chairperson

Judiciary

The Judiciary 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.

Joe Kelly - Community Corrections Council
Robert Lindemeier - Community Corrections Council
Dallas Massey - Community Corrections Council
Travis Parker - Community Corrections Council
Frank Peak - Community Corrections Council

Aye: 8 Senators Ashford, Christensen, Coash, Council, Lathrop, Lautenbaugh, McGill, Rogert. Nay: 0. Absent: 0.

The Judiciary 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.

G. Randall "Rand" Hansen - Crime Victim's Reparations Committee
Michael McLarney - Crime Victim's Reparations Committee

Aye: 8 Senators Ashford, Christensen, Coash, Council, Lathrop, Lautenbaugh, McGill, Rogert. Nay: 0. Absent: 0.

(Signed) Brad Ashford, Chairperson

ATTORNEY GENERAL'S OPINION

Opinion 09011

DATE: November 9, 2009

SUBJECT: Whether Various Legislative Bills Fall Within the Scope Of The Governor's Call For the Special Legislative Session Which Commenced On November 4, 2009.

REQUESTED BY: Sen. John Wightman
Chairman, Executive Board
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General
Dale A. Comer, Assistant Attorney General
L. Jay Bartel, Assistant Attorney General
Lynn A. Melson, Assistant Attorney General
Katherine J. Spohn, Special Counsel to the Attorney General

The One-Hundred-First Nebraska Legislature began its First Special Session on November 4, 2009. On behalf of the Legislature's Executive Board, you subsequently presented three separate opinion requests to us requesting our views as to whether nine bills introduced during the special session "are within the scope of the [Governor's] call." Those bills are LB 6, LB 7, LB 8, LB 9, LB 11, LB 13, LB 14, LB 15 and LB 16. We previously addressed whether LB 15 is within the scope of the call in Op. Att'y Gen. No. 090010 (November 6, 2009). We will discuss each of the remaining bills referenced in your requests separately below.

GOVERNOR'S CALL

The Governor convened the special session at issue, under authority of art. IV, § 8 of the Nebraska Constitution, by issuance of a Proclamation dated November 2, 2009. The Governor's Proclamation called the Legislature into special session to consider and enact legislation on the following subjects:

1. To reduce or eliminate appropriations and reappropriations approved by the 101st Nebraska Legislature;
2. To reduce or eliminate certain transfers from the State General Fund;
3. To authorize, increase, or make certain transfers to the State General Fund or to certain cash funds;
4. To modify or eliminate intent language and earmarks accompanying appropriations approved by the 101st Legislature;
5. To adopt statutory modifications necessary to reduce state aid appropriations and make formula adjustments contained in the Tax Equity and Educational Opportunities Support Act; and
6. To appropriate funds for the necessary expenses of the extraordinary session herein called.

APPLICABLE LAW

As noted above, this is actually the second opinion that we have completed in connection with this special session of the Legislature. The first, Op. Att'y Gen. No. 090010 (November 6, 2009), was prepared at the request of Senator White, and discussed whether LB 15 was within the scope of the call. Opinion No. 090010 contains an analysis of the applicable law regarding the scope of the Governor's call which summarizes previous opinions from this office and cases from the Nebraska Supreme Court in that area. Rather than repeat that entire analysis here, we will simply refer you to Opinion No. 090010. Suffice it to say that the Governor does have the power and authority under art. IV, § 8 of the Nebraska Constitution to limit the subjects which the Legislature may consider at a special session. In that regard, the Legislature may enact legislation during a special session which relates to, is germane to, or has a natural connection with the purpose for which it was convened.

LB 6

LB 6 would amend portions of the Nebraska Criminal Code dealing with offenses against animals, portions of the Nebraska Statutes pertaining to Criminal Procedure and portions of the Nebraska Commercial Dog and Cat Operator Inspection Act, Neb. Rev. Stat. §§ 54-625 through 54-643 (2004, Cum. Supp. 2008, Supp. 2009). In essence, the amendments contained in the bill would remove statutory provisions which require inspections and the

payment of inspection fees in connection with the licensure of commercial breeders, boarding kennels, animal shelters and other entities keeping and selling pet animals.

In our Opinion No. 090010, we characterized the purpose for which the present special session was convened as "generating additional monies for the State's General Fund by reducing appropriations, eliminating transfers from the General Fund, authorizing and making transfers to the General Fund, and reducing state aid appropriations." Op. Att'y Gen. No. 090010 at 4 (November 6, 2009). We fail to see how repealing statutory provisions requiring inspections for entities keeping and selling pet animals and discontinuing the collection of fees for those inspections relate to or are germane to that purpose. And, those amendments do not fall within any of the specific subjects set out in the Governor's call. As a result, we conclude that LB 6 is beyond the scope of the call.

LB 7

This short bill would amend Neb. Rev. Stat. § 2-2634 (2007), part of the Nebraska Statutes dealing with pesticides. That statute establishes fees for registration of pesticides in Nebraska, and allocates those fees among the Noxious Weed Cash Fund, the Buffer Strip Incentive Fund, the Natural Resources Water Quality Fund and the Pesticide Administrative Cash Fund. LB 7 would amend § 2-2634 so as to increase the monies allocated to the Noxious Weed Cash Fund and decrease the monies allocated to the Buffer Strip Cash Fund. The purpose of that change in allocations is apparently "to replace remaining general funds supporting the Department of Ag's responsibilities under the Noxious Weed Control Act." Introducer's Statement of Intent for LB 7, 101st Neb. Leg., 1st Special Sess. at 1.

The third subject listed in the Governor's call allows legislation "to authorize, increase, or make certain transfers . . . to certain cash funds," and it could be argued that LB 7 transfers monies to the Noxious Weed Cash Fund. However, it appears to us that "transfer," as it is used in the call, contemplates the movement of monies from one fund to another, not the allocation of fees in the future. In addition, LB 7 would not authorize, increase or make a transfer to the Buffer Strip Cash Fund. Instead, it would reduce monies allocated to that fund. Finally, we do not believe that replacing general fund monies taken from a particular cash fund is related to the general purpose of this special session as it is discussed above. Consequently, LB 7 is outside the scope of the Governor's call.

LB 8

This proposed bill would amend Neb. Rev. Stat. § 81-1201.21 (2008) which created the Job Training Cash Fund administered by the Department of Economic Development. That cash fund has received funds from the Department of Labor Employment Security Special Contingent Fund and from the Cash Reserve Fund and is used to support job training activities.

LB 8 would specifically provide that no transfers of monies may be made from the Job Training Cash Fund to the General Fund.

As discussed above, the intended purpose of the special session is to reduce a budget shortfall by generating additional monies for the State General Fund. A provision to prohibit the transfer of funds from the Job Training Cash Fund to the General Fund does not appear to be germane or related to the overall purpose of the special session. In addition, LB 8 does not fit within the specific subjects set out in the Governor's call, and is actually contrary to item number 3 which is "to authorize, increase, or make certain transfers to the State General Fund. . . ." For those reasons, it is our opinion that LB 8 would likely be deemed to be outside the scope of the Governor's call for the special session.

LB 9

LB 9 would eliminate a future transfer of funds collected from a corn and grain sorghum excise tax under the Ethanol Development Act to the Water Resources Cash Fund on January 1, 2013. LB 9 would also eliminate a transfer of all unobligated funds in the Ethanol Production Incentive Cash ("EPIC") Fund on December 31, 2012 to the Water Resources Tax Fund.

In order to eliminate these future transfers, revisions to both the Water Resources Cash Fund, Neb. Rev. Stat. § 61-218 and the Ethanol Development Act, Neb. Rev. Stat. § 66-1330 et seq., are necessary. The Ethanol Development Act currently requires collection of an excise tax on corn and grain sorghum to be deposited into the EPIC Fund until December 31, 2012. Neb. Rev. Stat. §§ 66-1345.01; 66-1345.02. Then, on January 1, 2013, the excise tax is to be deposited in the Water Resources Cash Fund. Neb. Rev. Stat. §§ 61-218; 66-1345.02. LB9 is silent as to where such excise tax funds would be deposited after December 31, 2012.

We have reviewed LB 9 and its germaneness to the scope of the call delineated by the Governor's Proclamation and believe it to be beyond the scope of the call of this Special Session. Of the subjects set forth in the Governor's Proclamation, Nos. 1, 2, and 4-6 clearly do not apply because LB 9 does not involve an appropriation or reappropriation approved by the 101st Legislature, and because it involves an excise tax, not a transfer from the General Fund. LB 9 also does not involve intent language or earmarks accompanying appropriations approved by the 101st Legislature, state aid appropriations, or necessary expenses for the special session.

We also believe LB 9 falls outside the scope of the third subject listed in the Governor's Proclamation. The first part of LB 9, which would eliminate the deposit of excise taxes collected in 2013 into the Water Resources Tax Fund, does not effectuate a movement of monies from one fund to another, but instead addresses where taxes collected in the future will be deposited. The second part of LB 9, which eliminates the transfer of unobligated funds in the EPIC Fund to the Water Resources Tax Fund, also does not fall

within the scope of the call because it does not result in a transfer into the State General Fund or certain cash funds, but instead *cancel*s such a transfer.

LB 11

This proposed legislation would amend various state statutes creating specific cash funds to be utilized in the promotion and development of certain agricultural products. The cash funds which would be impacted by LB 11 include the Nebraska Potato Development Fund, the Nebraska Wheat Development, Utilization, and Marketing Fund, the Nebraska Poultry and Egg Development, Utilization, and Marketing Fund, the Nebraska Corn Development, Utilization, and Marketing Fund, the Dry Bean Development, Utilization, Promotion, and Education Fund, the Nebraska Dairy Industry Development Fund, the Grain Sorghum Development, Utilization and Marketing Fund and the Winery and Grape Producers Promotional Fund. The proposed bill would provide that "no part of the funds deposited in the fund or of federal funds or other funds solicited in conjunction with research or demonstration programs shall lapse to the general fund" with regard to each of these statutorily-created cash funds.

After analyzing LB 11 in light of the Governor's call, it appears to us that a provision to prohibit the lapse of funds from these various cash funds to the General Fund is not germane or related to the intended purpose of the special session. The Nebraska Constitution provides that funds in the state treasury may be withdrawn only pursuant to appropriation by the Legislature. Neb. Const. art. III, §§ 22 and 25. Unexpended balances in cash funds at the close of a fiscal year generally lapse back to the state treasury unless they have been reappropriated by the Legislature. Therefore, prohibiting lapses of monies to the State General Fund appears contrary to item number 1 of the Governor's Proclamation, which is "to reduce or eliminate appropriations and reappropriations approved by the 101st Legislature." Prohibiting such lapses also does not appear to fall within the intended overall purpose of the special session to reduce a budget shortfall by generating additional monies for the State General Fund. For those reasons, it is our opinion that LB 11 would likely be deemed to be outside the scope of the Governor's call for the special session.

LB 13

LB 13 proposes to amend the Nebraska sales and use tax statutes by eliminating exemptions for transactions occurring on or after January 1, 2010, and before January 1, 2011. The bill would further establish, commencing January 1, 2010 and until January 1, 2011, a tax rate of sixty-five hundredths percent to be applied to these formerly exempt transactions during this one year period.

The Governor's Proclamation calling the Legislature into special session does not deal with the State budget in general terms, but, rather, only specific aspects of the budget, as discussed above. LB 13, as stated in its

title, is an act "relating to revenue and taxation" which would amend the sales and use tax statutes by eliminating exemptions for one year and establishing a tax rate for transactions previously exempted. LB 13 is not "related to" or "germane to" any of the specific subjects listed in the Governor's call, and does not have a natural connection with the purpose for which the Legislature was convened. Accordingly, we conclude the bill is outside the scope of the call.

LB 14

This bill would amend Neb. Rev. Stat. § 54-197 (2004) which created the Nebraska Brand Inspection and Theft Prevention Fund. That cash fund is used by the Nebraska Brand Committee to administer and enforce the Livestock Brand Act. LB 14 would prohibit transfers from this fund to the State General Fund. LB 14 would also prohibit the lapse of funds deposited in this fund to the State General Fund.

The provisions of LB 14 which would prohibit the transfer or lapse of funds from the Nebraska Brand Inspection and Theft Prevention Fund to the General Fund do not appear to be germane or related to the overall purpose of the special session as they would not reduce the budget shortfall by generating additional monies for the State General Fund. Moreover, as discussed above, it appears clear that the Governor has limited the special session to legislating on "a specified phase of a general subject," as indicated by item numbers 1 through 6 of the Governor's Proclamation. Prohibiting transfers or lapses of monies to the General Fund appears contrary to item numbers 1 and 3 of the Governor's Proclamation. For these reasons, it is our opinion that LB 14 would likely be deemed to be outside the scope of the Governor's call.

LB 16

LB 16 would amend those statutes which establish the Agricultural Opportunities and Value-Added Partnerships Cash Fund, the Microenterprise Development Cash Fund and the Building Entrepreneurial Communities Cash Fund. With regard to each fund, LB 16 would prohibit the lapse of funds to the General Fund and prohibit any reduction to General Fund appropriations for fiscal years 2009-10 and 2010-11.

For the reasons stated above in our discussion of LB 11 and LB 14, prohibiting the lapse of funds to the General Fund would likely be found to be outside the scope of the Governor's call. Similarly, prohibiting any reduction in General Fund appropriations would likely be found neither germane nor related to the overall purpose of the special session. Such prohibitions also do not fit within any of the subjects listed in the Governor's Proclamation and appear contrary to item number 1 of the Governor's Proclamation, which is "to reduce or eliminate appropriations and reapropriations approved by the 101st Nebraska Legislature."

Sincerely,
 JON BRUNING
 Attorney General
 (Signed) Dale A. Comer,
 Assistant Attorney General
 L. Jay Bartel,
 Assistant Attorney General
 Lynn A. Melson,
 Assistant Attorney General
 Katherine J. Spohn,
 Special Counsel to the Attorney General

pc: Patrick J. O'Donnell
 Clerk of the Nebraska Legislature

05-161-20

MOTIONS - Approve Appointments

Senator Langemeier moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 44:

Nebraska Power Review Board
 Rick Morehouse
 Michael Siedschlag

Voting in the affirmative, 44:

Adams	Dierks	Hadley	Lautenbaugh	Price
Avery	Dubas	Hansen	Louden	Rogert
Campbell	Fischer	Harms	McCoy	Schilz
Carlson	Flood	Howard	Mello	Stuthman
Christensen	Fulton	Janssen	Nelson	Sullivan
Conrad	Gay	Karpisek	Nordquist	Utter
Cook	Giese	Krist	Pahls	Wallman
Cornett	Gloor	Langemeier	Pankonin	White
Council	Haar	Lathrop	Pirsch	

Voting in the negative, 0.

Present and not voting, 4:

Coash	Heidemann	McGill	Wightman
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Excused and not voting, 1:

Ashford

The appointments were confirmed with 44 ayes, 0 nays, 4 present and not

voting, and 1 excused and not voting.

Senator Langemeier moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 44:

Environmental Quality Council

Michelle Bucklin
 Joe Citta Jr.
 Mark Czaplewski
 Rodney Gangwish
 Robert Hall
 Lance Hedquist
 Mark Whitehead
 Ethel Williams
 Alden Zuhlke

Voting in the affirmative, 41:

Ashford	Council	Haar	Louden	Stuthman
Avery	Dierks	Hadley	McCoy	Sullivan
Campbell	Dubas	Howard	Mello	Utter
Carlson	Fischer	Janssen	Pahls	Wallman
Christensen	Flood	Karpisek	Pankonin	White
Coash	Fulton	Krist	Pirsch	
Conrad	Gay	Langemeier	Price	
Cook	Giese	Lathrop	Rogert	
Cornett	Gloor	Lautenbaugh	Schilz	

Voting in the negative, 0.

Present and not voting, 7:

Adams	Heidemann	Nelson	Wightman
Hansen	McGill	Nordquist	

Excused and not voting, 1:

Harms

The appointments were confirmed with 41 ayes, 0 nays, 7 present and not voting, and 1 excused and not voting.

Senator Langemeier moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 44:

Nebraska Oil and Gas Conservation Commission
 Thomas Sonntag

Voting in the affirmative, 39:

Ashford	Council	Haar	Louden	Rogert
Avery	Dierks	Hadley	McCoy	Schilz
Campbell	Dubas	Janssen	McGill	Stuthman
Carlson	Fischer	Karpisek	Mello	Sullivan
Christensen	Flood	Krist	Pahls	Utter
Coash	Fulton	Langemeier	Pankonin	Wallman
Cook	Giese	Lathrop	Pirsch	White
Cornett	Gloor	Lautenbaugh	Price	

Voting in the negative, 0.

Present and not voting, 9:

Adams	Gay	Heidemann	Nelson	Wightman
Conrad	Hansen	Howard	Nordquist	

Excused and not voting, 1:

Harms

The appointment was confirmed with 39 ayes, 0 nays, 9 present and not voting, and 1 excused and not voting.

Senator Fischer moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointment(s) found on page 49:

Department of Roads
 Monty W. Fredrickson, Director
 Motor Vehicle Industry Licensing Board
 Jeffrey Scherer
 State Highway Commission
 Donna Wanitschke

Voting in the affirmative, 34:

Avery	Dierks	Haar	Louden	Rogert
Campbell	Fischer	Hadley	McCoy	Schilz
Carlson	Flood	Janssen	McGill	Stuthman
Christensen	Fulton	Karpisek	Pahls	Sullivan
Coash	Gay	Krist	Pankonin	Wallman
Cook	Giese	Langemeier	Pirsch	White
Council	Gloor	Lautenbaugh	Price	

Voting in the negative, 0.

Present and not voting, 13:

Adams	Cornett	Heidemann	Nelson	Wightman
Ashford	Dubas	Howard	Nordquist	
Conrad	Hansen	Lathrop	Utter	

Excused and not voting, 2:

Harms	Mello
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The appointments were confirmed with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

ANNOUNCEMENT

The Chair announced today is Senator Ashford's and Senator Nordquist's birthdays.

MOTIONS - Approve Appointments

Senator Karpisek moved the adoption of the General Affairs Committee report for the confirmation of the following appointment(s) found on page 50:

Nebraska Arts Council
 David Gardels
 Joanne Medlock
 Stephanie Metz O'Keefe
 Sandra Schroeder

Voting in the affirmative, 34:

Ashford	Council	Janssen	McCoy	Schilz
Avery	Dierks	Karpisek	McGill	Stuthman
Campbell	Flood	Krist	Pahls	Sullivan
Carlson	Gay	Langemeier	Pankonin	Utter
Coash	Giese	Lathrop	Pirsch	Wallman
Cook	Haar	Lautenbaugh	Price	White
Cornett	Hadley	Louden	Rogert	

Voting in the negative, 0.

Present and not voting, 12:

Adams	Dubas	Hansen	Nelson
Christensen	Fischer	Heidemann	Nordquist
Conrad	Gloor	Howard	Wightman

Excused and not voting, 3:

Fulton	Harms	Mello
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The appointments were confirmed with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

Senator Karpisek moved the adoption of the General Affairs Committee report for the confirmation of the following appointment(s) found on page 50:

State Electrical Board
Tom Ourada

Voting in the affirmative, 33:

Ashford	Cornett	Janssen	McCoy	Schilz
Avery	Dierks	Karpisek	McGill	Stuthman
Campbell	Flood	Krist	Pahls	Sullivan
Carlson	Gay	Langemeier	Pankonin	Wallman
Christensen	Giese	Lathrop	Pirsch	White
Coash	Haar	Lautenbaugh	Price	
Cook	Hadley	Louden	Rogert	

Voting in the negative, 0.

Present and not voting, 13:

Adams	Dubas	Hansen	Nelson	Wightman
Conrad	Fischer	Heidemann	Nordquist	
Council	Gloor	Howard	Utter	

Excused and not voting, 3:

Fulton Harms Mello

The appointment was confirmed with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

Senator Avery moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment(s) found on page 55:

Nebraska Accountability and Disclosure Commission
Joe Grant
Jan Mumm

Voting in the affirmative, 35:

Adams	Cook	Haar	Lautenbaugh	Rogert
Ashford	Dierks	Hadley	Louden	Schilz
Avery	Dubas	Janssen	McCoy	Stuthman
Campbell	Flood	Karpisek	Pahls	Sullivan
Carlson	Gay	Krist	Pankonin	Utter
Christensen	Giese	Langemeier	Pirsch	Wallman
Coash	Gloor	Lathrop	Price	White

Voting in the negative, 0.

Present and not voting, 11:

Conrad	Fischer	Howard	Nordquist
Cornett	Hansen	McGill	Wightman
Council	Heidemann	Nelson	

Excused and not voting, 3:

Fulton	Harms	Mello
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The appointments were confirmed with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Senator Avery moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment(s) found on page 55:

Military Department
Judd Lyons, Adjutant General

Voting in the affirmative, 34:

Avery	Dubas	Howard	Louden	Schilz
Carlson	Flood	Janssen	McCoy	Stuthman
Christensen	Gay	Karpisek	Pahls	Sullivan
Coash	Giese	Krist	Pankonin	Utter
Cook	Gloor	Langemeier	Pirsch	Wallman
Cornett	Haar	Lathrop	Price	White
Dierks	Hadley	Lautenbaugh	Rogert	

Voting in the negative, 0.

Present and not voting, 12:

Adams	Conrad	Hansen	Nelson
Ashford	Council	Heidemann	Nordquist
Campbell	Fischer	McGill	Wightman

Excused and not voting, 3:

Fulton Harms Mello

The appointment was confirmed with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

Senator Avery moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment(s) found on page 55:

Department of Aeronautics
Ronnie D. Mitchell, Director

Voting in the affirmative, 33:

Avery	Dubas	Karpisek	McGill	Stuthman
Campbell	Flood	Krist	Pahls	Sullivan
Carlson	Gay	Langemeier	Pankonin	Utter
Christensen	Gloor	Lathrop	Pirsch	Wallman
Cook	Haar	Lautenbaugh	Price	White
Cornett	Hadley	Louden	Rogert	
Dierks	Janssen	McCoy	Schilz	

Voting in the negative, 0.

Present and not voting, 13:

Adams	Conrad	Giese	Howard	Wightman
Ashford	Council	Hansen	Nelson	
Coash	Fischer	Heidemann	Nordquist	

Excused and not voting, 3:

Fulton Harms Mello

The appointment was confirmed with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

Senator Avery moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment(s) found on page 55:

State Emergency Response Commission
John Baroni
Kimberly Plouzek

Voting in the affirmative, 34:

Adams	Cook	Haar	Louden	Rogert
Ashford	Dierks	Hadley	McCoy	Stuthman
Avery	Dubas	Howard	McGill	Sullivan
Campbell	Flood	Karpisek	Pahls	Utter
Carlson	Gay	Krist	Pankonin	Wallman
Christensen	Giese	Langemeier	Pirsch	White
Coash	Gloor	Lautenbaugh	Price	

Voting in the negative, 0.

Present and not voting, 12:

Conrad	Fischer	Janssen	Nordquist
Cornett	Hansen	Lathrop	Schilz
Council	Heidemann	Nelson	Wightman

Excused and not voting, 3:

Fulton	Harms	Mello
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The appointments were confirmed with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

RESOLUTIONS

LEGISLATIVE RESOLUTION 9. Introduced by Ashford, 20; Nelson, 6.

WHEREAS, Michael Fryda, a science teacher at Westside High School in Omaha, was named as the 2010 Nebraska Teacher of the Year; and

WHEREAS, Mr. Fryda teaches in the areas of biology and natural sciences and has been a teacher at Westside High School since 2003; and

WHEREAS, Mr. Fryda was selected by a panel of Nebraska educators for his ability to consistently engage students in education and build lasting relationships; and

WHEREAS, the Nebraska Teacher of the Year program recognizes teachers who are exceptionally dedicated, knowledgeable, and able to inspire students of all backgrounds and abilities.

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

1. That the Legislature congratulates Michael Fryda for being named the 2010 Nebraska Teacher of the Year.

2. That a copy of this resolution be sent to Michael Fryda.

Laid over.

LEGISLATIVE RESOLUTION 10. Introduced by Krist, 10.

WHEREAS, for more than 200 years, individuals from all walks of life have taken up arms and sworn an oath to support and defend the principles upon which our country was founded; and

WHEREAS, throughout our history, courageous men and women have donned the uniform of our Armed Forces and built a noble tradition of faithful and dedicated service to our Nation; and

WHEREAS, Veterans Day has been set aside as both a national and state holiday to honor the American patriots who answered the call of duty, preserving our freedoms and often making the ultimate sacrifice; and

WHEREAS, we can never fully repay our debt of gratitude to those heroic men and women who served, were wounded, or even died in battle; and

WHEREAS, the unwavering commitment of our soldiers, sailors, airmen, Marines, and Coast Guardsmen has preserved our freedoms and saved millions around the world from tyranny; and

WHEREAS, we continue to draw inspiration from the heroism and dedication of those who currently serve and sacrifice for the cause of liberty and justice; and

WHEREAS, it is fitting that Nebraska honor American's military veterans, through whose service and sacrifice we today enjoy freedom and liberty.

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

1. That the Legislature hereby recognizes November 11, 2009, as Veterans Day.

2. That the Legislature wishes a happy birthday to the United States Marine Corps on the occasion of its 234th birthday on November 10, 2009.

Laid over.

COMMITTEE REPORTS

Agriculture

LEGISLATIVE BILL 11. Placed on General File.

LEGISLATIVE BILL 14. Placed on General File.

LEGISLATIVE BILL 6. Indefinitely postponed.

(Signed) Tom Carlson, Chairperson

UNANIMOUS CONSENT - Add Cointroducers

Senators Cook and Haar asked unanimous consent to add their names as cointroducers to LB8. No objections. So ordered.

Senators Christensen and Utter asked unanimous consent to add their names as cointroducers to LB11. No objections. So ordered.

Senator Christensen asked unanimous consent to add his name as cointroducer to LB14. No objections. So ordered.

Senators Mello, Rogert, and Wallman asked unanimous consent to add their names as cointroducers to LB16. No objections. So ordered.

ADJOURNMENT

At 9:39 a.m., on a motion by Senator Pahls, the Legislature adjourned until 1:30 p.m., Thursday, November 12, 2009.

Patrick J. O'Donnell
Clerk of the Legislature

SIXTH DAY - NOVEMBER 12, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SPECIAL SESSION****SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, November 12, 2009

PRAYER

The prayer was offered by Senator Harms.

ROLL CALL

Pursuant to adjournment, the Legislature met at 1:30 p.m., Speaker Flood presiding.

The roll was called and all members were present except Senators Cornett and Haar who were excused; and Senator Dierks who was excused until he arrives.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifth day was approved.

COMMITTEE REPORTS

Education

LEGISLATIVE BILL 5. Placed on General File with amendment.
AM7

- 1 1. Strike section 9 and insert the following new section:
- 2 Sec. 9. Section 79-1007.23, Revised Statutes Supplement,
- 3 2009, is amended to read:
- 4 79-1007.23 For state aid calculated for school fiscal
- 5 year 2009-10 and each school fiscal year thereafter:
- 6 (1) The department shall calculate an instructional time
- 7 allowance for each district equal to the product of the formula
- 8 students of such district multiplied by the instructional time
- 9 factor for such district multiplied by eighty-five percent of the
- 10 statewide average general fund operating expenditures per formula
- 11 student;
- 12 (2) The instructional time factor shall equal the
- 13 difference of the ratio of the district's average hours of
- 14 instruction for each full-time student during the regular school
- 15 year for the most recently available complete data year divided by:

16 (a) For state aid calculated for school fiscal year 2009-10, the
 17 comparison group average hours of instruction for each full-time
 18 student during the regular school year for the most recently
 19 available complete data year minus one; or (b) for state aid
 20 calculated for school fiscal year 2010-11 and each school fiscal
 21 year thereafter, the statewide average hours of instruction for
 22 each full-time student during the regular school year for the most
 23 recently available complete data year minus one, except that if
 1 the result is less than zero, the instructional time factor shall
 2 equal zero; ~~and~~

3 (3) ~~The~~ For school fiscal years 2009-10 and 2010-11,
 4 the comparison group average hours of instruction for each
 5 full-time student shall be an average of the averages for all
 6 school districts in the comparison group. The average hours of
 7 instruction shall be defined by the department and shall not
 8 include extracurricular activities outside of the regular school
 9 day or time designated for students to eat lunch. The statewide
 10 average hours of instruction for each full-time student shall be an
 11 average of the averages for all school districts; and-

12 (4) For school fiscal year 2011-12 and each school
 13 fiscal year thereafter, the average hours of instruction shall be
 14 defined by the department and shall be based on scheduled time for
 15 courses and the number of students participating in such courses as
 16 reported to the department for the most recently available complete
 17 data year. Hours of instruction shall not include extracurricular
 18 activities outside of the regular school day or time designated for
 19 students to eat lunch. The statewide average hours of instruction
 20 for each student shall be an average of the averages for all school
 21 districts.

22 2. On page 3, line 12, strike "one-half" and insert
 23 "twenty-five hundredths".

24 3. On page 5, line 1, strike "year 2010-11" and insert
 25 "years 2010-11 through 2012-13"; strike beginning with "(f)" in
 26 line 11 through the underscored comma in line 20; and in line 20
 27 strike "(g)" and insert "(f)".

1 4. On page 6, line 3; and page 25, lines 7 and
 2 22, reinstate the stricken "instructional time" and after the
 3 reinstated "time" insert "allowance".

4 5. On page 28, lines 21 and 22; page 29, line 1; and page
 5 30, lines 5, 6, 13, and 16, after "elementary" insert "site".

6 6. On page 29, line 25, strike "grades offered in the
 7 elementary attendance site," show as stricken, and insert "site
 8 grades".

9 7. On page 30, lines 1 and 2, strike "grades offered
 10 in the elementary attendance site," show as stricken, and insert
 11 "elementary site grades"; and in line 10 after "elementary" insert
 12 "site".

13 8. On page 36, line 11, strike "one-half" and insert
 14 "seventy-five hundredths".

(Signed) Greg Adams, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE RESOLUTION 4. Reported to the Legislature for further consideration.

(Signed) Bill Avery, Chairperson

Nebraska Retirement Systems

The Nebraska Retirement Systems 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.

John Dinkel - Nebraska Investment Council

Aye: 5 Senators Karpisek, Louden, Mello, Nordquist, Pankonin. Nay: 0.
Absent: 1 Senator Heidemann.

The Nebraska Retirement Systems 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.

Jeffrey W. States, State Investment Officer - Nebraska Investment Council

Aye: 5 Senators Karpisek, Louden, Mello, Nordquist, Pankonin. Nay: 0.
Absent: 1 Senator Heidemann.

(Signed) Dave Pankonin, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 11. Introduced by Hadley, 37.

WHEREAS, the University of Nebraska at Kearney volleyball team has had an exemplary regular season; and

WHEREAS, the Lopers finished the regular season undefeated in the Rocky Mountain Athletic Conference; and

WHEREAS, the Lopers are currently ranked third in the NCAA Division II polls; 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 FIRST LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Legislature congratulates the University of Nebraska at Kearney volleyball team for its exemplary regular season.

2. That a copy of this resolution be sent to the Lopers and their head coach, Rick Squiers.

Laid over.

LEGISLATIVE RESOLUTION 12. Introduced by Hadley, 37.

WHEREAS, the University of Nebraska at Kearney football team has won the Rocky Mountain Athletic Conference title; and

WHEREAS, the Lopers have won ten games for the first time in school history; and

WHEREAS, the Lopers have made the NCAA Division II playoffs; 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 FIRST LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Legislature congratulates the University of Nebraska at Kearney for a fantastic season.

2. That a copy of this resolution be sent to the Lopers and their head coach, Darrell Morris.

Laid over.

LEGISLATIVE RESOLUTION 13. Introduced by Sullivan, 41.

WHEREAS, Belinda Wright of Scotia, Nebraska, was named Miss Nebraska USA for 2010; and

WHEREAS, Ms. Wright, a senior Dean's List student at the University of Nebraska, took home the crown after competing with seventeen other women; and

WHEREAS, Ms. Wright will represent Nebraska at the Miss USA Pageant in Las Vegas in April 2010; and

WHEREAS, the Legislature recognizes the achievements of the citizens of our state.

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

1. That the Legislature congratulates Ms. Belinda Wright for being crowned Miss Nebraska USA for 2010.

2. That a copy of this resolution be sent to Ms. Belinda Wright.

Laid over.

ATTORNEY GENERAL'S OPINIONOpinion 09012

DATE: November 12, 2009

SUBJECT: Whether A Proposed Amendment To Neb. Rev. Stat. § 84-612 (Supp. 2009) Is Within The Scope Of The Governor's Call For The First Special Session Of The One-Hundred-First Nebraska Legislature.

REQUESTED BY: Senator Lavon Heidemann
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General
Dale A. Comer, Assistant Attorney General

This is the third in a series of opinions we have prepared in connection with the scope of the Governor's call for the First Special Session of the One-Hundred-First Nebraska Legislature which began on November 4, 2009. See Op. Att'y Gen. No. 09011 (November 9, 2009) and Op. Att'y Gen. No. 090010 (November 6, 2009). This opinion pertains to proposed changes in Neb. Rev. Stat. § 84-612 (Supp. 2009), a statute which creates the State's Cash Reserve Fund.

GOVERNOR'S CALL

The Governor called the Legislature into special session to consider and enact legislation on the following subjects:

1. To reduce or eliminate appropriations and reappropriations approved by the 101st Nebraska Legislature;
2. To reduce or eliminate certain transfers from the State General Fund;
3. To authorize, increase, or make certain transfers to the State General Fund or to certain cash funds;
4. To modify or eliminate intent language and earmarks accompanying appropriations approved by the 101st Legislature;
5. To adopt statutory modifications necessary to reduce state aid appropriations and make formula adjustments contained in the Tax Equity and Educational Opportunities Support Act; and
6. To appropriate funds for the necessary expenses of the extraordinary session herein called.

APPLICABLE LAW

As we have done for previous opinions during this special session, we will refer you to our Op. Att'y Gen. No. 090010 (November 6, 2009), which contains an analysis of the applicable law relating to special sessions of the Legislature and the Governor's call.

ANALYSIS

Section 84-612 creates a fund within the state treasury to be known as the Cash Reserve Fund. That section also sets out a number of transfers to be made to various other state funds from the Cash Reserve Fund, including the following transfers to the Roads Operations Cash Fund:

(14) On July 7, 2010, the State Treasurer shall transfer five million dollars from the Cash Reserve Fund to the Roads Operations Cash Fund. The Department of Roads shall use such funds to provide the required state match for federal funding made available to the state through congressional earmarks.

(15) On July 7, 2011, the State Treasurer shall transfer five million dollars from the Cash Reserve Fund to the Roads Operations Cash Fund. The Department of Roads shall use such funds to provide the required state match for federal funding made available to the state through congressional earmarks.

In your opinion request, you cite the transfers to the Roads Operations Cash Fund noted above, and you state that:

The Appropriations Committee is discussing an amendment to 84-612 to require the \$10 million of transfers to be made from the Cash Reserve Fund to the General Fund during the current fiscal year and eliminating the reference as to the use of such funds.

You requested our opinion as to whether that "action would be within the Governor's call for the current special session."

In our Opinion No. 090010, we characterized the purpose for which the present special session was convened as "generating additional monies for the State's General Fund by reducing appropriations, eliminating transfers from the General Fund, authorizing and making transfers to the General Fund, and reducing state aid appropriations." Op. Att'y Gen. No. 090010 at 4 (November 6, 2009). It seems to us that the amendment to § 84-612 described above is clearly germane to and related to the purpose for the current special session. Moreover, such an amendment to § 84-612 appears to fall squarely within the third subject of the Governor's call, i.e., "to authorize, increase, or make certain transfers to the State General Fund or to certain cash funds." For those reasons, we believe that the amendment

described in your opinion request does fall within the scope of the Governor's call for the current special session of the Nebraska Legislature.

Sincerely,
 JON BRUNING
 Attorney General
 (Signed) Dale A. Comer
 Assistant Attorney General

pc: Patrick J. O'Donnell
 Clerk of the Nebraska Legislature

05-163-20

ANNOUNCEMENT

The Chair announced today is Senator McCoy's birthday.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 1, 2, 3, and 5 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 1, 2, 3, and 5.

SENATOR LANGEMEIER PRESIDING

MOTIONS - Approve Appointments

Senator Gay moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 53:

Department of Health and Human Services
 Jodi Fenner, Director of the Division of Developmental Disabilities
 Kerry T. Winterer, Chief Executive Officer

Voting in the affirmative, 40:

Adams	Cook	Gloor	Lautenbaugh	Pirsch
Ashford	Council	Hadley	Louden	Price
Avery	Dubas	Hansen	McCoy	Rogert
Campbell	Fischer	Howard	McGill	Schilz
Carlson	Flood	Janssen	Nelson	Stuthman
Christensen	Fulton	Karpisek	Nordquist	Sullivan
Coash	Gay	Krist	Pahls	Utter
Conrad	Giese	Langemeier	Pankonin	Wallman

Voting in the negative, 0.

Present and not voting, 6:

Harms	Lathrop	White
Heidemann	Mello	Wightman

Excused and not voting, 3:

Cornett	Dierks	Haar
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The appointments were confirmed with 40 ayes, 0 nays, 6 present and not voting, and 3 excused and not voting.

Senator Gay moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 54:

Commission for the Blind and Visually Impaired
Michael Hansen

Voting in the affirmative, 36:

Ashford	Fischer	Howard	Nelson	Stuthman
Avery	Flood	Janssen	Nordquist	Sullivan
Campbell	Fulton	Karpisek	Pahls	Utter
Carlson	Gay	Krist	Pankonin	Wallman
Christensen	Giese	Langemeier	Pirsch	
Conrad	Gloor	Lautenbaugh	Price	
Cook	Hadley	Louden	Rogert	
Council	Hansen	McCoy	Schilz	

Voting in the negative, 0.

Present and not voting, 10:

Adams	Dubas	Heidemann	McGill	White
Coash	Harms	Lathrop	Mello	Wightman

Excused and not voting, 3:

Cornett	Dierks	Haar
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The appointment was confirmed with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Senator Gay moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 54:

State Board of Health

Russell Hopp
 Kenneth Kester
 Rich Robinson
 Gary Westerman

Voting in the affirmative, 35:

Adams	Council	Howard	Louden	Rogert
Ashford	Dubas	Janssen	McCoy	Schilz
Campbell	Fischer	Karpisek	Nelson	Stuthman
Carlson	Gay	Krist	Pahls	Sullivan
Christensen	Giese	Langemeier	Pankonin	Utter
Conrad	Gloor	Lathrop	Pirsch	Wallman
Cook	Hansen	Lautenbaugh	Price	White

Voting in the negative, 0.

Present and not voting, 10:

Avery	Flood	Harms	McGill	Nordquist
Coash	Hadley	Heidemann	Mello	Wightman

Excused and not voting, 4:

Cornett	Dierks	Fulton	Haar
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The appointments were confirmed with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

Senator Gay moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 54:

Nebraska Rural Health Advisory Commission
 Margaret Ann "Peggy" Rogers
 Rebecca Schroeder
 Michael Sitorius
 Roger Wells

Voting in the affirmative, 35:

Adams	Council	Hadley	Lautenbaugh	Pirsch
Ashford	Dubas	Hansen	Louden	Price
Campbell	Fischer	Howard	McCoy	Rogert
Carlson	Flood	Janssen	Nelson	Schilz
Christensen	Gay	Karpisek	Nordquist	Sullivan
Conrad	Giese	Krist	Pahls	Wallman
Cook	Gloor	Langemeier	Pankonin	White

Voting in the negative, 0.

Present and not voting, 10:

Avery	Harms	Lathrop	Mello	Utter
Coash	Heidemann	McGill	Stuthman	Wightman

Excused and not voting, 4:

Cornett	Dierks	Fulton	Haar
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The appointments were confirmed with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

Senator Gay moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 54:

Nebraska Rural Health Advisory Commission
 Mark Goodman
 Suzanne Minarick Greenquist
 Shawn Kralik

Voting in the affirmative, 41:

Adams	Council	Janssen	Mello	Stuthman
Ashford	Dubas	Karpisek	Nelson	Sullivan
Avery	Fischer	Krist	Nordquist	Utter
Campbell	Flood	Langemeier	Pahls	Wallman
Carlson	Gay	Lathrop	Pankonin	White
Christensen	Giese	Lautenbaugh	Pirsch	
Coash	Gloor	Louden	Price	
Conrad	Hansen	McCoy	Rogert	
Cook	Howard	McGill	Schilz	

Voting in the negative, 0.

Present and not voting, 4:

Hadley	Harms	Heidemann	Wightman
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Excused and not voting, 4:

Cornett	Dierks	Fulton	Haar
---------	--------	--------	------

The appointments were confirmed with 41 ayes, 0 nays, 4 present and not voting, and 4 excused and not voting.

Senator Gay moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 54:

State Board of Health
Edward Discoe
Luisa Rounds

Voting in the affirmative, 38:

Ashford	Council	Howard	McGill	Schilz
Avery	Fischer	Janssen	Mello	Stuthman
Campbell	Flood	Karpisek	Nelson	Sullivan
Carlson	Gay	Krist	Nordquist	Utter
Christensen	Giese	Langemeier	Pahls	Wallman
Coash	Gloor	Lautenbaugh	Pankonin	White
Conrad	Hadley	Louden	Pirsch	
Cook	Hansen	McCoy	Regert	

Voting in the negative, 0.

Present and not voting, 7:

Adams	Harms	Lathrop	Wightman
Dubas	Heidemann	Price	

Excused and not voting, 4:

Cornett	Dierks	Fulton	Haar
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The appointments were confirmed with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

ANNOUNCEMENT

The Chair announced November 11 was Senator Lautenbaugh's birthday.

MOTIONS - Approve Appointments

Senator Ashford moved the adoption of the Judiciary Committee report for the confirmation of the following appointment(s) found on page 65:

Community Corrections Council

Joe Kelly
Robert Lindemeier
Dallas Massey
Travis Parker
Frank Peak

Voting in the affirmative, 38:

Adams	Council	Janssen	Mello	Schilz
Ashford	Fischer	Karpisek	Nelson	Stuthman
Avery	Flood	Krist	Nordquist	Sullivan
Campbell	Gay	Langemeier	Pahls	Utter
Carlson	Giese	Lautenbaugh	Pankonin	Wallman
Christensen	Hadley	Louden	Pirsch	White
Conrad	Hansen	McCoy	Price	
Cook	Howard	McGill	Rogert	

Voting in the negative, 0.

Present and not voting, 7:

Coash	Gloor	Heidemann	Wightman
Dubas	Harms	Lathrop	

Excused and not voting, 4:

Cornett	Dierks	Fulton	Haar
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The appointments were confirmed with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

Senator Ashford moved the adoption of the Judiciary Committee report for the confirmation of the following appointment(s) found on page 66:

Crime Victim's Reparations Committee
 G. Randall "Rand" Hansen
 Michael McLarney

Voting in the affirmative, 41:

Adams	Council	Howard	McGill	Stuthman
Ashford	Dubas	Janssen	Mello	Sullivan
Avery	Fischer	Karpisek	Nelson	Utter
Campbell	Flood	Krist	Pahls	Wallman
Carlson	Gay	Langemeier	Pankonin	White
Christensen	Giese	Lathrop	Pirsch	
Coash	Gloor	Lautenbaugh	Price	
Conrad	Hadley	Louden	Rogert	
Cook	Hansen	McCoy	Schilz	

Voting in the negative, 0.

Present and not voting, 4:

Harms	Heidemann	Nordquist	Wightman
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Excused and not voting, 4:

Cornett Dierks Fulton Haar

The appointments were confirmed with 41 ayes, 0 nays, 4 present and not voting, and 4 excused and not voting.

COMMITTEE REPORT
Business and Labor

LEGISLATIVE BILL 8. Placed on General File.

(Signed) Steve Lathrop, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 14. Introduced by Karpisek, 32.

WHEREAS, Austin Steven Seyfert, of Troop 101 in Wilber, Nebraska, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, Austin has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. Austin earned thirty merit badges, and for his Eagle Scout community service project he made a number of improvements at his church, including putting up new railings for the safety of the elderly, renovating the church marquee, and landscaping the grounds; and

WHEREAS, Austin also served his troop in a variety of leadership roles, including senior patrol leader, assistant senior patrol leader, and scribe; and

WHEREAS, only five percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

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

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

1. That the Legislature congratulates Austin Steven Seyfert on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Austin Steven Seyfert.

Laid over.

LEGISLATIVE RESOLUTION 15. Introduced by Karpisek, 32.

WHEREAS, the Friend High School girls' softball team won the 2009 Class C State Softball Championship; and

WHEREAS, the Lady Bulldogs defeated Wayne High School 3-1 in the championship game; and

WHEREAS, the Lady Bulldogs and their coach achieved this exceptional accomplishment through their hard work, resolve, and team play; 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 FIRST LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Legislature congratulates the Friend High School girls' softball team on winning the 2009 Class C State Softball Championship.

2. That a copy of this resolution be sent to the Lady Bulldogs and their coach, Mike Moore.

Laid over.

LEGISLATIVE RESOLUTION 16. Introduced by McCoy, 39.

WHEREAS, Father Stephen Plank, the chairman of the language department at Mount Michael Benedictine High School in Elkhorn, Nebraska, has been named Nebraska's Outstanding World Language Teacher for 2009; and

WHEREAS, the award is given to a world language educator who demonstrates creativity in teaching and who promotes the study of world language outside the classroom; and

WHEREAS, Father Plank was honored for the award at the Nebraska International Languages Association's fall conference and was recognized for his work with struggling French students and for his ability to instill students with a love of classic French cinema; and

WHEREAS, Father Plank has also been named Nebraska's French teacher of the year in 2007 and has been awarded the State Department of Education STAR Award for world languages.

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

1. That the Legislature congratulates Father Stephen Plank for being named Nebraska's Outstanding World Language Teacher for 2009.

2. That a copy of this resolution be sent to Father Stephen Plank.

Laid over.

UNANIMOUS CONSENT - Add Cointroducers

Senators Campbell, Giese, Lathrop, Pankonin, and White asked unanimous consent to add their names as cointroducers to LB16. No objections. So ordered.

VISITORS

Visitors to the Chamber were Chris Smith and Malcolm Williams from Omaha.

ADJOURNMENT

At 2:05 p.m., on a motion by Senator Coash, the Legislature adjourned until 9:00 a.m., Friday, November 13, 2009.

Patrick J. O'Donnell
Clerk of the Legislature

SEVENTH DAY - NOVEMBER 13, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SPECIAL SESSION****SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Friday, November 13, 2009

PRAYER

The prayer was offered by Senator Gloor.

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.

CORRECTIONS FOR THE JOURNAL

The Journal for the sixth day was approved.

RESOLUTIONS

LEGISLATIVE RESOLUTION 17. Introduced by Howard, 9; Adams, 24; Ashford, 20; Avery, 28; Campbell, 25; Carlson, 38; Christensen, 44; Coash, 27; Conrad, 46; Cook, 13; Cornett, 45; Dierks, 40; Fischer, 43; Flood, 19; Fulton, 29; Gay, 14; Giese, 17; Gloor, 35; Haar, 21; Hadley, 37; Hansen, 42; Harms, 48; Heidemann, 1; Janssen, 15; Karpisek, 32; Krist, 10; Langemeier, 23; Lathrop, 12; Loudon, 49; McCoy, 39; Nelson, 6; Nordquist, 7; Pahls, 31; Pankonin, 2; Pirsch, 4; Price, 3; Rogert, 16; Schilz, 47; Stuthman, 22; Sullivan, 41; Utter, 33; Wallman, 30.

WHEREAS, Mission of Mercy events across America have been providing free dental services for the underserved since 2000; and

WHEREAS, Nebraska held its first Mission of Mercy project in North Platte in 2005, and Mission of Mercy projects have provided patients with over four million seven hundred fifty thousand dollars in free dental care over the last five years; and

WHEREAS, the 2009 Nebraska Mission of Mercy project was held July 10-11 at Papillion-La Vista South High School, treating one thousand four hundred twenty-seven patients and providing over six hundred eight thousand dollars in dental services, where dentists, dental hygienists, dental

assistant staff, lab techs, and volunteers donated time over the two-day event; and

WHEREAS, Nebraska Mission of Mercy participants have honored the calling of their profession by providing care for the dental needs of low-income families.

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

1. That the Legislature congratulates Nebraska Mission of Mercy for its beneficent efforts in serving over six thousand dental patients in Nebraska.

2. That a copy of this resolution be sent to the Nebraska Dental Association.

Laid over.

LEGISLATIVE RESOLUTION 18. Introduced by Council, 11; Cook, 13.

WHEREAS, Wilda Chue Stephenson was born on December 19, 1922, in Omaha, Nebraska, to Chandler and Willard Chue; and

WHEREAS, Wilda Chue Stephenson followed her family tradition of valuing higher education; and

WHEREAS, Wilda Chue Stephenson earned her bachelor's degree in business education from the University of Nebraska-Lincoln, graduated from Creighton University with a master's degree in education, and received an honorary doctorate from Midland Lutheran College; and

WHEREAS, Wilda Chue Stephenson was an activist and an educator who worked to improve race relations and break down barriers in a tumultuous period of Omaha history; and

WHEREAS, during World War II, Wilda Chue Stephenson fought discrimination in Nebraska that barred people of color from being student teachers or teaching in public high schools; and

WHEREAS, in 1962, Wilda Chue Stephenson participated in a national Presbyterian summer teaching program in Monrovia, Liberia, and traveled to Shanghai, China, in 1980 to support the rededication of the first Presbyterian church to open after China's ten-year ban on churches; and

WHEREAS, Wilda Chue Stephenson maintained her dedication to public service and education throughout her life. She served as a board member of the National Council of Negro Women and vice moderator for issues of the Churchwide Coordinating Team of Presbyterian Women. A former teacher at Omaha's Central High School, she later served as director of the Goodrich Scholarship Program at the University of Nebraska at Omaha and chairwoman of the education committee for the Presbyterian Commission on Church and Race; and

WHEREAS, Wilda Chue Stephenson has been recognized by the University of Nebraska at Omaha's College of Public Affairs and Community Service, the National Black Caucus of the Presbyterian Church, the Urban League of Nebraska, the United Way, the University of Nebraska-Lincoln, Zeta Phi Beta Sorority, Inc., and the YWCA; and

WHEREAS, Wilda Chue Stephenson died on October 10, 2009.

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

1. That the Legislature expresses its deep and sincere appreciation of Wilda Chue Stephenson for her dedication and service to the people of Nebraska.

2. That the Legislature extends its condolences to the family of Wilda Chue Stephenson.

3. That a copy of this resolution be sent to the family of Wilda Chue Stephenson as a token of the high regard the people of Nebraska have for her and her achievements.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 5. Title read. Considered.

Committee AM7, found on page 83, was considered.

Senators McGill, Cook, Cornett, Dubas, Fulton, Giese, Haar, Lathrop, Rogert, Wallman, and White offered the following amendment to the committee amendment:

AM10

(Amendments to Standing Committee amendments, AM7)

- 1 1. On page 1, line 1, strike "section" and insert
- 2 "sections".
- 3 2. On page 2, after line 21, insert the following new
- 4 sections:
- 5 Sec. 12. Prior to reducing expenditures for classroom
- 6 instruction to offset a reduction in state aid for school fiscal
- 7 year 2010-11 below the amount authorized pursuant to the Tax Equity
- 8 and Educational Opportunities Support Act as such act existed prior
- 9 to the effective date of this act, school districts shall first
- 10 reduce noninstructional expenditures. For purposes of sections 12
- 11 to 15 of this act, noninstructional expenditures includes, but is
- 12 not limited to:
- 13 (1) Transportation of persons other than students;
- 14 (2) Administration;
- 15 (3) Noninstructional vacancies;
- 16 (4) Capital and equipment expenditures;
- 17 (5) Capital construction and renovation;
- 18 (6) Service contracts, including, but not limited to,
- 19 legal and professional services; and
- 20 (7) Cash reserves.
- 21 Sec. 13. On or before July 1, 2010, each school district
- 22 shall post on its web site or publish in a newspaper published or
- 1 of general circulation in the county in which the administrative
- 2 office of such school district is located a list of all proposed

3 reductions in the school district's budget necessary to comply with
 4 section 12 of this act. The list shall provide separate detail for
 5 reductions in instructional and noninstructional expenditures.

6 Sec. 14. The budget submitted to the Auditor of Public
 7 Accounts and the department pursuant to section 79-1024 for school
 8 fiscal year 2010-11 shall include an itemized list of the budget
 9 reductions made to comply with reductions in state aid pursuant
 10 to this legislative bill. The Auditor of Public Accounts shall
 11 post on its web site or publish in a newspaper of statewide
 12 circulation such itemized list for all school districts. The
 13 itemized list shall provide separate detail for instructional and
 14 noninstructional expenditures.

15 Sec. 15. For state aid to be distributed in school
 16 fiscal year 2011-12, a noninstructional priority adjustment shall
 17 be calculated and applied to any local system that decreased its
 18 instructional expenditures for school fiscal year 2010-11 as a
 19 result of a reduction in state aid pursuant to this legislative
 20 bill. To calculate the noninstructional priority adjustment, the
 21 department shall multiply the total of the itemized list of
 22 instructional expenditure reductions, as reported to the department
 23 and the Auditor of Public Accounts pursuant to section 14 of this
 24 act, by fifty percent. The noninstructional priority adjustment
 25 shall be added to the formula resources of the local system for the
 26 determination of equalization aid pursuant to section 79-1008.01.
 27 If the noninstructional priority adjustment is greater than or
 1 equal to the allocated income tax funds calculated pursuant to
 2 section 79-1005.01, the local system shall not receive allocated
 3 income tax funds. If the noninstructional priority adjustment is
 4 less than the allocated income tax funds calculated pursuant to
 5 section 79-1005.01, the local system shall receive allocated income
 6 tax funds in the amount of the difference between the allocated
 7 income tax funds calculated pursuant to section 79-1005.01 and
 8 the noninstructional priority adjustment. The department shall
 9 establish annual financial report codes and expedite reporting
 10 of the annual financial report to implement the noninstructional
 11 priority adjustment.

12 3. Insert the following new amendments:

13 3. On page 3, line 18; page 7, line 24; and page 35, line
 14 16, strike "section 8" and insert "sections 8 and 12 to 15".

15 9. Renumber the remaining sections accordingly.

16 4. Renumber the remaining amendments accordingly.

Senator McGill withdrew the McGill et al. amendment.

SPEAKER FLOOD PRESIDING

SENATOR LANGEMEIER PRESIDING

The committee amendment was adopted with 43 ayes, 2 nays, 3 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 11 nays, and 1 excused and not voting.

RESOLUTION

LEGISLATIVE RESOLUTION 19. Introduced by White, 8.

WHEREAS, Jacob David Campbell, of Troop 558, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, Jacob has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. Jacob's community service project was a yearlong beautification program for his school, Morton Magnet Middle School, in cooperation with the principal, student council, and parent-teacher association; and

WHEREAS, only five percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Jacob was awarded the rank of Eagle Scout on September 9, 2009, thereby joining other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientists, and athletes.

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

1. That the Legislature congratulates Jacob David Campbell on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Jacob David Campbell.

Laid over.

VISITOR

Visitor to the Chamber was Emily Gonderinger from Omaha.

ADJOURNMENT

At 12:08 p.m., on a motion by Speaker Flood, the Legislature adjourned until 1:30 p.m., Monday, November 16, 2009.

Patrick J. O'Donnell
Clerk of the Legislature

EIGHTH DAY - NOVEMBER 16, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SPECIAL SESSION****EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska
Monday, November 16, 2009

PRAAYER

The prayer was offered by Senator Fischer.

ROLL CALL

Pursuant to adjournment, the Legislature met at 1:30 p.m., Senator Langemeier presiding.

The roll was called and all members were present except Senators Cook, Council, Janssen, and Stuthman who were excused.

CORRECTIONS FOR THE JOURNAL

The Journal for the seventh day was approved.

COMMITTEE REPORT

Enrollment and Review

LEGISLATIVE BILL 5. Placed on Select File with amendment.
ER8000

- 1 1. In the Education Committee amendment, AM7, on page 3,
- 2 line 5, after "after" insert "the first occurrence of".
- 3 2. On page 7, line 24, strike the new matter; and in line
- 4 25 after "79-1022.02" insert "and section 8 of this act".
- 5 3. On page 24, line 22, after the second occurrence of
- 6 "adjustment" insert an underscored comma.

(Signed) Jeremy Nordquist, Chairperson

MOTIONS - Approve Appointments

Senator Pankonin moved the adoption of the Nebraska Retirement Systems Committee report for the confirmation of the following appointment(s) found on page 85:

Nebraska Investment Council
John Dinkel

Voting in the affirmative, 42:

Adams	Fischer	Heidemann	McGill	Schilz
Avery	Flood	Howard	Mello	Sullivan
Campbell	Fulton	Karpisek	Nelson	Utter
Carlson	Gay	Krist	Nordquist	Wallman
Christensen	Giese	Langemeier	Pahls	White
Coash	Gloor	Lathrop	Pankonin	Wightman
Cornett	Haar	Lautenbaugh	Pirsch	
Dierks	Hadley	Louden	Price	
Dubas	Harms	McCoy	Rogert	

Voting in the negative, 0.

Present and not voting, 3:

Ashford Conrad Hansen

Excused and not voting, 4:

Cook Council Janssen Stuthman

The appointment was confirmed with 42 ayes, 0 nays, 3 present and not voting, and 4 excused and not voting.

Senator Pankonin moved the adoption of the Nebraska Retirement Systems Committee report for the confirmation of the following appointment(s) found on page 85:

Nebraska Investment Council
Jeffrey W. States, State Investment Officer

Voting in the affirmative, 35:

Adams	Dierks	Hadley	Louden	Price
Avery	Fischer	Howard	McCoy	Rogert
Campbell	Flood	Karpisek	McGill	Schilz
Carlson	Gay	Krist	Mello	Sullivan
Christensen	Giese	Langemeier	Pahls	Utter
Coash	Gloor	Lathrop	Pankonin	Wallman
Cornett	Haar	Lautenbaugh	Pirsch	White

Voting in the negative, 0.

Present and not voting, 9:

Ashford	Dubas	Harms	Nelson	Wightman
Conrad	Hansen	Heidemann	Nordquist	

Excused and not voting, 5:

Cook	Council	Fulton	Janssen	Stuthman
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The appointment was confirmed with 35 ayes, 0 nays, 9 present and not voting, and 5 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 4. Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

EASE

The Legislature was at ease from 1:51 p.m. until 2:29 p.m.

SENATOR PIRSCH PRESIDING

COMMITTEE REPORTS

Appropriations

LEGISLATIVE BILL 1. Placed on General File with amendment. AM12 is available in the Bill Room.

LEGISLATIVE BILL 2. Placed on General File with amendment. AM14 is available in the Bill Room.

LEGISLATIVE BILL 3. Placed on General File with amendment. AM13 is available in the Bill Room.

(Signed) Lavon Heidemann, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 20. Introduced by Langemeier, 23.

WHEREAS, the Aquinas Monarchs volleyball team won the 2009 Class C-2 State Volleyball Championship; and

WHEREAS, the Monarchs defeated Sandy Creek 25-17, 25-17, 25-16 in the championship match; and

WHEREAS, the Monarchs displayed remarkable ability and teamwork throughout their exemplary season; 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 FIRST LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Legislature congratulates the Aquinas Monarchs on winning the 2009 Class C-2 State Volleyball Championship.

2. That a copy of this resolution be sent to the Monarchs and their coach, Jody Pelan.

Laid over.

UNANIMOUS CONSENT - Add Cointroducer

Senator Dubas asked unanimous consent to add her name as cointroducer to LB16. No objections. So ordered.

VISITORS

Visitor to the Chamber was Kaylee Stutzman from Beaver Crossing.

ADJOURNMENT

At 2:30 p.m., on a motion by Speaker Flood, the Legislature adjourned until 1:30 p.m., Tuesday, November 17, 2009.

Patrick J. O'Donnell
Clerk of the Legislature

NINTH DAY - NOVEMBER 17, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SPECIAL SESSION****NINTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, November 17, 2009

PRAYER

The prayer was offered by Senator Carlson.

ROLL CALL

Pursuant to adjournment, the Legislature met at 1:30 p.m., Senator Rogert presiding.

The roll was called and all members were present except Senator Council who was excused.

CORRECTIONS FOR THE JOURNAL

The Journal for the eighth day was approved.

COMMITTEE REPORT

Enrollment and Review

LEGISLATIVE BILL 4. Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

ATTORNEY GENERAL'S OPINIONOpinion 09013

DATE: November 17, 2009

SUBJECT: Federal Preemption Of Legislation Transferring
Surcharge Monies In The Enhanced Wireless 911
Fund To The General Fund.

REQUESTED BY: Senator Deb Fischer
Nebraska Legislature

WRITTEN BY: Jon Bruning, Attorney General

L. Jay Bartel, Assistant Attorney General

In 2001, the Nebraska Legislature enacted the Enhanced Wireless 911 Services Act. 2001 Neb. Laws, LB 585 (*codified* at Neb. Rev. Stat. §§ 86-2201 to 86-2214 (Supp. 2001) [the "Act"]). The Act has been amended and is currently codified at Neb. Rev. Stat. §§ 86-442 to 86-470 (2008). The Act creates the "Enhanced Wireless 911 Fund" [the "Fund"]. In addition to any other funds appropriated by the Legislature and any federal funds received for wireless emergency communications, the Fund consists of the surcharge ["E-911 Surcharge"] imposed under § 86-457 of the Act. Neb. Rev. Stat. § 86-463 (2008). Monies in the Fund are required to be used for the costs of administering the Fund and for the purposes specified in § 86-465 (which includes compensating public safety answering points and wireless carriers for costs incurred to implement enhanced wireless 911 service), "unless otherwise directed by federal law with respect to any federal funds." Neb. Rev. Stat. §§ 86-463 (2008); *see also* Neb. Rev. Stat. §§ 86-465(2)(a)-(c), and 86-466 (2008).

LB 3, introduced in the recent special session, proposes to amend § 86-463 to provide that "[t]ransfers may be made from the fund to the General Fund at the direction of the Legislature." LB 3, § 115. LB1, also introduced in the special session, proposes to transfer \$5,000,000 from the Fund for fiscal year 2009-10 to the General Fund. LB 1, § 238. You have requested our opinion as to whether the proposed transfer of surcharge monies from the Fund pursuant to LB 3 and LB1 is preempted by federal law, specifically, portions of the ENHANCE 911 Act of 2004, Public Law 108-494, and the New and Emerging Technologies 911 Improvement Act of 2008, Public Law 110-283. You have also asked us to address whether, if the transfer of monies from the Fund generated by the E-911 surcharge is preempted, it is permissible for the Legislature to authorize the transfer of any interest earned on monies held in the Fund. For the reasons set forth below, we conclude that the transfer of Fund monies generated by the surcharge to the General Fund would preclude the State from qualifying for and receiving federal grants under the ENHANCE 911 Act of 2004, and that such a transfer is preempted by the New and Emerging Technologies 911 Improvement Act of 2008. We further conclude that the Legislature may authorize the transfer of interest earned on surcharge monies held in the Fund to the General Fund, as such are not part of the fees or charges required to be used only for 911 or enhanced 911 services under federal law.

A. The ENHANCE 911 Act of 2004.

The ENHANCE 911 Act of 2004 provides federal matching grants to eligible entities, including state and local governments, "for the implementation and operation of Phase II E-911 services and for migration to an IP-enabled emergency network." 47 U.S.C. § 942(b). Grant applicants must certify at the time of application, and annually thereafter during the period when funds are made available to the applicant,

that no portion of any designated E-911 charges imposed by a State or other taxing jurisdiction within which the applicant is located are being obligated or expended for any purpose other than the purposes for which such charges are designated or presented during the period beginning 180 days immediately preceding the date of the application and continuing through the period of time during which the funds from the grant are available to the applicant.

47 U.S.C. § 942(c)(2). "Designated E-911 charges" are defined as "any taxes, fees, or other charges imposed by a State or other taxing jurisdiction that are designated or presented as dedicated to deliver or improve E-911 services." 47 U.S.C. § 942(c)(1). Grant applicants must agree, as a condition of receiving the grant, that grant funds will be returned "if the State or other taxing jurisdiction. . . obligates or expends designated E-911 charges for any purpose other than the purposes for which such charges are designated or presented. . . ." 47 U.S.C. § 942(c)(3).

The ENHANCED 911 Act thus precludes any State or local government from obtaining matching grants to implement E-911 services if the State or other taxing jurisdiction diverts E-911 designated charges for other purposes. In addition, any State or local government receiving grant funds must return funds if designated E-911 charges are used for other purposes during any period for which funds are made available. Accordingly, any transfer of monies generated by the E-911 surcharge from the Fund would impact the ability of the State to apply for and receive any federal matching grants under the ENHANCE 911 Act, and, if funds have been received, would require the State to return such funds¹

B. New and Emerging Technologies 911 Improvement Act of 2008.

The New and Emerging Technologies 911 Improvement Act of 2008 includes the following provision regarding State authority over fees or charges to support 911 or E-911 services:

(1) Authority. Nothing in this Act, the Communications Act of 1934 (47 U.S.C. 151 et seq), the New and Emerging Technologies 911 Improvement Act of 2008, or any Commission regulation or order shall prevent the imposition and collection of a fee or charge applicable to commercial mobile services or IP-enabled voice services specifically designated by a State. . . for the support or implementation of 9-1-1 or enhanced 9-1-1 services, provided that the fee or charge is obligated or expended only in support of 9-1-1 or enhanced 9-1-1 services, or enhancements of such services, as specified in the provision of State or local law adopting the fee or charge. For each class of subscribers to IP-enabled voice services, the fee or charge may not exceed the amount of any such fee or charge applicable to the same class of subscribers to telecommunications services. (emphasis added).

47 U.S.C. § 615a-1(f)(1).

The Federal Communications Commission is required prepare an annual report on each State's compliance with the requirements of § 615a-1(f):

(2) Fee accountability report. To ensure efficiency, transparency, and accountability in the collection and expenditure of a fee or charge for the support or implementation of 9-1-1 or enhanced 9-1-1 services, the Commission shall submit a report within 1 year after the date of enactment of the New and Emerging Technologies 911 Improvement Act of 2008, and annually thereafter, to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives detailing the status in each State of the collection and distribution of such fees or charges, and including findings on the amount of revenues obligated or expended by each State or political subdivision thereof for any purpose other than the purpose for which any such fees or charges are specified.

47 U.S.C. § 615a-1(f)(2).

"Federal preemption arises from the Supremacy Clause of the U.S. Constitution and is the concept that state laws that conflict with federal law are invalid." *In re Application of Lincoln Electric System*, 265 Neb. 70, 76, 655 N.W.2d 363, 369 (2003), cert. denied 539 U.S. 943, 954. "There are three varieties of preemption: express, implied, and conflict preemption." *Id.* "Express preemption arises when Congress has explicitly declared federal legislation to have a preemptive effect." *Id.* "Even without an express declaration from Congress, federal preemption may be implied when Congress is determined to have intended that federal law "occupy the field" to the exclusion of state law. *Zannini v. Ameritrade Holding Corp.*, 266 Neb. 492, 503, 667 N.W.2d 222, 232 (2003) (*quoting Crosby v. National Foreign Trade Council*, 530 U.S. 363, 372 (2000)). "Finally, to the extent state law conflicts with a federal statute, the state law is 'naturally preempted.'" *Id.*

Recently, the Tennessee Attorney General concluded that 47 U.S.C. § 615a-1(f)(1) "expressly preempts a State from using fees charged as part of the State's 911 or enhanced 911 program for other purposes." *Op. Tenn. Att'y Gen. No. 09-87* (May 18, 2009), 2009 Tenn. AG LEXIS 102 at 14. The Tennessee Attorney General thus concluded that the State of Tennessee could not "transfer fees collected and placed in the 911 Emergency Communications Fund to the general fund." *Id.*

The language of 47 U.S.C. § 615a-1(f) does, as determined by the Tennessee Attorney General, support concluding that Congress intended to expressly preempt States from using fees or charges imposed to support 911 or enhanced 911 services for other purposes. Thus, the proposed transfer of monies in the Fund generated by the E-911 surcharge to the General Fund appears to be expressly preempted by 47 U.S.C. § 615a-1(f)(1). Even if 47 U.S.C. § 615a-1(f)(1) is not construed as an express preemption of the

State's use of E-911 surcharge monies for purposes other than support of enhanced 911 services, legislation providing for the transfer of surcharge monies in the Fund would be preempted as being in conflict with the federal statute. Accordingly, we conclude the legislation proposing to transfer surcharge monies in the Fund to the General Fund is contrary to 47 U.S.C. § 615a-1(f)(1) and thus is preempted by federal law.

While the State is preempted from transferring surcharge monies in the Fund to the General Fund, we do not believe any prohibition exists on the State's transfer of interest earned on the Fund to the General Fund. 47 U.S.C. § 615a-1(f)(1) prohibits only the transfer of State fees or charges imposed for 911 or enhanced 911 programs for other purposes. Interest earned on surcharge monies in the Fund is not part of the fees or charges imposed for enhanced 911 purposes, and thus the preemptive effect of 47 U.S.C. § 615a-1(f)(1) does not extend to interest earned on monies in the Fund.

¹It is our understanding that the State has been awarded a grant, but has not received any federal funds under the ENHANCE 911 Act. If surcharge monies are diverted from the Fund, the State will not be eligible to receive any funding under the grant.

Very truly yours,
JON BRUNING
Attorney General
(Signed) L. Jay Bartel
Assistant Attorney General

pc: Patrick J. O'Donnell
Clerk of the Nebraska Legislature

07-228-20

RESOLUTIONS

LEGISLATIVE RESOLUTION 21. Introduced by Gay, 14.

WHEREAS, the Daniel J. Gross Catholic High School girls' volleyball team has displayed remarkable ability and teamwork; and

WHEREAS, the Daniel J. Gross Catholic High School girls' volleyball team achieved a record of thirty-one wins and eight losses; and

WHEREAS, the Daniel J. Gross Catholic High School girls' volleyball team defeated Northwest High School of Grand Island 19-25, 25-7, 25-15, 21-25, and 15-13 to win the 2009 Class B Girls' State Volleyball 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 FIRST LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Legislature congratulates the Daniel J. Gross Catholic High School girls' volleyball team on winning the 2009 Class B Girls' State Volleyball Championship.

2. That a copy of this resolution be sent to the Daniel J. Gross Catholic High School girls' volleyball team and their coach, Korrine Schuster.

Laid over.

LEGISLATIVE RESOLUTION 22. Introduced by Stuthman, 22.

WHEREAS, the Columbus Scotus Central Catholic High School girls' volleyball team won the 2009 Class C-1 State Volleyball Championship, giving the team its second straight state title; and

WHEREAS, 2009 was the eighth time that the Columbus Scotus Central Catholic High School girls' volleyball team met the Grand Island Central Catholic girls' team in the state finals; and

WHEREAS, the Columbus Scotus Central Catholic High School girls' volleyball team completed the 2009 season with a record of twenty-four wins and five losses; and

WHEREAS, the Columbus Scotus Central Catholic High School girls' volleyball team is coached by John Peterson, who has led the Shamrocks to an unprecedented fourteen state titles in twenty-three years, and assistant coach Janet Tooley; and

WHEREAS, the Columbus Scotus Central Catholic High School girls' volleyball team consists of Kiley Bierman, Katelyn Kerkman, Andrea Odbert, Monica Boeding, Maggie Hellbusch, Laura Zach, Olivia Sonderman, Becky Hall, Amanda Newman, Caitlin Wiehn, Lindsay Staroscik, Tiffany Haney, McKenzie Leu, Emmie Odbert, Stacia Rawhouser, Hannah Spenceri, Lindsay McElhose, Jordan Chochon, Jenna Moore, Rachel Rambour, Hannah Fuchs, Angie Wieser, and Morgan Pernicek.

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

1. That the Legislature congratulates the Columbus Scotus Central Catholic High School girls' volleyball team for their exemplary effort this season and for winning the 2009 Class C-1 State Volleyball Championship.

2. That a copy of this resolution be sent to the Columbus Scotus Central Catholic High School girls' volleyball team and their coach, John Peterson.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 3. Title read. Considered.

Committee AM13, found on page 107, was considered.

Senators Heidemann, Campbell, Conrad, Fischer, Flood, Fulton, Gay, Hadley, Hansen, Harms, Janssen, Lathrop, Loudon, Mello, Nelson, Nordquist, Stuthman, and Wightman offered the following amendment to the committee amendment:

AM19

(Amendments to Standing Committee amendment, AM13)

- 1 1. On page 91, line 26, strike beginning with "Transfers"
- 2 through "fund" and insert "Interest accruing to the fund from
- 3 invested fund balances may be transferred".

SPEAKER FLOOD PRESIDING

Pending.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 6, 7, and 8 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 6, 7, and 8.

GENERAL FILE

LEGISLATIVE BILL 3. The Heidemann et al. amendment, AM19, found in this day's Journal, to the committee amendment, was renewed.

SENATOR ROBERT PRESIDING

The Heidemann et al. amendment was adopted with 45 ayes, 0 nays, 1 present and not voting, and 3 excused and not voting.

Pending.

RESOLUTION

LEGISLATIVE RESOLUTION 23. Introduced by Sullivan, 41.

WHEREAS, the Greeley-Wolbach Titans won the 2009 Class D-2 State Volleyball Championship; and

WHEREAS, Greeley-Wolbach defeated Clay Center 25-19, 18-25, 22-25, 25-17, 15-7 in the championship game; and

WHEREAS, Greeley-Wolbach finished the season with a record of thirty-three wins and one loss; and

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

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

1. That the Legislature congratulates the Greeley-Wolbach Titans on winning the 2009 Class D-2 State Volleyball Championship.

2. That a copy of this resolution be sent to the Titans and their head coach, Todd Beck.

Laid over.

AMENDMENT - Print in Journal

Senator Flood filed the following amendment to LB4:
AM22

- 1 1. Strike original sections 1 to 3 and insert the
2 following new sections:
3 Section 1. There is hereby appropriated \$72,631 from
4 the General Fund for FY2009-10 to the Legislative Council, for
5 Program 122, for expenses incurred during the One Hundred First
6 Legislature, First Special Session, 2009.
7 Sec. 2. There is hereby appropriated \$35,087 from the
8 General Fund for FY2009-10 to the Legislative Council, for
9 Program 123, for expenses incurred during the One Hundred First
10 Legislature, First Special Session, 2009.
11 Total expenditures for permanent and temporary salaries
12 and per diems from funds appropriated in this section shall not
13 exceed \$18,349 for FY2009-10.
14 Sec. 3. There is hereby appropriated \$2,933 from the
15 General Fund for FY2009-10 to the Legislative Council, for
16 Program 127, for expenses incurred during the One Hundred First
17 Legislature, First Special Session, 2009.
18 Total expenditures for permanent and temporary salaries
19 and per diems from funds appropriated in this section shall not
20 exceed \$2,547 for FY2009-10.

GENERAL FILE

LEGISLATIVE BILL 3. Senator Cook offered the following amendment to the committee amendment:

AM17

(Amendments to Standing Committee amendments, AM13)

- 1 1. Strike section 72.
2 2. On page 95, line 3, strike "81-1201.21,".
3 3. Renumber the remaining sections accordingly.

The Cook amendment lost with 4 ayes, 31 nays, 11 present and not voting, and 3 excused and not voting.

Committee AM13, found on page 107 and considered in this day's Journal, as amended, was adopted with 40 ayes, 1 nay, 5 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 45 ayes, 0 nays, 1 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 2. Title read. Considered.

Committee AM14, found on page 107, was adopted with 46 ayes, 0 nays, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 45 ayes, 0 nays, 1 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 1. Title read. Considered.

Committee AM12, found on page 107, was considered.

Senators Heidemann, Campbell, Conrad, Fischer, Flood, Fulton, Gay, Hadley, Hansen, Harms, Janssen, Lathrop, Loudon, Mello, Nelson, Nordquist, Stuthman, and Wightman offered the following amendment to the committee amendment:

AM18

(Amendments to Standing Committee amendments, AM12)

- 1 1. On page 190, line 9, strike "5,000,000" and insert
- 2 "3,400,000".
- 3 2. On page 191, line 16, strike "4,072,121" and insert
- 4 "5,072,121".

The Heidemann et al. amendment was adopted with 44 ayes, 0 nays, 2 present and not voting, and 3 excused and not voting.

The committee amendment, as amended, was adopted with 45 ayes, 0 nays, 1 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 44 ayes, 0 nays, 2 present and not voting, and 3 excused and not voting.

AMENDMENT - Print in Journal

Senator Fischer filed the following amendment to LB3:
AM24

(Amendments to Standing Committee amendments, AM13)

- 1 1. On page 91, line 27, after "Legislature" insert
- 2 "through June 30, 2010".

SELECT FILE

LEGISLATIVE BILL 5. ER8000, found on page 105, was adopted.

Advanced to Enrollment and Review for Engrossment.

GENERAL FILE

LEGISLATIVE BILL 11. Title read. Considered.

Senator Dubas requested to pass over LB11.

LEGISLATIVE BILL 14. Title read. Considered.

Senator Carlson requested to pass over LB14.

LEGISLATIVE BILL 8. Title read. Considered.

Senator Cook requested to pass over LB8.

AMENDMENT - Print in Journal

Senator Heidemann filed the following amendment to LB1:
AM20

(Amendments to Standing Committee amendments, AM12)

- 1 1. Purpose: To correct a cash fund number and program
- 2 total and reinstate a stricken earmark.
- 3 Amendment:
- 4 1. On page 17, strike line 21 and insert "CASH FUND est.
- 5 2,590,551 2,631,722"; and strike line 24 and insert "PROGRAM TOTAL
- 6 30,760,619 31,518,035"; and
- 7 2. On page 19, lines 6 through 11, reinstate the stricken
- 8 matter.
- 9 2. Purpose: To correct a General Fund number and program
- 10 total.
- 11 Amendment:
- 12 1. On page 20, strike line 5 and insert "GENERAL FUND
- 13 20,308,433 20,870,338"; and strike line 7 and insert "PROGRAM TOTAL
- 14 21,015,765 21,577,670".

EASE

The Legislature was at ease from 4:12 p.m. until 4:40 p.m.

COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 3. Placed on Select File with amendment.
ER8002

- 1 1. On page 1, strike beginning with "2-1222" in line 1
- 2 through line 14 and insert "2-1503.01, 2-1577, 2-1587, 2-15,122,
- 3 3-126, 13-2704, 24-205, 24-227.01, 24-229, 25-2921, 28-429,
- 4 29-2259.02, 29-2262.07, 29-3921, 33-102, 37-351, 38-157, 39-1390,
- 5 46-1121, 46-1403, 50-437, 57-919, 60-1409, 66-739, 70-1020,
- 6 71-222.02, 71-4732, 72-2009, 76-549, 77-3,110, 77-4310.03, 77-5031,
- 7 79-810, 79-1320, 81-188.01, 81-201.05, 81-2,147.11, 81-2,291,
- 8 81-528, 81-550, 81-5,153, 81-8,110.07, 81-8,194, 81-1120.23,
- 9 81-1201.22, 81-1278, 81-1413.01, 81-1428, 81-15,121, 81-15,165,
- 10 81-15,180, 81-1607.01, 81-1634, 81-2004.01, 81-2105, 81-3524,
- 11 82-108.02, 83-913.01, 84-409, 84-414, 84-1227, 85-1419, 85-1803,
- 12 86-127, 86-312, 86-463, 88-545.01, 88-552, and 89-1,100, Reissue
- 13 Revised Statutes of Nebraska, sections 48-1,116, 49-14,140,
- 14 50-114.05, 53-117.06, 54-857, 54-2428, 55-131, 59-1608.04,
- 15 60-3,218, 61-210, 61-218, 71-5661, 71-5714, 71-8612, 72-2211,
- 16 72-2501, 76-2226, and 77-5601, Revised Statutes Cumulative
- 17 Supplement, 2008, and sections 1-111, 2-5106, 47-632, 57-705,
- 18 60-2132, 66-1521, 66-1839, 77-1342, 81-885.15, 81-1201.21,
- 19 81-15,160, 81-3119, 81-3432, and 84-510, Revised Statutes
- 20 Supplement, 2009; to provide for transfers to the General Fund; to
- 21 authorize the Supreme Court to direct the use of certain funds;
- 22 to provide for the investment of funds; to eliminate obsolete
- 23 provisions; to repeal the original sections; and to declare an
- 1 emergency."
- 2 2. On page 2, strike lines 1 through 13.

LEGISLATIVE BILL 2. Placed on Select File with amendment.
ER8001

- 1 1. On page 1, strike beginning with "82-331" in line 4
- 2 through "90-514" in line 8 and insert "84-612, Revised Statutes
- 3 Supplement, 2009; to provide for, change, and eliminate certain
- 4 fund transfers; to provide for a lapse of certain funds to the
- 5 General Fund; to harmonize provisions; to repeal the original
- 6 sections; to outright repeal section 90-505".

LEGISLATIVE BILL 1. Placed on Select File with amendment.
ER8003

- 1 1. In the Standing Committee amendments, AM12:
- 2 a. On page 1, line 7, strike the first "July 1" and
- 3 insert "June 30";
- 4 b. On page 3, line 7, after "may" insert an underscored
- 5 comma;
- 6 c. On page 4, line 13, strike the last comma; and
- 7 d. On page 20, line 21, after "435" insert an underscored

8 comma.

9 2. On page 1, strike lines 2 through 14 and insert "313,
 10 section 7, Laws 2009, LB 314, sections 12, 21, 35, and 41, Laws
 11 2009, LB 315, sections 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21,
 12 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38, 40,
 13 41, 42, 43, 44, 45, 46, 48, 50, 51, 53, 54, 55, 56, 57, 58, 59, 60,
 14 61, 62, 63, 64, 65, 66, 67, 68, 70, 71, 72, 74, 75, 77, 78, 79, 85,
 15 90, 91, 92, 93, 94, 96, 97, 98, 99, 100, 101, 103, 104, 106, 107,
 16 108, 110, 111, 112, 113, 114, 115, 118, 119, 120, 121, 122, 123,
 17 124, 125, 127, 131, 133, 134, 136, 138, 139, 140, 141, 142, 143,
 18 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 157, 158,
 19 159, 160, 162, 165, 166, 167, 170, 171, 172, 173, 174, 175, 177,
 20 178, 179, 181, 182, 184, 185, 187, 188, 189, 190, 191, 192, 193,
 21 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207,
 22 208, 209, 210, 211, 212, 213, 214, 215, 218, 219, 220, 222, 225,
 23 226, 227, 228, 229, 231, 232, 233, 234, 235, 236, 237, 238, 239,
 1 240, 241, 242, 243, 244, 245, 246, 247, 248, 250, 251, 252, 253,
 2 254, 255, 256, 257, 258, 259, 260, 261, 264, 265, 266, 267, 268,
 3 269, 270, 271, 272, and 282,".
 4 3. On page 2, strike lines 1 through 8; and in line 11
 5 after the first "change" insert "and eliminate".

(Signed) Jeremy Nordquist, Chairperson

VISITORS

Visitors to the Chamber were 26 eleventh- and twelfth-grade students and teachers from Elkhorn; and Sister Mary Alma Lenscott and Sister Maura Therese Schwarting, CK from Lincoln and Father Marhn Knusangnayir from Ghana.

ADJOURNMENT

At 4:42 p.m., on a motion by Senator Sullivan, the Legislature adjourned until 9:00 a.m., Wednesday, November 18, 2009.

Patrick J. O'Donnell
 Clerk of the Legislature

TENTH DAY - NOVEMBER 18, 2009
LEGISLATIVE JOURNAL
ONE HUNDRED FIRST LEGISLATURE
FIRST SPECIAL SESSION

TENTH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, November 18, 2009

PRAYER

The prayer was offered by Senator Wallman.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Flood presiding.

The roll was called and all members were present except Senators Christensen, Council, Loudon, and Pirsch who were excused; and Senator Ashford who was excused until he arrives.

CORRECTIONS FOR THE JOURNAL

The Journal for the ninth day was approved.

SELECT FILE

LEGISLATIVE BILL 3. ER8002, found on page 119, was adopted.

Senator Fischer renewed her amendment, AM24, found on page 117.

The Fischer amendment was adopted with 43 ayes, 0 nays, and 6 excused and not voting.

Senator Heidemann offered the following amendment:
AM28

(Amendments to Standing Committee amendments, AM13)

- 1 1. On page 6, line 18, after "Legislature" insert
- 2 "through June 30, 2011".

The Heidemann amendment was adopted with 43 ayes, 0 nays, and 6 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 2. ER8001, found on page 119, was adopted.

Senator Heidemann offered the following amendment:

AM27

(Amendments to Standing Committee amendments, AM14)

- 1 Purpose: To increase a transfer from the Nebraska Capital
- 2 Construction Fund to the General Fund by \$3,574,466.
- 3 Amendment:
- 4 1. On page 7, line 24, strike "one million" and insert
- 5 "four million five hundred seventy-four thousand four hundred
- 6 sixty-six".

The Heidemann amendment was adopted with 43 ayes, 0 nays, and 6 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 1. ER8003, found on page 119, was adopted.

Senator Heidemann renewed his amendment, AM20, found on page 118.

The Heidemann amendment was adopted with 43 ayes, 0 nays, and 6 excused and not voting.

Senator Heidemann offered the following amendment:

AM26

(Amendments to Standing Committee amendments, AM12)

- 1 1. Strike sections 12 and 14.
- 2 2. On page 5, strike line 25; and in line 26 strike
- 3 "CONSTRUCTION" and insert "GENERAL".
- 4 3. Renumber the remaining sections and correct internal
- 5 references and repealer accordingly.

The Heidemann amendment was adopted with 41 ayes, 0 nays, 2 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 9 and 10 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 9 and 10.

SENATOR LANGEMEIER PRESIDING

SELECT FILE

LEGISLATIVE BILL 4. Senator Flood renewed his amendment, AM22, found on page 116.

The Flood amendment was adopted with 41 ayes, 0 nays, 2 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

COMMITTEE REPORT
Enrollment and Review

LEGISLATIVE BILL 5. Placed on Final Reading.
ST9000

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

1. On page 31, line 5, "attendance" has been inserted after the second occurrence of "elementary".

(Signed) Jeremy Nordquist, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 24. Introduced by Pahls, 31.

WHEREAS, Nebraska was ranked first in the nation among states for:

- (1) Financial happiness by the web site MainStreet.com in 2009; and
- (2) Percentage of people ages sixteen to sixty-four who held a job in 2006, 2007, and 2008 by the United States Bureau of the Census; and

WHEREAS, Nebraska was ranked second best in the nation among states for:

- (1) Fairness of litigation environment by the United States Chamber of Commerce in 2008 and the 2009 Competitiveness Redbook;
- (2) Cattle and calves production by the United States Department of Agriculture and the Taxpayers Network in 2008;
- (3) Total capacity of ethanol production by Ethanol Producer Magazine in 2007;
- (4) Lowest state debt per capita at the end of 2006 by the United States Bureau of the Census and the Taxpayers Network;
- (5) Lowest number of foreclosures and lowest unemployment rate by the web site MainStreet.com in 2009; and
- (6) Most-improved total biomass electricity generated, most-improved total wind energy generated, percentage of total in-state electricity generation from wind, wind electricity generation per capita and per gross state product, and biomass electricity generation per capita and per gross state product by the National Renewable Energy Laboratory in 2008; and

WHEREAS, Nebraska was ranked third best in the nation among states for:

(1) Production of livestock and corn in 2006 by the United States Department of Agriculture and the Taxpayers Network;

(2) Liability and litigation systems in 2007 by the United States Chamber of Commerce and the Taxpayers Network;

(3) Employment among persons sixteen years of age and older by the United States Bureau of Labor Statistics in 2007;

(4) Lowest revenue per kilowatt hour from commercial and residential customers by Electric Power Monthly in 2008 and the 2009 Competitiveness Redbook;

(5) Lowest commercial electricity price in 2006 by the United States Department of Energy and the Taxpayers Network;

(6) Homeownership rates by the United States Bureau of the Census in 2007 and the 2009 Competitiveness Redbook; and

(7) Lowest state debt per capita in 2007 by the United States Bureau of the Census and the Tax Foundation; and

WHEREAS, Nebraska was ranked fourth best in the nation among states for:

(1) Best quality of life in 2008 by Business Facilities magazine;

(2) Lowest cost of doing business in 2007 by the Milken Institute and the 2009 Competitiveness Redbook;

(3) Jobs in 2008 by the web site CareerBuilder.com;

(4) Production of leading commodities in 2006 by the United States Department of Agriculture and the Taxpayers Network;

(5) Lowest residential electricity price in 2006 by the United States Department of Energy and the Taxpayers Network;

(6) Minority-owned business value and annual unemployment rate in 2009 by the Corporation for Enterprise Development; and

(7) Lowest mean travel time to work in 2005 by the United States Bureau of the Census; and

WHEREAS, Nebraska was ranked fifth best in the nation among states for:

(1) Best for business in 2009 by the web site Directorship.com;

(2) Production of soybeans and hogs in 2006 by the United States Department of Agriculture and the Taxpayers Network;

(3) Lowest industrial electricity price in 2006 by the United States Department of Energy and the Taxpayers Network;

(4) Lowest industrial rent as a cost of doing business in 2007 by the Milken Institute and the Taxpayers Network;

(5) Lowest residential natural gas price in 2006 by the United States Department of Energy and the Taxpayers Network;

(6) Best for education climate in 2008 by Business Facilities magazine;

(7) Highest ratio of spending on higher education compared to spending on corrections in 2007 by the Pew Center; and

(8) Lowest incarceration rate in 2006 by the United States Department of Justice and the Taxpayers Network; and

WHEREAS, Nebraska was ranked sixth best in the nation among states for:

- (1) Most business friendly in 2009 by the web site CNBC.com;
- (2) Lowest electrical cost for doing business in 2007 by the Milken Institute and the Taxpayers Network;
- (3) Lowest median credit card debt in 2009 by the Corporation for Enterprise Development; and
- (4) Wind energy potential in 2007 by the American Wind Energy Association; and

WHEREAS, Nebraska was ranked seventh best in the nation among states for:

- (1) Best state economy in 2009 by the web site CNBC.com;
- (2) Highest growth in real income in 2008 by the United States Bureau of the Census;
- (3) Production of sugar beets in 2006 by the United States Department of Agriculture and the Taxpayers Network;
- (4) Lowest state spending per capita in 2007 by the United States Bureau of the Census and the Tax Foundation;
- (5) Lowest energy costs in 2009 by the Small Business and Entrepreneurship Council; and
- (6) Lowest asset poverty rate and affordability of homes in 2009 by the Corporation for Enterprise Development; and

WHEREAS, Nebraska was ranked eighth best in the nation among states for:

- (1) Crop production in 2006 by the United States Department of Agriculture and the Taxpayers Network;
- (2) Net farm income per operator in 2006 by the United States Department of Agriculture and the Taxpayers Network;
- (3) Research and development per capita by the academic sector in 2005 by the National Science Foundation and the 2009 Competitiveness Redbook;
- (4) Lowest revenue per kilowatt hour from industrial customers in 2008 by the United States Department of Energy and the 2009 Competitiveness Redbook;
- (5) Employee ownership of businesses and for housing cost burden for renters in 2009 by the Corporation for Enterprise Development;
- (6) Interstate, freeway, and arterial condition rating in 2006 by the United States Department of Transportation and the Taxpayers Network;
- (7) Total higher education enrollment in 2005 by the United States Department of Education, the United States Bureau of the Census, and the 2009 Competitiveness Redbook;
- (8) Highest percentage of high school graduates in 2005 by the United States Bureau of the Census; and
- (9) Lowest teen birth rate in 2006 by the Centers for Disease Control and Prevention and the Taxpayers Network; and

WHEREAS, Nebraska was ranked ninth best in the nation among states for:

- (1) Production of wheat in 2006 by the United States Department of Agriculture and the Taxpayers Network;

(2) Lowest average combined premiums for auto insurance in 2005 by the National Association of Insurance Commissioners and the Taxpayers Network;

(3) Housing cost burden among homeowners in 2009 and for two-year college degrees in 2009 by the Corporation for Enterprise Development; and

(4) Lowest median monthly rental housing costs in 2006 by the United States Bureau of the Census and the Taxpayers Network; and

WHEREAS, Nebraska was ranked tenth best in the nation among states for:

(1) Best state for business in 2008 by Forbes magazine;

(2) Being pro-business by a Pollina Corporate Real Estate study in 2007 and 2009;

(3) Relative health in 2007 by the United Health Foundation and the Taxpayers Network;

(4) States receiving a 5-star on the state's healthcare cost quotient in 2007 by Expansion Management magazine; and

(5) High school degrees in 2009 and for lowest unbanked households in 2009 by the Corporation for Enterprise Development; and

WHEREAS, Nebraska was ranked eleventh best in the nation among states for:

(1) Lowest cost of living in 2009 by the web site CNBC.com;

(2) Lowest state and local debt per capita in 2006 by the United States Bureau of the Census and the Tax Foundation;

(3) Growth in per capita personal income in 2007 by the United States Department of Commerce and the 2009 Competitiveness Redbook;

(4) Lowest average mortgage closing costs in 2006 by the web site Bankrate.com and the Taxpayers Network;

(5) Smartest state in 2007 by Morgan Quitno Press and the Taxpayers Network;

(6) Higher education enrollment as percentage of population in public two-year schools in 2005 by the United States Department of Education and the 2009 Competitiveness Redbook; and

(7) Lowest extreme asset poverty rate in 2009 by the Corporation for Enterprise Development; and

WHEREAS, Nebraska was ranked twelfth best in the nation among states for:

(1) Top state for business in 2009 by the web site CNBC.com;

(2) Employment growth rate from May 2007 to May 2008 by the United States Bureau of Labor Statistics;

(3) Best unemployment insurance tax index in 2009 by the Tax Foundation;

(4) Growth in percent of nonagricultural employment in 2008 by the 2009 Competitiveness Redbook; and

(5) Head Start coverage in 2009 by the Corporation for Enterprise Development; and

WHEREAS, the Corporation for Enterprise Development gave Nebraska residents a grade of A for their financial assets and income in 2009; and

WHEREAS, the city of Omaha, Nebraska, ranks as:

- (1) Having the most favorable tax structure for business among midsize cities in 2008 by KPMG International;
- (2) The best city for relocating families in 2008 by Primacy Relocation and Worldwide ERC;
- (3) Second best bargain market in 2008 by MSN Real Estate;
- (4) Third best city for job seekers for salaries and jobs in 2009 by the web site SimplyHired.com;
- (5) Third among cities nationally as best city to build personal wealth in 2008 by the web site Salary.com;
- (6) Third best among medium-sized metropolitan cities nationally to launch a business in 2009 by Fortune Small Business and the web site CNNMoney.com;
- (7) Third among top ten best cities in 2008 by Kiplinger's Personal Finance;
- (8) Eighth among best cities for jobs in 2008 by Forbes;
- (9) Ninth among cities nationally for highest concentration of employment in agricultural feedstock and chemicals in 2008 by Business Facilities magazine;
- (10) Eleventh among cities nationally for best public schools in 2007 by Expansion Management;
- (11) Fifteenth among cities nationally for most educated workforce in 2008 by Business Facilities magazine;
- (12) Among the top twenty best places to raise a family in 2008 by the web site Today.msnbc.msn.com; and
- (13) Thirty-fourth best among cities nationally as a place for business and careers in 2008 by Forbes; and

WHEREAS, the city of Lincoln, Nebraska, ranks as:

- (1) First among cities in the country for job-hunters in 2009 by Manpower;
- (2) Tenth best medium-sized metropolitan city nationally to launch a business in 2009 by Fortune Small Business and the web site CNNMoney.com; and
- (3) Fifteenth best city to find a job in 2008 by the web site CareerBuilder.com; and

WHEREAS, the city of Papillion, Nebraska, was ranked third among small communities nationally of best places to live in 2009 by the web site CNNMoney.com; and

WHEREAS, the city of Fremont, Nebraska, was named the fifteenth most affordable city nationally in 2009 by the web site CNNMoney.com; and

WHEREAS, the city of Norfolk, Nebraska, was ranked ninety-eighth among small communities nationally of best places to live in 2009 by the web site CNNMoney.com; and

WHEREAS, the city of Columbus, Nebraska, was ranked ninety-ninth among small communities nationally of best places to live in 2009 by the web site CNNMoney.com; and

WHEREAS, the state must continue its efforts to maintain and improve its standing among other states in its economic opportunities in order to maintain the good life for its citizens.

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

1. That the Legislature congratulates the Department of Economic Development and its affiliates, the Nebraska Chamber of Commerce and Industry and its affiliates, the Greater Omaha Chamber of Commerce and its affiliates, the Lincoln Chamber of Commerce and its affiliates, the Sarpy County Chamber of Commerce and its affiliates, the Fremont Area Chamber of Commerce and its affiliates, the Norfolk Area Chamber of Commerce and its affiliates, and the Columbus Area Chamber of Commerce and its affiliates for their diligence in working with the Legislature to keep Nebraska competitive and vibrant.

2. That a copy of this resolution be sent to the Director of Economic Development, the president of the Nebraska Chamber of Commerce and Industry, the president of the Greater Omaha Chamber of Commerce, the president of the Lincoln Chamber of Commerce, the president of the Sarpy County Chamber of Commerce, the president of the Fremont Area Chamber of Commerce, the president of the Norfolk Area Chamber of Commerce, and the president of the Columbus Area Chamber of Commerce.

Laid over.

UNANIMOUS CONSENT - Add Cointroducers

Senators Cornett and Mello asked unanimous consent to add their names as cointroducers to LR21. No objections. So ordered.

RECESS

At 9:27 a.m., on a motion by Senator Harms, the Legislature recessed until 11:45 a.m.

AFTER RECESS

The Legislature reconvened at 11:45 a.m., Speaker Flood presiding.

ROLL CALL

The roll was called and all members were present except Senators Ashford, Christensen, Council, Gloor, Lathrop, Loudon, Mello, Pirsch, and Stuthman who were excused.

COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 1. Placed on Final Reading.
ST9002

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

1. In the E & R amendments, ER8003, on page 1, line 10, "12, 21, 35," has been struck and "21" inserted.
2. In the Standing Committee amendments, AM12:
 - a. On page 2, line 19, "119" has been struck and "117" inserted;
 - b. On page 98, line 3, the last comma has been struck and shown as stricken; and
 - c. On page 195, line 8, "12, 21, 35," has been struck and "21" inserted.

LEGISLATIVE BILL 2. Placed on Final Reading.

LEGISLATIVE BILL 3. Placed on Final Reading.
ST9001

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

1. In the Standing Committee amendments, AM13:
 - a. On page 46, line 13, "fund" has been struck and "Commission for the Deaf and Hard of Hearing Fund" inserted; and
 - b. On page 81, line 21, "fund" has been struck and "Carrier Enforcement Cash Fund" inserted.

LEGISLATIVE BILL 4. Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

ADJOURNMENT

At 11:49 a.m., on a motion by Senator Price, the Legislature adjourned until 1:30 p.m., Thursday, November 19, 2009.

Patrick J. O'Donnell
Clerk of the Legislature

ELEVENTH DAY - NOVEMBER 19, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SPECIAL SESSION****ELEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, November 19, 2009

PRAYER

The prayer was offered by Senator Utter.

ROLL CALL

Pursuant to adjournment, the Legislature met at 1:30 p.m., Speaker Flood presiding.

The roll was called and all members were present except Senator Council who was excused.

CORRECTIONS FOR THE JOURNAL

The Journal for the tenth day was approved.

RESOLUTIONS

LEGISLATIVE RESOLUTION 25. Introduced by Dubas, 34.

WHEREAS, Logan Simonson, of Palmer, Nebraska, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, Logan has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only five percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Logan was awarded the rank of Eagle Scout on November 8, 2009, thereby joining other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientists, and athletes.

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

1. That the Legislature congratulates Logan Simonson on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Logan Simonson.

Laid over.

LEGISLATIVE RESOLUTION 26. Introduced by Dubas, 34.

WHEREAS, Riley Santin, of Palmer, Nebraska, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, Riley has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only five percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Riley was awarded the rank of Eagle Scout on October 4, 2009, thereby joining other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientists, and athletes.

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

1. That the Legislature congratulates Riley Santin on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Riley Santin.

Laid over.

LEGISLATIVE RESOLUTION 27. Introduced by Dubas, 34.

WHEREAS, Nathan Doggett, of Palmer, Nebraska, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star,

Life, and finally Eagle Scout. Throughout his scouting experience, Nathan has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only five percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Nathan was awarded the rank of Eagle Scout on October 4, 2009, thereby joining other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientists, and athletes.

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

1. That the Legislature congratulates Nathan Doggett on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Nathan Doggett.

Laid over.

LEGISLATIVE RESOLUTION 28. Introduced by Dubas, 34.

WHEREAS, Jack Wardyn, of Palmer, Nebraska, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, Jack has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only five percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Jack was awarded the rank of Eagle Scout on November 8, 2009, thereby joining other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientists, and athletes.

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

1. That the Legislature congratulates Jack Wardyn on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Jack Wardyn.

Laid over.

LEGISLATIVE RESOLUTION 29. Introduced by Dubas, 34.

WHEREAS, Michael McClellan, of Palmer, Nebraska, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, Michael has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only five percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Michael was awarded the rank of Eagle Scout on November 8, 2009, thereby joining other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientists, and athletes.

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

1. That the Legislature congratulates Michael McClellan on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Michael McClellan.

Laid over.

LEGISLATIVE RESOLUTION 30. Introduced by Dubas, 34.

WHEREAS, Michael Happ, of Palmer, Nebraska, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, Michael has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only five percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Michael was awarded the rank of Eagle Scout on November 8, 2009, thereby joining other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientists, and athletes.

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

1. That the Legislature congratulates Michael Happ on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Michael Happ.

Laid over.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 11, 12, 13, 14, 15, and 16 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 11, 12, 13, 14, 15, and 16.

MOTION - Chairperson of Urban Affairs

Senator Langemeier moved to proceed to the election of the Urban Affairs Committee chairperson, by secret ballot, in accordance with Rule 3, Sec. 8(a).

The motion prevailed.

Senator Price placed his name in nomination.

Senator McGill placed her name in nomination.

Senator Langemeier moved the nominations cease.

The motion prevailed.

The Chair appointed Senators McCoy, Rogert, and Adams as tellers.

Senator Price	21
Senator McGill	<u>27</u>
	48

Senator McGill was duly elected Chairperson of the Urban Affairs Committee.

RESOLUTION

LEGISLATIVE RESOLUTION 31. Introduced by Karpisek, 32.

WHEREAS, the Exeter-Milligan Timberwolves volleyball team won the 2009 Class D-1 State Volleyball Championship; and

WHEREAS, the Timberwolves defeated Howells 25-14, 25-22, 25-20 in the championship match to earn the school's first state volleyball title; and

WHEREAS, the Timberwolves displayed remarkable ability and teamwork throughout their outstanding season; 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 FIRST LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Legislature congratulates the Exeter-Milligan Timberwolves volleyball team on winning the 2009 Class D-1 State Volleyball Championship.

2. That a copy of this resolution be sent to the Timberwolves and their coach, Darcy White.

Laid over.

VISITORS

Visitors to the Chamber were Michelle Vogel and Mike Walter from Washington, D.C.

ADJOURNMENT

At 1:52 p.m., on a motion by Senator Stuthman, the Legislature adjourned until 8:00 a.m., Friday, November 20, 2009.

Patrick J. O'Donnell
Clerk of the Legislature

TWELFTH DAY - NOVEMBER 20, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SPECIAL SESSION****TWELFTH DAY**

Legislative Chamber, Lincoln, Nebraska
Friday, November 20, 2009

PRAYER

The prayer was offered by Senator Sullivan.

ROLL CALL

Pursuant to adjournment, the Legislature met at 8:00 a.m., Speaker Flood presiding.

The roll was called and all members were present except Senators Council and Mello who were excused; and Senators Karpisek and Price who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the eleventh day was approved.

REPORTS

The following reports were received by the Legislature:

Correctional Services, Department of

Annual Report for the Work Ethic Camp

Economic Development, Department of

Proposed 2010-2014 Consolidated Plan and 2010 Annual Action Plan

Labor, Department of

Nebraska Workforce Investment Board, PY2008 Annual Report

Performance Audit, Legislative

Closing of the Lincoln Regional Center Community Transition Program

DED's Job Training Grant Program

Recent Decisions of the Commission of Industrial Relations

Power Review Board

Annual Report - 2009 Monitoring of "Conditions Certain" Issues

Roads, Nebraska Department of

2009 State Highway Needs Assessment

BILLS ON FINAL READING**Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB3 with 43 ayes, 0 nays, 2 present and not voting, and 4 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 3. With Emergency Clause.

A BILL FOR AN ACT relating to state funds; to amend sections 2-1503.01, 2-1577, 2-1587, 2-15,122, 3-126, 13-2704, 24-205, 24-227.01, 24-229, 25-2921, 28-429, 29-2259.02, 29-2262.07, 29-3921, 33-102, 37-351, 38-157, 39-1390, 46-1121, 46-1403, 50-437, 57-919, 60-1409, 66-739, 70-1020, 71-222.02, 71-4732, 72-2009, 76-549, 77-3,110, 77-4310.03, 77-5031, 79-810, 79-1320, 81-188.01, 81-201.05, 81-2,147.11, 81-2,291, 81-528, 81-550, 81-5,153, 81-8,110.07, 81-8,194, 81-1120.23, 81-1201.22, 81-1278, 81-1413.01, 81-1428, 81-15,121, 81-15,165, 81-15,180, 81-1607.01, 81-1634, 81-2004.01, 81-2105, 81-3524, 82-108.02, 83-913.01, 84-409, 84-414, 84-1227, 85-1419, 85-1803, 86-127, 86-312, 86-463, 88-545.01, 88-552, and 89-1,100, Reissue Revised Statutes of Nebraska, sections 48-1,116, 49-14,140, 50-114.05, 53-117.06, 54-857, 54-2428, 55-131, 59-1608.04, 60-3,218, 61-210, 61-218, 71-5661, 71-5714, 71-8612, 72-2211, 72-2501, 76-2226, and 77-5601, Revised Statutes Cumulative Supplement, 2008, and sections 1-111, 2-5106, 47-632, 57-705, 60-2132, 66-1521, 66-1839, 77-1342, 81-885.15, 81-1201.21, 81-15,160, 81-3119, 81-3432, and 84-510, Revised Statutes Supplement, 2009; to provide for transfers to the General Fund; to authorize the Supreme Court to direct the use of certain funds; to provide for the investment of funds; to eliminate obsolete provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 47:

Adams	Dierks	Hansen	Louden	Schilz
Ashford	Dubas	Harms	McCoy	Stuthman
Avery	Fischer	Heidemann	McGill	Sullivan
Campbell	Flood	Howard	Nelson	Utter
Carlson	Fulton	Janssen	Nordquist	Wallman
Christensen	Gay	Karpisek	Pahls	White
Coash	Giese	Krist	Pankonin	Wightman
Conrad	Gloor	Langemeier	Pirsch	
Cook	Haar	Lathrop	Price	
Cornett	Hadley	Lautenbaugh	Rogert	

Voting in the negative, 0.

Excused and not voting, 2:

Council Mello

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bill was read and put upon final passage:

LEGISLATIVE BILL 2. With Emergency Clause.

A BILL FOR AN ACT relating to funds; to amend section 77-3,111, Reissue Revised Statutes of Nebraska, sections 71-5714 and 72-1001, Revised Statutes Cumulative Supplement, 2008, and sections 9-812 and 84-612, Revised Statutes Supplement, 2009; to provide for, change, and eliminate certain fund transfers; to provide for a lapse of certain funds to the General Fund; to harmonize provisions; to repeal the original sections; to outright repeal section 90-505, Revised Statutes Supplement, 2009; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 47:

Adams	Dierks	Hansen	Louden	Schilz
Ashford	Dubas	Harms	McCoy	Stuthman
Avery	Fischer	Heidemann	McGill	Sullivan
Campbell	Flood	Howard	Nelson	Utter
Carlson	Fulton	Janssen	Nordquist	Wallman
Christensen	Gay	Karpisek	Pahls	White
Coash	Giese	Krist	Pankonin	Wightman
Conrad	Gloor	Langemeier	Pirsch	
Cook	Haar	Lathrop	Price	
Cornett	Hadley	Lautenbaugh	Rogert	

Voting in the negative, 0.

Excused and not voting, 2:

Council Mello

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB1 with 46 ayes, 0 nays, 1 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 1. With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2009, LB 313, section 7, Laws 2009, LB 314, sections 21 and 41, Laws 2009, LB 315, sections 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38, 40, 41, 42, 43, 44, 45, 46, 48, 50, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 70, 71, 72, 74, 75, 77, 78, 79, 85, 90, 91, 92, 93, 94, 96, 97, 98, 99, 100, 101, 103, 104, 106, 107, 108, 110, 111, 112, 113, 114, 115, 118, 119, 120, 121, 122, 123, 124, 125, 127, 131, 133, 134, 136, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 157, 158, 159, 160, 162, 165, 166, 167, 170, 171, 172, 173, 174, 175, 177, 178, 179, 181, 182, 184, 185, 187, 188, 189, 190, 191, 192, 193, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 218, 219, 220, 222, 225, 226, 227, 228, 229, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 264, 265, 266, 267, 268, 269, 270, 271, 272, and 282, and Laws 2009, LB 545A, section 1; to define terms; to appropriate and reappropriate funds; to state intent; to change and eliminate appropriations as prescribed; to change transfers; to provide for transfers; to harmonize provisions; to repeal the original sections; to outright repeal Laws 2009, LB 315, sections 80, 81, 82, 83, 84, 86, 87, 88, and 89; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 47:

Adams	Dierks	Hansen	Louden	Schilz
Ashford	Dubas	Harms	McCoy	Stuthman
Avery	Fischer	Heidemann	McGill	Sullivan
Campbell	Flood	Howard	Nelson	Utter
Carlson	Fulton	Janssen	Nordquist	Wallman
Christensen	Gay	Karpisek	Pahls	White
Coash	Giese	Krist	Pankonin	Wightman
Conrad	Gloor	Langemeier	Pirsch	
Cook	Haar	Lathrop	Price	
Cornett	Hadley	Lautenbaugh	Rogert	

Voting in the negative, 0.

Excused and not voting, 2:

Council Mello

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB5 with 44 ayes, 0 nays, 3 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 5. With Emergency Clause.

A BILL FOR AN ACT relating to state aid to schools; to amend sections 79-1005.01, 79-1007.15, 79-1007.19, and 79-1008.01, Reissue Revised Statutes of Nebraska, and sections 77-3446, 79-1001, 79-1003, 79-1007.11, 79-1007.23, and 79-1023, Revised Statutes Supplement, 2009; to redefine terms; to change and eliminate provisions relating to disbursement of income tax receipts, calculation of formula need, elementary site allowance, teacher education adjustment, and instructional time allowance and expenditure limits as prescribed; to provide for calculation of a teacher education allowance; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 40:

Adams	Dierks	Haar	Langemeier	Price
Ashford	Dubas	Hadley	Lautenbaugh	Rogert
Avery	Fischer	Hansen	Louden	Schilz
Campbell	Flood	Harms	McCoy	Stuthman
Carlson	Fulton	Heidemann	Nelson	Sullivan
Christensen	Gay	Howard	Pahls	Utter
Coash	Giese	Janssen	Pankonin	Wallman
Cornett	Gloor	Krist	Pirsch	Wightman

Voting in the negative, 7:

Conrad	Karpisek	McGill	White
Cook	Lathrop	Nordquist	

Excused and not voting, 2:

Council	Mello
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A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bill was read and put upon final passage:

LEGISLATIVE BILL 4. With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the expenses incurred during the One Hundred First Legislature, First Special Session, 2009; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 47:

Adams	Dierks	Hansen	Louden	Schilz
Ashford	Dubas	Harms	McCoy	Stuthman
Avery	Fischer	Heidemann	McGill	Sullivan
Campbell	Flood	Howard	Nelson	Utter
Carlson	Fulton	Janssen	Nordquist	Wallman
Christensen	Gay	Karpisek	Pahls	White
Coash	Giese	Krist	Pankonin	Wightman
Conrad	Gloor	Langemeier	Pirsch	
Cook	Haar	Lathrop	Price	
Cornett	Hadley	Lautenbaugh	Rogert	

Voting in the negative, 0.

Excused and not voting, 2:

Council Mello

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 3, 2, 1, 5, and 4.

RESOLUTIONS

LEGISLATIVE RESOLUTION 17. Read. Considered.

LEGISLATIVE RESOLUTION 18. Read. Considered.

LEGISLATIVE RESOLUTION 19. Read. Considered.

LEGISLATIVE RESOLUTION 20. Read. Considered.

LEGISLATIVE RESOLUTION 21. Read. Considered.

LEGISLATIVE RESOLUTION 22. Read. Considered.

LEGISLATIVE RESOLUTION 23. Read. Considered.

LEGISLATIVE RESOLUTION 24. Read. Considered.

LEGISLATIVE RESOLUTION 25. Read. Considered.

LEGISLATIVE RESOLUTION 26. Read. Considered.

LEGISLATIVE RESOLUTION 27. Read. Considered.

LEGISLATIVE RESOLUTION 28. Read. Considered.

LEGISLATIVE RESOLUTION 29. Read. Considered.

LEGISLATIVE RESOLUTION 30. Read. Considered.

LEGISLATIVE RESOLUTION 31. Read. Considered.

LRs 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, and 31 were adopted with 44 ayes, 0 nays, 3 present and not voting, and 2 excused and not voting.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, and 31.

PRESENTED TO THE GOVERNOR

Presented to the Governor on November 20, 2009, at 8:32 a.m. were the following: LBs 3e, 2e, 1e, 5e, and 4e.

(Signed) Jamie Kruse
Clerk of the Legislature's Office

EXPLANATION OF VOTES

Had I been present, I would have voted "aye" on final passage of LBs 1, 2, 3, and 4 and "nay" on final passage of LB5.

(Signed) Heath Mello

VISITOR

Visitor to the Chamber was Chuck Karpf from Morrill.

RECESS

At 8:42 a.m., on a motion by Senator Gloor, the Legislature recessed until 2:00 p.m.

AFTER RECESS

The Legislature reconvened at 2:00 p.m., Senator Langemeier presiding.

ROLL CALL

The roll was called and all members were present except Senators Ashford, Council, Dierks, Mello, and Stuthman who were excused.

MESSAGE FROM THE GOVERNOR

November 20, 2009

Mr. President, Mr. Speaker, and
Members of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Mr. President and Members of the Legislature:

Earlier today, I received and signed LB 1e, LB 2e, LB 3e, LB 4e and LB 5e into law in order to resolve our state's \$335 million revenue shortfall.

I want to commend the leadership of Senator Heidemann on the budget bills and Senator Adams on LB 5. Both of these senators have done outstanding jobs under difficult circumstances. I also want the record to reflect that we are addressing Nebraska's revenue shortfall by reducing spending, not by increasing taxes. The final bills that you presented to me also preserve the property tax credit and maintain a strong cash reserve fund to address possible future financial challenges.

I do, however, have three reservations about these bills. I hope the Legislature will reconsider these items in the upcoming 2010 session.

The final budget bills include an additional \$2 million reduction from the Job Training Cash Fund which is the fund used to recruit businesses and bring jobs to Nebraska. With national unemployment rates rising and many states raising taxes, we are well-positioned to aggressively recruit businesses to our state. This fund is an important part of that effort.

Next, my recommendations to you reduced the Governor's office, most state agencies, the Legislature and the Nebraska Supreme Court budgets by 2.5% in Fiscal Year 2009-10 and by 5% in Fiscal Year 2010-11. In contrast to this recommendation, the Legislature has provided preferential treatment to the court system by only reducing its appropriation 1.5% in the current year and by 3% the following year.

The final item that draws concern is the Legislature's decision to restore \$1 million to its own budget. The Legislature should not treat itself or the courts better than the rest of state government. The Legislature and the courts can manage their budgets in a manner similar to that expected of state agencies.

In whole, these bills reflect the shared sacrifice that was necessary to close this budget shortfall. I appreciate the willingness and cooperative spirit of those who worked productively to address this challenge.

Sincerely,
(Signed) Dave Heineman
Governor

MOTION - Approve Journal

Senator Pahls moved that the Journal for the Twelfth Day, as prepared by the Clerk of the Legislature, be approved.

The motion prevailed.

MOTION - Adjourn Sine Die

Senator Price moved that the One Hundred First Legislature, First Special Session of the Nebraska Legislature, having finished all business before it, now at 2:08 p.m., adjourn sine die.

The motion prevailed.

Patrick J. O'Donnell
Clerk of the Legislature