

FORTY-FIRST DAY - MARCH 7, 2007**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
FIRST SESSION****FORTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 7, 2007

PRAYER

The prayer was offered by Senator Nelson.

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 McGill and Mines who were excused; and Senators Ashford, Dierks, Dubas, Hansen, McDonald, Nantkes, Pedersen, Raikes, and Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 758, line 11, strike "Erdman" and insert "Fischer".
The Journal for the fortieth day was approved as corrected.

**COMMITTEE REPORT
Enrollment and Review**

LEGISLATIVE BILL 395. Placed on Select File - ER8041.
ER8041

- 1 1. On page 1, line 3, after the first semicolon insert
- 2 "to provide an operative date;".

(Signed) Amanda McGill, Chairperson

ANNOUNCEMENTS

Senator Cornett designates LB 456 as her priority bill.

Senator Stuthman designates LB 157 as his priority bill.

COMMITTEE REPORT
Enrollment and Review

Enrollment and Review Change to LB 296

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

(Enrollment and Review Change, ST9012, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Amanda McGill, Chairperson

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 467A. Introduced by Chambers, 11.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 467, One Hundredth Legislature, First Session, 2007.

MOTIONS - Approve Appointments

Senator Aguilar moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment(s) found on page 732:

Department of Administrative Services
Carlos Castillo

Voting in the affirmative, 25:

Adams	Engel	Fulton	Johnson	Pahls
Aguilar	Erdman	Gay	Kopplin	Pankonin
Burling	Fischer	Harms	Langemeier	Pirsch
Carlson	Flood	Heidemann	Louden	Preister
Christensen	Friend	Hudkins	Nelson	Stuthman

Voting in the negative, 1:

Chambers

Present and not voting, 12:

Avery	Janssen	Lathrop	Wallman
Cornett	Karpisek	Rogert	White
Howard	Kruse	Synowiecki	Wightman

Excused and not voting, 11:

Ashford	Hansen	Mines	Raikes
Dierks	McDonald	Nantkes	Schimek
Dubas	McGill	Pedersen	

The appointment was confirmed with 25 ayes, 1 nay, 12 present and not voting, and 11 excused and not voting.

Senator Louden moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 733:

Game and Parks Commission
 Ronald H. Stave

Voting in the affirmative, 32:

Adams	Engel	Harms	Kruse	Preister
Aguilar	Erdman	Heidemann	Langemeier	Stuthman
Avery	Fischer	Howard	Lathrop	Wallman
Burling	Flood	Hudkins	Louden	Wightman
Carlson	Friend	Johnson	Nelson	
Chambers	Fulton	Karpisek	Pankonin	
Christensen	Gay	Kopplin	Pirsch	

Voting in the negative, 0.

Present and not voting, 6:

Cornett	Pahls	Synowiecki
Janssen	Rogert	White

Excused and not voting, 11:

Ashford	Hansen	Mines	Raikes
Dierks	McDonald	Nantkes	Schimek
Dubas	McGill	Pedersen	

The appointment was confirmed with 32 ayes, 0 nays, 6 present and not voting, and 11 excused and not voting.

Senator Louden moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 733:

Nebraska Power Review Board
 Mark Graham

Voting in the affirmative, 33:

Adams	Cornett	Gay	Kopplin	Preister
Aguilar	Dubas	Harms	Kruse	Stuthman
Avery	Engel	Heidemann	Langemeier	Wallman
Burling	Erdman	Howard	Louden	White
Carlson	Fischer	Hudkins	Nantkes	Wightman
Chambers	Flood	Johnson	Pankonin	
Christensen	Friend	Karpisek	Pirsch	

Voting in the negative, 0.

Present and not voting, 8:

Ashford	Janssen	Nelson	Rogert
Fulton	Lathrop	Pahls	Synowiecki

Excused and not voting, 8:

Dierks	McDonald	Mines	Raikes
Hansen	McGill	Pedersen	Schimek

The appointment was confirmed with 33 ayes, 0 nays, 8 present and not voting, and 8 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 57. The Erdman amendment, FA35, found on page 760, was renewed.

Pending.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 40 and 41 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 40 and 41.

GENERAL FILE

LEGISLATIVE BILL 57. The Erdman amendment, FA35, found on page 760 and considered in this day's Journal, was renewed.

SENATOR MCDONALD PRESIDING

Senator Erdman withdrew his amendment.

Pending.

RESOLUTION**LEGISLATIVE RESOLUTION 47.** Introduced by Flood, 19.

WHEREAS, Michael V. Hall, of Troop 124, Norfolk, Nebraska, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, Michael V. Hall started his scouting career in 1998 as a Tiger Scout with Pack 668 in San Pedro, California. In 2000, he joined Pack 131 in Norfolk, Nebraska. Michael earned all 20 of the Webelos activity badges, the Parvuli Dei religious award, and the Arrow of Light award. Michael joined Troop 124 in 2003; 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. Michael held the troop positions of patrol leader, quartermaster, and librarian. Michael is also an Ordeal Member of the Order of the Arrow and a member of the Boy Scout Honor Society; 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. Michael earned 25 merit badges. Michael, for his Eagle Scout community service project, led the scouts of Troop 124 and members of the Norfolk Morning Kiwanis organization in the repair, cleaning, and painting of the fence surrounding the Norfolk Bright Horizons house; and

WHEREAS, only a small percentage of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, on Sunday, March 24, 2007, Michael V. Hall will receive his Eagle Scout badge at a Court of Honor, and, through his hard work and perseverance, will join other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientist, and athletes.

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

1. That the Legislature congratulates Michael V. Hall on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Michael V. Hall.

Laid over.

COMMITTEE REPORTS
Urban Affairs

LEGISLATIVE BILL 597. Placed on General File - Com AM550.
(Amendment is printed separately and available in the Bill Room, Room

SENATOR LANGEMEIER PRESIDING

Senator Stuthman moved the previous question. The question is, "Shall the debate now close?"

Senator Stuthman moved for a call of the house. The motion prevailed with 26 ayes, 8 nays, and 15 not voting.

The motion to cease debate prevailed with 25 ayes, 15 nays, 5 present and not voting, and 4 excused and not voting.

Senator Erdman requested a record vote on his amendment.

Voting in the affirmative, 25:

Adams	Engel	Fulton	Johnson	Nelson
Aguilar	Erdman	Gay	Karpisek	Pankonin
Burling	Fischer	Harms	Langemeier	Pirsch
Carlson	Flood	Heidemann	Louden	Stuthman
Christensen	Friend	Hudkins	McDonald	Wightman

Voting in the negative, 14:

Ashford	Howard	Nantkes	Rogert	Wallman
Avery	Kopplin	Pedersen	Schimek	White
Cornett	Lathrop	Preister	Synowiecki	

Present and not voting, 7:

Chambers	Dubas	Kruse	Raikes
Dierks	Hansen	Pahls	

Excused and not voting, 3:

Janssen	McGill	Mines
---------	--------	-------

The Erdman amendment was adopted with 25 ayes, 14 nays, 7 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator White offered the following amendment:

FA37

Add a new section: This act shall become effective January 1, 2008.

Pending.

COMMITTEE REPORTS
Agriculture

LEGISLATIVE BILL 46. Placed on General File - Com AM607.
AM607

1 1. Insert the following new sections:

2 Section 1. For purposes of sections 1 to 4 of this act:

3 (1) Commercial channels means the sale or delivery of
4 grapes for any use except grapes intended for ultimate consumption
5 as table grapes, to any commercial buyer, dealer, processor, or
6 cooperative or to any person, public or private, who resells any
7 grapes or product produced from grapes;

8 (2) Delivered or delivery means receiving grapes for
9 utilization or as a result of sale in the State of Nebraska but
10 excludes receiving grapes for storage;

11 (3) First purchaser means any person, public or private
12 corporation, association, partnership, or limited liability company
13 buying, accepting for shipment, or otherwise acquiring the property
14 in or to grapes from a grower;

15 (4) Grower means any landowner personally engaged in
16 growing grapes, a tenant of the landowner personally engaged
17 in growing grapes, and both the owner and tenant jointly and
18 includes a person, a partnership, a limited liability company, an
19 association, a corporation, a cooperative, a trust, or any other
20 business unit, device, or arrangement; and

21 (5) Table grapes means grapes intended for ultimate
22 consumption as produce in fresh, unprocessed form and not intended
23 for wine production, juice production, or drying.

1 Sec. 2. (1) Except as provided in subsection (2) of this
2 section, an excise tax of one cent per pound is levied upon all
3 grapes sold through commercial channels in Nebraska or delivered in
4 Nebraska. The excise tax shall be paid by the grower at the time
5 of sale or delivery and shall be collected by the first purchaser.
6 Grapes shall not be subject to the excise tax imposed by this
7 section more than once.

8 (2) The excise tax imposed by this section shall not
9 apply to the sale of grapes to the federal government for the
10 ultimate use or consumption by the people of the United States when
11 the State of Nebraska is prohibited from imposing such excise tax
12 by the United States Constitution and the laws enacted pursuant
13 thereto.

14 Sec. 3. (1) The first purchaser, at the time of
15 settlement, shall deduct the excise tax imposed by section 2
16 of this act. The excise tax shall be deducted whether the grapes
17 are stored in this state or any other state. The first purchaser
18 shall maintain the necessary records of the excise tax for each
19 purchase or delivery of grapes on the settlement form or check
20 stub showing payment to the grower for each purchase or delivery.
21 Such records maintained by the first purchaser shall provide the

22 following information:

- 23 (a) The name and address of the grower and seller;
- 24 (b) The date of the purchase or delivery;
- 25 (c) The number of pounds of grapes purchased; and
- 26 (d) The amount of excise taxes collected on each purchase
- 27 or delivery.

1 Such records shall be open for inspection during normal
 2 business hours observed by the first purchaser.
 3 (2) The first purchaser shall render and have on file
 4 with the Department of Agriculture by the last day of January
 5 and July of each year, on forms prescribed by the department, a
 6 statement of the number of pounds of grapes purchased in Nebraska.
 7 At the time the statement is filed, such first purchaser shall pay
 8 and remit to the department the excise tax imposed by section 2 of
 9 this act.

10 (3) All excise taxes collected by the department pursuant
 11 to this section shall be remitted to the State Treasurer for credit
 12 to the Winery and Grape Producers Promotional Fund. The department
 13 shall remit the excise tax collected to the State Treasurer within
 14 ten days after receipt.

15 Sec. 4. For each fiscal year beginning with FY2007-08,
 16 the Department of Agriculture shall calculate its costs in
 17 collecting and enforcing the excise tax imposed by section 2
 18 of this act and shall report such costs to the Department of
 19 Administrative Services within thirty days after the end of the
 20 calendar quarter. Sufficient funds to cover such costs shall be
 21 transferred from the Winery and Grape Producers Promotional Fund
 22 to the Management Services Expense Revolving Fund at the end of
 23 each calendar quarter. Funds shall be transferred upon the receipt
 24 by the Department of Administrative Services of a report of costs
 25 incurred by the Department of Agriculture for the previous calendar
 26 quarter.

27 Sec. 5. Any person violating sections 1 to 3 of this act
 1 shall be guilty of a Class III misdemeanor.

2 2. On page 2, lines 5 through 7 and 9, strike the new
 3 matter and reinstate the stricken matter; in line 14 after "fund"
 4 insert "pursuant to the charge imposed by this section and excise
 5 taxes collected pursuant to section 3 of this act and any funds
 6 received as gifts, grants, or bequests and credited to the fund";
 7 and in line 27 after "section" insert "and any transfers authorized
 8 pursuant to section 4 of this act".

9 3. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 69. Placed on General File - Com AM562.
 AM562

- 1 1. Strike original section 3.
- 2 2. On page 5, line 15, strike "2-5417,".
- 3 3. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 515. Indefinitely postponed.

(Signed) Philip Erdman, Chairperson

Transportation and Telecommunications

LEGISLATIVE BILL 667. Placed on General File.

LEGISLATIVE BILL 162. Placed on General File - Com AM587.
AM587

- 1 1. On page 2, line 5; page 3, line 23; page 4, line 16;
- 2 page 5, line 15; page 6, line 5; page 7, line 26; page 8, line 25;
- 3 and page 9, line 24, strike "2009" and insert "2010".

LEGISLATIVE BILL 277. Placed on General File - Com AM588.
AM588

- 1 1. On page 4, lines 6 and 18, strike "section 39-2115"
- 2 and insert "sections 39-2115 to 39-2117".
- 3 2. On page 6, line 10, strike "section 39-2115" and
- 4 insert "sections 39-2115 to 39-2117"; and in line 14 after
- 5 "39-2115" insert "to 39-2117".
- 6 3. On page 8, line 7, strike the first underscored comma,
- 7 reinstate "to 39-2117", and before "39-2119" insert an underscored
- 8 comma.
- 9 4. On page 9, line 8, strike the underscored comma; and
- 10 in line 9 reinstate "to 39-2117" and before "39-2119" insert an
- 11 underscored comma.

(Signed) Deb Fischer, Chairperson

Banking, Commerce and Insurance

LEGISLATIVE BILL 188. Placed on General File.

LEGISLATIVE BILL 386. Placed on General File.

(Signed) Rich Pahls, Chairperson

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.

Richard Pierce - Board of Public Roads Classifications and Standards

VOTE: Aye: Senators Pedersen, Louden, Fischer, Aguilar, Stuthman, Schimek and Hudkins. Nay: None. Absent: Senator Mines.

(Signed) Deb Fischer, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 48. Introduced by Dierks, 40.

WHEREAS, the Ewing Lady Tigers won the 2007 Class D-2 Girls' State High School Basketball Championship; and

WHEREAS, the Lady Tigers finished the season with a record of twenty-three wins and four losses; and

WHEREAS, the Lady Tigers avenged three regular-season losses to Chambers and upset previously undefeated and top-ranked Prague to compete in the championship game; and

WHEREAS, the Lady Tigers have finally achieved their first victory ever in a championship game at a girls' basketball tournament by defeating Falls City Sacred Heart; and

WHEREAS, the Lady Tigers have recovered from a fifty-six game losing streak from 1997-2000 and a winless season in 2005 to become the Class D-2 champions in 2007; and

WHEREAS, the Ewing Lady Tigers and Ewing fans also received the Class D-2 Sportsmanship Award; and

WHEREAS, the Ewing Lady Tigers have a bright future with a young team of excellent players and will lose only two seniors from this championship team.

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

1. That the Legislature congratulates the Ewing Lady Tigers for their achievement in winning the 2007 Class D-2 Girls' State High School Basketball Championship and that Head Coach Brock Eichelberger and Assistant Coach Ann Boelter be congratulated for their excellent season and guidance of their team.

2. That a copy of this resolution be sent to Head Coach Brock Eichelberger and the Ewing Lady Tigers.

Laid over.

LEGISLATIVE RESOLUTION 49. Introduced by Dierks, 40.

WHEREAS, the Crofton Lady Warriors won the 2007 Class C-1 Girls' State High School Basketball Championship; and

WHEREAS, the Lady Warriors finished the regular season with a record of twenty-five wins and three losses; and

WHEREAS, the Lady Warriors played an exciting game and won with a three-point basket at the final buzzer; and

WHEREAS, the Lady Warriors' victory was the third consecutive championship for the Crofton team; and

WHEREAS, the Lady Warriors defeated the top-ranked team to achieve this victory; and

WHEREAS, the Crofton Lady Warriors' players and coaches experienced a fantastic season and displayed grace and dignity to their opponents after a heartbreaking loss.

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

1. That the Legislature congratulates the Crofton Lady Warriors for their achievement in winning the 2007 Class C-1 Girls' State High School Basketball Championship and that Head Coach Aaron Losing be congratulated for an excellent season and his guidance of the team.

2. That a copy of this resolution be sent to Head Coach Aaron Losing and the Crofton Lady Warriors.

Laid over.

LEGISLATIVE RESOLUTION 50. Introduced by Cornett, 45.

WHEREAS, the Bellevue West Girls' Thunderbirds Basketball Team has had a spectacular season; and

WHEREAS, the Thunderbirds finished this year's season with a 26-3 record; and

WHEREAS, for three consecutive years, the Bellevue West Girls' Thunderbirds Basketball Team has qualified for the state championship; and

WHEREAS, the Bellevue West Girls' Thunderbirds Basketball Team has been named the 2007 Class A Girls' State High School Basketball Champions; and

WHEREAS, the Thunderbirds have brought great pride to their school, their school district, and the Bellevue/Offutt Community as they demonstrated their leadership and teamwork.

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

1. That the Legislature congratulates the Bellevue West Girls' Thunderbirds Basketball Team.

2. That a copy of this resolution be sent to the members of the team.

Laid over.

LEGISLATIVE RESOLUTION 51. Introduced by Cornett, 45.

WHEREAS, Bradley Duane Borytsky, Joseph Wier, and Austin Nichols of Troop 474, Bellevue, Nebraska, and Ryan G. Krysl of Troop 485, Omaha, Nebraska, have 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 their scouting experience,

Bradley, Joseph, Austin, and Ryan have 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 a small percentage of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Bradley Duane Borytsky, Joseph Wier, Austin Nichols, and Ryan G. Krysl will receive the rank of Eagle Scout, and, through their hard work and perseverance, will join 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 HUNDREDTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Bradley Duane Borytsky, Joseph Wier, Austin Nichols, and Ryan G. Krysl on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Bradley Duane Borytsky, Joseph Wier, Austin Nichols, and Ryan G. Krysl.

Laid over.

ANNOUNCEMENT

The Transportation and Telecommunications Committee designates LB 681 as its priority bill.

WITHDRAW - Cointroducer

Senator Pedersen withdrew his name as cointroducer to LB 535.

VISITORS

Visitors to the Chamber were Talia Head from Omaha; 27 fourth-grade students and teachers from Hershey; Madison Rezaei from Elkhorn; and Leadership Nebraska, the State Chamber's Inaugural Class from across the state.

The Doctor of the Day was Dr. Gilbert Head from Omaha.

ADJOURNMENT

At 12:02 p.m., on a motion by Senator Pahls, the Legislature adjourned until 9:00 a.m., Thursday, March 8, 2007.

Patrick J. O'Donnell
Clerk of the Legislature

