

FIFTY-EIGHTH DAY - APRIL 6, 2011**LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION****FIFTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, April 6, 2011

PRAYER

The prayer was offered by Senator Heidemann.

ROLL CALL

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

The roll was called and all members were present except Senators Karpisek, Lautenbaugh, and Wightman who were excused; and Senators Avery, Christensen, Cornett, B. Harr, Langemeier, Lathrop, and Nordquist who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 169, line 23, after "10" insert "; Wallman, 30".
The Journal for the sixth day was approved as corrected.

The Journal for the fifty-seventh day was approved.

RESOLUTIONS

LEGISLATIVE RESOLUTION 149. Introduced by Harms, 48.

WHEREAS, the Scottsbluff High School speech team tied for third place in the 2011 Class A Nebraska State Speech Championship; and

WHEREAS, Sara Frederick placed third in Serious Prose at the championships; and

WHEREAS, Sara also competed in the National Forensic League national qualifiers tournament in Cheyenne, Wyoming; 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 SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Sara Frederick for placing third in Serious Prose at the 2011 Class A Nebraska State Speech Championship.

2. That a copy of this resolution be sent to Sara Frederick and Scottsbluff High School.

Laid over.

LEGISLATIVE RESOLUTION 150. Introduced by Harms, 48.

WHEREAS, the Gering Bulldogs claimed the 2011 Class B Oral Interpretation of Drama State Championship at the Nebraska State Speech Championships; and

WHEREAS, members of the championship team include Amy Christensen, Miranda Doremus-Reznor, Samuel Eastman, Darrin Gonzales, and Elizabeth Joekel; and

WHEREAS, the team claimed their first championship with a perfect score; 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 SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Gering on claiming the 2011 Class B Oral Interpretation of Drama State Championship.

2. That a copy of this resolution be sent to the team and Gering High School.

Laid over.

LEGISLATIVE RESOLUTION 151. Introduced by Harms, 48.

WHEREAS, the Scottsbluff High School speech team tied for third place in the 2011 Class A Nebraska State Speech Championship; and

WHEREAS, Nick Roussel placed first in Duet Acting at the championships; and

WHEREAS, Nick also placed first in Serious Prose; 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 SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Nick Roussel for placing first in both Duet Acting and Serious Prose at the 2011 Class A Nebraska State Speech Championship.

2. That a copy of this resolution be sent to Nick Roussel and Scottsbluff High School.

Laid over.

LEGISLATIVE RESOLUTION 152. Introduced by Harms, 48.

WHEREAS, the Scottsbluff High School speech team tied for third place in the 2011 Class A Nebraska State Speech Championship; and

WHEREAS, Tyler Webber placed first in Duet Acting at the championships; and

WHEREAS, Tyler also competed in the National Forensic League national qualifiers tournament in Cheyenne, Wyoming; 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 SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Tyler Webber for placing first in Duet Acting at the 2011 Class A Nebraska State Speech Championship.

2. That a copy of this resolution be sent to Tyler Webber and Scottsbluff High School.

Laid over.

LEGISLATIVE RESOLUTION 153. Introduced by Harms, 48.

WHEREAS, the Scottsbluff High School speech team tied for third place in the 2011 Class A Nebraska State Speech Championship; and

WHEREAS, Derrick Goss placed sixth in Entertainment at the championships; and

WHEREAS, Derrick also competed in the National Forensic League national qualifiers tournament in Cheyenne, Wyoming; 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 SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Derrick Goss for placing sixth in Entertainment at the 2011 Class A Nebraska State Speech Championship.

2. That a copy of this resolution be sent to Derrick Goss and Scottsbluff High School.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 682. Senator Mello renewed his amendment, AM1012, found on page 1028 and considered on page 1062, to the committee amendment.

SENATOR LANGEMEIER PRESIDING

Senator Heidemann moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 9 nays, and 15 not voting.

The Mello amendment was adopted with 33 ayes, 1 nay, 11 present and not voting, and 4 excused and not voting.

Committee AM626, found on page 860 and considered on page 1062, as amended, was renewed.

SENATOR CARLSON PRESIDING

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

Senator Heidemann moved for a call of the house. The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The motion to cease debate failed with 23 ayes, 15 nays, 8 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Pending.

COMMITTEE REPORT

Business and Labor

LEGISLATIVE BILL 386. Placed on General File with amendment.
AM314

1 1. On page 2, line 4, after "county" insert "with a
2 population of fewer than one hundred thousand inhabitants according
3 to the most recent federal decennial census"; and strike lines 13
4 through 22 and insert:
5 "(4) Intern means any person who is working in a
6 professional environment for a limited period of time to gain
7 sufficient practical work experience in a professional or technical
8 position to allow for career decisionmaking and to provide
9 the employer valuable skills to accelerate short-term business
10 objectives who (a) is enrolled full time in a four-year college
11 or university in Nebraska and has achieved junior or senior status
12 by such institution's criteria, (b) is enrolled full time in a
13 two-year college in Nebraska and has successfully completed a
14 minimum of one-half of the total credit hours required for an
15 associate degree, or (c) having residency in Nebraska, is enrolled
16 full time in a four-year college or university in a state other
17 than Nebraska and has achieved junior or senior status by such
18 institution's criteria; and".

(Signed) Steve Lathrop, Chairperson

BILL ON FIRST READING

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

LEGISLATIVE BILL 684A. Introduced by Schilz, 47.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 684, One Hundred Second Legislature, First Session, 2011.

AMENDMENT - Print in Journal

Senator Larson filed the following amendment to LB306:
AM282

- 1 1. Strike section 1 and insert the following new section:
- 2 Section 1. (1) For purposes of this section, an entity
- 3 shall be classified into one of the following classes:
- 4 (a) Class 1: A humane society, an animal shelter, an
- 5 animal rescue, or an animal education and protection organization
- 6 whose annual gross revenue is equal to or in excess of twenty
- 7 million dollars and has an office or a shelter or rescue facility
- 8 in this state;
- 9 (b) Class 2: A humane society, an animal shelter, an
- 10 animal rescue, or an animal education and protection organization
- 11 whose annual gross revenue is less than twenty million dollars and
- 12 has an office or a shelter or rescue facility in this state; or
- 13 (c) Class 3: An organization whose sole mission is to
- 14 rescue or advocate for animals belonging to a specific breed. An
- 15 entity that meets the requirements of a Class 3 entity cannot be
- 16 classified as a Class 1 entity or a Class 2 entity.
- 17 (2) An entity in Class 1 shall accept custody and
- 18 provide care and shelter for any equine that is presented by a
- 19 law enforcement officer or agency. For purposes of this section,
- 20 care includes adequate housing facilities and nourishment for each
- 21 equine.
- 22 (3) The Department of Agriculture shall adopt and
- 23 promulgate rules and regulations providing for a hearing process
- 1 and a civil penalty not to exceed five hundred dollars for each
- 2 occurrence of a Class 1 entity failing to accept custody and
- 3 provide care and shelter for an equine as provided in subsection
- 4 (2) of this section.

RESOLUTION

LEGISLATIVE RESOLUTION 154. Introduced by Fulton, 29; Brasch, 16.

WHEREAS, Harold and Dolores Wimmer moved to West Point, Nebraska, in 1957 because a fire crippled the meat processing business owned by the Wimmer family in a nearby community; and

WHEREAS, Harold and Dolores Wimmer established the West Point Community Foundation in 1991 to give back to the community that had helped make them successful; and

WHEREAS, the West Point Community Foundation awards thousands of dollars in scholarships every year to students of northeast Nebraska who have demonstrated academic excellence; and

WHEREAS, the Wimmer Rehabilitation Center opened in 2006, expanding Franciscan Care Services in West Point, Nebraska, by over eight thousand square feet and providing valuable access to rehabilitation and wellness activities; and

WHEREAS, Wimmer's Meats now delivers processed meat products to millions of customers over ten states and has earned a place in the Nebraska Business Hall of Fame; and

WHEREAS, the Legislature recognizes the outstanding achievements of Nebraska residents.

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

1. That the Legislature recognizes the exceptional spirit of philanthropy that Harold and Dolores Wimmer have shown towards the community of West Point.

2. That a copy of this resolution be sent to Dolores Wimmer and the mayor of West Point, Marlene Johnson.

Laid over.

VISITORS

Visitors to the Chamber were Donna and Michaela Pluta from Greenwood; 22 fourth-grade students and teachers from Weeping Water; and 30 sixth-grade students from Edison Elementary, Omaha.

RECESS

At 12:00 p.m., on a motion by Senator Nelson, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Senator Langemeier presiding.

ROLL CALL

The roll was called and all members were present except Senators Janssen, Karpisek, Lautenbaugh, and Wightman who were excused; and Senators Cornett and Schilz who were excused until they arrive.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 279. Placed on Select File.

LEGISLATIVE BILL 600. Placed on Select File with amendment. ER79 is available in the Bill Room.

LEGISLATIVE BILL 648. Placed on Select File with amendment. ER80

1 1. Strike the original sections and all amendments
 2 thereto and insert the following new sections:
 3 Section 1. Section 43-285, Revised Statutes Cumulative
 4 Supplement, 2010, is amended to read:
 5 43-285 (1) When the court awards a juvenile to the care
 6 of the Department of Health and Human Services, an association,
 7 or an individual in accordance with the Nebraska Juvenile Code,
 8 the juvenile shall, unless otherwise ordered, become a ward and
 9 be subject to the guardianship of the department, association,
 10 or individual to whose care he or she is committed. Any such
 11 association and the department shall have authority, by and
 12 with the assent of the court, to determine the care, placement,
 13 medical services, psychiatric services, training, and expenditures
 14 on behalf of each juvenile committed to it. Such guardianship shall
 15 not include the guardianship of any estate of the juvenile.
 16 (2) Following an adjudication hearing at which a juvenile
 17 is adjudged to be under subdivision (3) of section 43-247, the
 18 court may order the department to prepare and file with the
 19 court a proposed plan for the care, placement, services, and
 20 permanency which are to be provided to such juvenile and his
 21 or her family. The health and safety of the juvenile shall be
 22 the paramount concern in the proposed plan. The department shall
 23 include in the plan for a juvenile who is sixteen years of
 1 age or older and subject to the guardianship of the department
 2 a written proposal describing programs and services designed to
 3 assist the juvenile in acquiring independent living skills. ~~If any~~
 4 ~~other party, including, but not limited to, the guardian ad litem,~~
 5 ~~parents, county attorney, or custodian, proves by a preponderance~~
 6 ~~of the evidence that the department's plan is not in the juvenile's~~
 7 ~~best interests, the court shall disapprove the department's plan.~~
 8 The court may approve the plan, modify the plan, order that an
 9 alternative plan be developed, or implement another plan that is
 10 in the juvenile's best interests. In its order the court shall

11 include a finding regarding the appropriateness of the programs and
12 services described in the proposal designed to assist the juvenile
13 in acquiring independent living skills. Rules of evidence shall not
14 apply at the dispositional hearing when the court considers the
15 plan that has been presented.

16 (3) Within thirty days after an order awarding a juvenile
17 to the care of the department, an association, or an individual
18 and until the juvenile reaches the age of majority, the department,
19 association, or individual shall file with the court a report
20 stating the location of the juvenile's placement and the needs of
21 the juvenile in order to effectuate the purposes of subdivision
22 (1) of section 43-246. The department, association, or individual
23 shall file a report with the court once every six months or at
24 shorter intervals if ordered by the court or deemed appropriate
25 by the department, association, or individual. The department,
26 association, or individual shall file a report and notice of
27 placement change with the court and shall send copies of the
1 notice to all interested parties at least seven days before the
2 placement of the juvenile is changed from what the court originally
3 considered to be a suitable family home or institution to some
4 other custodial situation in order to effectuate the purposes of
5 subdivision (1) of section 43-246. The court, on its own motion
6 or upon the filing of an objection to the change by an interested
7 party, may order a hearing to review such a change in placement
8 and may order that the change be stayed until the completion of
9 the hearing. Nothing in this section shall prevent the court on
10 an ex parte basis from approving an immediate change in placement
11 upon good cause shown. The department may make an immediate change
12 in placement without court approval only if the juvenile is in a
13 harmful or dangerous situation or when the foster parents request
14 that the juvenile be removed from their home. Approval of the court
15 shall be sought within twenty-four hours after making the change in
16 placement or as soon thereafter as possible. The department shall
17 provide the juvenile's guardian ad litem with a copy of any report
18 filed with the court by the department pursuant to this subsection.

19 (4) The court shall also hold a permanency hearing if
20 required under section 43-1312.

21 (5) When the court awards a juvenile to the care of the
22 department, an association, or an individual, then the department,
23 association, or individual shall have standing as a party to file
24 any pleading or motion, to be heard by the court with regard to
25 such filings, and to be granted any review or relief requested in
26 such filings consistent with the Nebraska Juvenile Code.

27 (6) Whenever a juvenile is in a foster care placement as
1 defined in section 43-1301, the State Foster Care Review Board may
2 participate in proceedings concerning the juvenile as provided in
3 section 43-1313 and notice shall be given as provided in section
4 43-1314.

5 (7) Any written findings or recommendations of the State
 6 Foster Care Review Board or any designated local foster care
 7 review board with regard to a juvenile in a foster care placement
 8 submitted to a court having jurisdiction over such juvenile shall
 9 be admissible in any proceeding concerning such juvenile if such
 10 findings or recommendations have been provided to all other parties
 11 of record.

12 (8) Any member of the State Foster Care Review Board,
 13 any of its agents or employees, or any member of any local foster
 14 care review board participating in an investigation or making any
 15 report pursuant to the Foster Care Review Act or participating in a
 16 judicial proceeding pursuant to this section shall be immune from
 17 any civil liability that would otherwise be incurred except for
 18 false statements negligently made.

19 Sec. 2. Section 43-1314, Reissue Revised Statutes of
 20 Nebraska, is amended to read:

21 43-1314 (1) Except as otherwise provided in the Nebraska
 22 Indian Child Welfare Act, notice of the court review or hearing
 23 and the right of participation in all court reviews and hearings
 24 pertaining to a child in a foster care placement shall be provided
 25 by the court having jurisdiction over such child for the purposes
 26 of foster care placement. The Department of Health and Human
 27 Services or contract agency shall have the contact information for
 1 all child placements available for all courts to comply with the
 2 notification requirements found in this section. The department
 3 or contract agency shall each have one telephone number by which
 4 any court seeking to provide notice may obtain up-to-date contact
 5 information of all persons listed in subdivisions (2)(a) through
 6 (h) of this section. All contact information shall be up-to-date
 7 within seventy-two hours of any placement change, either in court,
 8 by mail, or in such other manner as the court may direct. Such
 9 notice

10 (2) Notice shall be provided to all of the following
 11 parties that are applicable to the case: (1)-(a) The person
 12 charged with the care of such child; (2)-(b) the child's parents
 13 or guardian unless the parental rights of the parents have been
 14 terminated by court action as provided in section 43-292 or 43-297;
 15 (3)-(c) the foster child if age fourteen or over; (4)-(d) the
 16 foster parent or parents of the foster child; (5)-(e) the guardian
 17 ad litem of the foster child; (6)-(f) the state board; (7)-(g) the
 18 preadoptive parent; and (8)-(h) the relative providing care for the
 19 child. Notice of all court reviews and hearings shall be mailed
 20 or personally delivered to the counsel or party, if the party is
 21 not represented by counsel, five full days prior to the review
 22 or hearing. The use of ordinary mail shall constitute sufficient
 23 compliance. Notice to the foster parent, preadoptive parent, or
 24 relative providing care shall not be construed to require that such
 25 foster parent, preadoptive parent, or relative is a necessary party
 26 to the review or hearing.

27 (3) The court ~~may~~ shall inquire into the well-being of
 1 the foster child by asking questions, if present at the hearing,
 2 of ~~the any willing~~ foster parent, preadoptive parent, or relative
 3 providing care for the child.

4 Sec. 3. Original section 43-1314, Reissue Revised
 5 Statutes of Nebraska, and section 43-285, Revised Statutes
 6 Cumulative Supplement, 2010, are repealed.

7 2. On page 1, strike beginning with "foster" in line 1
 8 through line 4 and insert "juveniles; to amend section 43-1314,
 9 Reissue Revised Statutes of Nebraska, and section 43-285, Revised
 10 Statutes Cumulative Supplement, 2010; to change provisions relating
 11 to juvenile care and placement plans and foster care placement; and
 12 to repeal the original sections.".

(Signed) Tyson Larson, Chairperson

AMENDMENTS - Print in Journal

Senator B. Harr filed the following amendment to LB297:
 AM1081

1 1. Insert the following new sections:

2 Sec. 6. Section 13-2705, Revised Statutes Cumulative
 3 Supplement, 2010, is amended to read:

4 13-2705 The department may conditionally approve grants
 5 of assistance from the fund to eligible and competitive applicants
 6 within the following limits:

7 (1) A grant request shall be at least twenty thousand
 8 dollars but no more than:

9 (a) For a city of the metropolitan class, one million
 10 five hundred thousand dollars;

11 ~~(a)-(b)~~ For a city of the primary class, one million five
 12 hundred thousand dollars;

13 ~~(b)-(c)~~ For a municipality with a population of forty
 14 thousand but less than one hundred thousand, seven hundred fifty
 15 thousand dollars;

16 ~~(c)-(d)~~ For a municipality with a population of twenty
 17 thousand but less than forty thousand, five hundred thousand
 18 dollars;

19 ~~(d)-(e)~~ For a municipality with a population of ten
 20 thousand but less than twenty thousand, four hundred thousand
 21 dollars; and

22 ~~(e)-(f)~~ For a municipality with a population of less than
 23 ten thousand, two hundred fifty thousand dollars;

1 (2) Assistance from the fund shall not amount to more
 2 than fifty percent of the cost of construction, renovation, or
 3 expansion; and

4 (3) A municipality shall not be awarded more than one
 5 grant in any five-year period.

6 Sec. 7. Section 13-2706, Revised Statutes Cumulative

- 7 Supplement, 2010, is amended to read:
 8 13-2706 Any municipality, except a city that has received
 9 funding under the Convention Center Facility Financing Assistance
 10 Act or the Sports Arena Facility Financing Assistance Act for the
 11 same project for which the grant is sought, may apply for a grant
 12 of assistance from the fund. Application shall be made on forms
 13 developed by the department.
 14 2. On page 5, line 9; and page 11, line 2 after "Act"
 15 insert "for the same project for which the state assistance is
 16 sought".
 17 3. Renumber the remaining sections and correct the
 18 repealer accordingly.

Senator B. Harr filed the following amendment to LB297:
 AM1082

(Amendments to AM843)

- 1 1. Insert the following new section:
 2 Sec. 7. Section 13-2706, Revised Statutes Cumulative
 3 Supplement, 2010, is amended to read:
 4 13-2706 Any municipality, except a city that has received
 5 funding under the Convention Center Facility Financing Assistance
 6 Act or the Sports Arena Facility Financing Assistance Act for the
 7 same project for which the grant is sought, may apply for a grant
 8 of assistance from the fund. Application shall be made on forms
 9 developed by the department.
 10 2. On page 1, after line 9, insert the following new
 11 subdivision:
 12 "(a) For a city of the metropolitan class, one million
 13 five hundred thousand dollars;"; and renumber the remaining
 14 subdivisions accordingly.
 15 3. On page 2, after line 2, insert the following new
 16 subdivision:
 17 "(a) For a city of the metropolitan class, two million
 18 two hundred fifty thousand dollars;"; and renumber the remaining
 19 subdivisions accordingly.
 20 4. Insert the following new amendment:
 21 2. On page 5, line 9; and page 11, line 2, after "Act"
 22 insert "for the same project for which the state assistance is
 1 sought".
 2 5. Renumber the remaining sections and amendment and
 3 correct the repealer accordingly.

GENERAL FILE

LEGISLATIVE BILL 235. Title read. Considered.

SPEAKER FLOOD PRESIDING

Committee AM952, found on page 974, was considered.

SENATOR LANGEMEIER PRESIDING**SPEAKER FLOOD PRESIDING**

The committee amendment was adopted with 41 ayes, 0 nays, 3 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 3 present and not voting, and 5 excused and not voting.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 142, 143, and 144 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 142, 143, and 144.

AMENDMENT - Print in Journal

Senator Howard filed the following amendment to LB177:
AM1110

(Amendments to Standing Committee amendments, AM713)

- 1 1. On page 7, line 14, after "care" insert "except that
- 2 for purposes of potential sibling placement, the child's family
- 3 unit shall also include the child's siblings even if the child has
- 4 not resided with such siblings prior to placement in foster care".

NOTICE OF COMMITTEE HEARING

Business and Labor

Room 2102

Wednesday, April 13, 2011 12:00 p.m.

AM1116 to LB397

(Signed) Steve Lathrop, Chairperson

UNANIMOUS CONSENT - Add Cointroducer

Senator Larson asked unanimous consent to add his name as cointroducer to LB152. No objections. So ordered.

VISITORS

Visitors to the Chamber were Ken Beebe from North Bend and Jim Olson from Beaver Dam, Wisconsin; 29 fourth-grade students, teachers, and sponsors from Anderson Grove Elementary, Bellevue; and 35 fourth-grade students from Grant Elementary, Norfolk.

The Doctor of the Day was Dr. Mike Myers from Lincoln.

ADJOURNMENT

At 3:57 p.m., on a motion by Senator Pirsch, the Legislature adjourned until 9:00 a.m., Thursday, April 7, 2011.

Patrick J. O'Donnell
Clerk of the Legislature

