

SIXTY-FIFTH DAY - APRIL 21, 2009

LEGISLATIVE JOURNAL

**ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION**

SIXTY-FIFTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, April 21, 2009

PRAYER

The prayer was offered by Father Ross Burkhalter, St. Thomas More Parish, Omaha.

ROLL CALL

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

The roll was called and all members were present except Senators Dierks and Rogert who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the sixty-fourth day was approved.

COMMITTEE REPORT

Enrollment and Review

LEGISLATIVE BILL 54. Placed on Final Reading Second.
ST9021

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

1. On page 1, line 3; and page 26, line 9, ", and section 46-713, Revised Statutes Cumulative Supplement, 2008, as amended by section 3, Legislative Bill 483, One Hundred First Legislature, First Session, 2009" has been inserted after "2008".

2. On page 1, line 4, "evaluations of hydrologically connected water supplies and" has been inserted after the second "to".

(Signed) Jeremy Nordquist, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 92. Introduced by Pirsch, 4.

WHEREAS, speeding in residential neighborhoods represents the single greatest complaint to police departments in the United States; and

WHEREAS, the death rate per million miles driven on residential streets is almost three times the death rate on other streets and highways; and

WHEREAS, motor vehicle crashes are the leading cause of death for children ages two through fourteen years.

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

1. That the Legislature recognizes the seriousness of speeding in residential neighborhoods with respect to causing injury and death to children.

2. That the Legislature declares May 1, 2009, as "Keep Kids Alive - Drive 25 Day."

Laid over.

GENERAL FILE

LEGISLATIVE BILL 545. Senator Adams renewed his amendment, AM1078, found on page 1032 and considered on page 1142, to the second committee amendment.

Pending.

COMMITTEE REPORT

Judiciary

LEGISLATIVE BILL 76. Placed on General File with amendment. AM649

- 1 1. On page 2, line 23; and page 3, line 22, after
- 2 "conduct" insert "within a sixty-day period in one county".

(Signed) Brad Ashford, Chairperson

GENERAL FILE

LEGISLATIVE BILL 545. The Adams amendment, AM1078, found on page 1032 and considered on page 1142 and in this day's Journal, to the second committee amendment, was renewed.

Senator Stuthman moved the previous question. The question is, "Shall the debate now close?" The motion failed with 16 ayes, 17 nays, and 16 not voting.

The Adams amendment was adopted with 33 ayes, 8 nays, 7 present and not voting, and 1 excused and not voting.

Pending.

RESOLUTIONS

LEGISLATIVE RESOLUTION 93. Introduced by Dubas, 34.

WHEREAS, Merle Elwin Hansen, a nationally known advocate for family farm agriculture, conservation and environmental issues, civil rights, and world peace and a longtime resident of Madison County, Nebraska, died March 27, 2009, at the age of eighty-nine; and

WHEREAS, Hansen served during World War II on transport carriers including the U.S.S. Fuller in the Pacific and North African theaters, was awarded six battle stars, attained the rank of chief yeoman, and was honorably discharged in 1945; and

WHEREAS, in the late 1940s, Hansen worked as a field organizer for the National Farmers Union in South Dakota and Iowa. While organizing a farmer and labor picnic in northeast Iowa, he met his future wife, Lucinda Kramer. They were married on February 18, 1950, and moved back to a farm eleven miles northwest of Newman Grove where they raised their seven children; and

WHEREAS, Hansen served as a Madison County Soil and Water Conservation District Supervisor, earned county and regional soil conservation awards, and made many presentations to elementary schools on the importance of soil and water conservation. He was also the first in his area to use minimum tillage; and

WHEREAS, ever the innovator, Hansen formed Hansen Charolais in 1960, a nationally recognized purebred cattle business that sold breeding stock to commercial cattlemen and purebred breeders across the country for twenty-four years. In addition, Hansen built and owned a fertilizer business with his family, raised and sold a wide range of certified seeds, including grasses, legumes, and oats, and also ran a corn, soybean, oat, and alfalfa-farming operation; and

WHEREAS, Hansen's tireless fight for economic justice for family farmers led him to be active in many farm organizations, always building political and organizational coalitions while educating farmers about the importance of understanding farm policy history and the need to work together; and

WHEREAS, Hansen championed many overlapping causes and was active in the Nebraska Farmers Union, the National Farmers Organization, the U.S. Farm Association, the North American Farm Alliance, the National Family Farm Coalition, and Farm Aid; and

WHEREAS, in 1997, the American Corn Growers Association presented Hansen with their Carl L. King award for distinguished service. The award read: "For representing what is really the best in agriculture and never forgetting the importance of maintaining a strong voice for the needs of farmers"; and

WHEREAS, Hansen was active in the Democratic Party at the county, state, and national levels and became Jesse Jackson's agricultural advisor, heavily influencing his farm and rural policies for his 1984 and 1988 presidential campaigns; and

WHEREAS, Hansen was one of the founding members of Rural Nebraskans for Peace in May of 1967, which later was integrated into Nebraskans for Peace; and

WHEREAS, Hansen was featured in articles in many national publications, including USA Today, The New York Times, and Ms. Magazine, as well as many documentary films on rural issues; and

WHEREAS, across the country and around the world, Hansen made hundreds of speeches and was a mentor to countless younger leaders and activists; and

WHEREAS, to his many friends and family, Hansen was known for his keen sense of humor, good stories, historical and political insight, personal warmth, disarming smile, unyielding sense of justice and fairness, progressive politics, and his skills as a marksman.

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

1. That the Legislature extends its condolences to the family of Merle Hansen.

2. That a copy of this resolution be sent to the family of Merle Hansen.

Laid over.

LEGISLATIVE RESOLUTION 94. Introduced by Price, 3.

WHEREAS, Xavier Metzger, of Troop 464, 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, Xavier 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, Xavier helped restore and repair a playground at St. Matthew School in Bellevue; and

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

WHEREAS, Xavier, 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 SESSION:

1. That the Legislature congratulates Xavier Metzger on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Xavier Metzger.

Laid over.

AMENDMENTS - Print in Journal

Senator Christensen filed the following amendment to LB430:
AM1132

1 1. In the E & R amendments, ER8052, on page 22, strike
2 beginning with "A" in line 13 through the period in line 16, show
3 as stricken, and insert

4 "(3) A permitholder carrying a concealed handgun in a
5 vehicle or on his or her person while riding in or on a vehicle
6 into or onto any parking area, which is open to the public, used
7 by any location listed in subdivision (1)(a) of this section, does
8 not violate this section if, upon exiting the vehicle, the handgun
9 is locked inside the glove box, trunk, or other compartment of the
10 vehicle, a storage box securely attached to the vehicle, or, if
11 the vehicle is a motorcycle, a saddle bag or compartment securely
12 attached to the motorcycle. This subsection does not apply to any
13 parking area used by such location when the carrying of a concealed
14 handgun into or onto such parking area is prohibited by federal
15 law.

16 (4)"; and in line 19 strike "(3)", show as stricken, and
17 insert "(5)".

18 2. In the Avery amendment, AM993, on page 4, line 4,
19 strike "or" and show as stricken; and in line 7 after "vehicle"
20 insert ", or (f) a handgun carried as a concealed handgun by a
21 person who is a valid holder of a permit issued under the Concealed
22 Handgun Permit Act in a vehicle or on his or her person while
23 riding in or on a vehicle into or onto any parking area, which
1 is open to the public, used by a school if, upon exiting the
2 vehicle, the handgun is locked inside the glove box, trunk, or
3 other compartment of the vehicle, a storage box securely attached
4 to the vehicle, or, if the vehicle is a motorcycle, a saddle bag or
5 compartment securely attached to the motorcycle while the vehicle
6 is in or on such parking area, except as prohibited by federal
7 law".

Senator Harms filed the following amendment to LB679:
AM1120

1 1. On page 3, strike lines 12 through 14 and insert
2 "Prior to appointment or reappointment, each potential member shall
3 disclose to the Governor any and all funding (a) the potential

4 member, (b) any member of the immediate family of the potential
 5 member, as defined in section 49-1425, (c) the potential member's
 6 employer, or (d) the employer of any member of the immediate family
 7 of the potential member receives from the Department of Health and
 8 Human Services."

VISITORS

Visitors to the Chamber were 18 seventh- and eighth-grade students from Harrison; and 50 fourth-grade students and teachers from Westridge Elementary, Elkhorn.

RECESS

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

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senator Cornett who was excused; and Senators Dierks, Langemeier, and Nantkes who were excused until they arrive.

COMMITTEE REPORT

Revenue

LEGISLATIVE BILL 264. Indefinitely postponed.

(Signed) Abbie Cornett, Chairperson

GENERAL FILE

LEGISLATIVE BILL 545. Senator Council offered the following amendment to the second committee amendment:

AM1137

(Amendments to AM1119)

- 1 1. Strike the Adams amendment, AM1078.
- 2 2. Strike section 9 and all amendments thereto and insert
- 3 the following new section:
- 4 Sec. 9. Section 79-1007.16, Reissue Revised Statutes of
- 5 Nebraska, is amended to read:
- 6 79-1007.16 ~~(1) For school fiscal year 2008-09 and each~~
- 7 ~~school fiscal year thereafter, except as provided in subsection (2)~~
- 8 of this section, the department shall calculate basic funding for
- 9 each district as follows:

10 ~~(1)-(a)~~ A comparison group shall be established for each
11 district consisting of the districts for which basic funding is
12 being calculated, the five larger districts that are closest in
13 size to the district for which basic funding is being calculated as
14 measured by formula students, and the five smaller districts that
15 are closest in size to the district for which basic funding is
16 being calculated as measured by formula students. If there are not
17 five districts that are larger than the district for which basic
18 funding is being calculated or if there are not five districts
19 that are smaller than the district for which basic funding is
20 being calculated, the comparison group shall consist of only as
21 many districts as fit the criteria. If more than one district
22 has exactly the same number of formula students as the largest or
1 smallest district in the comparison group, all of the districts
2 with exactly the same number of formula students as the largest or
3 smallest districts in the comparison group shall be included in the
4 comparison group. If one or more districts have exactly the same
5 number of formula students as the district for which basic funding
6 is being calculated, all such districts shall be included in the
7 comparison group in addition to the five larger districts and the
8 five smaller districts. The comparison group shall remain the same
9 for the final calculation of aid pursuant to section 79-1065;

10 ~~(2)-(b)~~ For districts with nine hundred or more
11 formula students, basic funding shall equal the adjusted formula
12 students multiplied by the average of the adjusted general fund
13 operating expenditures per formula student for each district in
14 the comparison group, excluding both the district with the highest
15 adjusted general fund operating expenditures per adjusted formula
16 student and the district with the lowest adjusted general fund
17 operating expenditures per formula student of the districts in the
18 comparison group; and

19 ~~(3)-(c)~~ For districts with fewer than nine hundred
20 formula students, basic funding shall equal the product of the
21 average of the adjusted general fund operating expenditures for
22 each district in the comparison group, excluding both the district
23 with the highest adjusted general fund operating expenditures
24 and the district with the lowest adjusted general fund operating
25 expenditures of the districts in the comparison group.

26 (2) For school fiscal years 2010-11 and 2011-12, the
27 department shall calculate basic funding for each district as
1 follows:

2 (a) A comparison group shall be established for each
3 district consisting of the districts for which basic funding is
4 being calculated, the five larger districts that are closest in
5 size to the district for which basic funding is being calculated as
6 measured by formula students, and the five smaller districts that
7 are closest in size to the district for which basic funding is
8 being calculated as measured by formula students. If there are not
9 five districts that are larger than the district for which basic

10 funding is being calculated or if there are not five districts
 11 that are smaller than the district for which basic funding is
 12 being calculated, the comparison group shall consist of only as
 13 many districts as fit the criteria. If more than one district
 14 has exactly the same number of formula students as the largest or
 15 smallest district in the comparison group, all of the districts
 16 with exactly the same number of formula students as the largest or
 17 smallest districts in the comparison group shall be included in the
 18 comparison group. If one or more districts have exactly the same
 19 number of formula students as the district for which basic funding
 20 is being calculated, all such districts shall be included in the
 21 comparison group in addition to the five larger districts and the
 22 five smaller districts. The comparison group shall remain the same
 23 for the final calculation of aid pursuant to section 79-1065;

24 (b) For districts with nine hundred or more formula
 25 students, basic funding shall equal the adjusted formula students
 26 multiplied by the average of the adjusted general fund operating
 27 expenditures per formula student for each district in the
 1 comparison group, excluding both the district with the highest
 2 adjusted general fund operating expenditures per adjusted formula
 3 student and the district with the lowest adjusted general fund
 4 operating expenditures per formula student of the districts in the
 5 comparison group, multiplied by 0.985; and

6 (c) For districts with fewer than nine hundred formula
 7 students, basic funding shall equal the product of the average
 8 of the adjusted general fund operating expenditures for each
 9 district in the comparison group, excluding both the district
 10 with the highest adjusted general fund operating expenditures
 11 and the district with the lowest adjusted general fund operating
 12 expenditures of the districts in the comparison group, multiplied
 13 by 0.985.

14 2. Amend the repealer accordingly.

Senator Council withdrew her amendment.

Senator Council offered the following amendment to the second committee amendment:

AM1141

(Amendments to AM1119)

- 1 1. Strike amendments 1 and 2 and all amendments thereto.
- 2 2. Insert the following new sections:
- 3 Sec. 9. Section 79-1007.16, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 79-1007.16 ~~(1) For school fiscal year 2008-09 and each~~
- 6 ~~school fiscal year thereafter, except as provided in subsection (2)~~
- 7 ~~of this section, the department shall calculate basic funding for~~
- 8 ~~each district as follows:~~
- 9 ~~(1)-(a) A comparison group shall be established for each~~
- 10 ~~district consisting of the districts for which basic funding is~~

11 being calculated, the five larger districts that are closest in
12 size to the district for which basic funding is being calculated as
13 measured by formula students, and the five smaller districts that
14 are closest in size to the district for which basic funding is
15 being calculated as measured by formula students. If there are not
16 five districts that are larger than the district for which basic
17 funding is being calculated or if there are not five districts
18 that are smaller than the district for which basic funding is
19 being calculated, the comparison group shall consist of only as
20 many districts as fit the criteria. If more than one district
21 has exactly the same number of formula students as the largest or
22 smallest district in the comparison group, all of the districts
1 with exactly the same number of formula students as the largest or
2 smallest districts in the comparison group shall be included in the
3 comparison group. If one or more districts have exactly the same
4 number of formula students as the district for which basic funding
5 is being calculated, all such districts shall be included in the
6 comparison group in addition to the five larger districts and the
7 five smaller districts. The comparison group shall remain the same
8 for the final calculation of aid pursuant to section 79-1065;

9 ~~(2)~~(b) For districts with nine hundred or more
10 formula students, basic funding shall equal the adjusted formula
11 students multiplied by the average of the adjusted general fund
12 operating expenditures per formula student for each district in
13 the comparison group, excluding both the district with the highest
14 adjusted general fund operating expenditures per adjusted formula
15 student and the district with the lowest adjusted general fund
16 operating expenditures per formula student of the districts in the
17 comparison group; and

18 ~~(3)~~(c) For districts with fewer than nine hundred
19 formula students, basic funding shall equal the product of the
20 average of the adjusted general fund operating expenditures for
21 each district in the comparison group, excluding both the district
22 with the highest adjusted general fund operating expenditures
23 and the district with the lowest adjusted general fund operating
24 expenditures of the districts in the comparison group.

25 (2) For school fiscal years 2009-10 and 2010-11, the
26 department shall calculate basic funding for each district as
27 follows:

1 (a) A comparison group shall be established for each
2 district consisting of the districts for which basic funding is
3 being calculated, the five larger districts that are closest in
4 size to the district for which basic funding is being calculated as
5 measured by formula students, and the five smaller districts that
6 are closest in size to the district for which basic funding is
7 being calculated as measured by formula students. If there are not
8 five districts that are larger than the district for which basic
9 funding is being calculated or if there are not five districts
10 that are smaller than the district for which basic funding is

11 being calculated, the comparison group shall consist of only as
 12 many districts as fit the criteria. If more than one district
 13 has exactly the same number of formula students as the largest or
 14 smallest district in the comparison group, all of the districts
 15 with exactly the same number of formula students as the largest or
 16 smallest districts in the comparison group shall be included in the
 17 comparison group. If one or more districts have exactly the same
 18 number of formula students as the district for which basic funding
 19 is being calculated, all such districts shall be included in the
 20 comparison group in addition to the five larger districts and the
 21 five smaller districts. The comparison group shall remain the same
 22 for the final calculation of aid pursuant to section 79-1065;

23 (b) For districts with nine hundred or more formula
 24 students, basic funding shall equal the adjusted formula students
 25 multiplied by the average of the adjusted general fund operating
 26 expenditures per formula student for each district in the
 27 comparison group, excluding both the district with the highest
 1 adjusted general fund operating expenditures per adjusted formula
 2 student and the district with the lowest adjusted general fund
 3 operating expenditures per formula student of the districts in the
 4 comparison group, multiplied by 0.99; and

5 (c) For districts with fewer than nine hundred formula
 6 students, basic funding shall equal the product of the average
 7 of the adjusted general fund operating expenditures for each
 8 district in the comparison group, excluding both the district
 9 with the highest adjusted general fund operating expenditures
 10 and the district with the lowest adjusted general fund operating
 11 expenditures of the districts in the comparison group, multiplied
 12 by 0.99.

13 Sec. 10. Section 79-1007.24, Reissue Revised Statutes of
 14 Nebraska, is amended to read:

15 79-1007.24 (1) For school fiscal year 2008-09, aid
 16 stabilization shall be calculated for each local system and
 17 disbursed in an amount equal to the difference of the state
 18 aid paid to such local system for school fiscal year 2007-08
 19 pursuant to section 79-1022 minus two and one-half percent of the
 20 need calculated for the school fiscal year for which aid is being
 21 calculated and minus the sum of the calculated equalization aid,
 22 allocated income tax funds, and net option funding for such school
 23 fiscal year, except that aid stabilization shall not be less than
 24 zero.

25 (2) For school fiscal year 2009-10, aid stabilization
 26 shall be calculated for each local system and disbursed in an
 27 amount equal to the difference of the state aid paid to such local
 1 system for school fiscal year 2007-08 pursuant to section 79-1022
 2 minus ~~five three~~ and one-half percent of the need calculated for
 3 the school fiscal year for which aid is being calculated and minus
 4 the sum of the calculated equalization aid, allocated income tax
 5 funds, and net option funding for such school fiscal year, except

- 6 that aid stabilization shall not be less than zero.
 7 (3) For school fiscal year 2010-11, aid stabilization
 8 shall be calculated for each local system and disbursed in an
 9 amount equal to the difference of the state aid paid to such
 10 local system for school fiscal year 2007-08 pursuant to section
 11 79-1022 minus five percent of the need calculated for the school
 12 fiscal year for which aid is being calculated and minus the sum
 13 of the calculated equalization aid, allocated income tax funds, and
 14 net option funding for such school fiscal year, except that aid
 15 stabilization shall not be less than zero.
 16 3. Amend the repealer, renumber the remaining sections,
 17 and correct internal references accordingly.

SENATOR ROBERT PRESIDING

Pending.

AMENDMENTS - Print in Journal

Senator Avery filed the following amendment to LB402:
 AM1138

- 1 1. On page 3, line 24, strike "2010.", show as stricken,
- 2 and insert "2012.".

Senator Coash filed the following amendment to LB494:
 AM984

(Amendments to Standing Committee amendments, AM844)

- 1 1. On page 3, line 6, after "professional" insert "that
- 2 results in sutures or surgery or treatment for one or more broken
- 3 bones".

ANNOUNCEMENT

Senator Carlson announced the Agriculture Committee will hold an executive session Wednesday, April 22, 2009, at 8:00 a.m., in Room 2102.

UNANIMOUS CONSENT - Add Cointroducer

Senator Lautenbaugh asked unanimous consent to add his name as cointroducer to LB36. No objections. So ordered.

VISITORS

Visitors to the Chamber were Marvin and Dixie Lorentz from McCook and Kathy Lorentz from Omaha; and 16 seventh- and eighth-grade students and sponsors from Golden Plains Christian School, Madrid.

The Doctor of the Day was Dr. Roger Meyer from Utica.

ADJOURNMENT

At 4:55 p.m., on a motion by Senator Friend, the Legislature adjourned until 9:00 a.m., Wednesday, April 22, 2009.

Patrick J. O'Donnell
Clerk of the Legislature