

**SEVENTY-FOURTH DAY - MAY 7, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****SEVENTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, May 7, 2009

**PRAYER**

The prayer was offered by Pastor Steve Holdaway, Life Spring Church, Bellevue.

**ROLL CALL**

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

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

**SPEAKER FLOOD PRESIDING****CORRECTIONS FOR THE JOURNAL**

The Journal for the seventy-third day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 137.** Placed on Final Reading.  
**LEGISLATIVE BILL 152.** Placed on Final Reading.  
**LEGISLATIVE BILL 299.** Placed on Final Reading.  
**LEGISLATIVE BILL 302.** Placed on Final Reading.  
**LEGISLATIVE BILL 343.** Placed on Final Reading.  
**LEGISLATIVE BILL 432.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

**GENERAL FILE****LEGISLATIVE BILL 545A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

**BILLS ON FINAL READING**

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 158.**

A BILL FOR AN ACT relating to law enforcement; to amend sections 17-107, 17-208, and 23-1734, Reissue Revised Statutes of Nebraska; to change provisions relating to removal and discipline of police officers, village marshals, and deputy sheriffs; to provide restrictions regarding employment, investigation, removal, and discipline of peace officers; to require rules and regulations; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 46:

Adams	Fischer	Harms	Mello	Stuthman
Ashford	Flood	Heidemann	Nantkes	Sullivan
Avery	Friend	Howard	Nelson	Utter
Campbell	Fulton	Janssen	Nordquist	Wallman
Carlson	Gay	Karpisek	Pahls	White
Coash	Giese	Lathrop	Pankonin	Wightman
Cook	Gloor	Lautenbaugh	Pirsch	
Cornett	Haar	Louden	Price	
Dierks	Hadley	McCoy	Rogert	
Dubas	Hansen	McGill	Schilz	

Voting in the negative, 1:

Council

Excused and not voting, 2:

Christensen Langemeier

A constitutional majority having voted in the affirmative, the bill was declared passed 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 LB54 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 54.**

A BILL FOR AN ACT relating to the Nebraska Ground Water Management and Protection Act; to amend sections 46-714, 46-715, and 46-719, Revised Statutes Cumulative Supplement, 2008, and section 46-713, Revised Statutes Cumulative Supplement, 2008, as amended by section 3, Legislative Bill 483, One Hundred First Legislature, First Session, 2009; to change provisions relating to evaluations of hydrologically connected water supplies and integrated management plans; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 47:

Adams	Dubas	Hansen	McGill	Schilz
Ashford	Fischer	Harms	Mello	Stuthman
Avery	Flood	Heidemann	Nantkes	Sullivan
Campbell	Friend	Howard	Nelson	Utter
Carlson	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Lathrop	Pankonin	Wightman
Cornett	Gloor	Lautenbaugh	Pirsch	
Council	Haar	Louden	Price	
Dierks	Hadley	McCoy	Rogert	

Voting in the negative, 0.

Excused and not voting, 2:

Christensen    Langemeier

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bills were read and put upon final passage:

#### **LEGISLATIVE BILL 98.** With Emergency Clause.

A BILL FOR AN ACT relating to agriculture; to amend sections 2-958.02,

2-967, 2-968, and 2-5106, Reissue Revised Statutes of Nebraska, and section 2-958.01, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to noxious weed grant programs and the Riparian Vegetation Management Task Force; to provide duties for the Director of Agriculture; to provide for a transfer of funds; 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, 45:

Ashford	Dubas	Hadley	Louden	Pirsch
Avery	Fischer	Hansen	McCoy	Price
Campbell	Flood	Harms	McGill	Rogert
Carlson	Friend	Heidemann	Mello	Schilz
Coash	Fulton	Howard	Nantkes	Stuthman
Cook	Gay	Janssen	Nelson	Sullivan
Cornett	Giese	Karpisek	Nordquist	Utter
Council	Gloor	Lathrop	Pahls	Wallman
Dierks	Haar	Lautenbaugh	Pankonin	Wightman

Voting in the negative, 0.

Present and not voting, 2:

Adams            White

Excused and not voting, 2:

Christensen    Langemeier

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 98A.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 98, One Hundred First Legislature, First 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, 46:

Adams	Dubas	Hansen	McGill	Schilz
Ashford	Fischer	Harms	Mello	Stuthman
Avery	Flood	Heidemann	Nantkes	Sullivan
Campbell	Friend	Howard	Nelson	Utter
Carlson	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	Wightman
Cook	Giese	Lathrop	Pankonin	
Cornett	Gloor	Lautenbaugh	Pirsch	
Council	Haar	Louden	Price	
Dierks	Hadley	McCoy	Rogert	

Voting in the negative, 0.

Present and not voting, 1:

White

Excused and not voting, 2:

Christensen Langemeier

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **LEGISLATIVE BILL 322.**

A BILL FOR AN ACT relating to state government; to amend section 81-108, Reissue Revised Statutes of Nebraska, and sections 49-1401 and 49-1499.03, Revised Statutes Cumulative Supplement, 2008; to define terms; to prohibit nepotism; to eliminate provisions relating to employment of family members; to eliminate a penalty; to harmonize provisions; to repeal the original sections; and to outright repeal section 49-1499.01, Revised Statutes Cumulative Supplement, 2008.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 45:

Adams	Dierks	Haar	Louden	Price
Ashford	Dubas	Hadley	McCoy	Rogert
Avery	Fischer	Harms	McGill	Schilz
Campbell	Flood	Heidemann	Mello	Stuthman
Carlson	Friend	Howard	Nantkes	Sullivan
Coash	Fulton	Janssen	Nelson	Utter
Cook	Gay	Karpisek	Pahls	Wallman
Cornett	Giese	Lathrop	Pankonin	White
Council	Gloor	Lautenbaugh	Pirsch	Wightman

Voting in the negative, 0.

Present and not voting, 2:

Hansen            Nordquist

Excused and not voting, 2:

Christensen    Langemeier

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 56.**

A BILL FOR AN ACT relating to the Livestock Waste Management Act; to amend sections 54-2417, 54-2422, 54-2431, and 54-2435, Revised Statutes Cumulative Supplement, 2008; to redefine a term; to change provisions relating to permit requirements, applications, and rules and regulations; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Adams	Fischer	Hansen	McGill	Rogert
Ashford	Flood	Harms	Mello	Schilz
Avery	Friend	Heidemann	Nantkes	Stuthman
Campbell	Fulton	Howard	Nelson	Utter
Carlson	Gay	Janssen	Nordquist	Wallman
Coash	Giese	Lathrop	Pahls	White
Cornett	Gloor	Lautenbaugh	Pankonin	Wightman
Council	Haar	Louden	Pirsch	
Dubas	Hadley	McCoy	Price	

Voting in the negative, 3:

Cook            Dierks            Karpisek

Present and not voting, 1:

Sullivan

Excused and not voting, 2:

Christensen    Langemeier

A constitutional majority having voted in the affirmative, the bill was

declared passed 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 LB162 with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

#### **LEGISLATIVE BILL 162.**

A BILL FOR AN ACT relating to contractors; to amend sections 48-2101, 48-2105, and 77-373.01, Reissue Revised Statutes of Nebraska, and sections 48-2103, 48-2104, 48-2107, 48-2115, and 77-2753, Revised Statutes Cumulative Supplement, 2008; to change and eliminate provisions relating to the Contractor Registration Act, registration by nonresident contractors, and income tax withholding by contractors; to provide an operative date; to repeal the original sections; and to outright repeal sections 77-3103, 77-3107, 77-3108, 77-3109, 77-3110, 77-3111, and 77-3112, Reissue Revised Statutes of Nebraska, and sections 77-3101, 77-3102, 77-3104, 77-3105, and 77-3106, Revised Statutes Cumulative Supplement, 2008.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 45:

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

Voting in the negative, 2:

Hansen            Stuthman

Excused and not voting, 2:

Christensen    Langemeier

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 436.**

A BILL FOR AN ACT relating to electricity; to amend section 70-1012, Reissue Revised Statutes of Nebraska; to provide for net metering; to state findings; to define terms; to provide duties for local distribution utilities and customer-generators; to require a report; to exempt qualified facilities from approval by the Nebraska Power Review Board; to provide severability; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 46:

Adams	Dubas	Hansen	McGill	Stuthman
Ashford	Fischer	Harms	Mello	Sullivan
Avery	Flood	Heidemann	Nantkes	Utter
Campbell	Friend	Howard	Nelson	Wallman
Carlson	Fulton	Janssen	Nordquist	White
Coash	Gay	Karpisek	Pahls	Wightman
Cook	Giese	Lathrop	Pirsch	
Cornett	Gloor	Lautenbaugh	Price	
Council	Haar	Louden	Rogert	
Dierks	Hadley	McCoy	Schilz	

Voting in the negative, 0.

Present and not voting, 1:

Pankonin

Excused and not voting, 2:

Christensen Langemeier

A constitutional majority having voted in the affirmative, the bill was declared passed 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 LB549 with 43 ayes, 0 nays, 4 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 549.**

A BILL FOR AN ACT relating to schools; to amend sections 13-518, 43-2007, 60-658, 79-234, 79-239, 79-240, 79-2,104, 79-2,105, 79-304, 79-305, 79-306, 79-310, 79-313, 79-317, 79-318, 79-319, 79-528, 79-569, 79-598, 79-606, 79-608, 79-611, 79-1003, 79-1007.06, 79-1007.08, 79-1007.16, 79-1007.20, 79-1007.21, 79-1014, 79-1065.01, 79-1084, 79-1086, 79-10,110, 79-1102.01, 79-1110, 79-1127, 79-1148, 79-1149, 79-1150, 79-1161, 79-1204, 79-1212, 79-1241.01, 79-1241.03, 79-1601, 79-1606, and 85-607, Reissue Revised Statutes of Nebraska, and sections 79-233, 79-237, 79-238, and 79-1007.22, Reissue Revised Statutes of Nebraska, as amended by sections 1, 2, 3, and 4, respectively, Legislative Bill 62, One Hundred First Legislature, First Session, 2009; to change provisions relating to exempt schools and students, records of missing persons, the enrollment option program, student files, qualifications of the Commissioner of Education and members of the State Board of Education, powers and duties of the commissioner and the state board, school buses, transportation reimbursement, reports, school board meetings, contracts for instruction, the Tax Equity and Educational Opportunities Support Act, state aid adjustments, school tax levies, early childhood education programs, the Special Education Act, educational service units, and certain college admissions as prescribed; to harmonize provisions; to eliminate the Nebraska Equal Opportunity for Displaced Homemakers Act and provisions relating to the Diagnostic Resource Center at Cozad, the Seamless Delivery System Pilot Project, and core services funding for educational service units for prior fiscal years; to repeal the original sections; and to outright repeal sections 48-1301, 48-1302, 48-1303, 48-1304, 48-1305, 48-1306, 48-1309, 79-1168, 79-1169, 79-1170, 79-1171, 79-1172, 79-1173, 79-1174, 79-1175, 79-1176, 79-1177, 79-1178, 79-11,136, 79-11,137, 79-11,138, 79-11,139, 79-11,140, 79-11,141, and 79-1241, Reissue Revised Statutes of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 45:

Adams	Fischer	Hansen	McCoy	Price
Ashford	Flood	Harms	McGill	Rogert
Avery	Friend	Heidemann	Mello	Schilz
Campbell	Fulton	Howard	Nantkes	Stuthman
Carlson	Gay	Janssen	Nelson	Sullivan
Coash	Giese	Karpisek	Nordquist	Utter
Cornett	Gloor	Lathrop	Pahls	Wallman
Council	Haar	Lautenbaugh	Pankonin	White
Dubas	Hadley	Louden	Pirsch	Wightman

Voting in the negative, 0.

Present and not voting, 2:

Cook            Dierks

Excused and not voting, 2:

Christensen    Langemeier

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 551.**

A BILL FOR AN ACT relating to insurance; to amend sections 44-710.01 and 44-761, Reissue Revised Statutes of Nebraska; to extend the limiting age on sickness and accident policies; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 45:

Adams	Dierks	Haar	Lautenbaugh	Pirsch
Ashford	Dubas	Hadley	Louden	Price
Avery	Fischer	Hansen	McGill	Rogert
Campbell	Flood	Harms	Mello	Schilz
Carlson	Friend	Heidemann	Nantkes	Stuthman
Coash	Fulton	Howard	Nelson	Sullivan
Cook	Gay	Janssen	Nordquist	Wallman
Cornett	Giese	Karpisek	Pahls	White
Council	Gloor	Lathrop	Pankonin	Wightman

Voting in the negative, 0.

Present and not voting, 2:

McCoy            Utter

Excused and not voting, 2:

Christensen    Langemeier

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 92.**

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-601, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to operation of vehicles approaching stopped authorized emergency vehicles and road assistance vehicles on a controlled-access highway; to provide penalties; to harmonize provisions; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

Adams	Dubas	Hansen	McGill	Schilz
Ashford	Fischer	Harms	Mello	Stuthman
Avery	Flood	Heidemann	Nantkes	Sullivan
Campbell	Friend	Howard	Nelson	Utter
Carlson	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Lathrop	Pankonin	Wightman
Cornett	Gloor	Lautenbaugh	Pirsch	
Council	Haar	Louden	Price	
Dierks	Hadley	McCoy	Rogert	

Voting in the negative, 0.

Excused and not voting, 2:

Christensen Langemeier

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 286.** With Emergency Clause.

A BILL FOR AN ACT relating to gaming; to amend sections 9-255.04, 9-347, 9-347.01, and 9-812, Reissue Revised Statutes of Nebraska; to change provisions relating to definite profit under the Nebraska Bingo Act and the Nebraska Pickle Card Lottery Act; to change provisions relating to lottery funds; to provide operative dates; 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, 46:

Adams	Dubas	Harms	Mello	Stuthman
Ashford	Fischer	Heidemann	Nantkes	Sullivan
Avery	Flood	Howard	Nelson	Utter
Campbell	Friend	Janssen	Nordquist	Wallman
Carlson	Fulton	Karpisek	Pahls	White
Coash	Gay	Lathrop	Pankonin	Wightman
Cook	Giese	Lautenbaugh	Pirsch	
Cornett	Gloor	Louden	Price	
Council	Hadley	McCoy	Rogert	
Dierks	Hansen	McGill	Schilz	

Voting in the negative, 0.

Present and not voting, 1:

Haar

Excused and not voting, 2:

Christensen Langemeier

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 LB495 with 42 ayes, 1 nay, 4 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 495.**

A BILL FOR AN ACT relating to cities and villages; to amend sections 15-268, 16-117, 16-230, 17-405.01, 17-563, and 19-916, Reissue Revised Statutes of Nebraska; to require notice of annexation as prescribed; to change provisions relating to the control of weeds and worthless vegetation; to provide for annexation by certain cities; to change provisions relating to the platting of additions; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 46:

Adams	Dubas	Hansen	Mello	Stuthman
Ashford	Fischer	Harms	Nantkes	Sullivan
Avery	Flood	Heidemann	Nelson	Utter
Campbell	Friend	Howard	Nordquist	Wallman
Carlson	Fulton	Janssen	Pahls	White
Coash	Gay	Karpisek	Pankonin	Wightman
Cook	Giese	Lathrop	Pirsch	
Cornett	Gloor	Lautenbaugh	Price	
Council	Haar	McCoy	Rogert	
Dierks	Hadley	McGill	Schilz	

Voting in the negative, 1:

Louden

Excused and not voting, 2:

Christensen Langemeier

A constitutional majority having voted in the affirmative, the bill was declared passed 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 LB497 with 42 ayes, 1 nay, 4 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 497.** With Emergency Clause.

A BILL FOR AN ACT relating to driving under the influence; to amend sections 29-2259.01 and 60-6,197.05, Reissue Revised Statutes of Nebraska, and sections 60-498.02, 60-4,115, 60-4,118.06, 60-6,197.01, 60-6,197.02, 60-6,197.03, 60-6,197.06, and 60-6,211.05, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to employment driving permits and ignition interlock devices; to change and provide penalties relating to ignition interlock devices; to provide for the payment of installation, removal, or maintenance costs of such devices for certain persons as prescribed; to change provisions relating to operating a motor vehicle under a revoked license; to eliminate a fund; to harmonize provisions; to repeal the original sections; to outright repeal section 60-6,211.10, Revised Statutes Cumulative Supplement, 2008; 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	Dubas	Hansen	McGill	Schilz
Ashford	Fischer	Harms	Mello	Stuthman
Avery	Flood	Heidemann	Nantkes	Sullivan
Campbell	Friend	Howard	Nelson	Utter
Carlson	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Lathrop	Pankonin	Wightman
Cornett	Gloor	Lautenbaugh	Pirsch	
Council	Haar	Louden	Price	
Dierks	Hadley	McCoy	Rogert	

Voting in the negative, 0.

Excused and not voting, 2:

Christensen    Langemeier

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 bills were read and put upon final passage:

**LEGISLATIVE BILL 497A.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 497, One Hundred First Legislature, First 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, 46:

Adams	Dubas	Harms	Mello	Stuthman
Ashford	Fischer	Heidemann	Nantkes	Sullivan
Avery	Flood	Howard	Nelson	Utter
Campbell	Friend	Janssen	Nordquist	Wallman
Carlson	Fulton	Karpisek	Pahls	White
Coash	Gay	Lathrop	Pankonin	Wightman
Cook	Giese	Lautenbaugh	Pirsch	
Cornett	Gloor	Louden	Price	
Council	Hadley	McCoy	Rogert	
Dierks	Hansen	McGill	Schilz	

Voting in the negative, 0.

Present and not voting, 1:

Haar

Excused and not voting, 2:

Christensen Langemeier

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 653.** With Emergency Clause.

A BILL FOR AN ACT relating to the Legislature; to create the Legislature's Planning Committee; to state findings; to provide powers and duties; 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, 46:

Adams	Dubas	Hansen	Mello	Stuthman
Ashford	Fischer	Harms	Nantkes	Sullivan
Avery	Flood	Heidemann	Nelson	Utter
Campbell	Friend	Janssen	Nordquist	Wallman
Carlson	Fulton	Karpisek	Pahls	White
Coash	Gay	Lathrop	Pankonin	Wightman
Cook	Giese	Lautenbaugh	Pirsch	
Cornett	Gloor	Louden	Price	
Council	Haar	McCoy	Rogert	
Dierks	Hadley	McGill	Schilz	

Voting in the negative, 0.

Present and not voting, 1:

Howard

Excused and not voting, 2:

Christensen Langemeier

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 158, 54, 98, 98A, 322, 56, 162, 436, 549, 551, 92, 286, 495, 497, 497A, and 653.

**MOTION - Return LB463 to Select File**

Senator Dierks moved to return LB463 to Select File for his specific amendment, AM1100, found on page 1139.

The Dierks motion to return prevailed with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 463.** The Dierks specific amendment, AM1100, found on page 1139, was adopted with 42 ayes, 0 nays, 5 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Reengrossment.

**MOTION - Suspend Rules**

Senator Avery offered the following motion to LB402:  
MO48

Suspend Rule 7, Section 3(d) to permit consideration of AM1314.

The Avery motion to suspend the rules prevailed with 43 ayes, 0 nays, 4 present and not voting, and 2 excused and not voting.

**MOTION - Return LB402 to Select File**

Senator Avery moved to return LB402 to Select File for his specific amendment, AM1314, found on page 1315.

The Avery motion to return prevailed with 45 ayes, 0 nays, 2 present and not voting, and 2 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 402.** The Avery specific amendment, AM1314, found on page 1315, was adopted with 43 ayes, 0 nays, 4 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Reengrossment.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 110.** Introduced by Howard, 9.

WHEREAS, Livingston Wills was born blind in 1917 in Brownsville, Tennessee; and

WHEREAS, Livingston Wills attended Union College in Lincoln, Nebraska, studying English and history; and

WHEREAS, Livingston Wills moved to Omaha in the 1940s; and

WHEREAS, Livingston Wills learned how to make brooms as a young boy and sold them door-to-door to support his family throughout his lifetime beginning in the 1950s; and

WHEREAS, Livingston Wills was known in Omaha as the "Broom Man"; and

WHEREAS, Livingston Wills was the pastor at Tabernacle Church of Christ Holiness and later became bishop in this church in 1975; and

WHEREAS, Livingston Wills believed, "God takes care of me."

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

1. That the Legislature recognizes and honors the values demonstrated throughout the lifetime of Livingston Wills.

2. That a copy of this resolution be given to the family of Livingston Wills.

Laid over.

**SELECT FILE**

**LEGISLATIVE BILL 532.** Senator Friend withdrew his motion, MO28, found on page 872, to indefinitely postpone.

Senator Friend withdrew his amendment, AM899, found on page 866 and considered on page 871.

Senator Price renewed his amendment, AM1321, found on page 1338.

The Price amendment was adopted with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 195.** ER8096, found on page 1207, was adopted.

Senator Gloor renewed his amendment, AM1221, found on page 1215.

**SENATOR LATHROP PRESIDING**

The Gloor amendment was adopted with 32 ayes, 0 nays, 15 present and not

voting, and 2 excused and not voting.

Senator Cook asked unanimous consent to withdraw her amendment, AM930, found on page 1216, and replace it with her substitute amendment, AM1333. No objections. So ordered.  
AM1333

(Amendments to Standing Committee amendments, AM952)

- 1 1. Insert the following new sections:
- 2 Sec. 79. Section 71-3601, Revised Statutes Cumulative
- 3 Supplement, 2008, is amended to read:
- 4 71-3601 For purposes of the Tuberculosis Detection and
- 5 Prevention Act:
- 6 (1) Communicable tuberculosis means tuberculosis
- 7 manifested by a laboratory report of sputum or other body fluid
- 8 or excretion found to contain tubercle bacilli or by chest X-ray
- 9 findings interpreted as active tuberculosis by competent medical
- 10 authority;
- 11 (2) Department means the Department of Health and Human
- 12 Services;
- 13 (3) Directed health measure means any measure, whether
- 14 prophylactic or remedial, intended and directed to prevent, treat,
- 15 or limit the spread of tuberculosis;
- 16 ~~(3)-(4)~~ Facility means a structure in which suitable
- 17 isolation for tuberculosis can be given and which is approved
- 18 by the department for the detention of recalcitrant ~~tuberculosis~~
- 19 tuberculous persons;
- 20 ~~(4)-(5)~~ Local health officer means (a) the health
- 21 director of a local public health department as defined in section
- 22 71-1626 or (b) the medical advisor to the board of health of a
- 1 county, city, or village;
- 2 ~~(5)-(6)~~ Recalcitrant tuberculous person means a person
- 3 affected with tuberculosis in an active stage who by his or her
- 4 conduct or mode of living endangers the health and well-being of
- 5 other persons, by exposing them to tuberculosis, and who refuses to
- 6 accept adequate treatment; and
- 7 ~~(6)-(7)~~ State health officer means the chief medical
- 8 officer as described in section 81-3115.
- 9 Sec. 80. Section 71-3602, Revised Statutes Cumulative
- 10 Supplement, 2008, is amended to read:
- 11 71-3602 ~~(1) When a person with communicable tuberculosis~~
- 12 ~~violates the rules, regulations, or orders adopted and promulgated~~
- 13 ~~by the department and is thereby conducting himself or herself~~
- 14 ~~in such a way as to expose others to danger of infection, after~~
- 15 ~~having been ordered by the state health officer or a local health~~
- 16 ~~officer to comply, there are reasonable grounds to believe that~~
- 17 a person has communicable tuberculosis and the person refuses to
- 18 submit to the examination necessary to determine the existence of
- 19 communicable tuberculosis, the state health officer or local health
- 20 officer may order such person to submit to such examination. If

21 such person refuses to comply with such order, the state health  
22 officer or a local health officer shall institute proceedings  
23 for commitment, returnable to the county court of the county in  
24 which the person resides or, if the person is a nonresident or  
25 has no permanent residence, in the county in which the person  
26 is found. Strictness of pleading is not required, and a general  
27 allegation that the public health requires commitment of the person  
1 is sufficient.

2 (2) When a person with communicable tuberculosis conducts  
3 himself or herself in such a way as to expose another person  
4 to the danger of infection, the state health officer or local  
5 health officer may order such person to submit to directed health  
6 measures necessary for the treatment of the person and to prevent  
7 the transmission of the disease. If such person refuses to comply  
8 with such order, the state health officer or a local health  
9 officer shall institute proceedings for commitment, returnable to  
10 the county court of the county in which the person resides or, if  
11 the person is a nonresident or has no permanent residence, in the  
12 county in which the person is found. Strictness of pleading is not  
13 required, and a general allegation that the public health requires  
14 commitment of the person is sufficient.

15 Sec. 81. Section 71-3604, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 71-3604 (1) Upon the hearing set in the order, the person  
18 named in the order shall have a right to be represented by counsel,  
19 to confront and cross-examine witnesses against him or her, and to  
20 have compulsory process for the securing of witnesses and evidence  
21 in his or her own behalf.

22 (2) Upon a consideration of the petition and evidence,  
23 if

24 (a) If the court finds that there are reasonable grounds  
25 to believe that the person named in the petition has communicable  
26 tuberculosis and has refused to submit to an examination to  
27 determine the existence of communicable tuberculosis, the court  
1 shall order such person to submit to such examination. If after  
2 such examination is completed it is determined that the person has  
3 communicable tuberculosis, the court shall order directed health  
4 measures necessary for the treatment of the person and to prevent  
5 the transmission of the disease; or

6 (b) If the court finds that the person named in the  
7 petition has communicable tuberculosis and conducts himself or  
8 herself in such a way as to be a danger to the public health, an  
9 order shall be issued committing the person named to a facility  
10 and directing the sheriff to take him or her into custody and  
11 deliver him or her to the facility or to submit to directed health  
12 measures necessary for the treatment of the person and to prevent  
13 the transmission of the disease.

14 (3) If the court does not so find, the petition shall  
15 be dismissed. The cost of transporting such person to the facility

16 shall be paid from county general funds.

17 Sec. 82. Section 71-3614, Revised Statutes Cumulative  
18 Supplement, 2008, is amended to read:

19 71-3614 (1) When any person who has communicable ~~or~~  
20 ~~contagious~~-tuberculosis and who has relatives, friends, or a  
21 private or public agency or organization willing to undertake the  
22 obligation to support him or her or to aid in supporting him or her  
23 in any other state or country, the department may furnish him or  
24 her with the cost of transportation to such other state or country  
25 if it finds that the interest of the State of Nebraska and the  
26 welfare of such person will be promoted thereby. The expense of  
27 such transportation shall be paid by the department out of funds  
1 appropriated to it for the purpose of carrying out the Tuberculosis  
2 Detection and Prevention Act.

3 (2) No funds appropriated to the department for the  
4 purpose of carrying out the act shall be used for meeting the  
5 cost of the care, maintenance, or treatment of any person who has  
6 communicable ~~or contagious~~-tuberculosis in a health care facility  
7 on either an inpatient or an outpatient basis, or otherwise, for  
8 directed health measures, or for transportation to another state  
9 or country, to the extent that such cost is covered by an insurer  
10 or other third-party payor or any other entity under obligation to  
11 such person by contract, policy, certificate, or any other means  
12 whatsoever. The department in no case shall expend any such funds  
13 to the extent that any such person is able to bear the cost of  
14 such care, maintenance, treatment, or transportation. To protect  
15 the health and safety of the public, the department may pay, in  
16 part or in whole, the cost of drugs and medical care used to  
17 treat any person for or to prevent the spread of communicable  
18 tuberculosis and for evaluation and diagnosis of persons who  
19 have been identified as contacts of a person with communicable  
20 tuberculosis. The department shall determine the ability of a  
21 person to pay by consideration of the following factors: (a) The  
22 person's age, (b) the number of his or her dependents and their  
23 ages and physical condition, (c) the person's length of care,  
24 maintenance, or treatment, (d) his or her liabilities, ~~and~~ (e) the  
25 extent that such cost is covered by an insurer or other third-party  
26 payor, and (f) his or her assets. Pursuant to the Administrative  
27 Procedure Act, the department shall adopt and promulgate rules  
1 and regulations for making the determinations required by this  
2 subsection.

3 Rules, regulations, and orders in effect under this  
4 section prior to July 16, 2004, shall continue to be effective  
5 until revised, amended, repealed, or nullified pursuant to law.

6 2. On page 124, line 18, after the sixth comma insert  
7 "71-3604,"; and in line 24 after the first comma insert "71-3601,  
8 71-3602, 71-3614,".

9 3. Renumber the remaining sections and correct internal  
10 references accordingly.

The Cook amendment was adopted with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

Senator Rogert withdrew his amendment, AM1263, found on page 1272.

Senator Dubas offered the following amendment:

AM1346

- 1 1. Insert the following new section:
- 2 Sec. 51. A mental health practitioner holding a
- 3 provisional license issued pursuant to section 38-2123, a
- 4 psychologist holding a provisional license issued pursuant to
- 5 section 38-3122, or a psychiatrist licensed pursuant to section
- 6 38-2037 and entitled to reimbursement pursuant to the Medical
- 7 Assistance Act for providing mental health services shall
- 8 be reimbursed at the same rate as a licensed mental health
- 9 practitioner, licensed psychologist, or licensed psychiatrist
- 10 providing the same services.
- 11 2. Renumber the remaining sections and correct internal
- 12 references accordingly.

Senator Dubas withdrew her amendment.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 671.** ER8097, found on page 1213, was adopted.

Senator Pirsch renewed his amendment, AM1336, found on page 1346.

The Pirsch amendment was adopted with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 476.** ER8098, found on page 1213, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 476A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 342.** ER8104, found on page 1274, was adopted.

Advanced to Enrollment and Review for Engrossment.

**SPEAKER FLOOD PRESIDING**

**LEGISLATIVE BILL 232.** Advanced to Enrollment and Review for

Engrossment.

**LEGISLATIVE BILL 112.** ER8117, found on page 1325, was adopted.

Advanced to Enrollment and Review for Engrossment.

### PRESENTED TO THE GOVERNOR

Presented to the Governor on May 7, 2009, at 10:30 a.m. were the following: LBs 158, 54, 98e, 98Ae, 322, 56, 162, 436, 549, 551, 92, 286e, 495, 497e, 497Ae, and 653e.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

### AMENDMENTS - Print in Journal

Senator Ashford filed the following amendment to LB63:  
AM1337

(Amendments to E & R amendments, ER8031)

- 1 1. Insert the following new section:
- 2 Section 1. Section 13-2610, Revised Statutes Cumulative
- 3 Supplement, 2008, is amended to read:
- 4 13-2610 (1) Upon the annual certification under section
- 5 13-2609, the State Treasurer shall transfer after the audit
- 6 the amount certified to the Convention Center Support Fund. The
- 7 Convention Center Support Fund is created. Any money in the fund
- 8 available for investment shall be invested by the state investment
- 9 officer pursuant to the Nebraska Capital Expansion Act and the
- 10 Nebraska State Funds Investment Act.
- 11 (2)(a) It is the intent of the Legislature to appropriate
- 12 from the fund to any political subdivision for which an application
- 13 for state assistance under the Convention Center Facility Financing
- 14 Assistance Act has been approved an amount not to exceed (i)
- 15 seventy percent of the state sales tax revenue collected by
- 16 retailers and operators doing business at such facilities on sales
- 17 at such facilities, state sales tax revenue collected on primary
- 18 and secondary box office sales of admissions to such facilities,
- 19 and state sales tax revenue collected by associated hotels, (ii)
- 20 seventy-five million dollars for any one approved project, or (iii)
- 21 the total cost of acquiring, constructing, improving, or equipping
- 22 the eligible facility. State assistance shall not be used for an
- 1 operating subsidy or other ancillary facility.
- 2 (b) Ten percent of such funds appropriated to a city
- 3 of the metropolitan class under this subsection shall be equally
- 4 distributed to areas with a high concentration of poverty to (i)
- 5 showcase important historical aspects of such areas or (ii) assist
- 6 with the reduction of street and gang violence in such areas.

7 (c) Each area with a high concentration of poverty that  
8 has been distributed funds under subdivision (b) of this subsection  
9 shall establish a development fund and form a committee which  
10 shall identify and research potential projects and make final  
11 determinations on the use of state sales tax revenue received for  
12 such projects.

13 (d) A committee formed in subdivision (c) of this  
14 subsection shall include the following three members:

15 (i) The member of the city council whose district  
16 includes a majority of the census tracts which each contain a  
17 percentage of persons below the poverty line of greater than thirty  
18 percent, as determined by the most recent federal decennial census,  
19 within the area with a high concentration of poverty;

20 (ii) The commissioner of the county whose district  
21 includes a majority of the census tracts which each contain a  
22 percentage of persons below the poverty line of greater than thirty  
23 percent, as determined by the most recent federal decennial census,  
24 within the area with a high concentration of poverty; and

25 (iii) A resident of the area with a high concentration of  
26 poverty, appointed by the other two members of the committee.

27 (e) A committee formed in subdivision (c) of this  
1 subsection shall solicit project ideas from the public and shall  
2 hold a public hearing in the area with a high concentration  
3 of poverty. Notice of a proposed hearing shall be provided in  
4 accordance with the procedures for notice of a public hearing  
5 pursuant to section 18-2115. The committee shall research potential  
6 projects in its area and make the final determination regarding the  
7 annual distribution of funding to such projects.

8 (f) For purposes of this subsection, an area with a high  
9 concentration of poverty means an area within the corporate limits  
10 of a city of the metropolitan class consisting of one or more  
11 contiguous census tracts, as determined by the most recent federal  
12 decennial census, which contain a percentage of persons below the  
13 poverty line of greater than thirty percent, and all census tracts  
14 contiguous to such tract or tracts, as determined by the most  
15 recent federal decennial census.

16 (3) State assistance to the political subdivision shall  
17 no longer be available upon the retirement of the bonds issued  
18 to acquire, construct, improve, or equip the facility or any  
19 subsequent bonds that refunded the original issue or when state  
20 assistance reaches the amount determined under subdivision (2)(a)  
21 of this section, whichever comes first.

22 (4) The remaining thirty percent of state sales tax  
23 revenue collected by retailers and operators doing business at such  
24 facilities on sales at such facilities, state sales tax revenue  
25 collected on primary and secondary box office sales of admissions  
26 to such facilities, and state sales tax revenue collected by  
27 associated hotels, shall be appropriated by the Legislature to the  
1 Local Civic, Cultural, and Convention Center Financing Fund.

- 2 (5) Any municipality that has applied for and received a  
 3 grant of assistance under the Local Civic, Cultural, and Convention  
 4 Center Financing Act may not receive state assistance under the  
 5 Convention Center Facility Financing Assistance Act.  
 6 2. Renumber the remaining sections and correct internal  
 7 references and the repealer section accordingly.

Senator Ashford filed the following amendment to LB35:  
 AM1095

(Amendments to E & R amendments, ER8067)

- 1 1. Insert the following new section:  
 2 Sec. 31. Section 81-1429, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:  
 4 81-1429 (1) ~~Until January 1, 2007, a~~ A Law Enforcement  
 5 Improvement Fund fee of two dollars shall be taxed as costs  
 6 in each criminal proceeding, including traffic infractions and  
 7 misdemeanors, filed in all courts of this state for violations of  
 8 state law or city or village ordinances. No such fee shall be  
 9 collected in any juvenile court proceeding or when waived under  
 10 section 29-2709. Such fee shall be remitted to the State Treasurer  
 11 on forms prescribed by the State Treasurer within ten days after  
 12 the close of each calendar quarter. The State Treasurer shall  
 13 credit the money to the Law Enforcement Improvement Fund.  
 14 ~~(2) Beginning January 1, 2007, a fee of one dollar shall~~  
 15 ~~be taxed as costs in each criminal proceeding, including traffic~~  
 16 ~~infractions and misdemeanors, filed in all courts of this state for~~  
 17 ~~violations of state law or city or village ordinances. No such fee~~  
 18 ~~shall be collected in any juvenile court proceeding or when waived~~  
 19 ~~under section 29-2709. Such fee shall be remitted to the State~~  
 20 ~~Treasurer on forms prescribed by the State Treasurer within ten~~  
 21 ~~days after the close of each calendar quarter. The State Treasurer~~  
 22 ~~shall credit the money to the Law Enforcement Improvement Fund.~~  
 1 2. On page 38, line 5, after the last comma insert  
 2 "81-1429,".  
 3 3. Renumber the remaining sections and correct internal  
 4 references accordingly.

Senator Ashford filed the following amendment to LB35:  
 AM1287

(Amendments to E & R amendments, ER8067)

- 1 1. Strike section 35.  
 2 2. On page 37, line 18, strike "37" and insert "36"; and  
 3 strike beginning with "Sections" in line 19 through the period in  
 4 line 20.  
 5 3. On page 38, line 4, after the first comma insert  
 6 "25-3007, 25-3008,".  
 7 4. Renumber the remaining sections accordingly.

Senator Ashford filed the following amendment to LB35A:

AM1101

- 1 1. Insert the following section:
- 2 Sec. 3. There is hereby appropriated \$245,000 from the
- 3 Law Enforcement Improvement Fund for FY2010-11 to the Nebraska
- 4 Commission on Law Enforcement and Criminal Justice, for Program
- 5 199, to aid in carrying out the provisions of Legislative Bill 35,
- 6 One Hundred First Legislature, First Session, 2009.
- 7 No expenditures for permanent and temporary salaries and
- 8 per diems for state employees shall be made from funds appropriated
- 9 in this section.
- 10 2. Renumber the remaining sections accordingly.

Senator Council filed the following amendment to LB440:

AM1233

(Amendments to Final Reading copy)

- 1 1. Insert the following new section:
- 2 Sec. 3. Section 85-1402, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 85-1402 For purposes of the Coordinating Commission for
- 5 Postsecondary Education Act:
- 6 (1)(a) Capital construction project shall mean a project
- 7 which utilizes tax funds designated by the Legislature and shall
- 8 be: Any proposed new capital structure; any proposed addition
- 9 to, renovation of, or remodeling of a capital structure; any
- 10 proposed acquisition of a capital structure by gift, purchase,
- 11 lease-purchase, or other means of construction or acquisition that
- 12 (i) will be directly financed in whole or in part with tax funds
- 13 designated by the Legislature totaling at least the minimum capital
- 14 expenditure for purposes of this subdivision or (ii) is likely,
- 15 as determined by the institution, to result in an incremental
- 16 increase in appropriation or expenditure of tax funds designated
- 17 by the Legislature of at least the minimum capital expenditure for
- 18 the facility's operations and maintenance costs in any one fiscal
- 19 year within a period of ten years from the date of substantial
- 20 completion or acquisition of the project. No tax funds designated
- 21 by the Legislature shall be appropriated or expended for any
- 22 incremental increase of more than the minimum capital expenditure
- 1 for the costs of the operations and utilities of any facility
- 2 which is not included in the definition of capital construction
- 3 project and thus is not subject to commission approval pursuant
- 4 to the Coordinating Commission for Postsecondary Education Act. No
- 5 institution shall include a request for funding such an increase
- 6 in its budget request for tax funds designated by the Legislature
- 7 nor shall any institution utilize any such funds for such an
- 8 increase. The Governor shall not include in his or her budget
- 9 recommendations, and the Legislature shall not appropriate, such
- 10 funds for such increase.
- 11 (b) For purposes of this subdivision:

12 (i) Directly financed shall mean funded by:

13 (A) Appropriation of tax funds designated by the  
14 Legislature for the specific capital construction project;

15 (B) Property tax levies used to establish a capital  
16 improvement and bond sinking fund pursuant to section 85-1515; or

17 (C) That portion of tax funds designated by the  
18 Legislature and appropriated by the Legislature for the general  
19 operation of the public institution and utilized to fund the  
20 capital project;

21 (ii) Incremental increase shall mean an increase in  
22 appropriation or expenditure of tax funds designated by the  
23 Legislature of at least the minimum capital expenditure for a  
24 facility's operations and maintenance costs, beyond any increase  
25 due to inflation, to pay for a capital structure's operations  
26 and maintenance costs that are a direct result of a capital  
27 construction project; and

1 (iii) Minimum capital expenditure shall mean:

2 (A) For purposes of subdivision (a)(i) of this  
3 subdivision, a base amount of ~~five hundred thousand~~ two million  
4 dollars; and

5 (B) For the facility's operations and maintenance costs  
6 pursuant to subdivision (a)(ii) of this subdivision, a base amount  
7 of ~~seventy-five~~ eighty-five thousand dollars for any one fiscal  
8 year.

9 ~~Both base amounts~~ The base amount for the facility's  
10 operations and maintenance costs shall be subject to any  
11 inflationary or market adjustments made by the commission pursuant  
12 to this subdivision. The commission shall adjust the base ~~amounts~~  
13 amount on a biennial basis beginning January 1, ~~2008~~ 2010. The  
14 adjustments shall be based on percentage changes in a construction  
15 cost index and any other published index relevant to operations and  
16 utilities costs, both as selected by the commission in cooperation  
17 with the public institutions. The index or indices shall reflect  
18 inflationary or market trends for the applicable operations and  
19 maintenance or construction costs;

20 (2) Commission shall mean the Coordinating Commission for  
21 Postsecondary Education;

22 (3) Coordination shall mean:

23 (a) Authority to adopt, and revise as needed, a  
24 comprehensive statewide plan for postsecondary education which  
25 shall include (i) definitions of the role and mission of each  
26 public postsecondary educational institution within any general  
27 assignments of role and mission as may be prescribed by the

1 Legislature and (ii) plans for facilities which utilize tax funds  
2 designated by the Legislature;

3 (b) Authority to review, monitor, and approve or  
4 disapprove each public postsecondary educational institution's  
5 programs and capital construction projects which utilize tax funds  
6 designated by the Legislature in order to provide compliance and

7 consistency with the comprehensive plan and to prevent unnecessary  
8 duplication; and

9 (c) Authority to review and modify, if needed to promote  
10 compliance and consistency with the comprehensive statewide plan  
11 and prevent unnecessary duplication, the budget requests of the  
12 governing boards or any other governing board for any other public  
13 postsecondary educational institution which may be established by  
14 the Legislature;

15 (4) Education center shall mean an off-campus branch of  
16 a public institution or cooperative of either public or public  
17 and private postsecondary educational institutions which offers  
18 instructional programs to students;

19 (5) Governing board shall mean the Board of Regents of  
20 the University of Nebraska, the Board of Trustees of the Nebraska  
21 State Colleges, or the board of governors for each community  
22 college area;

23 (6) Program shall mean any program of instruction which  
24 leads directly to a degree, diploma, or certificate and, for  
25 purposes of section 85-1414, shall include public service programs  
26 and all off-campus instructional programs, whether or not such  
27 programs lead directly to a degree, diploma, or certificate.

1 Program shall also include the establishment of any new college,  
2 school, major division, education center, or institute but  
3 shall not include reasonable and moderate extensions of existing  
4 curricula which have a direct relationship to existing programs;

5 (7) Public institution shall mean each campus of a  
6 public postsecondary educational institution which is or may be  
7 established by the Legislature, which is under the direction of a  
8 governing board, and which is administered as a separate unit by  
9 the board; and

10 (8) Tax funds designated by the Legislature shall mean  
11 all state tax revenue and all property tax revenue.

12 2. On page 1, strike beginning with "the" in line 1  
13 through line 5 and insert "postsecondary educational institutions;  
14 to amend sections 85-9,178, 85-9,182, and 85-1402, Reissue Revised  
15 Statutes of Nebraska; to change the diversity criteria under the  
16 Student Diversity Scholarship Program Act; to change provisions  
17 relating to capital and facility expenditures; and to repeal the  
18 original sections."

19 3. Correct the repealer and renumber the remaining  
20 section accordingly.

## VISITORS

Visitors to the Chamber were Allan Lierman from Lincoln; 24 fourth-grade students, teacher, and sponsors from Christ Lutheran School, Norfolk; members of Nebraska Federation of Women's Clubs from across the state; and Tracy Buffington and Bill Vobejda from Fremont.

**RECESS**

At 11:49 a.m., on a motion by Senator Mello, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., President Sheehy presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Ashford and Christensen who were excused; and Senators Fulton, Rogert, and Sullivan who were excused until they arrive.

**MESSAGES FROM THE GOVERNOR**

May 7, 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 reappointed to the Climate Assessment Response Committee:

Al Berndt, Emergency Management Agency, 1300 Military Road, Lincoln,  
NE 68508

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

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

May 4, 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 Motor Vehicle Industry Licensing Board:

Paul Gerber, 1605 North 136th St., Omaha, NE 68154

Contingent upon your approval, the following individual is being reappointed to the Motor Vehicle Industry Licensing Board:

Roy Neneman, 18 Lillian Lane, Doniphan, NE 68832

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

May 5, 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 Ethanol Board:

Galen Frenzen, 50802 N. Edgewood Rd., Fullerton, NE 68638  
Paul Kenney, 10950 Elm Road, Kearney, NE 68847

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

**SELECT FILE**

**LEGISLATIVE BILL 311.** ER8113, found on page 1329, was adopted.

Senator Heidemann renewed his amendment, AM1294, found on page 1341.

The Heidemann amendment was adopted with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 312.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 313.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 314.** ER8112, found on page 1330, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 316.** ER8115, found on page 1331, was adopted.

Senator Heidemann renewed his amendment, AM1289, found on page 1343.

The Heidemann amendment was adopted with 41 ayes, 0 nays, 4 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 315.** ER8122, found on page 1330, was adopted.

Senator Giese withdrew his amendment, AM1267, found on page 1294.

Senator Heidemann renewed his amendment, AM1290, found on page 1341.

The Heidemann amendment was adopted with 41 ayes, 0 nays, 4 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 318.** ER8116, found on page 1331, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 456.** ER8121, found on page 1331, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 414.** ER8114, found on page 1331, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 414A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 629.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 628.** ER8120, found on page 1336, was adopted.

Advanced to Enrollment and Review for Engrossment.

### **GENERAL FILE**

**LEGISLATIVE BILL 503.** Title read. Considered.

Committee AM1080, found on page 1279, was considered.

Senator Council renewed her amendment, AM1260, found on page 1346, to the committee amendment.

The Council amendment lost with 3 ayes, 25 nays, 18 present and not voting, and 3 excused and not voting.

The committee amendment was adopted with 39 ayes, 1 nay, 6 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 42 ayes, 2 nays, 2 present and not voting, and 3 excused and not voting.

### **COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 27.** Placed on Final Reading.

**LEGISLATIVE BILL 27A.** Placed on Final Reading.

**LEGISLATIVE BILL 84.** Placed on Final Reading.

ST9033

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

1. On page 1, line 3, "a reference to a commission that has been eliminated and" has been inserted after "eliminate".

**LEGISLATIVE BILL 113.** Placed on Final Reading.  
**LEGISLATIVE BILL 131.** Placed on Final Reading.  
**LEGISLATIVE BILL 133.** Placed on Final Reading.  
**LEGISLATIVE BILL 163.** Placed on Final Reading.  
**LEGISLATIVE BILL 175.** Placed on Final Reading.  
**LEGISLATIVE BILL 274.** Placed on Final Reading.  
**LEGISLATIVE BILL 339.** Placed on Final Reading.  
**LEGISLATIVE BILL 348.** Placed on Final Reading.  
**LEGISLATIVE BILL 394.** Placed on Final Reading.  
**LEGISLATIVE BILL 412.** Placed on Final Reading.  
**LEGISLATIVE BILL 434.** Placed on Final Reading.  
**LEGISLATIVE BILL 450.** Placed on Final Reading.  
**LEGISLATIVE BILL 528.** Placed on Final Reading.  
**LEGISLATIVE BILL 540.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

#### **AMENDMENTS - Print in Journal**

Senator Carlson filed the following amendment to LB224:  
AM1295

(Amendments to E & R amendments, ER8107)

- 1 1. On page 9, strike lines 7 through 10.

Senator Stuthman filed the following amendment to LB476A:  
FA36

Strike the enacting clause.

#### **NOTICE OF COMMITTEE HEARING**

Business and Labor

Room 2102

Thursday, May 21, 2009 1:00 p.m.

Loren Lindahl - Commission of Industrial Relations

(Signed) Steve Lathrop, Chairperson

#### **GENERAL FILE**

**LEGISLATIVE BILL 358.** Title read. Considered.

Committee AM783, found on page 1272, was adopted with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 155.** Title read. Considered.

Committee AM1271, found on page 1298, was considered.

Senator Pirsch offered the following amendment to the committee amendment:

AM1350

(Amendments to Standing Committee amendments, AM1271)

1 1. Insert the following new sections:

2 Sec. 13. Section 28-603, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 28-603 (1) Whoever, with intent to deceive or harm,  
5 falsely makes, completes, endorses, alters, or utters any written  
6 instrument which is or purports to be, or which is calculated to  
7 become or to represent if completed, a written instrument which  
8 does or may evidence, create, transfer, terminate, or otherwise  
9 affect a legal right, interest, obligation, or status, commits  
10 forgery in the second degree.

11 (2) Forgery in the second degree is a Class III felony  
12 when the face value, or purported face value, or the amount of any  
13 proceeds wrongfully procured or intended to be procured by the use  
14 of such instrument, is one thousand dollars or more.

15 (3) Forgery in the second degree is a Class IV felony  
16 when the face value, or purported face value, or the amount of any  
17 proceeds wrongfully procured or intended to be procured by the use  
18 of such instrument, exceeds three hundred dollars but is less than  
19 one thousand dollars.

20 (4) Forgery in the second degree is a Class I misdemeanor  
21 when the face value, or purported face value, or the amount of any  
22 proceeds wrongfully procured or intended to be procured by the use  
1 of such instrument, is three hundred dollars or less.

2 (5) For the purpose of determining the class of penalty  
3 for forgery in the second degree, the face values, or purported  
4 face values, or the amounts of any proceeds wrongfully procured  
5 or intended to be procured by the use of more than one such  
6 instrument, may be aggregated in the indictment or information if  
7 such instruments were part of the same scheme or course of conduct  
8 which took place within a sixty-day period and within one county.  
9 Such values or amounts shall not be aggregated into more than one  
10 offense.

11 Sec. 14. Section 28-604, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 28-604 (1) Whoever, with knowledge that it is forged and  
14 with intent to deceive or harm, possesses any forged instrument  
15 covered by section 28-602 or 28-603 commits criminal possession of  
16 a forged instrument.

17 (2) Criminal possession of a forged instrument prohibited  
18 by section 28-602 is a Class IV felony.

19 (3) Criminal possession of a forged instrument prohibited  
 20 by section 28-603, the amount or value of which is one thousand  
 21 dollars or more, is a Class IV felony.

22 (4) Criminal possession of a forged instrument prohibited  
 23 by section 28-603, the amount or value of which is more than three  
 24 hundred dollars but less than one thousand dollars, is a Class I  
 25 misdemeanor.

26 (5) Criminal possession of a forged instrument prohibited  
 27 by section 28-603, the amount or value of which is three hundred  
 1 dollars or less, is a Class II misdemeanor.

2 (6) For the purpose of determining the class of penalty  
 3 for criminal possession of a forged instrument prohibited by  
 4 section 28-603, the amounts or values of more than one such forged  
 5 instrument may be aggregated in the indictment or information if  
 6 such forged instruments were part of the same scheme or course of  
 7 conduct which took place within a sixty-day period and within one  
 8 county. Such amounts or values shall not be aggregated into more  
 9 than one offense.

10 2. On page 26, line 13, after the second comma insert  
 11 "28-603, 28-604,".

12 3. Renumber the remaining sections and correct internal  
 13 references accordingly.

The Pirsch amendment was adopted with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

The committee amendment, as amended, was adopted with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 218.** Title read. Considered.

Committee AM712, found on page 745, was considered.

**SENATOR MCGILL PRESIDING**

**PRESIDENT SHEEHY PRESIDING**

**SENATOR KARPISEK PRESIDING**

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

Senator Wightman moved for a call of the house. The motion prevailed with 33 ayes, 1 nay, and 15 not voting.

Senator Wightman requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 27:

Adams	Fischer	Harms	McCoy	Stuthman
Avery	Flood	Heidemann	Nelson	Sullivan
Campbell	Fulton	Karpisek	Pankonin	Wightman
Coash	Gay	Langemeier	Pirsch	
Cook	Haar	Lautenbaugh	Price	
Cornett	Hadley	Louden	Schilz	

Voting in the negative, 4:

Council	Giese	Wallman	White
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Present and not voting, 7:

Dubas	Gloor	Mello	Pahls
Friend	McGill	Nordquist	

Absent and not voting, 1:

Nantkes

Excused and not voting, 10:

Ashford	Christensen	Hansen	Janssen	Rogert
Carlson	Dierks	Howard	Lathrop	Utter

The motion to cease debate prevailed with 27 ayes, 4 nays, 7 present and not voting, 1 absent and not voting, and 10 excused and not voting.

Senator Cornett requested a roll call vote on the committee amendment.

Voting in the affirmative, 34:

Adams	Fischer	Hadley	McCoy	Pirsch
Avery	Flood	Harms	McGill	Price
Campbell	Friend	Heidemann	Mello	Schilz
Coash	Fulton	Karpisek	Nelson	Stuthman
Cook	Gay	Langemeier	Nordquist	Sullivan
Cornett	Gloor	Lautenbaugh	Pahls	Wightman
Dubas	Haar	Louden	Pankonin	

Voting in the negative, 2:

Giese	White
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Present and not voting, 2:

Council Wallman

Absent and not voting, 1:

Nantkes

Excused and not voting, 10:

Ashford	Christensen	Hansen	Janssen	Rogert
Carlson	Dierks	Howard	Lathrop	Utter

The committee amendment was adopted with 34 ayes, 2 nays, 2 present and not voting, 1 absent and not voting, and 10 excused and not voting.

The Chair declared the call raised.

Pending.

### **MOTION - Print in Journal**

Senator Pahls filed the following motion to LB9:

MO49

Bracket until June 4, 2009.

### **AMENDMENTS - Print in Journal**

Senator Lautenbaugh filed the following amendment to LB160:

FA35

Strike the enacting clause.

Senator Adams filed the following amendment to LB545:

AM1327 is available in the Bill Room.

Senator Adams filed the following amendment to LB545:

AM1357

(Amendments to E & R amendments, ER8108)

- 1 1. Insert the following new section:
- 2 Sec. 11. Section 79-1007.24, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 79-1007.24 (1) For school fiscal year 2008-09, aid
- 5 stabilization shall be calculated for each local system and
- 6 disbursed in an amount equal to the difference of the state
- 7 aid paid to such local system for school fiscal year 2007-08
- 8 pursuant to section 79-1022 minus two and one-half percent of the
- 9 need calculated for the school fiscal year for which aid is being
- 10 calculated and minus the sum of the calculated equalization aid,
- 11 allocated income tax funds, and net option funding for such school
- 12 fiscal year, except that aid stabilization shall not be less than
- 13 zero.

14 (2) For school fiscal year 2009-10, aid stabilization  
 15 shall be calculated for each local system and disbursed in an  
 16 amount equal to the difference of the state aid paid to such  
 17 local system for school fiscal year 2007-08 pursuant to section  
 18 79-1022 minus five percent of the need calculated for the school  
 19 fiscal year for which aid is being calculated and minus the sum  
 20 of the calculated equalization aid, allocated income tax funds, and  
 21 net option funding for such school fiscal year, except that aid  
 22 stabilization shall not be less than zero. If the amount actually  
 1 paid to a local system during school fiscal year 2007-08 was  
 2 different than the amount certified pursuant to section 79-1022 due  
 3 to a reorganization affecting such local system, the amount that  
 4 was actually paid to such local system during such school fiscal  
 5 year shall be deemed the amount paid pursuant to section 79-1022.  
 6 2. Renumber the remaining sections, correct internal  
 7 references, and amend the repealer accordingly.

Senator Loudon filed the following amendment to LB545:  
 AM1347

(Amendments to E & R amendments, ER8101)

1 1. On page 53, line 1, after the first "for" insert  
 2 "(a)"; and in line 4 after "2009" insert ", and (b) expenditures  
 3 for new elementary attendance sites in the first year of operation  
 4 or the first year of operation after being closed for at least  
 5 one school year if such elementary attendance site will most  
 6 likely qualify for the elementary site allowance in the immediately  
 7 following school fiscal year as determined by the state board".

Senator Dubas filed the following amendment to LB568:  
 AM1302

(Amendments to AM732)

1 1. On page 2, strike beginning with the comma in line 9  
 2 through "years" in line 10.

## RESOLUTION

**LEGISLATIVE RESOLUTION 111.** Introduced by Janssen, 15.

WHEREAS, Lt. Detective Greg Chamberlain served the Fremont Police Department proudly for thirty-three years; and

WHEREAS, Lt. Detective Chamberlain served on the Fremont Police Department's S.W.A.T. team, was a charter member of the Nebraska emergency medical services training class in 1979, and became an instructor and taught EMS classes for twenty-five years, training countless members of local rescue squads, ambulance crews, and police departments; and

WHEREAS, Lt. Detective Chamberlain was a member of the Nebraska EMS Association and received numerous awards through the association, including induction into the association's Hall of Fame in 2003; and

WHEREAS, Lt. Detective Chamberlain also served as the president of the Dodge County Humane Society and as director of security at Midland Lutheran College for twenty years. He was also a member of the Masonic Lodge and the Fraternal Order of Police and volunteered his time doing gardening at the Louis E. May Museum.

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

1. That the Legislature posthumously honors Lt. Detective Greg Chamberlain for his service to the city of Fremont and the State of Nebraska.

2. That the Legislature congratulates Lt. Detective Greg Chamberlain and his family for his induction into the Nebraska EMS Association Hall of Fame.

3. That a copy of this resolution be sent to Lt. Detective Greg Chamberlain's family and to the Fremont Police Department.

Laid over.

## **SPEAKER FLOOD PRESIDING**

### **GENERAL FILE**

**LEGISLATIVE BILL 218.** Senator Giese renewed his amendment, AM802, found on page 872.

Pending.

### **VISITORS**

Visitors to the Chamber were 17 fourth-grade students, teacher, and sponsors from Seedling Mile, Grand Island; and 41 fourth-grade students, teachers, and sponsors from Wood River.

### **ADJOURNMENT**

At 6:20 p.m., on a motion by Senator Campbell, the Legislature adjourned until 9:00 a.m., Friday, May 8, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature