

FIFTY-NINTH DAY - APRIL 13, 2010**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
SECOND SESSION****FIFTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, April 13, 2010

PRAYER

The prayer was offered by Kenneth Chapman, Santee Sioux Nation Council, Niobrara.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., Speaker Flood presiding.

The roll was called and all members were present.

CORRECTIONS FOR THE JOURNAL

Page 1416, the ST9109 should follow Legislative Bill 1020 instead of Legislative Bill 1103.

The Journal for the fifty-seventh day was approved as corrected.

The Journal for the fifty-eighth day was approved.

PRESENTED TO THE GOVERNOR

Presented to the Governor on April 12, 2010, at 12:35 p.m. were the following: LBs 507e, 507Ae, 563, 563A, 594, 701e, 771, 779e, 779A, 800, 800A, 918, 918A, 931e, 987, 987Ae, 1002, 1002A, 1014, 1071e, 1072e, and 420.

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

MESSAGES FROM THE GOVERNOR

April 12, 2010

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 252, 411, 695e, 696, 706, 713, 732, 758, 759, 760, 789, 792, 809, 813, 829e, 844, 852, 872, 884, 894, 907, 908, 933, 934, 947, 961, 978, 986, 993, 997, 1047e, 1055, 1065, 1085, 1109, and 1109A were received in my office on April 9, 2010.

These bills were signed and delivered to the Secretary of State on April 12, 2010.

Sincerely,
(Signed) Dave Heineman
Governor

April 12, 2010

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

Dear Mr. President and Members of the Legislature:

I am returning LB420 without my signature and with my objections.

I supported the underlying tax policy in this bill when it passed last year; however, in accordance with your procedural rules, the Legislature requested that I return the bill before acting on it because its passage would have put the budget out of balance. Within the time frame allotted for my decision under the Constitution, I acted on the bill by returning it to the Legislature to accommodate your request. At the time, I was advised that LB420 and four other bills would be considered this year only if they could fit into a balanced budget.

As is clear from your General Fund financial status, none of those bills can be financed this year without having the budget be imbalanced. The other four bills have not been brought up for final passage.

Today, LB420 was considered and passed with an amendment that included the oldest legislative trick possible. It delayed implementation of the sales tax exemption for three years. The United States Congress might do

something like this but in the rich tradition and best history of the Nebraska Unicameral, the Legislature has not resorted to such tactics. This bill deserves to be passed on its own merits when it can fit into a current two-year budget cycle. That is the standard to which every other legislative bill is held.

For these reasons, I urge you to sustain my veto of LB420.

Sincerely,
(Signed) Dave Heineman
Governor

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 544, 545, 546, and 547 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 544, 545, 546, and 547.

MOTIONS - Approve Appointments

Senator Fischer moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointment(s) found on page 1308:

Nebraska Railway Council
Patrick Meuret
Michael Shannon

Voting in the affirmative, 44:

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

Voting in the negative, 0.

Present and not voting, 5:

Ashford	Janssen	McGill	Pankonin	Utter
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The appointments were confirmed with 44 ayes, 0 nays, and 5 present and

not voting.

Senator Gay moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 1364:

Commission for the Deaf and Hard of Hearing
Diane Muelleman

Voting in the affirmative, 46:

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

Voting in the negative, 0.

Present and not voting, 3:

Ashford Fischer Janssen

The appointment was confirmed with 46 ayes, 0 nays, and 3 present and not voting.

BILLS ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 999. With Emergency Clause.

A BILL FOR AN ACT relating to health care; to amend section 71-401, Reissue Revised Statutes of Nebraska; to state findings; to provide for a moratorium on new hospital licenses as prescribed; to provide for a study of health care as prescribed; to harmonize provisions; to repeal the original section; 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, 41:

Adams	Cornett	Haar	Lathrop	Rogert
Ashford	Council	Hadley	McCoy	Schilz
Avery	Dierks	Hansen	McGill	Sullivan
Campbell	Dubas	Harms	Mello	Utter
Carlson	Fischer	Heidemann	Nelson	Wightman
Christensen	Flood	Howard	Nordquist	
Coash	Gay	Karpisek	Pahls	
Conrad	Giese	Krist	Pankonin	
Cook	Gloor	Langemeier	Price	

Voting in the negative, 6:

Fulton	Lautenbaugh	Stuthman
Janssen	Pirsch	White

Present and not voting, 2:

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

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB1020 with 44 ayes, 0 nays, and 5 present and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 1020.

A BILL FOR AN ACT relating to the Employment Security Law; to amend sections 48-601, 48-602, 48-627, and 48-628, Revised Statutes Cumulative Supplement, 2008, and section 48-652, Revised Statutes Supplement, 2009; to redefine a term; to change eligibility provisions for unemployment benefits; to change provisions relating to disqualification for unemployment benefits; to provide for extension of unemployment benefits; to change provisions relating to experience accounts; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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 1103.

A BILL FOR AN ACT relating to abortion; to amend section 38-2021, Reissue Revised Statutes of Nebraska, and section 28-101, Revised Statutes Supplement, 2009; to adopt the Pain-Capable Unborn Child Protection Act; to provide and change civil and criminal penalties with respect to abortion; to harmonize provisions; to provide an operative date; to provide severability; 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, 44:

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

Voting in the negative, 5:

Conrad	Cook	Council	Haar	McGill
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Not voting, 0.

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

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 999, 1020, and 1103.

RESOLUTIONS

LEGISLATIVE RESOLUTION 452. Read. Considered.

LR452 was adopted with 45 ayes, 0 nays, 3 present and not voting, and 1 excused and not voting.

SENATOR STUTHMAN PRESIDING

LEGISLATIVE RESOLUTION 542. Read. Considered.

LR542 was adopted with 46 ayes, 0 nays, 1 present and not voting, and 2 excused and not voting.

LEGISLATIVE RESOLUTION 273. Read. Considered.

LR273 was adopted with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

RESOLUTIONS

LEGISLATIVE RESOLUTION 568. Introduced by Health and Human Services Committee: Gay, 14, Chairperson; Campbell, 25; Gloor, 35; Howard, 9; Pankonin, 2; Stuthman, 22; Wallman, 30.

PURPOSE: The purpose of this interim study is to review and assess the implementation of reforms by the Department of Health and Human Services regarding how children and families are served by the child welfare and juvenile services system in Nebraska

The interim study will be conducted in consultation with the Department of Health and Human Services and with the participation of stakeholders representing state and local government, professionals, provider organizations, consumers, consumer advocates, and other parties, and any other information deemed helpful.

Issues considered for the interim study may include, but shall not be limited to:

(1) The coordination of out-of-home reform initiatives by the Department of Health and Human Services;

(2) The effectiveness of the public-private partnership in providing services to children and families involved with the department;

(3) The funding of services by the department to children and families; and

(4) The effect of the child welfare reform initiatives on meeting the federal Child and Family Service Reviews of outcomes and indicators, including safety, permanency, and well-being.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature on or before December 31, 2010.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 569. Introduced by Fulton, 29.

WHEREAS, Ms. Lana Peterson-Pressler has dedicated decades of service to the youth of Lincoln, Nebraska, as a teacher in Lincoln Public Schools; and

WHEREAS, Ms. Lana Peterson-Pressler is the only teacher from Nebraska to receive the National Elementary Physical Education Teacher of the Year award from the National Association for Sport and Physical Education; and

WHEREAS, Ms. Lana Peterson-Pressler is the only elementary physical education teacher from Nebraska to earn the National Board for Professional Teaching Standards certification; and

WHEREAS, Ms. Lana Peterson-Pressler is a continuous innovator in the field of elementary physical education, teaching a variety of nontraditional physical education and serving as a national training consultant for The First Tee National School Program; and

WHEREAS, Ms. Lana Peterson-Pressler's teaching has instilled the values of lifelong health and wellness in countless numbers of students in Lincoln and throughout the United States.

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

1. That the Legislature expresses its appreciation for the achievements of Ms. Lana Peterson-Pressler and for her positive impact on the State of Nebraska.

2. That a copy of this resolution be sent to Ms. Lana Peterson-Pressler and Lincoln Public Schools.

Laid over.

LEGISLATIVE RESOLUTION 570. Introduced by Rogert, 16.

WHEREAS, the village of Pender in Nebraska is celebrating its 125th anniversary this year. The lot for the townsite of Pender was recorded on December 8, 1884, and the lot sale was conducted on April 7, 1885; and

WHEREAS, the village of Pender was founded by W. E. Peebles. Originally named Athens just three miles south of its present location, the current village is named after John Pender, an Englishman who was a cable builder and director of the Chicago, St. Paul, Minneapolis and Omaha Railroad; and

WHEREAS, the village of Pender has 1,148 residents and is located in Thurston County. It is the county seat and the first established town in Thurston County; and

WHEREAS, members elected to the Pender Board of Trustees include Chairman Arden Shadbolt, Tom Nitzschke, Marvin Kubik, Mark Kinning, and Steven Goodman; and

WHEREAS, notable persons from the village of Pender include Maurice Pate (October 14, 1894 - January 19, 1965), a co-founder for the United Nations Children's Fund in 1947, Loren Miller (January 20, 1903 - July 14, 1967), who served as a Superior Court Justice, and Monty Budwig (December 26, 1926 - March 9, 1992), a jazz double bassist who is known for his work with Vince Guaraldi; and

WHEREAS, entertainment in the village of Pender originated at the Opera House, which promoted dance and theater, and this house still exists today. The Best Little Playhouse is provided for community theater productions, and events such as Thurston Watermelon Days are held for community entertainment; and

WHEREAS, the village of Pender encourages and fosters sporting events such as football, baseball, softball, volleyball, and track events. The residents of Pender also enjoy a local golf course, swimming pool, and park that promote community activity and family recreation. Area camping and outdoor wildlife recreation are also available for tourism and leisure; and

WHEREAS, the village of Pender has been a thriving community for 125 years and is celebrating its 125th anniversary. The quasiquicentennial events will begin June 20, 2010, and end June 27, 2010, with a closing ceremony.

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

1. That the Legislature congratulates the village of Pender on its 125th anniversary.

2. That a copy of this resolution be sent to the Pender Board of Trustees, Chairman Arden Shadbolt, Tom Nitzschke, Marvin Kubik, Mark Kinning, and Steven Goodman.

Laid over.

REFERENCE COMMITTEE REPORT2010 Resolution calling for an Interim Study

LR566	Interim study to examine various methods of financing interstate water compacts and agreements	Revenue
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(Signed) John Wightman, Chairperson
Executive Board

PRESENTED TO THE GOVERNOR

Presented to the Governor on April 13, 2010, at 10:35 a.m. were the following: LBs 999e, 1020, and 1103.

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

COMMUNICATION

April 13, 2010

The Honorable John Gale
Secretary of State
2300 State Capitol
Lincoln, NE 68509

Dear Mr. Secretary:

Inasmuch as the Legislature did not override the line-item vetoes by Governor Heineman of LB1048A, and consistent with our rules, I am delivering the bill for filing in the form and amounts as prescribed by the Governor.

Sincerely,
(Signed) Patrick J. O'Donnell
Clerk of the Legislature

PJO:jk

VISITORS

Visitors to the Chamber were 66 fourth-grade students and teachers from Carriage Hill Elementary, Papillion; Senator Coash's father, Don Coash, from Bassett; 13 high school students and teacher from Papillion-La Vista; a group from Catholic Charities St. Martin Des Porres Senior Center from Omaha; former Senator Pat Engel from South Sioux City; and 63 fourth-grade students, teachers, and sponsors from St. Joseph's School, Lincoln.

RECESS

At 11:54 a.m., on a motion by Speaker Flood, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Gay and Janssen who were excused; and Senators Ashford, Dierks, and Louden who were excused until they arrive.

RESOLUTIONS

LEGISLATIVE RESOLUTION 411. Read. Considered.

LR411 was adopted with 38 ayes, 0 nays, 5 present and not voting, and 6 excused and not voting.

LEGISLATIVE RESOLUTION 538. Read. Considered.

Senator Stuthman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

LR538 was adopted with 39 ayes, 1 nay, 3 present and not voting, and 6 excused and not voting.

LEGISLATIVE RESOLUTION 539. Read. Considered.

Senator Stuthman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 4 nays, and 17 not voting.

LR539 was adopted with 39 ayes, 3 nays, 4 present and not voting, and 3 excused and not voting.

LEGISLATIVE RESOLUTION 556. Read. Considered.

SPEAKER FLOOD PRESIDING

LR556 was adopted with 46 ayes, 0 nays, 1 present and not voting, and 2 excused and not voting.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 452, 542, 273, 411, 538, 539, and 556.

MESSAGES FROM THE GOVERNOR

April 13, 2010

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 712e, 801, 817, 842, 849e, 877e, 945, 950e, 1010e, 1094, and 1094A were received in my office on April 9, 2010.

These bills were signed and delivered to the Secretary of State on April 13, 2010.

Sincerely,
(Signed) Dave Heineman
Governor

April 13, 2010

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

Dear Mr. O'Donnell:

Engrossed Legislative Bill 594 was received in my office on April 12, 2010.

Engrossed Legislative Bill 1103 was received in my office on April 13, 2010.

These bills were signed and delivered to the Secretary of State on April 13, 2010.

Sincerely,
(Signed) Dave Heineman
Governor

RESOLUTION

LEGISLATIVE RESOLUTION 571. Introduced by Judiciary Committee: Ashford, 20, Chairperson; Christensen, 44; Coash, 27; Council, 11; Rogert, 16.

PURPOSE: The purpose of this resolution is to study the implementation of LB 63 (2009) with respect to the creation of the Office of Violence Prevention and to study the implementation of LB 800 (2010).

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

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

REFERENCE COMMITTEE REPORT

2010 Resolution calling for an Interim Study

LR571	Interim study to examine the implementation of LB63, 2009, with respect to creation of the Office of Violence Prevention, and to study implementation of LB800, 2010	Judiciary
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(Signed) John Wightman, Chairperson
Executive Board

UNANIMOUS CONSENT - Add Cointroducers

Senator Cook asked unanimous consent to add her name as cointroducer to LR556. No objections. So ordered.

Senator Langemeier asked unanimous consent to add his name as cointroducer to LR567. No objections. So ordered.

VISITORS

Visitors to the Chamber were 45 fourth-grade students and teachers from La Vista West Elementary, La Vista; 30 third- and fourth-grade students, teachers, and sponsors from Greeley-Wolbach Public School, Greeley and Wolbach; and Maureen Bunting from Billerica Essex, England.

ADJOURNMENT

At 3:31 p.m., on a motion by Senator Conrad, the Legislature adjourned until 1:30 p.m., Wednesday, April 14, 2010.

Patrick J. O'Donnell
Clerk of the Legislature