

**FIFTY-SIXTH DAY - APRIL 6, 2009**  
**LEGISLATIVE JOURNAL**  
**ONE HUNDRED FIRST LEGISLATURE**  
**FIRST SESSION**  
**FIFTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, April 6, 2009

**PRAYER**

The prayer was offered by Senator Gloor.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Rogert presiding.

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

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-fifth day was approved.

**MESSAGE FROM THE GOVERNOR**

April 6, 2009

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

Dear Mr. O'Donnell:

Engrossed Legislative Bill 483e was received in my office on April 3, 2009.

I signed this bill and delivered it to the Secretary of State on April 6, 2009.

Sincerely,  
(Signed) Dave Heineman  
Governor

**SELECT FILE**

**LEGISLATIVE BILL 158.** Senator Flood renewed his amendment, AM951, found on page 906.

The Flood amendment was adopted with 41 ayes, 0 nays, 7 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 121.** ER8032, found on page 732, was adopted.

Senator Wightman withdrew his amendment, AM862, found on page 850.

Senator Wightman renewed his amendment, AM928, found on page 879.

The Wightman amendment was adopted with 44 ayes, 0 nays, and 5 present and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 121A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 111.** ER8033, found on page 763, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 300.** ER8034, found on page 763, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 54.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 361.** ER8036, found on page 797, was adopted.

Senator Avery offered the following amendment:  
AM966

(Amendments to Standing Committee amendments, AM552)

- 1 1. On page 6, line 16, after the last comma insert "a
- 2 learning community."

The Avery amendment was adopted with 34 ayes, 0 nays, and 15 present and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 202.** Senator Fischer renewed her amendment, AM778, found on page 839.

The Fischer amendment was adopted with 39 ayes, 0 nays, and 10 present and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 202A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 328.** ER8038, found on page 813, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 328A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 620.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 164.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 292.** ER8041, found on page 815, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 292A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 547.** ER8039, found on page 815, was adopted.

Senator Adams offered the following amendment:  
AM865

(Amendments to Standing Committee amendments, AM365)

- 1 1. On page 18, strike beginning with "one" in line 8
- 2 through "three" in line 9 and insert "four".

The Adams amendment was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Senator Fulton offered the following amendment:  
AM946

(Amendments to Standing Committee amendments, AM365)

- 1 1. On page 13, line 23, strike "or" and insert an
- 2 underscored comma; and in line 25 after the comma insert "or
- 3 teaches in an accredited or approved private school in Nebraska in

4 which at least forty percent of the enrolled students qualified for  
 5 free lunches as determined by the most recent data available from  
 6 the department,".  
 7 2. On page 17, line 22, strike "or" and insert an  
 8 underscored comma; and in line 24 after the comma insert "or  
 9 teaches in an accredited or approved private school in Nebraska in  
 10 which at least forty percent of the enrolled students qualified for  
 11 free lunches as determined by the most recent data available from  
 12 the department,".

The Fulton amendment was adopted with 32 ayes, 2 nays, 12 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 547A.** Senator Adams offered the following amendment:

AM895

1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 Section 1. There is hereby appropriated (1) \$75,600  
 4 from the Education Innovation Fund for FY2009-10 and (2) \$75,600  
 5 from the Education Innovation Fund for FY2010-11 to the State  
 6 Department of Education, for Program 161, to aid in carrying  
 7 out the provisions of Legislative Bill 547, One Hundred First  
 8 Legislature, First Session, 2009.  
 9 Total expenditures for permanent and temporary salaries  
 10 and per diems from funds appropriated in this section shall not  
 11 exceed \$45,157 for FY2009-10 or \$46,287 for FY2010-11.  
 12 Sec. 2. Since an emergency exists, this act takes effect  
 13 when passed and approved according to law.

The Adams amendment was adopted with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 355.** ER8042, found on page 829, was adopted.

Senator Stuthman withdrew his amendments, AM840, AM841, and AM842, found on page 826.

Senator Avery offered the following amendment:

AM965

(Amendments to E & R amendments, ER8042)

1 1. On page 9, line 23, after the first "which" insert  
 2 "does not permit the smoking of cigarettes, which".

**SENATOR LANGEMEIER PRESIDING**

**SENATOR ROBERT PRESIDING**

Senator Wallman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 3 nays, and 20 not voting.

Senator Avery moved for a call of the house. The motion prevailed with 36 ayes, 0 nays, and 13 not voting.

Senator Avery requested a roll call vote on his amendment.

Voting in the affirmative, 25:

Adams	Cornett	Giese	Harms	Pankonin
Avery	Dierks	Gloor	Howard	Pirsch
Campbell	Dubas	Haar	Louden	Stuthman
Coash	Friend	Hadley	Nantkes	Sullivan
Cook	Gay	Hansen	Nordquist	Utter

Voting in the negative, 19:

Ashford	Flood	Lathrop	Mello	Robert
Christensen	Heidemann	Lautenbaugh	Nelson	Wallman
Council	Karpisek	McCoy	Pahls	White
Fischer	Langemeier	McGill	Price	

Present and not voting, 4:

Carlson	Fulton	Janssen	Wightman
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Excused and not voting, 1:

Schilz

The Avery amendment was adopted with 25 ayes, 19 nays, 4 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Pending.

## COMMITTEE REPORTS

## Judiciary

**LEGISLATIVE BILL 145.** Placed on General File with amendment.  
AM790

- 1 1. Strike original section 2 and insert the following new  
2 section:
- 3 Sec. 2. Section 28-1204.04, Reissue Revised Statutes of  
4 Nebraska, is amended to read:
- 5 28-1204.04 (1) Any person who possesses a firearm in a  
6 school, on school grounds, in a school-owned vehicle, or at a  
7 school-sponsored activity or athletic event ~~shall be~~ is guilty of  
8 the offense of unlawful possession of a firearm ~~on at a school~~  
9 ~~grounds.~~ Unlawful possession of a firearm on at a school grounds  
10 is a Class II misdemeanor. This subsection shall not apply to (a)  
11 the issuance of firearms to or possession by members of the armed  
12 forces of the United States, active or reserve, National Guard of  
13 this state, or Reserve Officers Training Corps or peace officers  
14 or other duly authorized law enforcement officers when on duty  
15 or training, (b) firearms which may lawfully be possessed by the  
16 person receiving instruction, for instruction under the immediate  
17 supervision of an adult instructor, (c) firearms which may lawfully  
18 be possessed by a member of a college or university rifle team,  
19 within the scope of such person's duties as a member of the team,  
20 (d) firearms which may lawfully be possessed by a person employed  
21 by a college or university in this state as part of an agriculture  
22 or a natural resources program of such college or university,  
23 within the scope of such person's employment, or (e)-(e) firearms  
1 contained within a private vehicle operated by a nonstudent adult  
2 which are not loaded and (i) are encased or (ii) are in a locked  
3 firearm rack that is on a motor vehicle. For purposes of this  
4 subsection, encased ~~shall mean~~ means enclosed in a case that is  
5 expressly made for the purpose of containing a firearm and that  
6 is completely zipped, snapped, buckled, tied, or otherwise fastened  
7 with no part of the firearm exposed.
- 8 (2) Any firearm possessed in violation of subsection (1)  
9 of this section ~~in a school, on school grounds, in a school-owned~~  
10 ~~vehicle, or at a school-sponsored activity or athletic event~~ shall  
11 be confiscated without warrant by a peace officer or may be  
12 confiscated without warrant by school administrative or teaching  
13 personnel. Any firearm confiscated by school administrative or  
14 teaching personnel shall be delivered to a peace officer as soon as  
15 practicable.
- 16 (3) Any firearm confiscated by or given to a peace  
17 officer pursuant to subsection (2) of this section shall be  
18 declared a common nuisance and shall be held by the peace officer  
19 prior to his or her delivery of the firearm to the property  
20 division of the law enforcement agency which employs the peace  
21 officer. The property division of such law enforcement agency shall

22 hold such firearm for as long as the firearm is needed as evidence.  
 23 After the firearm is no longer needed as evidence it shall be  
 24 destroyed in such manner as the court may direct.

25 (4) Whenever a firearm is confiscated and held pursuant  
 26 to this section or section 28-1204.02, the peace officer who  
 27 received such firearm shall cause to be filed within ten days after  
 1 the confiscation a petition for destruction of such firearm. The  
 2 petition shall be filed in the district court of the county in  
 3 which the confiscation is made. The petition shall describe the  
 4 firearm held, state the name of the owner, if known, allege the  
 5 essential elements of the violation which caused the confiscation,  
 6 and conclude with a prayer for disposition and destruction in such  
 7 manner as the court may direct. At any time after the confiscation  
 8 of the firearm and prior to court disposition, the owner of the  
 9 firearm seized may petition the district court of the county in  
 10 which the confiscation was made for possession of the firearm. The  
 11 court shall release the firearm to such owner only if the claim  
 12 of ownership can reasonably be shown to be true and either (a)  
 13 the owner of the firearm can show that the firearm was taken from  
 14 his or her property or place of business unlawfully or without  
 15 the knowledge and consent of the owner and that such property or  
 16 place of business is different from that of the person from whom  
 17 the firearm was confiscated or (b) the owner of the firearm is  
 18 acquitted of the charge of unlawful possession of a revolver in  
 19 violation of section 28-1204, unlawful transfer of a firearm to  
 20 a juvenile, or unlawful possession of a firearm ~~on at a school~~  
 21 ~~grounds~~. No firearm having significant antique value or historical  
 22 significance as determined by the Nebraska State Historical Society  
 23 shall be destroyed. If a firearm has significant antique value  
 24 or historical significance, it shall be sold at auction and the  
 25 proceeds ~~deposited in the permanent school fund~~, shall be remitted  
 26 to the State Treasurer for distribution in accordance with Article  
 27 VII, section 5, of the Constitution of Nebraska.

**LEGISLATIVE BILL 237.** Placed on General File with amendment.  
 AM870 is available in the Bill Room.

**LEGISLATIVE BILL 238.** Placed on General File with amendment.  
 AM903

- 1 1. On page 4, line 25, strike "(a)" and after
- 2 "maliciously" insert "(a)".

**LEGISLATIVE BILL 494.** Placed on General File with amendment.  
 AM844

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 54-617, Revised Statutes Cumulative
- 4 Supplement, 2008, is amended to read:
- 5 54-617 For purposes of sections 54-617 to 54-624 and

6 section 6 of this act

7 (1) Animal control authority means an entity authorized  
8 to enforce the animal control laws of a county, city, or village or  
9 this state and includes any local law enforcement agency or other  
10 agency designated by a county, city, or village to enforce the  
11 animal control laws of such county, city, or village;

12 (2) Animal control officer means any individual employed,  
13 appointed, or authorized by an animal control authority for the  
14 purpose of aiding in the enforcement of sections 54-617 to 54-624  
15 and section 6 of this act or any other law or ordinance relating  
16 to the licensure of animals, control of animals, or seizure  
17 and impoundment of animals and includes any state or local law  
18 enforcement officer or other employee whose duties in whole or in  
19 part include assignments that involve the seizure and impoundment  
20 of any animal;

21 (3)(a) Dangerous dog means a dog that, according to  
22 the records of an animal control authority: (i) Has killed a  
23 human being; (ii) has inflicted injury on a human being that  
1 requires medical treatment; (iii) has killed a domestic animal  
2 without provocation; or (iv) has been previously determined to be  
3 a potentially dangerous dog by an animal control authority, the  
4 owner has received notice from an animal control authority or an  
5 animal control officer of such determination, and the dog inflicts  
6 an injury on a human being that does not require medical treatment,  
7 injures a domestic animal, or threatens the safety of humans or  
8 domestic animals.

9 (b)(i) A dog shall not be defined as a dangerous dog  
10 under subdivision (3)(a)(ii) of this section, and the owner shall  
11 not be guilty under section 6 of this act, if the individual was  
12 tormenting, abusing, or assaulting the dog at the time of the  
13 injury or has, in the past, been observed or reported to have  
14 tormented, abused, or assaulted the dog.

15 (ii) A dog shall not be defined as a dangerous dog under  
16 subdivision (3)(a)(iv) of this section, and the owner shall not  
17 be guilty under section 6 of this act, if the injury, damage,  
18 or threat was sustained by an individual who, at the time, was  
19 committing a willful trespass as defined in section 20-203, 28-520,  
20 or 28-521, was committing any other tort upon the property of the  
21 owner of the dog, was tormenting, abusing, or assaulting the dog,  
22 or has, in the past, been observed or reported to have tormented,  
23 abused, or assaulted the dog, or was committing or attempting to  
24 commit a crime.;

25 (iii) A dog shall not be defined as a dangerous dog under  
26 subdivision (3)(a) of this section if the dog is a police animal as  
27 defined in section 28-1008;

1 (4) Domestic animal means a cat, a dog, or livestock.  
2 Livestock includes buffalo, deer, antelope, fowl, and any other  
3 animal in any zoo, wildlife park, refuge, wildlife area, or nature  
4 center intended to be on exhibit;



5 (5) Medical treatment means treatment administered by a  
6 physician or other licensed health care professional;

7 (6) Owner means any person, firm, corporation,  
8 organization, political subdivision, or department possessing,  
9 harboring, keeping, or having control or custody of a dog; and

10 (7) Potentially dangerous dog means (a) any dog that  
11 when unprovoked (i) inflicts an injury on a human being that does  
12 not require medical treatment, (ii) injures a domestic animal, or  
13 (iii) chases or approaches a person upon streets, sidewalks, or  
14 any public grounds in a menacing fashion or apparent attitude of  
15 attack or (b) any specific dog with a known propensity, tendency,  
16 or disposition to attack when unprovoked, to cause injury, or to  
17 threaten the safety of humans or domestic animals.

18 Sec. 2. Section 54-620, Revised Statutes Cumulative  
19 Supplement, 2008, is amended to read:

20 54-620 Any dangerous dog may be immediately confiscated  
21 by an animal control officer if the owner is in violation  
22 of sections 54-617 to 54-624 and section 6 of this act. The  
23 owner shall be responsible for the reasonable costs incurred by  
24 the animal control authority for the care of a dangerous dog  
25 confiscated by an animal control officer or for the destruction of  
26 any dangerous dog if the action by the animal control authority is  
27 pursuant to law and if the owner violated sections 54-617 to 54-624  
1 and section 6 of this act.

2 Sec. 3. Section 54-622, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 54-622 ~~Any person~~ Except as provided in section 6 of this  
5 act, any owner who violates sections 54-617 to 54-621 shall be  
6 guilty of a Class IV misdemeanor.

7 Sec. 4. Section 54-623, Revised Statutes Cumulative  
8 Supplement, 2008, is amended to read:

9 54-623 (1) Any ~~person-owner~~ convicted of a violation of  
10 sections 54-617 to 54-624 and section 6 of this act shall not own  
11 a dangerous dog within ten years after such conviction. Any ~~person~~  
12 owner violating this subsection shall be guilty of a Class IIIA  
13 misdemeanor, and the dog shall be treated as provided in subsection  
14 (2) of this section.

15 (2) ~~If~~ Except as provided in section 6 of this act, if  
16 a dangerous dog of an owner with a prior conviction under sections  
17 54-617 to 54-624 and section 6 of this act attacks or bites a  
18 human being or domestic animal, the owner shall be guilty of a  
19 Class IIIA misdemeanor. In addition, the dangerous dog shall be  
20 immediately confiscated by an animal control authority, placed in  
21 quarantine for the proper length of time, and thereafter destroyed  
22 in an expeditious and humane manner.

23 Sec. 5. Section 54-623.01, Revised Statutes Cumulative  
24 Supplement, 2008, is amended to read:

25 54-623.01 Each county shall designate an animal control  
26 authority that shall be responsible for enforcing sections 54-617

27 to 54-624 and section 6 of this act and the laws of such county  
1 regarding dangerous dogs.

2 Sec. 6. (1) Any owner whose dangerous dog inflicts on a  
3 human being a serious bodily injury as defined in section 28-109 is  
4 guilty of a Class IV felony.

5 (2) It is a defense to a violation of subsection (1)  
6 of this section that the dangerous dog was, at the time of the  
7 infliction of the serious bodily injury, in the custody of or under  
8 the direct control of a person other than the owner or the owner's  
9 immediate family.

10 Sec. 7. Section 54-624, Revised Statutes Cumulative  
11 Supplement, 2008, is amended to read:

12 54-624 Nothing in sections 54-617 to 54-623.01 and  
13 section 6 of this act shall be construed to restrict or prohibit  
14 any governing board of any county, city, or village from  
15 establishing and enforcing laws or ordinances at least as stringent  
16 as the provisions of sections 54-617 to 54-623.01 and section 6  
17 of this act.

18 Sec. 8. Original section 54-622, Reissue Revised Statutes  
19 of Nebraska, and sections 54-617, 54-620, 54-623, 54-623.01, and  
20 54-624, Revised Statutes Cumulative Supplement, 2008, are repealed.

(Signed) Brad Ashford, Chairperson

Transportation and Telecommunications

**LEGISLATIVE BILL 497.** Placed on General File with amendment.  
AM627 is available in the Bill Room.

(Signed) Deb Fischer, Chairperson

Judiciary

**LEGISLATIVE BILL 374.** Placed on General File with amendment.  
AM925

1 1. Strike the original sections and insert the following  
2 new sections:

3 Section 1. Section 25-1708, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 25-1708 Where it is not otherwise provided by this and  
6 other statutes, costs shall be allowed of course to the plaintiff,  
7 except as waived or released in writing by the plaintiff, upon a  
8 voluntary payment to the plaintiff after the action is filed but  
9 before judgment, or upon a judgment in ~~his favor,~~ favor of the  
10 plaintiff, in actions for the recovery of money only, or for the  
11 recovery of specific real or personal property.

12 Sec. 2. The parties to a civil action may, as part of  
13 a settlement of the action, agree to the payment of costs of the  
14 action.

15 Sec. 3. Original section 25-1708, Reissue Revised  
16 Statutes of Nebraska, is repealed.

**LEGISLATIVE BILL 375.** Placed on General File with amendment.  
AM924

1 1. Strike the original sections and insert the following  
2 new sections:  
3 Section 1. Section 25-1801, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 25-1801 Any person, partnership, limited liability  
6 company, association, or corporation in this state having a  
7 claim which amounts to ~~two~~ four thousand dollars or less against  
8 any person, partnership, limited liability company, association,  
9 or corporation doing business in this state for (1) services  
10 rendered, (2) labor done, (3) material furnished, (4) overcharges  
11 made and collected, (5) lost or damaged personal property, (6)  
12 damage resulting from delay in transmission or transportation, (7)  
13 livestock killed or injured in transit, or (8) charges covering  
14 articles and service affecting the life and well-being of the  
15 debtor which are adjudged by the court to be necessities of life  
16 may present the same to such person, partnership, limited liability  
17 company, association, or corporation, or to any agent thereof,  
18 for payment in any county where suit may be instituted for the  
19 collection of the same. If, at the expiration of ninety days after  
20 the presentation of such claim, the same has not been paid or  
21 satisfied, he, she, or it may institute suit thereon in the proper  
22 court. If payment is made to the plaintiff by or on behalf of  
23 the defendant after the filing of the suit but before judgment is  
1 taken, except as otherwise agreed in writing by the plaintiff, the  
2 plaintiff shall be entitled to receive the costs of suit whether  
3 by voluntary payment or judgment. If he, she, or it establishes  
4 the claim and secures judgment thereon, he, she, or it shall be  
5 entitled to recover the full amount of such judgment and all costs  
6 of suit thereon, and, in addition thereto, interest on the amount  
7 of the claim at the rate of six percent per annum from the date  
8 of presentation thereof, and, if he, she, or it has an attorney  
9 employed in the case, an amount for attorney's fees as provided  
10 in this section. If the cause is taken to an appellate court  
11 and plaintiff shall recover judgment thereon, the appellate court  
12 shall tax as costs in the action, to be paid to the plaintiff,  
13 an additional amount for attorney's fees in such appellate court  
14 as provided in this section, except that if the party in interest  
15 fails to recover a judgment in excess of the amount that may  
16 have been tendered by any person, partnership, limited liability  
17 company, association, or corporation liable under this section,  
18 then such party in interest shall not recover the attorney's fees  
19 provided by this section. Attorney's fees shall be assessed by the  
20 court in a reasonable amount but shall in no event be less than  
21 ten dollars when the judgment is fifty dollars or less and when

- 22 the judgment is over fifty dollars up to ~~two~~ four thousand dollars  
 23 the attorney's fee shall be ten dollars plus ten percent of the  
 24 judgment in excess of fifty dollars.  
 25 Sec. 2. Original section 25-1801, Reissue Revised  
 26 Statutes of Nebraska, is repealed.

(Signed) Brad Ashford, Chairperson

Revenue

**LEGISLATIVE BILL 385.** Indefinitely postponed.

(Signed) Abbie Cornett, Chairperson

### **COMMITTEE REPORT**

Judiciary

The Judiciary Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

James Pearson - Board of Parole

Aye: 8 Senators Ashford, Christensen, Coash, Council, Lathrop, Lautenbaugh, McGill, Rogert. Nay: 0. Absent: 0.

(Signed) Brad Ashford, Chairperson

### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Gay asked unanimous consent to add his name as cointroducer to LB675. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were Patrick Walsh from Omaha; members of Mayor's Youth Council and sponsors from Hastings and Juniata; 18 fourth-grade students and teacher from Arapahoe; Alpha Kappa Alpha Sorority alumni from Omaha and Lincoln; and 38 fourth-grade students, teachers, and sponsor from Meadows Elementary, Omaha.

### **RECESS**

At 12:03 p.m., on a motion by Senator McGill, the Legislature recessed until 1:30 p.m.

### **AFTER RECESS**

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

**ROLL CALL**

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

**SELECT FILE**

**LEGISLATIVE BILL 355.** Senator Lautenbaugh offered the following amendment:

AM891 is available in the Bill Room.

Senator Lautenbaugh withdrew his amendment.

Senator Utter offered the following amendment:

AM968

(Amendments to E & R amendments, ER8042)

- 1 1. On page 9, line 23, after the first "which" insert
- 2 "does not permit a person under the age of majority established in
- 3 section 43-2101 to be on the premises, which".

Senator Coash moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 6 nays, and 18 not voting.

Senator Utter moved for a call of the house. The motion prevailed with 31 ayes, 0 nays, and 18 not voting.

Senator Utter requested a roll call vote on his amendment.

Voting in the affirmative, 20:

Adams	Dierks	Hadley	Karpisek	Nantkes
Avery	Giese	Hansen	Lathrop	Pankonin
Campbell	Gloor	Harms	McGill	Stuthman
Cook	Haar	Howard	Mello	Utter

Voting in the negative, 22:

Christensen	Friend	Lautenbaugh	Pirsch	Wallman
Council	Fulton	McCoy	Price	White
Dubas	Heidemann	Nelson	Rogert	
Fischer	Janssen	Nordquist	Schilz	
Flood	Langemeier	Pahls	Sullivan	

Present and not voting, 5:

Carlson	Cornett	Gay	Louden	Wightman
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Excused and not voting, 2:

Ashford          Coash

The Utter amendment lost with 20 ayes, 22 nays, 5 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Avery offered the following amendment:

AM798

(Amendments to Standing Committee amendments, AM445)

- 1 1. On page 1, lines 3 through 5, strike the new matter
- 2 and insert "Nothing in sections 1 to 5 of this act shall prohibit
- 3 or otherwise restrict any county resolution or city ordinance
- 4 adopted by an initiative or referendum prior to the operative date
- 5 of this act from prohibiting or restricting smoking.".

Senator Avery withdrew his amendment.

Senator Gay offered the following amendment:

AM976

(Amendments to E & R amendments, ER8042)

- 1 1. On page 9, line 23, after "food" insert "or cigarettes
- 2 as defined in section 69-2702"; and strike beginning with "except"
- 3 in line 26 through the comma in line 27.

Senator Wallman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 6 nays, and 18 not voting.

Senator Gay moved for a call of the house. The motion prevailed with 37 ayes, 1 nay, and 11 not voting.

Senator Gay requested a roll call vote on his amendment.

Voting in the affirmative, 16:

Adams	Cornett	Gloor	Pankonin
Avery	Dierks	Haar	Stuthman
Campbell	Gay	Harms	Sullivan
Cook	Giese	Howard	Utter

Voting in the negative, 24:

Carlson	Fischer	Karpisek	Nantkes	Schilz
Christensen	Flood	Langemeier	Nelson	Wallman
Coash	Fulton	Lathrop	Pirsch	White
Council	Heidemann	Lautenbaugh	Price	Wightman
Dubas	Janssen	McCoy	Regert	

Present and not voting, 8:

Friend	Hansen	McGill	Nordquist
Hadley	Louden	Mello	Pahls

Excused and not voting, 1:

Ashford

The Gay amendment lost with 16 ayes, 24 nays, 8 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Senator Stuthman offered the following amendment:

AM979

(Amendments to E & R amendments, ER8042)

- 1 1. On page 9, line 24, strike "ten" and insert
- 2 "fifty-one".

Senator Stuthman withdrew his amendment.

Senator Stuthman offered the following amendment:

AM978

(Amendments to E & R amendments, ER8042)

- 1 1. On page 9, line 24, strike "ten" and insert
- 2 "fifty-five".

Senator Stuthman withdrew his amendment.

Senator Stuthman offered the following amendment:

AM977

(Amendments to E & R amendments, ER8042)

- 1 1. On page 9, line 22, strike "Cigar" and insert
- 2 "Smoking".

The Stuthman amendment lost with 5 ayes, 26 nays, 14 present and not voting, and 4 excused and not voting.

Senator Lautenbaugh offered the following amendment:

AM981 is available in the Bill Room.

The Lautenbaugh amendment was adopted with 32 ayes, 0 nays, 14 present

and not voting, and 3 excused and not voting.

Senator Dierks requested a machine vote on the advancement of the bill.

Advanced to Enrollment and Review for Engrossment with 28 ayes, 16 nays, 3 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 511.** ER8047, found on page 883, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 464.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 464A.** Advanced to Enrollment and Review for Engrossment.

#### **GENERAL FILE**

**LEGISLATIVE BILL 98.** Senator White renewed his amendment, FA25, found on page 928.

Senator White withdrew his amendment.

Senator Wallman renewed his amendment, AM963, found on page 930.

Senator Wallman withdrew his amendment.

Advanced to Enrollment and Review Initial with 35 ayes, 3 nays, 7 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 98A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 1 nay, 10 present and not voting, and 4 excused and not voting.

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

Senator Gay filed the following motion to LB195:  
MO29

Recommit to the Health and Human Services Committee pursuant to Rule 7, Section 3.



**AMENDMENT - Print in Journal**

Senator Dubas filed the following amendment to LB246:  
AM964

(Amendments to Standing Committee amendments, AM749)

- 1 1. On page 2, strike line 6 and insert "agree to remit
- 2 one hundred thousand dollars to the State Treasurer for credit to
- 3 the Biotechnology Development Cash Fund for the research"; in line
- 4 21 after the period insert "The fund may receive gifts, bequests,
- 5 grants, or other contributions or donations from public or private
- 6 entities. The State Treasurer shall transfer one hundred thousand
- 7 dollars from the General Fund to the Biotechnology Development Cash
- 8 Fund within five days after the effective date of the act."; and in
- 9 line 22 strike "one" and insert "two".

**BILLS ON FIRST READING**

The following bills were read for the first time by title:

**LEGISLATIVE BILL 601A.** Introduced by Nordquist, 7.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 601, One Hundred First Legislature, First Session, 2009; to reduce appropriations; and to declare an emergency.

**LEGISLATIVE BILL 35A.** Introduced by Ashford, 20.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 35, One Hundred First Legislature, First Session, 2009; to provide an operative date; and to declare an emergency.

**COMMITTEE REPORT**

Revenue

**LEGISLATIVE BILL 294.** Placed on General File.

(Signed) Abbie Cornett, Chairperson

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 549.** Placed on Select File with amendment.  
ER8056

- 1 1. In the Standing Committee amendments, AM822:
- 2 a. On page 8, line 17, reinstate the stricken "shall";
- 3 b. On page 10, lines 4, 7, and 11, strike "(3)", show as
- 4 stricken, and insert "(4)";

- 5 c. On page 11, line 27; and page 12, line 5, after  
6 "option" insert "school";
- 7 d. On page 12, line 22, after "option" insert "school"  
8 and strike "subdivision" and insert "subsection";
- 9 e. On page 15, line 2, strike the comma and show as  
10 stricken;
- 11 f. On page 16, line 16, after "academic" insert  
12 "material";
- 13 g. On page 37, line 4, after "permit" insert an  
14 underscored comma; and in line 5 after "holder" insert an  
15 underscored comma;
- 16 h. On page 41, line 4, strike "Schools" and insert  
17 "School districts"; and in line 8 after "traveled" insert an  
18 underscored comma;
- 19 i. On page 71, line 4, strike "in form of a resolution"  
20 and show as stricken; and
- 21 j. On page 86, line 3, after the stricken "each" insert  
22 "such".
- 23 2. On page 1, strike lines 2 through 14 and insert  
1 "60-658, 79-234, 79-239, 79-240, 79-2,104, 79-2,105, 79-304,  
2 79-305, 79-306, 79-310, 79-313, 79-317, 79-318, 79-319, 79-528,  
3 79-569, 79-598, 79-606, 79-608, 79-611, 79-1003, 79-1007.06,  
4 79-1007.08, 79-1007.16, 79-1007.20, 79-1007.21, 79-1014,  
5 79-1065.01, 79-1084, 79-1086, 79-10,110, 79-1102.01, 79-1110,  
6 79-1127, 79-1148, 79-1149, 79-1150, 79-1161, 79-1204, 79-1212,  
7 79-1241.01, 79-1241.03, 79-1601, 79-1606, and 85-607, Reissue  
8 Revised Statutes of Nebraska, and sections 79-233, 79-237, 79-238,  
9 and 79-1007.22, Reissue Revised Statutes of Nebraska, as amended  
10 by sections 1, 2, 3, and 4, respectively, Legislative Bill 62,  
11 One Hundred First Legislature, First Session, 2009; to change  
12 provisions relating to exempt schools and students, records of  
13 missing persons, the enrollment option program, student files,  
14 qualifications of the Commissioner of Education and members of the  
15 State Board of Education, powers and duties of the commissioner  
16 and the state board, school buses, transportation reimbursement,  
17 reports, school board meetings, contracts for instruction, the  
18 Tax Equity and Educational Opportunities Support Act, state aid  
19 adjustments, school tax levies, early childhood education programs,  
20 the Special Education Act, educational service units, and certain  
21 college admissions as prescribed; to harmonize provisions; to  
22 eliminate the Nebraska Equal Opportunity for Displaced Homemakers  
23 Act and provisions relating to the Diagnostic Resource Center  
24 at Cozad, the Seamless Delivery System Pilot Project, and core  
25 services funding for educational service units for prior fiscal  
26 years; to repeal the original sections; and to outright repeal  
27 sections 48-1301, 48-1302, 48-1303, 48-1304, 48-1305, 48-1306,  
1 48-1309, 79-1168, 79-1169, 79-1170, 79-1171, 79-1172, 79-1173,  
2 79-1174, 79-1175, 79-1176, 79-1177, 79-1178, 79-11,136, 79-11,137,  
3 79-11,138, 79-11,139, 79-11,140, 79-11,141, and 79-1241, Reissue

- 4 Revised Statutes of Nebraska."  
5 3. On page 2, strike lines 1 through 11.

**LEGISLATIVE BILL 136.** Placed on Select File with amendment.  
ER8054

- 1 1. On page 1, strike beginning with "sections" in line  
2 1 through "68-1724" in line 2 and insert "section 68-915"; and in  
3 line 5 strike "sections" and insert "section".

**LEGISLATIVE BILL 136A.** Placed on Select File.

**LEGISLATIVE BILL 601.** Placed on Select File with amendment.  
ER8055

- 1 1. On page 1, line 2, strike "68-901" and insert  
2 "68-911".

(Signed) Jeremy Nordquist, Chairperson

#### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Coash asked unanimous consent to add his name as cointroducer to LB675. No objections. So ordered.

#### **VISITORS**

Visitors to the Chamber were members of FCCLA and sponsor from Fremont; 58 fourth-grade students and teachers from Morton Elementary, Hastings; and members of FCCLA Leadership Conference from Kearney.

#### **ADJOURNMENT**

At 4:18 p.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Tuesday, April 7, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

