SIXTY-EIGHTH DAY - APRIL 27, 2009

LEGISLATIVE JOURNAL

ONE HUNDRED FIRST LEGISLATURE FIRST SESSION

SIXTY-EIGHTH DAY

Legislative Chamber, Lincoln, Nebraska Monday, April 27, 2009

PRAYER

The prayer was offered by Pastor Karla Cooper, Quinn Chapel, Lincoln.

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, Cornett, Giese, and Haar who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the sixty-seventh day was approved.

RESOLUTION

LEGISLATIVE RESOLUTION 99. Introduced by Pankonin, 2.

WHEREAS, the Louisville High School's power drive team won the 2009 Big Red Invitational at the University of Nebraska-Lincoln's Tractor Testing Lab: and

WHEREAS, the power drive team's four high school juniors and ten high school seniors spent six months building a one-person electric vehicle that was powered by a one horsepower electric motor and two automotive batteries; and

WHEREAS, the power drive team learned about electrical principles such as voltage, resistance, and amperage and applied the knowledge of each and the use of Ohm's Law to calculate battery voltage and amp draw during the race; and

WHEREAS, the members of the power drive team have brought great pride to their school, their school district, their communities, and their friends and families as they demonstrated discipline, efficiency, and tenacity by building a car that traveled 30.5 miles with an average speed of 31.5 miles per hour for one hour using the original batteries.

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

- 1. That the Legislature congratulates the Louisville High School's power drive team and their teacher Jesse Zweep in winning the 2009 Big Red Invitational.
- 2. That a copy of this resolution be sent to the Louisville High School's power drive team members and to Jesse Zweep.

Laid over.

MOTION - Approve Appointment

Senator Gay moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 1157:

Department of Health and Human Services

Todd Reckling, Director of Children and Family Services

Voting in the affirmative, 36:

Campbell	Friend	Karpisek	Nordquist	Sullivan
Carlson	Gay	Langemeier	Pahls	Wallman
Christensen	Gloor	Lathrop	Pankonin	White
Coash	Hadley	Louden	Pirsch	Wightman
Cook	Hansen	McCoy	Price	_
Council	Heidemann	Mello	Rogert	
Dierks	Howard	Nantkes	Schilz	
Fischer	Janssen	Nelson	Stuthman	

Voting in the negative, 0.

Present and not voting, 9:

Adams Dubas Fulton Lautenbaugh Utter

Avery Flood Harms McGill

Excused and not voting, 4:

Ashford Cornett Giese Haar

The appointment was confirmed with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 198A. Title read. Considered.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 160. Senator Hadley withdrew his amendment, FA28, found on page 1048.

PRESIDENT SHEEHY PRESIDING

Senator Hadley renewed his amendment, AM1084, found on page 1031 and considered on page 1047.

Senator Hadley offered the following amendment to his amendment: AM1125

(Amendments to AM1084)

- 1. On page 1, strike beginning with "with" in line
 2 5 through "district" in line 6 and insert "with approval of a
- 3 majority of the registered voters of the district voting on such a
- 4 proposition".

Pending.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 89, 90, and 91 were adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 89, 90, and 91.

GENERAL FILE

LEGISLATIVE BILL 160. The Hadley amendment, AM1125, found in this day's Journal, to his amendment, was renewed.

Senator Schilz moved the previous question. The question is, "Shall the debate now close?" The motion failed with 24 ayes, 4 nays, and 21 not voting.

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

Senator Christensen moved for a call of the house. The motion prevailed with 32 ayes, 0 nays, and 17 not voting.

The motion to cease debate prevailed with 34 ayes, 2 nays, 11 present and not voting, and 2 excused and not voting.

The Hadley amendment, AM1125, was adopted with 25 ayes, 13 nays, 10 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

The Hadley amendment, AM1084, found on page 1031 and considered on page 1047 and in this day's Journal, as amended, was renewed.

Senator Lautenbaugh moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 4 nays, and 18 not voting.

Senator Hadley moved for a call of the house. The motion prevailed with 43 ayes, 0 nays, and 6 not voting.

Senator Hadley requested a roll call vote on his amendment, as amended.

Voting in the affirmative, 18:

Cook	Hansen	Lathrop	Price	Wallman
Dierks	Harms	Nantkes	Schilz	White
Fischer	Heidemann	Pahls	Sullivan	
Hadley	Howard	Pirsch	Utter	

Voting in the negative, 18:

Adams	Carlson	Gay	Karpisek	Rogert
Ashford	Christensen	Giese	Louden	Wightman
Avery	Coash	Gloor	Nelson	
Campbell	Cornett	Haar	Pankonin	

Present and not voting, 12:

Council	Fulton	Lautenbaugh	Mello
Flood	Janssen	McCoy	Nordquist
Friend	Langemeier	McGill	Stuthman

Excused and not voting, 1:

Dubas

The Hadley amendment, as amended, lost with 18 ayes, 18 nays, 12 present and not voting, and 1 excused and not voting.

Failed to advance to Enrollment and Review Initial with 24 ayes, 12 nays, 12 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

AMENDMENTS - Print in Journal

Senator Gay filed the following amendment to <u>LB603</u>: AM1171 is available in the Bill Room.

Senator Gay filed the following amendment to <u>LB603A</u>: AM1206

- 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. There is hereby appropriated (1) \$1,386,548
- 4 from the General Fund and \$296,548 from federal funds for FY2009-10
- 5 and (2) \$2,251,029 from the General Fund and \$374,002 from
- 6 federal funds for FY2010-11 to the Department of Health and Human
- 7 Services, for Program 33, to aid in carrying out the provisions of
- 8 Legislative Bill 603, One Hundred First Legislature, First Session,
- 9 2009.
- 10 Total expenditures for permanent and temporary salaries
- 11 and per diems from funds appropriated in this section shall not
- 12 exceed \$416,659 for FY2009-10 or \$556,012 for FY2010-11.
- 13 Sec. 2. There is hereby appropriated (1) \$1,111,984
- 14 from the General Fund for FY2009-10 and (2) \$2,056,047 from the
- 15 General Fund for FY2010-11 to the Department of Health and Human
- Services, for Program 38, to aid in carrying out the provisions of
- 17 <u>Legislative Bill 603, One Hundred First Legislature, First Session,</u>
- 18 2009.
- 19 No expenditures for permanent and temporary salaries and
- 20 per diems for state employees shall be made from funds appropriated
- 21 in this section.
- Sec. 3. The General Fund appropriation for FY2009-10 to
- 23 the Department of Health and Human Services, for Program 38, is
- 1 hereby reduced by \$977,697. The General Fund appropriation for
- 2 FY2010-11 to the Department of Health and Human Services, for
- 3 Program 38, is hereby reduced by \$1,871,577. The reductions in
- 4 this program assume the implementation of secure residential as
- 5 a Medicaid covered service on December 1, 2009. If implementation
- 6 occurs on a date other than December 1, 2009, the Legislature
- 7 shall adjust the General Fund appropriation based upon the actual
- 8 implementation date.
- 9 Sec. 4. There is hereby appropriated (1) \$2,188,116 from
- 10 the General Fund and \$5,736,969 from federal funds for FY2009-10
- 11 and (2) \$3,005,553 from the General Fund and \$7,880,187 from
- 12 federal funds for FY2010-11 to the Department of Health and Human
- 13 Services, for Program 344, to aid in carrying out the provisions of
- 14 Legislative Bill 603, One Hundred First Legislature, First Session,
- 15 2009.
- No expenditures for permanent and temporary salaries and

17 per diems for state employees shall be made from funds appropriated

18 in this section.

- Sec. 5. There is hereby appropriated (1) \$1,221,840
- 20 <u>from the General Fund for FY2009-10 and (2) \$2,051,010 from the</u>
- 21 General Fund for FY2010-11 to the Department of Health and Human
- 22 Services, for Program 347, to aid in carrying out the provisions of
- Legislative Bill 603, One Hundred First Legislature, First Session,
 24 2009.
- No expenditures for permanent and temporary salaries and
- per diems for state employees shall be made from funds appropriated
 in this section.
 - Sec. 6. There is hereby appropriated (1) \$143,544 from
 - 2 the General Fund and \$1,262,773 from federal funds for FY2009-10
 - 3 and (2) \$314,117 from the General Fund and \$2,421,811 from federal
 - 4 funds for FY2010-11 to the Department of Health and Human Services,
 - 5 for Program 348, to aid in carrying out the provisions of
- 6 <u>Legislative Bill 603, One Hundred First Legislature, First Session,</u> 7 2009.
- 8 No expenditures for permanent and temporary salaries and
- 9 per diems for state employees shall be made from funds appropriated
- 10 <u>in this section.</u>
- Sec. 7. There is hereby appropriated (1) \$1,385,160 from
- 12 the General Fund for FY2009-10 and (2) \$1,563,993 from the General
- 13 Fund for FY2010-11 to the Board of Regents of the University of
- 14 Nebraska, for Program 781, to aid in carrying out the provisions of
- 15 Legislative Bill 603, One Hundred First Legislature, First Session,
- $16 \ \overline{2009}$.

SPEAKER'S MAJOR PROPOSAL

April 27, 2009

Patrick O'Donnell Clerk of the Legislature State Capitol Lincoln, NE 68509

Dear Mr. O'Donnell:

Please be advised that pursuant to Rule 1, Section 17, the Executive Board met and approved Speaker Flood's request that LB545 be designated as a 2009 Speaker's Major Proposal.

Sincerely,
(Signed) Senator John Wightman
Chairman, Executive Board

C: Speaker Flood

VISITORS

Visitors to the Chamber were 19 fourth-grade students and teacher from Scribner; 10 twelfth-grade students and sponsors from Cedar Rapids; 27 fourth-grade students and teachers from Plainview; 8 eleventh- and twelfth-grade students and teacher from Papillion/La Vista High School, Papillion; 120 fourth-grade students from Cavett Elementary, Lincoln; and 51 fourth-grade students and teachers from Emerson Elementary, Columbus.

RECESS

At 11:51 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., Senator Howard presiding.

ROLL CALL

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

RESOLUTION

LEGISLATIVE RESOLUTION 100. Introduced by Howard, 9.

WHEREAS, the first all-grades public school in Nebraska was opened in 1859 in Omaha by superintendent of education, Howard Kennedy; and

WHEREAS, a separate Omaha High School was completed in 1871 on the grounds of the former Nebraska Territorial Capitol; and

WHEREAS, Omaha High School changed its name to Central High School in 1915; and

WHEREAS, the Central High School Register is the oldest continuouslypublished school newspaper west of the Mississippi River; and

WHEREAS, the National Honor Society, which honors student scholastic achievement, was created by Central High School Principal J. G. Masters, and Central High School was granted the second chapter in the nation in 1921; and

WHEREAS, Central High School was one of the first high schools in the nation to offer advanced placement courses in 1956; and

WHEREAS, Central High School's distinguished alumni over the past 150 years include founders of Fortune 500 companies, United States Senators and Congressmen, an Academy Award winner, distinguished military leaders, philanthropists, educators, medical researchers, scientists, awardwinning authors, and three Nobel Prize winners; and

WHEREAS, Central High School continues its 150-year tradition of providing excellence in education to a diverse student body of 2,500 which includes international students from all over the world.

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

- 1. That the Legislature recognizes and congratulates the faculty, students, parents, and alumni of Central High School on its 150th anniversary in 2009.
 - 2. That a copy of this resolution be sent to Central High School.

Laid over.

AMENDMENT - Print in Journal

Senator Friend filed the following amendment to <u>LB495</u>: AM1211 is available in the Bill Room.

GENERAL FILE

LEGISLATIVE BILL 671. Title read. Considered.

Committee AM1009, found on page 1039, was adopted with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 4 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 476. Title read. Considered.

Committee AM961, found on page 1009, was considered.

SENATOR ROGERT PRESIDING

The committee amendment was adopted with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 44 ayes, 0 nays, 3 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 476A. Title read. Considered.

Senator Stuthman offered the following amendment: AM1219

- 1 1. On page 2, line 1, strike "\$100,000" and insert
- 2 "\$450,000".

The Stuthman amendment was adopted with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 285. Title read. Considered.

Committee AM774, found on page 978, was considered.

Senator Flood withdrew his amendment, AM1076, found on page 1082.

The committee amendment was adopted with 37 ayes, 0 nays, 11 present and not voting, and 1 excused and not voting.

Senator Pirsch offered the following amendment: AM1147

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1. Strike section 4 and insert the following new section:
 2
      Sec. 4. Section 29-4003, Reissue Revised Statutes of
    Nebraska, is amended to read:
 4
      29-4003 (1) Except as provided in subsection (2) of this
 5
    section, the (1)(a) Except as provided in subdivision (1)(a)(iii)
    of this section, the Sex Offender Registration Act shall apply
 6
 7
    applies to any person who on or after January 1, 1997:
 8
      (i) Has ever pleaded (a) Pleads guilty to, pleaded nolo
 9
    contendere to, or been or is found guilty of any of the following
10
      (i) (A) Kidnapping of a minor pursuant to section 28-313,
    except when the person is the parent of the minor and was not
11
12
    convicted of any other offense in this section;
13
      (ii) (B) False imprisonment of a minor pursuant to
14 section 28-314 or 28-315;
15
      (iii) (C) Sexual assault pursuant to section 28-319 or
16
    28-320;
17
      (iv) (D) Sexual assault of a child in the second or third
18
    degree pursuant to section 28-320.01;
19
      (v) (E) Sexual assault of a child in the first degree
20
    pursuant to section 28-319.01;
21
      (vi) (F) Sexual assault abuse of a vulnerable adult
22
    pursuant to subdivision (1)(c) of section 28-386;
23
      (vii) (G) Incest of a minor pursuant to section 28-703;
 1
      (viii) (H) Pandering of a minor pursuant to section
 2
    28-802;
 3
      (ix) (I) Visual depiction of sexually explicit conduct of
 4
    a child pursuant to section 28-1463.03 or 28-1463.05;
 5
      (x)-(J) Knowingly possessing any visual depiction of
    sexually explicit conduct which has a child as one of its
    participants or portrayed observers pursuant to section 28-813.01;
 7
 8
      (xi) (K) Criminal child enticement pursuant to section
 9
    28-311;
10
      (xii) (L) Child enticement by means of a computer
    pursuant to section 28-320.02;
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12
       (xiii) (M) Debauching a minor pursuant to section 28-805;
13 or
14
       (xiv) (N) Attempt, solicitation, aiding or abetting,
15 being an accessory, or conspiracy to commit an offense listed
16 in subdivisions \frac{(1)(a)(i)}{(1)}(1)(a)(i)(A) through \frac{(1)(a)(xiii)}{(1)}
17 (1)(a)(i)(M) of this section;
18
       (ii) Has ever (b) Enters the state and has pleaded
19
    guilty to, pleaded nolo contendere to, or has been found guilty
20 of any offense that is substantially equivalent to a registrable
21
    offense under subdivision \frac{(1)(a)}{(1)}(1)(a)(i) of this section by
22 any village, town, city, state, territory, commonwealth, or other
23 jurisdiction of the United States, by the United States Government,
24 or by court-martial or other military tribunal, or by a foreign
25 jurisdiction, notwithstanding a procedure comparable in effect to
26 that described under section 29-2264 or any other procedure to
27 nullify a conviction other than by pardon;
       (c) (iii) Is incarcerated in a jail, a penal or
 2 correctional facility, or any other public or private institution
    or is under probation or parole as a result of pleading guilty to
    or being found guilty of a registrable offense under subdivision
 5 (1)(a) or (b) (1)(a)(i) or (ii) of this section prior to January 1,
 6 1997; or
 7
       (d) (iv) Enters the state and is required to register
 8 as a sex offender under the laws of another village, town, city,
 9
    state, territory, commonwealth, or other jurisdiction of the United
10 States.
11
       (b) In addition to the registrable offenses under
12
    subdivision (1)(a)(i) of this section, the Sex Offender
Registration Act applies to any person who on or after the
14 effective date of this act:
15
       (i) Has ever pleaded guilty to, pleaded nolo contendere
16 to, been found guilty of, or been civilly committed for any of the
17
    following:
18
       (A) Murder in the first degree pursuant to section 28-303
19 in which there is a sexual element;
       (B) Murder in the second degree pursuant to section
20
21
    28-304 in which there is a sexual element;
22
       (C) Manslaughter pursuant to section 28-305 in which
23 there is a sexual element;
24
       (D) Assault in the first degree pursuant to section
    28-308 in which there is a sexual element;
25
26
       (E) Assault in the second degree pursuant to section
    28-309 in which there is a sexual element;
27
       (F) Assault in the third degree pursuant to section
 1
    28-310 in which there is a sexual element;
 3
       (G) Stalking pursuant to section 28-311.03 in which there
 4 is a sexual element;
 5
       (H) Unlawful intrusion pursuant to section 28-311.08 in
 6 which there is a sexual element;
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(I) Kidnapping pursuant to section 28-313 in which there
 8 is a sexual element:
 9
      (J) False imprisonment pursuant to section 28-314 or
    28-315 in which there is a sexual element;
10
11
      (K) Sexual abuse of an inmate or parolee in the first
12
    degree pursuant to section 28-322.02;
13
      (L) Sexual abuse of an inmate or parolee in the second
14
    degree pursuant to section 28-322.03;
15
      (M) Sexual abuse of a protected individual pursuant to
16
    section 28-322.04:
17
      (N) Incest pursuant to section 28-703;
18
      (O) Child abuse pursuant to subdivision (1)(d) or (e) of
19
    section 28-707;
20
      (P) Enticement by electronic communication device
21
    pursuant to section 28-833; or
22
      (Q) Attempt, solicitation, aiding or abetting, being
23
    an accessory, or conspiracy to commit an offense listed in
24
    subdivisions (1)(b)(i)(A) through (1)(b)(i)(P) of this section;
25
      (ii) Has ever pleaded guilty to, pleaded nolo contendere
26 to, been found guilty of, or been civilly committed for any
27
    offense that is substantially equivalent to a registrable offense
    under subdivision (1)(b)(i) of this section by any village,
    town, city, state, territory, commonwealth, or other jurisdiction
 3 of the United States, by the United States Government, or
 4 by court-martial or other military tribunal, or by a foreign
 5 jurisdiction, notwithstanding a procedure comparable in effect to
 6 that described under section 29-2264 or any other procedure to
    nullify a conviction other than by pardon; or
 8
      (iii) Enters the state and is required to register as
 9 a sex offender under the laws of another village, town, city,
10 state, territory, commonwealth, or other jurisdiction of the United
11
    States.
12
      (2) In the case of a person convicted of a violation
13 of section 28 313, 28 314, 28 315, or 28 805, the convicted person
14 shall be subject to the Sex Offender Registration Act, unless the
15 sentencing court determines at the time of sentencing, in light
16 of all the facts, that the convicted person is not subject to the
17 act. The sentencing court shall make such determination part of the
18 sentencing order.
19
      (3)-(2) A person appealing a conviction of a registrable
20 offense under this section shall be required to comply with the act
21
    during the appeals process.
22
      2. On page 11, strike beginning with "in" in line 22
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The Pirsch amendment was adopted with 38 ayes, 0 nays, 10 present and not voting, and 1 excused and not voting.

23 through "living," in line 24.

Advanced to Enrollment and Review Initial with 44 ayes, 0 nays, 4 present

and not voting, and 1 excused and not voting.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 98. Placed on Final Reading. LEGISLATIVE BILL 198. Placed on Final Reading. LEGISLATIVE BILL 322. Placed on Final Reading. LEGISLATIVE BILL 420. Placed on Final Reading. LEGISLATIVE BILL 489. Placed on Final Reading. LEGISLATIVE BILL 489A. Placed on Final Reading. LEGISLATIVE BILL 679. Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

AMENDMENT - Print in Journal

Senator Campbell filed the following amendment to <u>LB342</u>: AM1225

(Amendments to Standing Committee amendments, AM741)

- 1 1. Strike amendments 1 and 2 and insert the following new
- 2 amendments:
- 3 1. Strike the original sections and all amendments
- 4 thereto and insert the following new sections:
- 5 Section 1. Section 68-901, Revised Statutes Cumulative
- 6 Supplement, 2008, is amended to read:
- 7 68-901 Sections 68-901 to 68-956 and section 2 of this
- 8 <u>act shall</u> be known and may be cited as the Medical Assistance Act.
- 9 Sec. 2. (1) On or before July 1, 2010, the Department
- 10 of Health and Human Services shall submit an application to
- 11 the Centers for Medicare and Medicaid Services of the United
- 12 States Department of Health and Human Services, amending the
- 13 state medicaid plan to provide for medicaid payments for the
- 14 comprehensive treatment of pediatric feeding disorders through
 15 interdisciplinary treatment.
- 16 (2) For purposes of this section, interdisciplinary
- 17 treatment means the collaboration of medicine, psychology,
- 18 <u>nutrition science, speech therapy, occupational therapy, social</u>
- 19 work, and other appropriate medical and behavioral disciplines in
- 20 <u>an integrated program.</u>
- 21 Sec. 3. <u>Section 2 of this act terminates on January 1</u>,
- 22 2015, unless extended by action of the Legislature.
 - Sec. 4. Original section 68-901, Revised Statutes
 - 2 Cumulative Supplement, 2008, is repealed.

UNANIMOUS CONSENT - Add Cointroducer

Senator Dubas asked unanimous consent to add her name as cointroducer to LB476. No objections. So ordered.

VISITORS

Visitors to the Chamber were Theresa McFarland from Lexington; Nancy Poppe and Kathy Peterson from Hastings and Susan Bovee from Clay Center; and Stacie Hardy, Tracy Heilman, and Kari Bappe from South Sioux City and Stuart Clark from Wakefield.

ADJOURNMENT

At 3:51 p.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Tuesday, April 28, 2009.

Patrick J. O'Donnell Clerk of the Legislature