

FIFTY-FIRST DAY - MARCH 22, 2007**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
FIRST SESSION****FIFTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, March 22, 2007

PRAYER

The prayer was offered by Pastor Paul Rutten, Madonna Rehabilitation Hospital, Lincoln.

ROLL CALL

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

The roll was called and all members were present except Senators Gay, Hudkins, and Pankonin who were excused; and Senators Ashford, Carlson, Dierks, Heidemann, Nantkes, and Raikes who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fiftieth day was approved.

**COMMITTEE REPORTS
Enrollment and Review**

LEGISLATIVE RESOLUTION 6CA. Placed on Select File - ER8056.
ER8056

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. At the general election in November 2008 the
- 4 following proposed amendment to the Constitution of Nebraska shall
- 5 be submitted to the electors of the State of Nebraska for approval
- 6 or rejection:
- 7 To amend Article XI, section 1:
- 8 XI-1 No city, county, town, precinct, municipality, or
- 9 ~~other sub-division~~ subdivision of the state, shall ever become
- 10 a subscriber to the capital stock, or owner of such stock, or
- 11 any portion or interest therein of any railroad, or private
- 12 corporation, or association, except that, notwithstanding any other
- 13 provision of this Constitution, the Legislature may authorize the

14 investment of the public endowment funds of cities, villages, and
 15 school districts in the manner required of a prudent investor who
 16 shall act with care, skill, and diligence under the prevailing
 17 circumstance and in such investments as the governing body of
 18 such city, village, or school district, acting in a fiduciary
 19 capacity for the exclusive purpose of protecting and benefiting
 20 such investment, may determine, subject to such limitations as the
 21 Legislature may by statute provide.

22 Sec. 2. The proposed amendment shall be submitted to the
 23 electors in the manner prescribed by the Constitution of Nebraska,

1 Article XVI, section 1, with the following ballot language:

2 A constitutional amendment to authorize the investment
 3 of the public endowment funds of cities, villages, and school
 4 districts in such manner and in such investments as the governing
 5 body of such city, village, or school district may determine,
 6 subject to limitations by the Legislature.

7 For

8 Against.

LEGISLATIVE BILL 198. Placed on Select File - ER8057.
 ER8057

1 1. On page 1, strike beginning with "the" in line
 2 1 through line 4 and insert "elections; to amend sections
 3 49-1474.02 and 86-236, Revised Statutes Cumulative Supplement,
 4 2006; to change requirements for campaign messages under the
 5 Nebraska Political Accountability and Disclosure Act; to provide
 6 requirements for political messages disseminated under the
 7 Automatic Dialing-Announcing Devices Act; to harmonize provisions;
 8 and to repeal the original sections."

(Signed) Amanda McGill, Chairperson

COMMITTEE REPORTS

Health and Human Services

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

Crystal Johnson - Rural Health Advisory Commission
 Rebecca Schroeder - Rural Health Advisory Commission
 Michael Sitorius - Rural Health Advisory Commission
 Roger Wells - Rural Health Advisory Commission

VOTE: Aye: Senators Johnson, Erdman, Gay, Hansen, Howard, Pankonin.
 Nay: None. Absent: Senator Stuthman.

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the

appointment(s) be confirmed by the Legislature and suggests a record vote.

Joel E. Cerny - Board of Emergency Medical Services
 Robert K. Olson - Board of Emergency Medical Services
 James E. Smith - Board of Emergency Medical Services
 Jeffrey Strawn - Board of Emergency Medical Services
 Scott C. Wiebe - Board of Emergency Medical Services

VOTE: Aye: Senators Johnson, Erdman, Gay, Hansen, Howard, Pankonin.
 Nay: None. Absent: Senator Stuthman.

(Signed) Joel Johnson, Chairperson

Revenue

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

Ruth A. Sorensen - Tax Equalization and Review Commission

VOTE: Aye: Senators Burling, Cornett, Dierks, Janssen, Langemeier, Preister, Raikes and White. Nay: None. Absent: None.

(Signed) Ray Janssen, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 59. Introduced by Howard, 9; Adams, 24; Ashford, 20; Avery, 28; Johnson, 37; Kopplin, 3; McDonald, 41; Preister, 5.

WHEREAS, bullying is an unfortunate reality in Nebraska schools; and

WHEREAS, on any given day, in schools and on playgrounds across Nebraska, children are being victimized by their peers: From teasing, social rejection, and physical fights to text messaging and cyber-tormenting; and

WHEREAS, bullying causes deep psychological pain and children who are bullied often experience low self-esteem and depression as well as more frequent school absences, poor academic achievement, and increased school dropout rates; and

WHEREAS, children who engage in bully behavior often go on to engage in more destructive, antisocial behaviors as teens and adults; and

WHEREAS, incidents of school bullying in Nebraska schools can be reduced when students, teachers, and school administrators understand how to identify and manage bullying behavior through appropriate anti-bullying education and policy enforcement.

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

1. That the week of September 24-28, 2007, be designated as Nebraska School Bullying Awareness Week, with the intention that the issue of bullying and its prevention be discussed in Nebraska during that time.

2. That the Clerk of the Legislature send a copy of this resolution to the State Department of Education.

Laid over.

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of March 21, 2007, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

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

Peck, Kristin
Cox Nebraska Telcom, LLC

Vickers, Tom
Postsecondary Career Schools, Nebraska Council of Private

REPORTS

The following reports were received by the Legislature:

Administrative Services, Department of

Collective Bargaining Report

College System, State

Collective Bargaining Report

Coordinating Commission for Postsecondary Education

2007 Nebraska Higher Education Progress Report

GIS Steering Committee

Building a Spatial Data Infrastructure for Nebraska - December 2006

Revenue, Department of

2006 Annual Report on the Employment and Investment Growth Act (LB 775), the Employment Expansion and Investment Incentive Act (LB 1124), the Quality Jobs Act (LB 829), and the Invest Nebraska Act (LB 620)

MOTION - Approve Appointment

Senator Aguilar moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment(s) found on page 904:

State Fire Marshal
John E. Falgione

Voting in the affirmative, 29:

Adams	Erdman	Janssen	McDonald	Rogert
Aguilar	Fischer	Johnson	McGill	Schimek
Burling	Flood	Kruse	Mines	Stuthman
Christensen	Friend	Langemeier	Nelson	White
Cornett	Hansen	Lathrop	Pedersen	Wightman
Engel	Harms	Louden	Pirsch	

Voting in the negative, 0.

Present and not voting, 11:

Avery	Fulton	Kopplin	Synowiecki
Chambers	Howard	Pahls	Wallman
Dubas	Karpisek	Preister	

Excused and not voting, 9:

Ashford	Dierks	Heidemann	Nantkes	Raikes
Carlson	Gay	Hudkins	Pankonin	

The appointment was confirmed with 29 ayes, 0 nays, 11 present and not voting, and 9 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 638. ER8045, found on page 815, was adopted.

Senator McDonald renewed her amendment, AM768, found on page 918.

The McDonald amendment was adopted with 31 ayes, 0 nays, 9 present and not voting, and 9 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 328. ER8054, printed separately and referred to on page 899, was adopted.

Senator Erdman renewed his amendment, AM758, found on page 917.

The Erdman amendment was adopted with 29 ayes, 0 nays, 11 present and not voting, and 9 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 160. Advanced to E & R for engrossment.

LEGISLATIVE BILL 681. Advanced to E & R for engrossment.

LEGISLATIVE BILL 106. ER8053, found on page 899, was adopted.

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

Senator Engel moved for a call of the house. The motion prevailed with 27 ayes, 1 nay, and 21 not voting.

Senator Engel requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 25:

Adams	Cornett	Howard	McDonald	Preister
Aguilar	Dubas	Janssen	McGill	Raikes
Avery	Engel	Karpisek	Mines	Rogert
Burling	Fulton	Kruse	Nantkes	Schimek
Carlson	Hansen	Louden	Pedersen	Stuthman

Voting in the negative, 13:

Chambers	Fischer	Harms	Langemeier	Wallman
Christensen	Flood	Johnson	Nelson	
Erdman	Friend	Kopplin	Pirsch	

Present and not voting, 6:

Ashford	Pahls	White
Lathrop	Synowiecki	Wightman

Excused and not voting, 5:

Dierks	Gay	Heidemann	Hudkins	Pankonin
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Advanced to E & R for engrossment with 25 ayes, 13 nays, 6 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 292. ER8050, found on page 893, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 292A. ER8055, found on page 904, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 389. Senator Aguilar renewed his amendment,

AM782, found on page 915.

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

Advanced to E & R for engrossment.

LEGISLATIVE BILL 305. Senator Fischer renewed her amendment, AM179, found on page 438.

Senator Fischer withdrew her amendment.

Senator Chambers offered the following motion:
Indefinitely postpone LB 305.

Senator Chambers moved for a call of the house. The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

Senator Chambers requested a roll call vote, in reverse order, on his motion to indefinitely postpone.

Voting in the affirmative, 5:

Lathrop	Preister	Synowiecki	Wallman	White
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Voting in the negative, 34:

Adams	Dierks	Hansen	Kruse	Pahls
Aguilar	Engel	Harms	Langemeier	Pedersen
Avery	Erdman	Heidemann	Louden	Pirsch
Burling	Fischer	Janssen	McDonald	Raikes
Carlson	Flood	Johnson	Mines	Rogert
Christensen	Friend	Karpisek	Nantkes	Wightman
Cornett	Fulton	Kopplin	Nelson	

Present and not voting, 6:

Ashford	Howard	Schimek
Chambers	McGill	Stuthman

Excused and not voting, 4:

Dubas	Gay	Hudkins	Pankonin
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The Chambers motion to indefinitely postpone failed with 5 ayes, 34 nays, 6 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:
Reconsider the vote on motion to indefinitely postpone.

SENATOR ERDMAN PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

The Chambers motion to reconsider failed with 7 ayes, 25 nays, 11 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:
Bracket LB 305.

Senator Chambers moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

The Chambers motion to bracket failed with 4 ayes, 28 nays, 13 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:
Reconsider the motion to bracket.

Senator Chambers requested a record vote on his motion to reconsider.

Voting in the affirmative, 1:

Chambers

Voting in the negative, 22:

Adams	Cornett	Friend	Louden	Stuthman
Aguilar	Dierks	Fulton	Nantkes	Wightman
Avery	Erdman	Hansen	Nelson	
Carlson	Fischer	Karpisek	Pedersen	
Christensen	Flood	Langemeier	Pirsch	

Present and not voting, 22:

Ashford	Howard	Lathrop	Preister	Wallman
Burling	Janssen	McDonald	Raikes	White
Dubas	Johnson	McGill	Rogert	
Harms	Kopplin	Mines	Schimek	
Heidemann	Kruse	Pahls	Synowiecki	

Excused and not voting, 4:

Engel Gay Hudkins Pankonin

The Chambers motion to reconsider failed with 1 aye, 22 nays, 22 present and not voting, and 4 excused and not voting.

Pending.

RESOLUTION

LEGISLATIVE RESOLUTION 60. Introduced by Pirsch, 4.

WHEREAS, former State Senator Thomas S. Fitzgerald was born February 29, 1920, in Omaha. Upon graduation from Omaha South High School, Senator Fitzgerald worked in the Omaha Stockyards and, after Pearl Harbor, enlisted in the Army and served in the 10th Mountain Division as a ski trooper. He was awarded the Purple Heart in 1944; and

WHEREAS, Senator Fitzgerald married Lorraine Fitzgerald on September 25, 1948, and they had three children: Linda, Thomas III, and Gayle; and

WHEREAS, Senator Fitzgerald was elected to the Legislature on November 5, 1974, reelected in 1978, and served until 1981. He was also a member of many charitable organizations, including the American Legion Post 1, Fraternal Order of the Eagles, North Omaha Optimists Club, and Arts and Humanities Council of Florence; and

WHEREAS, Senator Fitzgerald will be remembered for his tireless work in establishing the Thomas Fitzgerald Veterans Home in Omaha in 1981, a truly remarkable legacy to aid America's veterans; and

WHEREAS, Thomas S. Fitzgerald died on Tuesday, March 13, 2007, at his home in Omaha, at the age of 87.

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

1. That the Legislature extends its condolences to the family of Thomas S. Fitzgerald.

Laid over.

MESSAGE FROM THE GOVERNOR

March 21, 2007

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

reappointed to the Nebraska Environmental Trust Board:

John Campbell, 710 N. 38th St., Omaha NE 68132
 Vincent Kramper, 498 190th Street, Dakota City NE 68731

The following individual is being appointed:

Sherry Vinton, 80678 Haney Lane, Whitman NE 69366

The aforementioned appointees are respectfully submitted for your consideration. Copies of the appointment certificates and applications are attached for your review.

Sincerely,
 (Signed) Dave Heineman
 Governor

Enclosures

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Campbell, John - Nebraska Environmental Trust Board - Natural Resources

Kramper, Vincent - Nebraska Environmental Trust Board - Natural Resources

Vinton, Sherry - Nebraska Environmental Trust Board - Natural Resources

(Signed) Pat Engel, Chairperson
 Legislative Council, Executive Board

AMENDMENTS - Print in Journal

Senator Burling filed the following amendment to LB 218:
 AM73

- 1 1. On page 3, line 5, strike "be allowed to".

Senator Johnson filed the following amendment to LB 236:
 AM807

(Amendments to Standing Committee amendments, AM670)

- 1 1. Strike section 4.
- 2 2. On page 1, line 3, strike "5" and insert "4"; in
- 3 line 10 strike "escort services"; in line 11 after the comma
- 4 insert "incidental transportation"; in line 14 strike "incidental
- 5 transportation"; in line 16 after the second "services" insert
- 6 "that do not require the exercise of medical or nursing judgment";
- 7 and in line 23 after "department" insert "as defined in section
- 8 71-1626".

9 3. On page 2, line 2, strike "a nurse aide registry"; in
 10 line 4 after the comma insert "an unlicensed home care registry or
 11 similar entity that screens and schedules independent contractors
 12 as caregivers for persons"; and in line 27 after "employ" insert
 13 "or contract with".

14 4. On page 3, line 18, strike "4" and insert "3"; in line
 15 19 strike "or prohibit"; and in lines 20 and 21 strike "and do not
 16 apply" and insert "or".

17 5. Renumber the remaining sections accordingly.

Senator Synowiecki filed the following amendment to LB 324:
 (Amendment, AM653, is printed separately and available in the Bill Room,
 Room 1104.)

MOTIONS - Print in Journal

Senator Mines filed the following motion to LB 395:
 Bracket LB 395 to May 15, 2007.

Senator Chambers filed the following motion to LB 305:
 Recommit to Transportation and Telecommunications Committee.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 328A. Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 328, One Hundredth Legislature, First Session, 2007; and to declare an emergency.

LEGISLATIVE BILL 324A. Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 324, One Hundredth Legislature, First Session, 2007; and to declare an emergency.

LEGISLATIVE BILL 303A. Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 303, One Hundredth Legislature, First Session, 2007.

LEGISLATIVE BILL 395A. Introduced by Johnson, 37.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 395, One Hundredth Legislature, First Session, 2007.

UNANIMOUS CONSENT - Add Cointroducer

Senator Cornett asked unanimous consent to add her name as cointroducer to LR 14. No objections. So ordered.

VISITORS

Visitors to the Chamber were 60 fourth-grade students and teachers from Ashland Greenwood School, Ashland; 35 fourth-grade students from Arlington; a group from Hartington; 44 fourth-grade students and teachers from Pershing Elementary, Lexington; 11 fifth- through eighth-grade students, teacher, and sponsor from Omaha Memorial Adventist School, Omaha; and Paige and Morgan Kristensen from Minden.

The Doctor of the Day was Dr. Tim Dalton from Lincoln.

ADJOURNMENT

At 12:58 p.m., on a motion by Senator Langemeier, the Legislature adjourned until 10:00 a.m., Tuesday, March 27, 2007.

Patrick J. O'Donnell
Clerk of the Legislature