

FIFTY-SIXTH DAY - APRIL 5, 2005**LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE
FIRST SESSION****FIFTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, April 5, 2005

PRAYER

The prayer was offered by Pastor Murry Johnston, Eagle United and Havelock United Methodist Churches, Eagle.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Baker and Dw. Pedersen who were excused; and Senators Brown, Combs, Landis, Price, Schimek, Stuthman, Synowiecki, and Thompson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-fifth day was approved.

GENERAL FILE

LEGISLATIVE BILL 709. The Beutler pending amendment, AM1027, found on page 1056 and considered on page 1091, to the Standing Committee amendment, was renewed.

The Beutler amendment was adopted with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

Senator Beutler renewed his pending amendment, AM1028, found on page 1057, to the Standing Committee amendment.

Senator Beutler withdrew his amendment.

Senator Erdman renewed his pending amendment, AM1049, found on page 1091, to the Standing Committee amendment.

The Erdman amendment was adopted with 28 ayes, 0 nays, 16 present and

not voting, and 5 excused and not voting.

Senator Beutler withdrew his pending amendments, FA142 and FA143, found on page 1092.

Senator Byars renewed his pending amendment, AM1004, found on page 1092, to the Standing Committee amendment.

SENATOR CUDABACK PRESIDING

PRESIDENT SHEEHY PRESIDING

The Byars amendment was adopted with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

Senator Chambers offered the following amendment to the Standing Committee amendment:

AM1071

(Amendments to Standing Committee amendments, AM0772)

- 1 1. Insert the following new section:
- 2 "Sec. 12. Notwithstanding any other provision of law,
- 3 the Director of Health and Human Services and the Tax Commissioner
- 4 shall annually prepare a medical assistance beneficiary employer
- 5 report. For purposes of this section, medical assistance
- 6 beneficiary means a person who receives medical assistance or
- 7 medical benefits under Chapter 68. The report shall provide the
- 8 following information for each business which has signed an
- 9 agreement to receive tax incentives under the Employment and
- 10 Investment Growth Act, the Employment Expansion and Investment
- 11 Incentive Act, including the Enterprise Zone Act, the Invest
- 12 Nebraska Act, or the Rural Economic Opportunities Act:
- 13 (1) The name and address of the business;
- 14 (2) The number of medical assistance beneficiaries who
- 15 are employees of the business;
- 16 (3) The number of medical assistance beneficiaries who
- 17 are spouses or dependents of employees of the business;
- 18 (4) Whether the business offers health benefits to its
- 19 employees; and
- 20 (5) The cost to the state of providing medical assistance
- 21 benefits for its employees and enrolled dependents.
- 22 The report shall not include the names of any individual
- 23 medical assistance beneficiaries and shall be subject to privacy
- 1 standards pursuant to the Health Insurance Portability and
- 2 Accountability Act of 1996. The report shall be submitted annually
- 3 on February 1 to the Health and Human Services Committee of the
- 4 Legislature and the Revenue Committee of the Legislature.".
- 5 2. Renumber the remaining section accordingly.

Senator Chambers withdrew his amendment.

Pending.

STANDING COMMITTEE REPORT
Nebraska Retirement Systems

LEGISLATIVE BILL 691. Placed on General File as amended.
(Standing Committee amendment, AM1032, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Elaine Stuhr, Chairperson

AMENDMENT - Print in Journal

Senator Price filed the following amendment to LB 161:
AM1054

(Amendments to E & R amendments, AM7072)

- 1 1. Insert the following new section:
- 2 "Section 1. Section 15-201, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 15-201. Cities of the primary class shall be bodies
- 5 corporate and politic and shall have power:
- 6 (1) To sue and be sued;
- 7 (2) To purchase, lease, or otherwise acquire as
- 8 authorized by their home rule charters or state statutes real
- 9 estate or personal property within or without the limits of the
- 10 city for its use for a public purpose;
- 11 (3) To purchase real or personal property upon sale for
- 12 general or special taxes or assessments and to lease, sell, convey,
- 13 or exchange such property so purchased;
- 14 (4) To sell, convey, exchange, or lease real or personal
- 15 property owned by the city in such manner and upon such terms and
- 16 conditions as shall be deemed in the best interests of the city as
- 17 authorized by its home rule charter, except that real estate owned
- 18 by the city may be conveyed without consideration to the State of
- 19 Nebraska for state armory sites or, if acquired for state armory
- 20 sites, shall be conveyed in the manner strictly as provided in
- 21 sections 18-1001 to 18-1006;
- 22 (5) To make contracts and do all acts relative to the
- 23 property and concerns of the city necessary or incident or
- 1 appropriate to the exercise of its corporate powers, including
- 2 powers granted by the Constitution of Nebraska or exercised by or
- 3 pursuant to a home rule charter adopted pursuant thereto and
- 4 including the power to execute such bonds and obligations on the
- 5 part of the city as may be required in judicial proceedings;
- 6 (6) To purchase, construct, and otherwise acquire, own,
- 7 maintain, and operate public service and public utility property
- 8 and facilities within and without the limits of the city and to
- 9 redeem such property from prior encumbrance in order to protect or

10 preserve the interest of the city therein and to exercise such
 11 other and further powers as may be necessary or incident or
 12 appropriate to the powers of such city, including powers granted by
 13 the Constitution of Nebraska or exercised by or pursuant to a home
 14 rule charter adopted pursuant thereto. If the public service or
 15 public utility property or facility is located outside the limits
 16 of the city but within the zoning jurisdiction of another political
 17 subdivision, the city and the other political subdivision may by
 18 interlocal agreement provide or exchange services, including
 19 utility services, relating to the property or facilities; ~~and~~

20 (7) To receive grants, devises, donations, and bequests
 21 of money or property for public purposes in trust or otherwise; and

22 (8) To provide for the planting, maintenance, protection,
 23 and removal of shade, ornamental, and other useful trees upon the
 24 streets or boulevards; to assess the cost thereof, when
 25 appropriate, as a special assessment against the property specially
 26 benefited to the extent of benefits received; and to provide by
 27 general ordinance for the manner in which such benefits are to be
 1 measured and the assessments calculated. The city may create
 2 districts by ordinance which shall designate the property within
 3 the district to be benefited.

4 The powers shall be exercised by the mayor and council of
 5 the city except in cases otherwise specified by law. The mayor and
 6 council shall adopt a corporate seal for the use of any officer,
 7 board, or agent of the city whose duties require an official
 8 seal."

9 2. On page 11, line 21, after "sections" insert
 10 "15-201,".

11 3. Renumber the remaining sections accordingly.

VISITORS

Visitors to the Chamber were Jo Anne Bourquard from the National Conference of State Legislatures; 32 fourth-grade students and teacher from Tecumseh Public School; 33 fourth-grade students and teacher from St. Wenceslaus School, Wahoo; 64 student nurses and faculty members from Creighton University; and 64 fourth-grade students and teachers from Cottonwood Elementary School, Omaha.

RECESS

At 11:59 a.m., on a motion by Senator Kremer, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Baker and Dw. Pedersen who were excused; and Senators Engel, Preister, and Raikes who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 709. Senator Synowiecki offered the following amendment to the Standing Committee amendment:

AM1057

(Amendments to Standing Committee amendments, AM0772)

- 1 1. Insert the following new sections:
- 2 "Sec. 12. Sections 12 to 16 of this act shall be known
- 3 and may be referred to as the Employer Public Health Services
- 4 Report Act.
- 5 Sec. 13. For purposes of the Employer Public Health
- 6 Services Report Act, public health program beneficiary means a
- 7 person who receives medical assistance or medical benefits under
- 8 any public program or any person requesting uncompensated care in a
- 9 health care facility as defined in section 71-413.
- 10 Sec. 14. A public health program beneficiary shall
- 11 identify his or her employer or employers at the time of receiving
- 12 public health program services or uncompensated care in a health
- 13 care facility. If the public health program beneficiary is not
- 14 employed and is the spouse or dependent of an employed individual,
- 15 he or she shall identify the employer or employers of his or her
- 16 spouse or legal guardian. All health care facilities shall report
- 17 such information quarterly to the Department of Health and Human
- 18 Services Finance and Support.
- 19 Sec. 15. On or before February 1 each year, the
- 20 Department of Health and Human Services Finance and Support shall
- 21 submit to the Legislature a report identifying all employers who
- 22 employ twenty-five or more public health program beneficiaries. In
- 23 determining whether the twenty-five employee threshold is met, the
- 1 department shall include all public health program beneficiaries
- 2 employed by the employer and its subsidiaries at all locations
- 3 within the state. The report shall include:
- 4 (1) The name and address of the employer;
- 5 (2) The number of public health program beneficiaries who
- 6 are employees of the employer;
- 7 (3) The number of public health program beneficiaries who
- 8 are spouses or dependents of employees of the employer;
- 9 (4) Whether the employer offers health benefits to its
- 10 employees; and
- 11 (5) The cost to the State of Nebraska of providing public
- 12 health program benefits for the employees and enrolled dependents.
- 13 The report shall not include the names of any public
- 14 health access program beneficiaries and shall be subject to privacy

15 standards pursuant to the federal Health Insurance Portability and
 16 Accountability Act of 1996, as the act existed on January 1, 2005.
 17 Sec. 16. In addition to filing the report with the
 18 Legislature, the Department of Health and Human Services Finance
 19 and Support shall make the report under section 15 of this act
 20 available to the public through the means it typically uses to
 21 disseminate information publicly. Any person may request and
 22 receive a copy of the report."
 23 2. Renumber the remaining section accordingly.

Senator Synowiecki moved for a call of the house. The motion prevailed with 22 ayes, 1 nay, and 26 not voting.

Senator Synowiecki requested a roll call vote on his amendment.

Voting in the affirmative, 23:

Aguilar	Byars	Cudaback	Kruse	Stuthman
Beutler	Chambers	Cunningham	Landis	Synowiecki
Bourne	Combs	Howard	McDonald	Thompson
Brashear	Conneally	Janssen	Price	
Brown	Cornett	Kopplin	Schimek	

Voting in the negative, 9:

Erdman	Jensen	Redfield	Smith	Wehrbein
Flood	Langemeier	Schrock	Stuhr	

Present and not voting, 12:

Burling	Friend	Johnson	Mines
Fischer	Heidemann	Kremer	Pahls
Foley	Hudkins	Louden	Pederson, D.

Excused and not voting, 5:

Baker	Engel	Pedersen, Dw.	Preister	Raikes
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The Synowiecki amendment lost with 23 ayes, 9 nays, 12 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following amendment to the Standing Committee amendment:

FA144

Amend AM1049

Add: "On page 1, in line 22 strike "control" and insert "mitigate"

The Chambers amendment was adopted with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

Senator Byars offered the following amendment to the Standing Committee amendment:

FA145

Amend AM0772

Page 2 Line 2 after the comma, insert "(4) ensure that this study addresses and then meets the needs of the people in this state,"

Strike "(4)" line 2 after "and" insert "(5)"

Senator Byars withdrew his amendment.

The Standing Committee amendment, AM0772, found on page 850 and considered on page 1091, as amended, was adopted with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 40 ayes, 0 nays, 6 present and not voting, and 3 excused and not voting.

AMENDMENTS - Print in Journal

Senator Redfield filed the following amendment to LR 12CA:

AM0998

1 1. On page 2, lines 5 through 7, strike the new matter
 2 and reinstate the stricken matter; in line 7 after "office" insert
 3 "until changed by the Legislature. The Legislature shall establish
 4 the annual salary of the members of the Legislature not to exceed
 5 the annual salary of a county commissioner in the county in which
 6 the state capital is located"; and strike beginning with "change"
 7 in line 18 through line 20 and insert "authorize the Legislature to
 8 establish the annual salary of members of the Legislature not to
 9 exceed the annual salary of a county commissioner in the county in
 10 which the state capital is located.".

Senator Redfield filed the following amendment to LR 12CA:

AM1016

1 1. On page 2, line 6, strike beginning with "of" through
 2 "dollars" and show the old matter as stricken; in line 7 after
 3 "office" insert "not to exceed twenty percent of the salary
 4 provided by law for the chief justice"; and strike beginning with
 5 "change" in line 18 through line 20 and insert "provide for an
 6 annual salary for members of the Legislature not to exceed twenty
 7 percent of the salary provided by law for the chief justice.".

Senator Redfield filed the following amendment to LR 12CA:

AM1024

1 1. On page 2, line 6, strike beginning with "of" through
 2 "dollars" and show the old matter as stricken; in line 7 after

3 "office" insert "not to exceed 14.285 percent of the salary
 4 provided by law for the chief justice"; and strike beginning with
 5 "change" in line 18 through line 20 and insert "provide for an
 6 annual salary for members of the Legislature not to exceed 14.285
 7 percent of the salary provided by law for the chief justice."

GENERAL FILE

LEGISLATIVE BILL 689. Title read. Considered.

The Standing Committee amendment, AM0403, found on page 506, was considered.

Senator Raikes offered the following amendment to the Standing Committee amendment:

AM1084

(Amendments to Standing Committee amendments, AM0403)

- 1 1. Strike amendment 1 and insert the following new
- 2 amendments:
- 3 "1. Strike original 3 and renumber the remaining section
- 4 accordingly.
- 5 2. On page 2, strike lines 10 through 24 and insert:
- 6 (4) One representative of educational service units;
- 7 (5) One representative of distance education consortia;
- 8 (6) One representative of the State Department of
- 9 Education who has expertise in technology infrastructure;
- 10 (7) One representative of the Public Service Commission;
- 11 (8) Two representatives of the Nebraska Information
- 12 Technology Commission;
- 13 (9) Two representatives of postsecondary education who
- 14 have expertise in technology infrastructure, distance education, or
- 15 dual-enrollment courses;
- 16 (10) One representative of the Governor;
- 17 (11) Two members who are either school district
- 18 superintendents or public school principals; and
- 19 (12) One representative of the Nebraska Educational
- 20 Telecommunications Commission who has expertise in technology
- 21 infrastructure or distance education.
- 22 The members listed in subdivisions (1), (4), (5), (6),
- 23 (7), (9), (11), and (12) of this section shall be appointed by the
 1 Executive Board of the Legislative Council. The members listed in
 2 subdivisions (8) and (10) of this section shall be appointed by the
 3 Governor.'"
- 4 2. On page 2, line 1, before the period insert "; and
- 5 strike beginning with 'for' in line 19 through 'classrooms' in line
- 6 20".
- 7 3. Renumber the remaining amendments accordingly.

SENATOR JANSSEN PRESIDING

SENATOR CUDABACK PRESIDING

The Raikes amendment was adopted with 30 ayes, 0 nays, 10 present and not voting, and 9 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 32 ayes, 0 nays, 8 present and not voting, and 9 excused and not voting.

Senator Raikes withdrew the Raikes-Stuhr pending amendment, AM1000, found on page 1078.

Advanced to E & R for review with 32 ayes, 0 nays, 8 present and not voting, and 9 excused and not voting.

AMENDMENTS - Print in Journal

Senator Synowiecki filed the following amendment to LB 480:
AM1056

(Amendments to Standing Committee amendments, AM0802)

- 1 1. On page 2, line 22, after "areas" insert ", except
- 2 that smoking may be permitted in a licensed racetrack enclosure".
- 3 2. On page 5, line 4, strike "(a)"; and strike beginning
- 4 with "serves" in line 5 through line 8 and insert "(a) holds a
- 5 license issued under the Nebraska Liquor Control Act to sell
- 6 alcoholic liquor at retail for consumption on the licensed premises
- 7 and (b) is a pickle card operator as defined in section 9-316 which
- 8 sells pickle cards on the licensed premises, a licensee which
- 9 conducts a lottery under the Nebraska County and City Lottery Act
- 10 on the licensed premises, or both.".

Senator Aguilar filed the following amendment to LB 117:
AM0901

(Amendments to Standing Committee amendments, AM0712)

- 1 1. Insert the following new section:
- 2 "Sec. 7. Section 28-707, Revised Statutes Supplement,
- 3 2004, is amended to read:
- 4 28-707. (1) A person commits child abuse if he or she
- 5 knowingly, intentionally, or negligently causes or permits a minor
- 6 child to be:
- 7 (a) Placed in a situation that endangers his or her life
- 8 or physical or mental health;
- 9 (b) Cruelly confined or cruelly punished;
- 10 (c) Deprived of necessary food, clothing, shelter, or
- 11 care;
- 12 (d) Placed in a situation to be sexually exploited by
- 13 allowing, encouraging, or forcing such minor child to solicit for
- 14 or engage in prostitution, debauchery, public indecency, or obscene
- 15 or pornographic photography, films, or depictions; ~~or~~
- 16 (e) Placed in a situation to be sexually abused as

17 defined in section 28-319 or 28-320.01; or

18 (f) Placed in or near the processing, cooking, or
 19 manufacturing of methamphetamine.

20 (2) The statutory privilege between patient and
 21 physician, between client and professional counselor, and between
 22 husband and wife shall not be available for excluding or refusing
 23 testimony in any prosecution for a violation of this section.

1 (3) Child abuse under subdivision (1)(a), (1)(b), (1)(c),
 2 (1)(d), or (1)(e) of this section is a Class I misdemeanor if the
 3 offense is committed negligently.

4 (4) Child abuse under subdivision (1)(a), (1)(b), (1)(c),
 5 (1)(d), or (1)(e) of this section is a Class IIIA felony if the
 6 offense is committed knowingly and intentionally and does not
 7 result in serious bodily injury as defined in section 28-109.

8 (5) Child abuse under subdivision (1)(a), (1)(b), (1)(c),
 9 (1)(d), or (1)(e) of this section is a Class III felony if the
 10 offense is committed knowingly and intentionally and results in
 11 serious bodily injury as defined in ~~such~~ section 28-109.

12 (6) Child abuse under subdivision (1)(f) of this section
 13 is a Class III felony.

14 (7) Child abuse under subdivision (1)(a), (1)(b), (1)(c),
 15 (1)(d), (1)(e), or (1)(f) of this section is a Class IB felony if
 16 the offense is committed knowingly and intentionally and results in
 17 the death of such child."

18 2. On page 18, line 15, strike "and" and after "28-456"
 19 insert "28-707".

20 3. Renumber the remaining section accordingly.

Senator Beutler filed the following amendment to LB 689A:

FA146

Strike Section 2 and renumber accordingly

Senator Chambers filed the following amendment to LB 689A:

FA148

On page 2, strike lines 8-12.

VISITORS

Visitors to the Chamber were 35 fourth-grade students and teacher from Twin River Public School, Genoa, and fourth-grade students and teacher from Monroe Elementary School; and Nicholas, Mark, and Jane Svoboda from Pender.

ADJOURNMENT

At 3:54 p.m., on a motion by Speaker Brashear, the Legislature adjourned until 9:00 a.m., Wednesday, April 6, 2005.

Patrick J. O'Donnell
 Clerk of the Legislature