

**FIFTY-SEVENTH DAY - APRIL 6, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****FIFTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, April 6, 2005

**PRAYER**

The prayer was offered by Pastor Harold Backus, First United Methodist Church, Auburn.

**ROLL CALL**

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

The roll was called and all members were present except Senators Combs and D. Pederson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-sixth day was approved.

**GENERAL FILE**

**LEGISLATIVE BILL 689A.** Title read. Considered.

Senator Stuhr renewed the Raikes-Stuhr pending amendment, AM1025, found on page 1078.

Senator Chambers offered the following motion:  
Bracket until April 8, 2005.

Senator Chambers withdrew his motion to bracket.

The Raikes-Stuhr amendment was adopted with 28 ayes, 0 nays, 20 present and not voting, and 1 excused and not voting.

Senator Beutler renewed his pending amendment, FA146, found on page 1118.

The Beutler amendment was adopted with 28 ayes, 7 nays, 13 present and not voting, and 1 excused and not voting.

Senator Chambers withdrew his pending amendment, FA148, found on page 1118.

Advanced to E & R for review with 42 ayes, 0 nays, 6 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 38.** Title read. Considered.

The Standing Committee amendment, AM0567, printed separately and referred to on page 612, was considered.

Pending.

### **AMENDMENT - Print in Journal**

Senator Preister filed the following amendment to LB 351:  
AM1078

(Amendments to E & R amendments, AM7079)

- 1 1. Insert the following section:
- 2 "Sec. 3. Since an emergency exists, this act takes
- 3 effect when passed and approved according to law."

### **VISITORS**

Visitors to the Chamber were 18 fourth-grade students and teacher from St. Bernard School, Omaha; 40 fourth-grade students and teacher from Lost Creek School, Columbus; Senator Engle's niece and nephew, Kami and Craig, and Sarah Hildebrandt from Longmont, Colorado; Ben Rodenborg from Wausa; 53 twelfth-grade students and teacher from Syracuse; 45 fourth-grade students and teachers from Seward; and 59 fourth-, fifth-, and sixth-grade students, teachers, and principal from Harvard.

### **RECESS**

At 11:56 a.m., on a motion by Senator Aguilar, 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 Brown, Kruse, Landis, and Mines who were excused until they arrive.

**SELECT COMMITTEE REPORTS  
Enrollment and Review****Correctly Engrossed**

The following bills were correctly engrossed: LBs 588, 664, and 664A.

ER9021

Enrollment and Review Change to LB 588

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Beutler amendment, AM0979, on page 6, line 17, "Disclosures" has been struck and "Disclosure" inserted.

2. On page 1, line 2, "50-1205" has been struck and "50-1205.01" inserted and "77-2711," has been inserted before "and".

(Signed) Michael Flood, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 38.** The Standing Committee amendment, AM0567, printed separately and referred to on page 612 and considered in this day's Journal, was renewed.

Senator Raikes withdrew his pending amendment, AM0945, found on page 1024.

Senator Raikes renewed his pending amendment, AM1060, found on page 1100, to the Standing Committee amendment.

**SENATOR JANSSEN PRESIDING****SENATOR CUDABACK PRESIDING**

Senator Burling moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 1 nay, and 21 not voting.

The Raikes amendment was adopted with 29 ayes, 2 nays, 16 present and not voting, and 2 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 30 ayes, 6 nays, 11 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 30 ayes, 10 nays, 7 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 548.** Title read. Considered.

The Standing Committee amendment, AM0735, found on page 812, was considered.

Pending.

**SELECT COMMITTEE REPORTS**  
**Enrollment and Review**

**LEGISLATIVE BILL 82.** Placed on Select File as amended.

E & R amendment to LB 82:

AM7081

- 1 1. On page 1, strike beginning with "60-6,288" in line 1
- 2 through line 6 and insert "60-6,114, 60-6,294, and 60-6,298,
- 3 Reissue Revised Statutes of Nebraska; to change provisions relating
- 4 to operation of emergency vehicles; to except emergency vehicles
- 5 from size and weight restrictions and require a permit for
- 6 operation of emergency vehicles as prescribed; to eliminate a
- 7 permit-carry requirement for recreational vehicles; to harmonize
- 8 provisions; and to repeal the original sections."

**LEGISLATIVE BILL 351.** Placed on Select File as amended.

E & R amendment to LB 351:

AM7079

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 81-1503, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 81-1503. (1)(a) The Environmental Quality Council is
- 6 hereby created. ~~The~~
- 7 (b) Until the effective date of this act, the council
- 8 shall consist of sixteen members to be appointed by the Governor
- 9 with the advice and consent of the Legislature as follows:
- 10 ~~(a)~~ (i) One representative of the food products
- 11 manufacturing industry;
- 12 ~~(b)~~ (ii) One representative of conservation;
- 13 ~~(c)~~ (iii) One representative of the agricultural
- 14 processing industry;
- 15 ~~(d)~~ (iv) One representative of the automotive or
- 16 petroleum industry;
- 17 ~~(e)~~ (v) One representative of the chemical industry;
- 18 ~~(f)~~ (vi) One representative of heavy industry;
- 19 ~~(g)~~ (vii) One representative of the power generating
- 20 industry;
- 21 ~~(h)~~ (viii) One representative of agriculture actively
- 22 engaged in crop production;
- 23 ~~(i)~~ (ix) One representative of labor;
- 24 ~~(j)~~ (x) One professional engineer experienced in control

- 1 of air and water pollution and solid wastes;  
 2 ~~(k)~~ (xi) One physician knowledgeable in the health  
 3 aspects of air, water, and land pollution;  
 4 ~~(l)~~ (xii) One representative from county government;  
 5 ~~(m)~~ (xiii) Two representatives from municipal government,  
 6 one of whom shall represent cities other than those of the primary  
 7 or metropolitan class;  
 8 ~~(n)~~ (xiv) One representative of the livestock industry;  
 9 and  
 10 ~~(o)~~ (xv) One representative of the public at large.  
 11 (c) On and after the effective date of this act, the  
 12 council shall consist of seventeen members to be appointed by the  
 13 Governor with the advice and consent of the Legislature as follows:  
 14 (i) One representative of the food products manufacturing  
 15 industry;  
 16 (ii) One representative of conservation;  
 17 (iii) One representative of the agricultural processing  
 18 industry;  
 19 (iv) One representative of the automotive or petroleum  
 20 industry;  
 21 (v) One representative of the chemical industry;  
 22 (vi) One representative of heavy industry;  
 23 (vii) One representative of the power generating  
 24 industry;  
 25 (viii) One representative of agriculture actively engaged  
 26 in crop production;  
 27 (ix) One representative of labor;  
 1 (x) One professional engineer experienced in control of  
 2 air and water pollution and solid wastes;  
 3 (xi) One physician knowledgeable in the health aspects of  
 4 air, water, and land pollution;  
 5 (xii) One representative from county government;  
 6 (xiii) Two representatives from municipal government, one  
 7 of whom shall represent cities other than those of the primary or  
 8 metropolitan class;  
 9 (xiv) One representative of the livestock industry;  
 10 (xv) One representative of minority populations; and  
 11 (xvi) One biologist.  
 12 (d)(i) Except as otherwise provided in this subdivision,  
 13 members of the council serving on the effective date of this act  
 14 shall continue to serve on the council as representatives of the  
 15 entity they were appointed to represent until their current terms  
 16 of office expire and their successors are appointed and confirmed.  
 17 The member representing the public at large shall serve until the  
 18 member representing minority populations is appointed.  
 19 (ii) The Governor shall appoint members pursuant to  
 20 subdivisions (1)(c)(xv) and (1)(c)(xvi) of this section within  
 21 ninety days after the effective date of this act.  
 22 (2) Members shall serve for terms of four years. All

23 appointments shall be subject to confirmation by the Legislature  
24 when initially made. As the term of an appointee to the council  
25 expires, the succeeding appointee shall be a representative of the  
26 same segment of the public as the previous appointee. In the case  
27 of appointees to vacancies occurring from unexpired terms, each

1 successor shall serve out the term of his or her predecessor.

2 Members whose terms have expired shall continue to serve until  
3 their successors have been appointed. All members shall be  
4 citizens and residents of the State of Nebraska.

5 (3) Members may be removed by the Governor for  
6 inefficiency, neglect of duty, or misconduct in office but only  
7 after delivering to the member a copy of the charges and affording  
8 him or her an opportunity to be publicly heard in person or by  
9 counsel, in his or her own defense, upon not less than ten days'  
10 notice. Such hearing shall be held before the Governor. When a  
11 member is removed, the Governor shall file, in the office of the  
12 Secretary of State, a complete statement of all charges made  
13 against such member and the findings thereon, together with a  
14 complete record of the proceedings.

15 (4) The council shall elect from its members a  
16 chairperson and a vice-chairperson, who shall hold office at the  
17 pleasure of the council. The vice-chairperson shall serve as  
18 chairperson in case of the absence or disability of the  
19 chairperson. The director shall serve as secretary of the council  
20 and shall keep all records of meetings of and actions taken by the  
21 council. He or she shall be promptly advised as to such actions by  
22 the chairperson.

23 (5) The members of the council, while engaged in the  
24 performance of their official duties, shall receive a per diem of  
25 forty dollars while so serving, including travel time. In  
26 addition, members of the council shall receive reimbursement for  
27 actual and necessary expenses as provided in sections 81-1174 to  
1 81-1177.

2 (6) The council shall hold at least four meetings, once  
3 each calendar quarter, at a time and place fixed by the council and  
4 shall keep a record of its proceedings which shall be open to the  
5 public for inspection. Special meetings may be called by the  
6 chairperson. Such special meetings must be called by him or her  
7 upon receipt of a written request signed by two or more members of  
8 the council. Written notice of the time and place of all meetings  
9 shall be mailed in advance to the office of each member of the  
10 council by the secretary. A majority of the members of the council  
11 shall constitute a quorum.

12 (7) The council shall submit to the Governor a list of  
13 names from which he or she shall appoint the Director of  
14 Environmental Quality who shall be experienced in air, water, and  
15 land pollution control and who may be otherwise an employee of  
16 state government. The director shall be responsible for  
17 administration of the department and all standards, rules, and

18 regulations adopted pursuant to Chapter 81, article 15, the  
 19 Integrated Solid Waste Management Act, and the Livestock Waste  
 20 Management Act. All such standards, rules, and regulations shall  
 21 be adopted by the council after consideration of the  
 22 recommendations of the director. All grants to political  
 23 subdivisions under the control of the department shall be made by  
 24 the director in accordance with priorities established by the  
 25 council. A majority of the members of the council shall constitute  
 26 a quorum for the transaction of business. The affirmative vote of  
 27 a majority of all members of the council shall be necessary for the  
 1 adoption of standards, rules, and regulations.

2 (8) Before the director enters upon the duties of his or  
 3 her office, he or she shall take and subscribe to the  
 4 constitutional oath of office and shall, in addition thereto, swear  
 5 and affirm that he or she holds no other public office nor any  
 6 position under any political committee or party, that he or she has  
 7 not during the two years immediately prior to his or her  
 8 appointment received a significant portion of his or her income  
 9 directly or indirectly from permitholders or applicants for a  
 10 permit under the Environmental Protection Act, and that he or she  
 11 will not receive such income during his or her term as director,  
 12 except that such requirements regarding income prior to the term of  
 13 office shall not apply to employees of any agency of the State of  
 14 Nebraska or any political subdivision which may be a permitholder  
 15 under the Environmental Protection Act. Such oath and affirmation  
 16 shall be filed with the Secretary of State.  
 17 Sec. 2. Original section 81-1503, Reissue Revised  
 18 Statutes of Nebraska, is repealed."

(Signed) Michael Flood, Chairperson

## RESOLUTION

**LEGISLATIVE RESOLUTION 74.** Introduced by Howard, 9.

**PURPOSE:** The purpose of this study is to determine the potential need for social workers to be placed as staff in public schools. The study will include, but not be limited to:

1. Examination of the impact of social and environmental concerns on children's academic achievement;
2. Examination of the manner in which social concerns are currently being met in school settings;
3. Examination of the potential improvements in academic and social outcomes for children and their families;
4. Examination of existing models of social workers in school settings; and
5. Consideration of the fiscal impact associated with placement of social workers in school settings.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE

## NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

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

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

Referred to the Executive Board.

**AMENDMENTS - Print in Journal**

Senator Beutler filed the following amendment to LB 70:  
FA149  
Strike Section 7

Senator Burling filed the following amendment to LB 542:  
AM1099

(Amendments to Standing Committee amendments, AM0932)

- 1 1. Strike section 2 and insert the following new
- 2 section:
- 3 "Sec. 2. The Tax Policy Review Commission is created.
- 4 The commission shall have fifteen members appointed as follows:
- 5 (1) Eight members of the Legislature, at least six of
- 6 whom will not be term-limited out of the Legislature in January
- 7 2007 by the Executive Board of the Legislative Council;
- 8 (2) One representative of the education community
- 9 appointed by the Governor;
- 10 (3) One representative of production agriculture
- 11 appointed by the Governor;
- 12 (4) One representative of industry and manufacturing
- 13 appointed by the Governor;
- 14 (5) One representative of the financial sector appointed
- 15 by the Governor;
- 16 (6) One representative of the telecommunications sector
- 17 appointed by the Governor; and
- 18 (7) One representative of city government and one
- 19 representative of county government appointed by the Governor."
- 20 2. On page 3, line 13, strike "and"; in line 14 after
- 21 "(7)" insert "Examine previous studies including the Comprehensive
- 22 Tax Study done by Syracuse University from 1986 to 1988, and
- 23 ascertain whether any recommendations of such studies can be
- 1 utilized in the commission's research; and
- 2 (8); and in line 15 strike "and" and insert a comma and
- 3 after "Legislature" insert ", and the Governor".

Senator Bourne filed the following amendment to LB 361:  
AM1114

(Amendments to E & R amendments, AM7070)

- 1 1. On page 7, line 23, strike "statewide associations"

2 and insert "a statewide association".

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

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LB 239. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 33 fourth- and fifth-grade students and teacher from Wallace District 60, Hastings; Senator Schrock's grandchildren, Grace and Brett, from Holdrege; 27 fourth-grade students and teachers from Morton Elementary School, Hastings; and 12 third- and fourth-grade students and teacher from Cheney.

### **ADJOURNMENT**

At 4:10 p.m., on a motion by Speaker Brashear, the Legislature adjourned until 9:00 a.m., Thursday, April 7, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

