

SIXTIETH DAY - APRIL 12, 2005**LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE
FIRST SESSION****SIXTIETH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, April 12, 2005

PRAYER

The prayer was offered by Senator Janssen.

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 Senator Combs who was excused; and Senators Brown and Dw. Pedersen who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-ninth day was approved.

GENERAL FILE

LEGISLATIVE BILL 480. The Standing Committee amendment, AM0802, found on page 861 and considered on page 1136, was renewed.

Senator Thompson renewed her pending amendment, AM0948, found on page 1078 and considered on page 1137, to the Standing Committee amendment.

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

Senator Bourne requested a ruling of the Chair on whether there had been a full and fair debate, pursuant to Rule 7, Sec. 4, on the Thompson amendment.

The Chair ruled there had been a full and fair debate on the Thompson amendment.

The motion to cease debate failed with 15 ayes, 18 nays, and 16 not voting.

Senator Thompson moved the previous question. The question is, "Shall the debate now close?" The motion failed with 18 ayes, 12 nays, and 19 not voting.

Senator Thompson withdrew her amendment.

Senator Bourne renewed his pending amendment, AM1052, found on page 1092, to the Standing Committee amendment.

Pending.

SELECT COMMITTEE REPORT Enrollment and Review

LEGISLATIVE BILL 548. Placed on Select File as amended.

E & R amendment to LB 548:

AM7085

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 71-7607, Revised Statutes
- 4 Supplement, 2004, is amended to read:
- 5 71-7607. (1) The Nebraska Medicaid Intergovernmental
- 6 Trust Fund is created. The fund shall include revenue received
- 7 from governmental nursing facilities receiving payments for nursing
- 8 facility services under the medical assistance program established
- 9 pursuant to section 68-1018. The Department of Health and Human
- 10 Services Finance and Support shall remit such revenue to the State
- 11 Treasurer for credit to the fund. The department shall adopt and
- 12 promulgate rules and regulations to establish procedures for
- 13 participation by governmental nursing facilities and for the
- 14 receipt of such revenue under this section. Money from the
- 15 Nebraska Medicaid Intergovernmental Trust Fund shall be transferred
- 16 to the Nebraska Health Care Cash Fund as provided in section
- 17 71-7611.
- 18 (2) The department may use revenue in the Nebraska
- 19 Medicaid Intergovernmental Trust Fund to offset any unanticipated
- 20 reductions in medicaid funds received under this section.
- 21 (3) ~~For FY2003-04 and FY2004-05, transfers may be made~~
- 22 ~~from the fund to the Department of Health and Human Services Cash~~
- 23 ~~Fund, the Behavioral Health Services Fund, and the Attorney General~~
- 24 ~~Child Protection Cash Fund at the direction of the Legislature to~~
- 1 fund child welfare and protection activities and emergency
- 2 protective services. The Department of Administrative Services
- 3 shall administratively create the Attorney General Child Protection
- 4 Cash Fund to be administered by the office of the Attorney General
- 5 for the purpose of receiving fund transfers to assist with the
- 6 prosecution of crimes against children.
- 7 (4) The State Treasurer shall transfer two million two

8 hundred twenty thousand dollars from the Nebraska Medicaid
9 Intergovernmental Trust Fund to the Department of Health and Human
10 Services Cash Fund on or before May 1, 2004. The State Treasurer
11 shall transfer five million four hundred twenty thousand dollars
12 from the Nebraska Medicaid Intergovernmental Trust Fund to the
13 Department of Health and Human Services Cash Fund on or before July
14 15, 2004. The State Treasurer shall transfer eighty thousand
15 dollars from the Nebraska Medicaid Intergovernmental Trust Fund to
16 the Attorney General Child Protection Cash Fund on or before May 1,
17 2004. The State Treasurer shall transfer eighty thousand dollars
18 from the Nebraska Medicaid Intergovernmental Trust Fund to the
19 Attorney General Child Protection Cash Fund on or before July 15,
20 2004.

21 (5) Any money in the Nebraska Medicaid Intergovernmental
22 Trust Fund available for investment shall be invested by the state
23 investment officer pursuant to the Nebraska Capital Expansion Act
24 and the Nebraska State Funds Investment Act.

25 Sec. 2. Section 71-7608, Revised Statutes Supplement,
26 2004, is amended to read:

27 71-7608. The Nebraska Tobacco Settlement Trust Fund is
1 created. The fund shall include any settlement payments or other
2 revenue received by the State of Nebraska in connection with any
3 tobacco-related litigation to which the State of Nebraska is a
4 party. The Department of Health and Human Services Finance and
5 Support shall remit such revenue to the State Treasurer for credit
6 to the fund, except that of such revenue received on or after April
7 1, 2005, ~~two three million five hundred thousand~~ dollars shall be
8 credited annually to the Tobacco Prevention and Control Cash Fund.
9 Subject to the terms and conditions of such litigation, money from
10 the Nebraska Tobacco Settlement Trust Fund shall be transferred to
11 the Nebraska Health Care Cash Fund as provided in section 71-7611.
12 Any money in the Nebraska Tobacco Settlement Trust Fund available
13 for investment shall be invested by the state investment officer
14 pursuant to the Nebraska Capital Expansion Act and the Nebraska
15 State Funds Investment Act.

16 Sec. 3. Section 71-7611, Revised Statutes Supplement,
17 2004, is amended to read:

18 71-7611. (1) The Nebraska Health Care Cash Fund is
19 created. The State Treasurer shall transfer ~~fifty~~ fifty-two
20 million dollars annually no later than July 15 from the Nebraska
21 Medicaid Intergovernmental Trust Fund and the Nebraska Tobacco
22 Settlement Trust Fund to the Nebraska Health Care Cash Fund, except
23 that such amount shall be reduced by the amount of the unobligated
24 balance in the Nebraska Health Care Cash Fund at the time the
25 transfer is made. The state investment officer upon consultation
26 with the Nebraska Investment Council shall advise the State
27 Treasurer on the amounts to be transferred from the Nebraska
1 Medicaid Intergovernmental Trust Fund and from the Nebraska Tobacco
2 Settlement Trust Fund under this section in order to sustain such

3 transfers in perpetuity. The state investment officer shall report
 4 to the Legislature on or before October 1 of every even-numbered
 5 year on the sustainability of such transfers. Except for transfers
 6 made pursuant to subsections (3) and (4) of this section, no more
 7 than fifty-two million dollars may be appropriated or transferred
 8 from the Nebraska Health Care Cash Fund in any fiscal year.

9 (2) Any money in the Nebraska Health Care Cash Fund
 10 available for investment shall be invested by the state investment
 11 officer pursuant to the Nebraska Capital Expansion Act and the
 12 Nebraska State Funds Investment Act.

13 (3) ~~The State Treasurer shall transfer two million~~
 14 ~~dollars from the Nebraska Health Care Cash Fund to the University~~
 15 ~~of Nebraska Medical Center Designated Cash Fund within fifteen days~~
 16 ~~after July 1, 2004.~~

17 (4) The State Treasurer shall transfer two million
 18 dollars from the Nebraska Health Care Cash Fund to the University
 19 of Nebraska Medical Center Designated Cash Fund within fifteen days
 20 after July 1, 2005.

21 (5) (4) The State Treasurer shall transfer two million
 22 dollars from the Nebraska Health Care Cash Fund to the University
 23 of Nebraska Medical Center Designated Cash Fund within fifteen days
 24 after July 1, 2006.

25 (5) No recipient of funds shall discriminate against any
 26 person on the basis of sexual orientation.

27 Sec. 4. This act becomes operative on July 15, 2005.

1 Sec. 5. Original sections 71-7607, 71-7608, and 71-7611,
 2 Revised Statutes Supplement, 2004, are repealed.

3 Sec. 6. The following sections are outright repealed:

4 Sections 71-7601 to 71-7604, 71-7609, and 71-7610, Reissue Revised
 5 Statutes of Nebraska.

6 Sec. 7. Since an emergency exists, this act takes effect
 7 when passed and approved according to law."

8 2. On page 1, line 6, after the first semicolon insert

9 "to prohibit discrimination by fund recipients; to provide an
 10 operative date;".

(Signed) Michael Flood, Chairperson

STANDING COMMITTEE REPORT Education

The Education 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.

Joyce Simmons - Coordinating Commission for Postsecondary Education

VOTE: Aye: Senators Bourne, Byars, Howard, Kopplin, McDonald, Raikes, Schrock, and Stuhr. Nay: None. Absent: None.

(Signed) Ron Raikes, Chairperson

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 542A. Introduced by Burling, 33.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 542, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

AMENDMENTS - Print in Journal

Senator Jensen filed the following amendment to LB 70:
AM1156

- 1 1. On page 24, line 28, strike "fifteen", show as
- 2 stricken, and insert "twenty".

Senator Jensen filed the following amendment to LB 70:
AM1153

- 1 1. On page 13, line 6, strike "may", show as stricken,
- 2 and insert "shall".

ANNOUNCEMENT

It was announced that today is Senator Cudaback's birthday.

GENERAL FILE

LEGISLATIVE BILL 480. The Bourne pending amendment, AM1052, found on page 1092 and considered in this day's Journal, to the Standing Committee amendment, was renewed.

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

The Bourne amendment lost with 13 ayes, 27 nays, 7 present and not voting, and 2 excused and not voting.

Senator Bourne withdrew his pending amendment, AM1051, found on page 1097.

Senator Synowiecki renewed his pending amendment, AM1056, found on page 1117, to the Standing Committee amendment.

Senator Chambers requested a division of the question on the Synowiecki

amendment.

The Chair sustained the division of the question.

The first Synowiecki amendment, to the Standing Committee amendment, is as follows:

FA157

(Amendments to Standing Committee amendments, AM0802)

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.".

Pending.

AMENDMENT - Print in Journal

Senator Thompson filed the following amendment to LB 480:

AM1179

(Amendments to Standing Committee amendments, AM0802)

1 1. On page 2, line 22, after "areas" insert ", except
 2 that in cases in which an entire room or hall is used for a private
 3 social function, the proprietor may allow smoking in the entire
 4 area".
 5 2. On page 5, line 5, strike the comma and insert "and";
 6 and in line 6 strike beginning with the first comma through the
 7 second comma.

VISITORS

Visitors to the Chamber were Tyler Koch from Lincoln; Pastor Maetta Snyder from North Bend; 9 eighth-grade students, teacher, and sponsors from Phelps County R-4; 23 students from Johnson; 44 fourth-grade students and teachers from Blumfield Elementary School, Omaha; high school students and teacher from Sutherland; 7 first- through eighth-grade students and teacher from Valleyside #10, Ord; 15 student senators and sponsors from District 47; Lieutenant Governor Sheehy's mother and sisters, Mary Helen Sheehy, Peg Wallace, and Sue Henry, from Hastings; and 73 fourth-grade students and teachers from St. Pius-St. Leo School, Omaha.

RECESS

At 11:56 a.m., on a motion by Senator Byars, 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 Senator Combs who was excused; and Senators Brown, Cornett, Cunningham, Heidemann, Dw. Pedersen, and Wehrbein who were excused until they arrive.

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

The following bills were correctly engrossed: LBs 193, 276, 389, and 389A.

ER9030

Enrollment and Review Change to LB 276

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

1. On page 7, line 6, "Chapter 60, article 3" has been struck and "sections 60-6,320 to 60-6,346" inserted.

(Signed) Michael Flood, Chairperson

GENERAL FILE

LEGISLATIVE BILL 673. Title read. Considered.

The Standing Committee amendment, AM0867, printed separately and referred to on page 931, was considered.

Senator Louden renewed his pending amendment, AM1007, found on page 1140, to the Standing Committee amendment.

The Louden amendment was adopted with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

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

AM1185

(Amendments to Standing Committee amendments, AM0867)

- 1 1. On page 9, line 16, after "exercised" insert "and
- 2 forty-eight-hours' written advanced notice of entrance is provided
- 3 to the property owner or occupant".

SENATOR JENSEN PRESIDING**SENATOR CUDABACK PRESIDING**

The Beutler amendment was adopted with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

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

AM1186

(Amendments to Standing Committee amendments, AM0867)

- 1 1. On page 2, line 11; page 4, line 26; and page 6, line
- 2 9, after "property" insert "if the owner of the adjacent property
- 3 objects to such expansion".
- 4 2. On page 4, line 1, strike "and" and insert "and the
- 5 owner of the adjacent property objects to such expansion and the
- 6 county board".

The Beutler amendment was adopted with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

Senator Beutler offered the following amendment:

AM1187

(Amendments to Standing Committee amendments, AM0867)

- 1 1. Strike section 15.
- 2 2. On page 9, lines 17, 18, and 22, strike "shall" and
- 3 insert "may"; in line 20 insert "and" after the comma; and strike
- 4 beginning with "may" in line 20 through "(4)" in line 22.
- 5 3. On page 10, line 7, strike "shall" and insert "may";
- 6 and strike beginning with "to" in line 8 through "81-2,237" in line
- 7 14.
- 8 4. On page 12, line 21, strike "sections 81-2,236 and
- 9 81-2,237" and insert "section 81-2,236"; and in line 22 strike
- 10 "are" and insert "is".
- 11 5. Renumber the remaining section accordingly.

Senator Beutler asked unanimous consent to withdraw his pending amendment, AM1187, found in this day's Journal, and replace it with his substitute amendment, FA161, to the Standing Committee amendment. No objections. So ordered.

FA161

Amend AM0867

On page 8, line 23 strike the words "or fines"

PRESIDENT SHEEHY PRESIDING

The Beutler amendment was adopted with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

Pending.

STANDING COMMITTEE REPORT
Natural Resources

LEGISLATIVE BILL 708. Indefinitely postponed.

(Signed) Ed Schrock, Chairperson

AMENDMENTS - Print in Journal

Senator Chambers filed the following amendments to LB 673:

FA159

Amend AM0867

On page 1, strike lines 3 and 4.

FA160

Amend AM0867

On page 6, in line 22 strike "\$1,500" and insert "\$15,000"

FA162

Amend AM0867

On page 1, after line 6 insert "(6) In no event shall eradication be an option."

FA163

Amend AM0867

On page 1, in line 4 strike "Black-Tailed Prairie Dog Management" and insert "Dump the Responsibility of the State of Nebraska onto the Individual Landowner".

VISITORS

Visitors to the Chamber were 34 fourth-grade students and teacher from District 1-R, Grand Island; 16 fourth-grade students and teacher from Grant Elementary School, Norfolk; residents from Immanuel Lakeside Village Retirement Community, Omaha; 13 seventh- and eighth-grade students and teacher from Deshler Lutheran School; and 13 sixth-grade students and sponsors from Paxton.

The Doctor of the Day was Dr. Jaime Dodge from Lincoln.

ADJOURNMENT

At 4:04 p.m., on a motion by Senator Langemeier, the Legislature adjourned until 9:00 a.m., Wednesday, April 13, 2005.

Patrick J. O'Donnell
Clerk of the Legislature

