

EIGHTY-SECOND DAY - MAY 20, 2005**LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE
FIRST SESSION****EIGHTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska
Friday, May 20, 2005

PRAYER

The prayer was offered by Senator Stuhr.

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 Kruse who was excused; and Senators Byars, Heidemann, Landis, McDonald, Dw. Pedersen, D. Pederson, Raikes, Schrock, Synowiecki, and Thompson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 1655, strike lines 29 and 30 and insert:

"Senator Fischer reoffered her amendment, AM0100, found on page 511 and considered on page 519."

The Journal for the eighty-first day was approved as corrected.

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of May 19, 2005, 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

Bunger, Ken
Omaha Royals Limited Partnership

Licht, Andrew W.
Anderson Management Services, Inc.

O'Hara, Lindsay & Associates, Inc.
W. Scott Davis, Attorney at Law

Pappas, James E.
Access Elevator, Inc.

MOTIONS - Approve Appointments

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 1616:

Commission for the Deaf and Hard of Hearing

Mary Ann Burke
Michael J. Carruthers
Daniel R. Darnall
Luana Duennerman

Voting in the affirmative, 28:

Aguilar	Cudaback	Friend	Louden	Schimek
Baker	Cunningham	Howard	Mines	Smith
Bourne	Engel	Jensen	Pahls	Stuhr
Burling	Erdman	Johnson	Preister	Stuthman
Combs	Fischer	Kremer	Price	
Connealy	Flood	Langemeier	Redfield	

Voting in the negative, 0.

Present and not voting, 9:

Beutler	Chambers	Foley	Janssen	Wehrbein
Brashear	Cornett	Hudkins	Kopplin	

Excused and not voting, 12:

Brown	Kruse	Pedersen, Dw.	Schrock
Byars	Landis	Pederson, D.	Synowiecki
Heidemann	McDonald	Raikes	Thompson

The appointments were confirmed with 28 ayes, 0 nays, 9 present and not voting, and 12 excused and not voting.

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 1616:

Rural Health Advisory Commission
Steven Dokken

Voting in the affirmative, 32:

Aguilar	Cornett	Friend	Louden	Schimek
Baker	Cudaback	Howard	McDonald	Smith
Bourne	Cunningham	Janssen	Mines	Stuthman
Brown	Engel	Jensen	Pahls	Wehrbein
Burling	Erdman	Johnson	Pedersen, Dw.	
Combs	Fischer	Kremer	Preister	
Connealy	Flood	Langemeier	Price	

Voting in the negative, 0.

Present and not voting, 8:

Beutler	Chambers	Hudkins	Redfield
Brashear	Foley	Kopplin	Stuhr

Excused and not voting, 9:

Byars	Kruse	Pederson, D.	Schrock	Thompson
Heidemann	Landis	Raikes	Synowiecki	

The appointment was confirmed with 32 ayes, 0 nays, 8 present and not voting, and 9 excused and not voting.

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 1617:

State Board of Health
James C. Schiefen

Voting in the affirmative, 28:

Aguilar	Connealy	Howard	Langemeier	Price
Baker	Cornett	Janssen	Louden	Redfield
Bourne	Cudaback	Jensen	McDonald	Schimek
Brown	Engel	Johnson	Pahls	Stuthman
Burling	Erdman	Kopplin	Pedersen, Dw.	
Combs	Fischer	Kremer	Preister	

Voting in the negative, 0.

Present and not voting, 12:

Beutler	Cunningham	Friend	Smith
Brashear	Flood	Hudkins	Stuhr
Chambers	Foley	Mines	Wehrbein

Excused and not voting, 9:

Byars	Kruse	Pederson, D.	Schrock	Thompson
Heidemann	Landis	Raikes	Synowiecki	

The appointment was confirmed with 28 ayes, 0 nays, 12 present and not voting, and 9 excused and not voting.

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 1617:

Foster Care Review Board

Joellen McGinn

Voting in the affirmative, 29:

Aguilar	Conneally	Friend	Kremer	Preister
Baker	Cornett	Howard	Landis	Price
Bourne	Cudaback	Janssen	Louden	Redfield
Brashear	Engel	Jensen	Mines	Schimek
Burling	Erdman	Johnson	Pahls	Stuthman
Combs	Fischer	Kopplin	Pedersen, Dw.	

Voting in the negative, 0.

Present and not voting, 12:

Beutler	Cunningham	Hudkins	Smith
Brown	Flood	Langemeier	Stuhr
Chambers	Foley	McDonald	Wehrbein

Excused and not voting, 8:

Byars	Kruse	Raikes	Synowiecki
Heidemann	Pederson, D.	Schrock	Thompson

The appointment was confirmed with 29 ayes, 0 nays, 12 present and not voting, and 8 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 348A. Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 478A. Title read. Considered.

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

SELECT FILE

LEGISLATIVE BILL 117. Senator Beutler renewed his pending amendment, AM1655, found on page 1672.

Senator Beutler moved for a call of the house. The motion prevailed with 20 ayes, 2 nays, and 27 not voting.

Senator Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 18:

Beutler	Flood	Johnson	Mines	Stuthman
Brown	Howard	Kremer	Pahls	Synowiecki
Burling	Hudkins	Landis	Price	
Cudaback	Jensen	Louden	Stuhr	

Voting in the negative, 16:

Aguilar	Cornett	Janssen	Redfield
Bourne	Cunningham	Kopplin	Schimek
Chambers	Erdman	Langemeier	Smith
Connealy	Foley	Pedersen, Dw.	Wehrbein

Present and not voting, 12:

Baker	Combs	Friend	Preister
Brashear	Engel	Heidemann	Raikes
Byars	Fischer	McDonald	Schrock

Excused and not voting, 3:

Kruse Pederson, D. Thompson

The Beutler amendment lost with 18 ayes, 16 nays, 12 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Aguilar asked unanimous consent to withdraw his pending amendment, AM1456, found on page 1388, and replace it with the Bourne-Aguilar-Redfield substitute amendment, AM1673. No objections. So ordered.

AM1673

(Amendments to E & R amendments, AM7091)

- 1 1. On page 17, line 23, before the period insert "
- 2 except that this requirement does not apply to liquid pediatric
- 3 formulations. For the purposes of this subdivision, liquid

4 pediatric formulation means a liquid formulation with
 5 pseudoephedrine doses of fifteen milligrams or less that is
 6 manufactured and marketed for children twelve years of age or
 7 younger. If it is documented by a law enforcement agency to the
 8 Nebraska State Patrol that a liquid pediatric formulation has been
 9 found at a methamphetamine manufacturing site, the patrol shall
 10 present the documentation to the chief medical officer, as
 11 described in section 81-3201, who shall issue an order removing the
 12 exemption".

The Bourne et al. amendment was adopted with 34 ayes, 1 nay, 10 present and not voting, and 4 excused and not voting.

Senator Brown renewed her pending amendment, AM1467, found on page 1673.

Senator Brown withdrew her amendment.

Senator Dw. Pedersen asked unanimous consent to withdraw his pending amendment, AM1076, found on page 1675, and replace it with his substitute pending amendment, AM1668, found on page 1676. No objections. So ordered.

Senator Dw. Pedersen withdrew his amendment.

Pending.

ANNOUNCEMENT

The Chair announced today is Senator Kopplin's birthday.

SELECT FILE

LEGISLATIVE BILL 117. Senator Synowiecki renewed his pending amendment, AM1663, found on page 1675.

Senator Synowiecki moved for a call of the house. The motion prevailed with 23 ayes, 2 nays, and 24 not voting.

Senator Bourne requested a roll call vote on the Synowiecki amendment.

Voting in the affirmative, 15:

Beutler	Foley	Mines	Price	Synowiecki
Engel	Howard	Pedersen, Dw.	Schimek	Thompson
Flood	Jensen	Preister	Stuhr	Wehrbein

Voting in the negative, 13:

Aguilar	Brown	Friend	Langemeier	Stuthman
Bourne	Byars	Heidemann	Schrock	
Brashear	Erdman	Landis	Smith	

Present and not voting, 18:

Baker	Cornett	Hudkins	Kremer	Raikes
Burling	Cudaback	Janssen	McDonald	Redfield
Combs	Cunningham	Johnson	Pahls	
Connealy	Fischer	Kopplin	Pederson, D.	

Absent and not voting, 1:

Chambers

Excused and not voting, 2:

Kruse Louden

The Synowiecki amendment lost with 15 ayes, 13 nays, 18 present and not voting, 1 absent and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Redfield withdrew her pending amendment, AM1606, found on page 1676.

Advanced to E & R for engrossment.

GENERAL FILE

LEGISLATIVE BILL 146. Title read. Considered.

The Standing Committee amendment, AM1235, found on page 1274, was considered.

Senator Price renewed her pending amendment, AM1628, found on page 1644, to the Standing Committee amendment.

The Price amendment was adopted with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 28 ayes, 0 nays, 19 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 32 ayes, 0 nays, 16 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 146A. Title read. Considered.

Advanced to E & R for review with 32 ayes, 0 nays, 16 present and not voting, and 1 excused and not voting.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 348. Placed on Select File as amended.

(E & R amendment, AM7103, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 348A. Placed on Select File.

LEGISLATIVE BILL 478A. Placed on Select File.

(Signed) Michael Flood, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 228. Introduced by Raikes, 25.

WHEREAS, the Lincoln East High School boys' soccer team is the champion of the 2005 Class A Boys' State Soccer Tournament; and

WHEREAS, the 2-1 victory over Omaha Creighton Prep in the championship game capped a 15-2 season and captured the Spartans' second state title in the last four years; and

WHEREAS, throughout the year, the coaches and players of the Lincoln East Spartan boys' soccer team have exemplified sportsmanship, teamwork, diligence, and determination; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Lincoln East High School boys' soccer team be congratulated for its efforts this season and in the Boys' State Soccer Tournament.

2. That a copy of this resolution be sent to Head Coach Jeff Hoham.

Laid over.

LEGISLATIVE RESOLUTION 229. Introduced by Raikes, 25; Price, 26.

WHEREAS, the Lincoln Pius X High School girls' soccer team is the champion of the 2005 Class B Girls' State Soccer Tournament; and

WHEREAS, the Lady Thunderbolts 5-0 victory over Omaha Skutt in the championship game capped a 16-1 season and 37-1 record over the past two years; and

WHEREAS, the Pius X High School girls' soccer team won its second consecutive state title and has appeared in the Class B state championship game each of the past 3 seasons; and

WHEREAS, the Pius X Lady Thunderbolts have exemplified teamwork,

sportswomanship, discipline, and determination; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Pius X High School girls' soccer team be congratulated for its effort this season and in the Girls' State Soccer Tournament.

2. That a copy of this resolution be sent to Head Coach Jeremy Ekeler.

Laid over.

LEGISLATIVE RESOLUTION 230. Introduced by Synowiecki, 7.

WHEREAS, the Republic of Poland is a free, democratic, and independent nation; and

WHEREAS, in 1999, the United States and the Republic of Poland became formal allies when Poland was granted membership in the North Atlantic Treaty Organization; and

WHEREAS, the President of the United States and other high-ranking officials have described Poland as "one of our closest friends"; and

WHEREAS, on April 15, 1991, the Republic of Poland unilaterally repealed the visa obligation to United States citizens traveling to Poland; and

WHEREAS, the United States Department of State's Visa Waiver Program currently allows approximately twenty-three million citizens from twenty-seven countries to travel to the United States for tourism or business for up to ninety days without having first to obtain visas for entry; and

WHEREAS, the countries that currently participate in the Visa Waiver Program include Andorra, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom; and

WHEREAS, it is appropriate that the Republic of Poland be made eligible for the United States Department of State's Visa Waiver Program.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Nebraska Legislature respectfully urges the President of the United States and the Congress of the United States to make the Republic of Poland eligible for the United States Department of State's Visa Waiver Program.

2. That a copy of this resolution, signed by the Speaker of the Legislature, shall be transmitted to the President of the United States, the presiding officers of the United States Senate and the House of Representatives, all members of the Nebraska Congressional delegation, and Przemyslaw Grundzinski, the Ambassador of the Republic of Poland to the United States.

Laid over.

LEGISLATIVE RESOLUTION 231. Introduced by Raikes, 25.

WHEREAS, the Lincoln East High School girls' soccer team is the champion of the 2005 Class A Girls' State Soccer Tournament; and

WHEREAS, the 1-0 victory over Columbus in the championship game capped a 14-3 season and captured the Lady Spartans' second consecutive state title; and

WHEREAS, throughout the year, the Lincoln East Lady Spartans have exemplified sportswomanship, teamwork, diligence, and determination; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Lincoln East High School girls' soccer team be congratulated for its efforts this season and in the Girls' State Soccer Tournament.

2. That a copy of this resolution be sent to Head Coach Chuck Morgan.

Laid over.

AMENDMENT - Print in Journal

Senator Redfield filed the following amendment to LB 500:
AM1677

- 1 1. Strike original section 13 and all amendments
- 2 thereto.
- 3 2. On page 3, line 15, strike the last "and" and insert
- 4 ", but not for which"; and in line 16 after "domain" insert "may
- 5 be".
- 6 3. On page 4, line 15, strike "payment of relocation
- 7 assistance; (d)" and renumber the remaining subdivisions.
- 8 4. On page 12, strike line 28.
- 9 5. On page 13, strike line 1 through "(i)" in line 2 and
- 10 insert "and
- 11 (h)".
- 12 6. On page 25, line 15, strike "eminent domain," and
- 13 after "otherwise" insert ", but not by eminent domain,"; and strike
- 14 beginning with the comma in line 18 through "individuals" in line
- 15 19.
- 16 7. In the Standing Committee amendments, AM0773, strike
- 17 section 30 and amendment 19.
- 18 8. Renumber the remaining sections and correct internal
- 19 references accordingly.

SELECT FILE

LEGISLATIVE BILL 126. Senator Louden renewed the Louden-Fischer pending amendment, AM1217, found on page 1655 and considered on page 1662.

Senator Mines moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 5 nays, and 19 not voting.

The Louden-Fischer amendment lost with 13 ayes, 26 nays, 9 present and not voting, and 1 excused and not voting.

Senator Raikes asked unanimous consent to withdraw his pending amendment, AM0363, found on page 541, and replace it with his substitute pending amendment, AM1672, printed separately and referred to on page 1679. No objections. So ordered.

Senator Mines moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 5 nays, and 16 not voting.

Senator Smith requested a record vote on the Raikes amendment.

Voting in the affirmative, 35:

Aguilar	Byars	Janssen	Mines	Redfield
Baker	Connealy	Johnson	Pahls	Schimek
Beutler	Cunningham	Kopplin	Pedersen, Dw.	Schrock
Bourne	Engel	Kremer	Pederson, D.	Stuhr
Brashear	Foley	Landis	Preister	Synowiecki
Brown	Howard	Louden	Price	Thompson
Burling	Hudkins	McDonald	Raikes	Wehrbein

Voting in the negative, 6:

Erdman	Flood	Langemeier
Fischer	Heidemann	Smith

Present and not voting, 6:

Chambers	Cudaback	Jensen
Combs	Friend	Stuthman

Excused and not voting, 2:

Cornett	Kruse
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The Raikes amendment was adopted with 35 ayes, 6 nays, 6 present and not voting, and 2 excused and not voting.

Senator Louden reoffered his amendment, AM0075, found on page 502 and considered on page 519.

Senator Louden withdrew his amendment.

Senator Brown moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 5 nays, and 17 not voting.

Senator Smith requested a record vote on the advancement of the bill.

Voting in the affirmative, 29:

Aguilar	Byars	Janssen	Pahls	Schimek
Baker	Cunningham	Jensen	Pedersen, Dw.	Stuhr
Beutler	Engel	Johnson	Preister	Synowiecki
Brashear	Foley	Kremer	Price	Thompson
Brown	Friend	Landis	Raikes	Wehrbein
Burling	Howard	Mines	Redfield	

Voting in the negative, 12:

Connealy	Fischer	Hudkins	McDonald
Cudaback	Flood	Langemeier	Smith
Erdman	Heidemann	Louden	Stuthman

Present and not voting, 5:

Bourne	Chambers	Combs	Kopplin	Schrock
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Excused and not voting, 3:

Cornett	Kruse	Pederson, D.
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Advanced to E & R for engrossment with 29 ayes, 12 nays, 5 present and not voting, and 3 excused and not voting.

AMENDMENTS - Print in Journal

Senator Stuhr filed the following amendment to LR 12CA:
AM1648

- 1 1. Strike beginning with page 1, line 7, through page 2,
- 2 line 14, and insert the following:
- 3 "To amend Article III, sections 7 and 19:
- 4 III-7 At the general election to be held in November
- 5 1964, one-half the members of the Legislature, or as nearly thereto
- 6 as may be practicable, shall be elected for a term of four years
- 7 and the remainder for a term of two years, and thereafter all
- 8 members shall be elected for a term of four years, with the manner
- 9 of such election to be determined by the Legislature. When the
- 10 Legislature is redistricted, the members elected prior to the
- 11 redistricting shall continue in office, and the law providing for

12 such redistricting shall where necessary specify the newly
 13 established district which they shall represent for the balance of
 14 their term. Each member shall be nominated and elected in a
 15 nonpartisan manner and without any indication on the ballot that he
 16 or she is affiliated with or endorsed by any political party or
 17 organization. ~~Each~~ Until January 3, 2007, each member of the
 18 Legislature shall receive a salary of not to exceed one thousand
 19 dollars per month during the term of his or her office. Beginning
 20 January 3, 2007, each member of the Legislature shall receive an
 21 annual salary during his or her term of office equal to eighteen
 22 thousand dollars in 2007 and increased annually thereafter by the
 23 change in the prior calendar year in a consumer price index
 24 designated by law, not to exceed four percent. In addition to his
 1 or her salary, each member shall receive an amount equal to his or
 2 her actual expenses in traveling by the most usual route once to
 3 and returning from each regular or special session of the
 4 Legislature. Members of the Legislature shall receive no pay nor
 5 perquisites other than his or her salary and expenses, and
 6 employees of the Legislature shall receive no compensation other
 7 than their salary or per diem.

8 III-19 The Legislature shall never grant any extra
 9 compensation to any public officer, agent, or servant after the
 10 services have been rendered nor to any contractor after the
 11 contract has been entered into, except that retirement benefits of
 12 retired public officers and employees may be adjusted to reflect
 13 changes in the cost of living and wage levels that have occurred
 14 subsequent to the date of retirement.
 15 Except as otherwise provided in section 7 of this
 16 Article, the ~~The~~ compensation of any public officer, including any
 17 officer whose compensation is fixed by the Legislature, shall not
 18 be increased or diminished during his or her term of office, except
 19 that when there are members elected or appointed to ~~the Legislature~~
 20 ~~of~~ the judiciary, or officers elected or appointed to a board or
 21 commission having more than one member, and the terms of such
 22 members commence and end at different times, the compensation of
 23 all members ~~of the Legislature,~~ of the judiciary, or of such board
 24 or commission may be increased or diminished at the beginning of
 25 the full term of any member thereof.

26 Nothing in this section shall prevent local governing
 27 bodies from reviewing and adjusting vested pension benefits
 1 periodically as prescribed by ordinance.

2 The surviving spouse of any retired public officer,
 3 agent, or servant, who has retired under a pension plan or system,
 4 shall be considered as having pensionable status and shall be
 5 entitled to the same benefits which may, at any time, be provided
 6 for or available to spouses of other public officers, agents, or
 7 servants who have retired under such pension plan or system at a
 8 later date, and such benefits shall not be prohibited by the
 9 restrictions of this section or of Article XIII, section 3 of the

10 Constitution of Nebraska."

11 2. On page 2, strike beginning with "change" in line 18
12 through line 20 and insert "provide for an annual salary for
13 members of the Legislature equal to eighteen thousand dollars in
14 2007 and increased annually thereafter by the change in the prior
15 calendar year in a consumer price index designated by law, not to
16 exceed four percent."

Senator Landis filed the following amendment to LB 13:
(Amendment, AM1671, is printed separately and available in the Bill Room,
Room 1104.)

Senator Landis filed the following amendment to LB 500:
AM1679

- 1 1. Strike section 1 and renumber the remaining sections
- 2 accordingly.

VISITORS

Visitors to the Chamber were Dr. James White from Omaha; 104 fourth-grade students and teacher from Rohwer Elementary School, Omaha; Patrick, Michaela, and Paige Leahy from Omaha; third-grade students from Pershing Elementary School, Lincoln; and 55 fourth-grade students and teacher from Parkview Heights School, La Vista.

The Doctor of the Day was Dr. Tamara Johnson from North Platte.

ADJOURNMENT

At 12:51 p.m., on a motion by Senator Byars, the Legislature adjourned until 10:00 a.m., Monday, May 23, 2005.

Patrick J. O'Donnell
Clerk of the Legislature