

**EIGHTY-THIRD DAY - MAY 23, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****EIGHTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, May 23, 2005

**PRAYER**

The prayer was offered by Senator Kopplin.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Beutler, Brown, Combs, Cornett, Landis, Mines, Schrock, and Thompson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eighty-second day was approved.

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

**LEGISLATIVE BILL 146.** Placed on Select File as amended.

E & R amendment to LB 146:

AM7104

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Sections 1 to 9 of this act shall be known
- 4 and may be cited as the Nursing Faculty Student Loan Act.
- 5 Sec. 2. For purposes of the Nursing Faculty Student Loan
- 6 Act:
- 7 (1) Approved nursing program means a program offered by a
- 8 public or private postsecondary educational institution in Nebraska
- 9 (a) which consists of courses of instruction in regularly scheduled
- 10 classes leading to a master of science degree, a bachelor of
- 11 science degree, an associate degree, or a diploma in nursing or (b)
- 12 for the preparation for licensure as a licensed practical nurse
- 13 available to regularly enrolled undergraduate or graduate students;
- 14 (2) Department means the Department of Health and Human

15 Services Regulation and Licensure; and

16 (3) Masters or doctoral accredited nursing program means  
17 a postgraduate nursing education program that has been accredited  
18 by a nationally recognized accrediting agency and offered by a  
19 public or private postsecondary educational institution in  
20 Nebraska.

21 Sec. 3. To qualify for a loan under the Nursing Faculty  
22 Student Loan Act, a student shall (1) be a resident of Nebraska,  
23 (2) be enrolled in a masters or doctoral accredited nursing  
24 program, and (3) agree in writing to engage in nursing instruction  
1 in an approved nursing program.

2 Sec. 4. Loans may be made by the department under the  
3 Nursing Faculty Student Loan Act for educational expenses of a  
4 qualified student who agrees in writing to engage in nursing  
5 instruction in an approved nursing program for two years of  
6 full-time nursing instruction for each year a loan is received,  
7 with a maximum of six years of nursing instruction in Nebraska in  
8 return for three years of loans under the act. Loans shall be  
9 subject to the following conditions:

10 (1) Loans shall be used only for educational expenses for  
11 a masters or doctoral accredited nursing program. The use of loan  
12 funds by the recipient is subject to review by the department;

13 (2) Each loan shall be for one academic year;

14 (3) A loan recipient shall not receive more than five  
15 thousand dollars per academic year and shall not receive more than  
16 fifteen thousand dollars under the act;

17 (4) Loans shall be forgiven at the rate of five thousand  
18 dollars loaned per two years of full-time nursing instruction in  
19 Nebraska;

20 (5) If a loan recipient discontinues enrollment in the  
21 masters or doctoral accredited nursing program before completing  
22 the program, he or she shall repay to the department one hundred  
23 percent of the outstanding loan principal with simple interest at a  
24 rate of one point below the prime interest rate as of the date the  
25 loan recipient signed the contract. Interest shall accrue as of  
26 the date the loan recipient signed the contract. Such repayment  
27 shall commence within six months after the date he or she  
1 discontinues enrollment and shall be completed within the number of  
2 years for which loans were awarded;

3 (6) If, after the loan recipient completes the masters or  
4 doctoral accredited nursing program and before all of his or her  
5 loans are forgiven under the act, he or she fails to begin or  
6 ceases full-time nursing instruction pursuant to the loan  
7 agreement, he or she shall repay to the department one hundred  
8 twenty-five percent of the outstanding loan principal with simple  
9 interest at a rate of one point below the prime interest rate as of  
10 the date the loan recipient signed the contract. Interest shall  
11 accrue as of the date the loan recipient signed the contract. Such  
12 repayment shall commence within six months after the date of

13 completion of the program or the date the loan recipient ceases  
14 full-time nursing instruction, whichever is later, and shall be  
15 completed within the number of years for which loans were awarded;  
16 and

17 (7) Institutions which offer a masters or doctoral  
18 accredited nursing program may act as agents of the department for  
19 the distribution of loans to eligible students.

20 Sec. 5. The Nursing Faculty Student Loan Cash Fund is  
21 created. The fund shall consist of grants, private donations, fees  
22 collected pursuant to section 6 of this act, and loan repayments  
23 under the Nursing Faculty Student Loan Act remitted by the  
24 department to the State Treasurer for credit to the fund. The fund  
25 shall be used to administer the act and for loans to qualified  
26 students pursuant to the act. The act shall be carried out with no  
27 appropriations from the General Fund. Any money in the Nursing  
1 Faculty Student Loan Cash Fund available for investment shall be  
2 invested by the state investment officer pursuant to the Nebraska  
3 Capital Expansion Act and the Nebraska State Funds Investment Act.

4 Sec. 6. Beginning January 1, 2006, through December 31,  
5 2007, the Department of Health and Human Services Regulation and  
6 Licensure shall charge a fee of one dollar, in addition to any  
7 other fee, for each license renewal for a registered nurse or  
8 licensed practical nurse pursuant to section 71-1,132.20. Such fee  
9 shall be collected at the time of renewal and remitted to the State  
10 Treasurer for credit to the Nursing Faculty Student Loan Cash Fund.

11 Sec. 7. The department has the administrative  
12 responsibility to track loan recipients and to develop repayment  
13 tracking and collection mechanisms. The department may contract  
14 for such services. When a loan has been forgiven pursuant to  
15 section 4 of this act, the amount forgiven may be taxable income to  
16 the loan recipient and the department shall provide notification of  
17 the amount forgiven to the loan recipient, the Department of  
18 Revenue, and the Internal Revenue Service if required by the  
19 Internal Revenue Code as defined in section 49-801.01.

20 Sec. 8. The department shall annually provide a report  
21 to the Governor and the Clerk of the Legislature on the status of  
22 the program, the status of the loan recipients, and the impact of  
23 the program on the number of nursing faculty in Nebraska. Any  
24 report which includes information about loan recipients shall  
25 exclude confidential information or any other information which  
26 specifically identifies a loan recipient.

27 Sec. 9. The department, in consultation with approved  
1 nursing programs in Nebraska, shall adopt and promulgate rules and  
2 regulations to carry out the Nursing Faculty Student Loan Act. The  
3 department may adopt rules that require the maximum forgiveness  
4 amount of fifteen thousand dollars pursuant to subdivision (3) of  
5 section 4 of this act be present in the Nursing Faculty Student  
6 Loan Cash Fund before each qualified student is chosen.

7 Sec. 10. Section 71-163, Reissue Revised Statutes of

8 Nebraska, is amended to read:

9 71-163. (1) The Professional and Occupational  
10 Credentialing Cash Fund is created. Except as provided in section  
11 71-172.02 and section 6 of this act, the fund shall consist of all  
12 fees, gifts, grants, and other money, excluding fines and civil  
13 penalties, received or collected by the department under sections  
14 71-162 to 71-162.05.

15 (2) The department shall use the fund for the  
16 administration and enforcement of such laws regulating the  
17 individuals and entities listed in section 71-162 except for a  
18 percentage of the fees credited to the Nebraska Regulation of  
19 Health Professions Fund pursuant to section 71-6228.

20 (3) Any money in the Professional and Occupational  
21 Credentialing Cash Fund available for investment shall be invested  
22 by the state investment officer pursuant to the Nebraska Capital  
23 Expansion Act and the Nebraska State Funds Investment Act.

24 ~~(4) Any money in the separate fund authorized in section  
25 71-162 as it existed prior to July 1, 2004, and any money in the  
26 Acupuncturist Fund, the Athletic Trainer Fund, the Board of  
27 Registration for Environmental Health Specialists Fund, the  
1 Cosmetology Cash Fund, the Hearing Aid Fund, the Massage Therapy  
2 Fund, the Medical Nutrition Therapy Fund, the Mental Health  
3 Practice Fund, the Nebraska Pharmaceutical Fund, the Nurses'  
4 Licensing Cash Fund, the Nursing Home Administration Fund, the  
5 Occupational Therapy Licensing Cash Fund, the Psychologists  
6 Licensing Fund, and the Respiratory Care Practitioners Fund, on  
7 July 1, 2004, shall be transferred to the Professional and  
8 Occupational Credentialing Cash Fund.~~

9 Sec. 11. Original section 71-163, Reissue Revised  
10 Statutes of Nebraska, is repealed."

11 2. On page 1, line 1, after the semicolon insert "to  
12 amend section 71-163, Reissue Revised Statutes of Nebraska;"; and  
13 in line 2 after "Act" insert "; to delete obsolete provisions; to  
14 harmonize provisions; and to repeal the original section".

**LEGISLATIVE BILL 146A.** Placed on Select File.

(Signed) Michael Flood, Chairperson

**SPECIAL COMMITTEE REPORT**  
**Executive Board**

**LEGISLATIVE RESOLUTION 98.** Reported to the Legislature for further consideration.

(Signed) L. Patrick Engel, Chairperson

**NOTICE OF COMMITTEE HEARING**  
**Education**  
 Room 1525

Tuesday, May 31, 2005

9:30 a.m.

Timothy D. Hodges - Coordinating Commission for Postsecondary  
 Education

(Signed) Ron Raikes, Chairperson

**MOTION - Approve Appointment**

Senator Janssen moved the adoption of the General Affairs Committee report for the confirmation of the following appointment(s) found on page 1528:

Nebraska Liquor Control Commission  
 Robert E. Logsdon

Voting in the affirmative, 32:

|            |           |         |               |          |
|------------|-----------|---------|---------------|----------|
| Aguilar    | Engel     | Howard  | Louden        | Schimek  |
| Baker      | Erdman    | Hudkins | McDonald      | Stuhr    |
| Burling    | Fischer   | Janssen | Pahls         | Stuthman |
| Byars      | Flood     | Jensen  | Pedersen, Dw. | Wehrbein |
| Chambers   | Foley     | Johnson | Pederson, D.  |          |
| Cudaback   | Friend    | Kopplin | Raikes        |          |
| Cunningham | Heidemann | Kremer  | Redfield      |          |

Voting in the negative, 0.

Present and not voting, 9:

|          |          |            |       |            |
|----------|----------|------------|-------|------------|
| Bourne   | Connealy | Langemeier | Price | Synowiecki |
| Brashear | Kruse    | Preister   | Smith |            |

Excused and not voting, 8:

|         |         |        |          |
|---------|---------|--------|----------|
| Beutler | Combs   | Landis | Schrock  |
| Brown   | Cornett | Mines  | Thompson |

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

**GENERAL FILE**

**LEGISLATIVE BILL 332.** Title read. Considered.

The Standing Committee amendment, AM0795, found on page 838, was considered.

Senator McDonald withdrew her pending amendments, AM1338, AM1630, and AM1651, found on pages 1360, 1569, and 1644.

Senator McDonald renewed her pending amendment, AM1656, found on page 1676, to the Standing Committee amendment.

Senator McDonald withdrew her amendment.

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

FA296

(Amendments to Standing Committee amendments, AM0795)

1 1. Strike section 1 and insert the following new

2 section:

3 "Sec. 2. It is the intent of the Legislature to

4 appropriate five hundred thousand dollars from the Health Care Cash Fund for

5 FY2005-06 for compulsive gamblers assistance programs, which

7 appropriations shall be in addition to any funds appropriated from

8 the Charitable Gaming Operations Fund or the State Lottery

9 Operation Trust Fund to the Compulsive Gamblers Assistance Fund for

10 such fiscal years for such programs."

11 2. Amend the repealer and renumber the remaining

12 sections accordingly.

The Wehrbein amendment was adopted with 35 ayes, 0 nays, 13 present and not voting, and 1 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 32 ayes, 0 nays, 16 present and not voting, and 1 excused and not voting.

Advanced to E & R for review with 38 ayes, 0 nays, 10 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 332A.** Title read. Considered.

Senator McDonald offered the following amendment:

AM1689

1 1. Strike sections 1 and 2 and insert the following new

2 sections:

3 "Section 1. There is hereby appropriated \$450,000 from

4 the Nebraska Health Care Cash Fund for FY2005-06 to the Department

5 of Health and Human Services Finance and Support, for Program 38,

6 to aid in carrying out the provisions of Legislative Bill 332,

7 Ninety-ninth Legislature, First Session, 2005.

8 No expenditures for permanent and temporary salaries and

9 per diems for state employees shall be made from funds appropriated

10 in this section.

11 Sec. 2. There is hereby appropriated \$50,000 from the

12 Nebraska Health Care Cash Fund for FY2005-06 to the Department of  
 13 Health and Human Services, for Program 33, to aid in carrying out  
 14 the provisions of Legislative Bill 332, Ninety-ninth Legislature,  
 15 First Session, 2005.  
 16 Total expenditures for permanent and temporary salaries  
 17 and per diems from funds appropriated in this section shall not  
 18 exceed \$45,000 for FY2005-06."

The McDonald amendment was adopted with 38 ayes, 0 nays, 10 present and not voting, and 1 excused and not voting.

Advanced to E & R for review with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

### SELECT FILE

**LEGISLATIVE BILL 348.** E & R amendment, AM7103, printed separately and referred to on page 1688, was adopted.

Senator Synowiecki offered the following amendment:  
 AM1675

(Amendments to E & R amendments, AM7103)

- 1 1. On page 1, lines 12 through 17, strike the new
- 2 matter.

### SENATOR SCHIMEK PRESIDING

Pending.

### BILL ON FIRST READING

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

**LEGISLATIVE BILL 126A.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 126, Ninety-ninth Legislature, First Session, 2005.

### RESOLUTION

**LEGISLATIVE RESOLUTION 232.** Introduced by Flood, 19.

WHEREAS, August Hintz married Elsie Klawonn on June 2, 1935, at Trinity Lutheran Church in Madison, Madison County, Nebraska; and

WHEREAS, Mr. and Mrs. Hintz worked together in agriculture, farming ground near Randolph in Cedar County and near Enola, Madison, and Norfolk in Madison County, Nebraska; and

WHEREAS, Mr. and Mrs. Hintz raised five children, including Eula-Lee,

Donna Jean, Deon, Garold, and Delano; and

WHEREAS, Mr. and Mrs. Hintz' children have given them 16 grandchildren, 27 great-grandchildren, and 1 great-great grandchild; and

WHEREAS, Mr. and Mrs. Hintz will celebrate 70 years of marriage together on June 2, 2005, in Norfolk, Madison County, Nebraska; and

WHEREAS, Mr. and Mrs. Hintz are dearly loved and admired by their family.

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

1. That the Legislature wishes Mr. and Mrs. Hintz a very happy 70th anniversary.

2. That a copy of this resolution be given to Mr. and Mrs. Hintz.

Laid over.

### VISITORS

Visitors to the Chamber were 13 third- and fourth-grade students and teacher from Christ the King School, Norfolk.

### RECESS

At 11:58 a.m., on a motion by Senator Heidemann, 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, Cornett, Kruse, McDonald, and Thompson who were excused until they arrive.

### SELECT FILE

**LEGISLATIVE BILL 348.** The Synowiecki pending amendment, AM1675, found in this day's Journal, was renewed.

Senator Synowiecki moved for a call of the house. The motion prevailed with 17 ayes, 0 nays, and 32 not voting.

Senator Synowiecki requested a roll call vote, in reverse order, on his amendment.

Voting in the affirmative, 9:

|         |         |               |          |            |
|---------|---------|---------------|----------|------------|
| Burling | Hudkins | Pedersen, Dw. | Price    | Synowiecki |
| Howard  | Janssen | Preister      | Stuthman |            |

Voting in the negative, 23:

|          |            |        |              |          |
|----------|------------|--------|--------------|----------|
| Aguilar  | Chambers   | Engel  | Landis       | Stuhr    |
| Bourne   | Combs      | Erdman | Langemeier   | Thompson |
| Brashear | Connealy   | Flood  | Pederson, D. | Wehrbein |
| Brown    | Cudaback   | Friend | Raikes       |          |
| Byars    | Cunningham | Kremer | Smith        |          |

Present and not voting, 15:

|         |         |         |        |          |
|---------|---------|---------|--------|----------|
| Baker   | Fischer | Johnson | Louden | Redfield |
| Beutler | Foley   | Kopplin | Mines  | Schimek  |
| Cornett | Jensen  | Kruse   | Pahls  | Schrock  |

Absent and not voting, 1:

Heidemann

Excused and not voting, 1:

McDonald

The Synowiecki amendment lost with 9 ayes, 23 nays, 15 present and not voting, 1 absent and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Senator Bourne offered the following amendment:

AM1681

(Amendments to E & R amendments, AM7103)

- 1 1. On page 16, line 11, strike "twenty", show as
- 2 stricken, and insert "twenty-two".

The Bourne amendment was adopted with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 348A.** Senator Bourne offered the following amendment:

AM1680

- 1 1. Insert the following new section:
- 2 "Sec. 8. Since an emergency exists, this act takes
- 3 effect when passed and approved according to law."

The Bourne amendment was adopted with 32 ayes, 0 nays, 16 present and

not voting, and 1 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE RESOLUTION 12CA.** Senator Friend asked unanimous consent to withdraw his pending amendment, AM0969, found on page 1014, and replace it with the Stuhr substitute pending amendment, AM1648, found on page 1692. No objections. So ordered.

Senator Mines moved the previous question. The question is, "Shall the debate now close?" The motion failed with 11 ayes, 10 nays, and 28 not voting.

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

Senator Chambers requested a roll call vote on the Stuhr amendment.

Voting in the affirmative, 25:

|          |            |           |               |          |
|----------|------------|-----------|---------------|----------|
| Brashear | Cornett    | Heidemann | Kruse         | Raikes   |
| Burling  | Cunningham | Hudkins   | Landis        | Redfield |
| Byars    | Fischer    | Johnson   | Louden        | Schrock  |
| Combs    | Flood      | Kopplin   | Pedersen, Dw. | Stuhr    |
| Connealy | Friend     | Kremer    | Pederson, D.  | Wehrbein |

Voting in the negative, 15:

|         |          |            |          |          |
|---------|----------|------------|----------|----------|
| Aguilar | Chambers | Foley      | McDonald | Smith    |
| Baker   | Cudaback | Janssen    | Mines    | Stuthman |
| Brown   | Erdman   | Langemeier | Schimek  | Thompson |

Present and not voting, 8:

|         |        |          |            |
|---------|--------|----------|------------|
| Beutler | Howard | Pahls    | Price      |
| Bourne  | Jensen | Preister | Synowiecki |

Excused and not voting, 1:

Engel

The Stuhr amendment was adopted with 25 ayes, 15 nays, 8 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Senator Smith asked unanimous consent to withdraw his pending amendment, AM0950, found on page 1015, and replace it with his substitute pending amendment, AM1649, found on page 1634. No objections. So

ordered.

Senator Kruse offered the following amendment to the Smith pending amendment:

FA297

Amend AM1649

On page 2, lines 2-4 reinstate the stricken matter and on lines 4-6 strike the new matter.

Senator Kruse withdrew his amendment.

Senator Smith withdrew his amendment.

Pending.

**LEGISLATIVE BILL 28.** Senator Chambers renewed his pending amendment, FA16, found on page 457.

**SENATOR JANSSEN PRESIDING**

**SENATOR CUDABACK PRESIDING**

Senator Chambers offered the following amendment to his pending amendment:

FA299

Amend FA16

Strike "lines 18-23" and insert "in line 20 beginning with 'The' through 'department' in line 23".

Senator Chambers withdrew his amendment, FA299.

Senator Chambers withdrew his amendment, FA16.

Senator Landis renewed his pending amendment, FA23, found on page 560.

Senator Landis moved for a call of the house. The motion prevailed with 17 ayes, 0 nays, and 32 not voting.

Senator Landis requested a roll call vote on his amendment.

Voting in the affirmative, 22:

|          |           |            |                       |
|----------|-----------|------------|-----------------------|
| Brown    | Fischer   | Kruse      | Pedersen, Dw. Schrock |
| Chambers | Heidemann | Landis     | Pederson, D. Smith    |
| Cornett  | Jensen    | Langemeier | Preister              |
| Cudaback | Kopplin   | Louden     | Raikes                |
| Erdman   | Kremer    | Mines      | Redfield              |

Voting in the negative, 8:

|         |          |            |        |
|---------|----------|------------|--------|
| Aguilar | Bourne   | Cunningham | Howard |
| Beutler | Connealy | Engel      | Stuhr  |

Present and not voting, 14:

|          |         |         |          |            |
|----------|---------|---------|----------|------------|
| Baker    | Flood   | Janssen | Price    | Synowiecki |
| Brashear | Foley   | Johnson | Schimek  | Thompson   |
| Byars    | Hudkins | Pahls   | Stuthman |            |

Excused and not voting, 5:

|         |       |        |          |          |
|---------|-------|--------|----------|----------|
| Burling | Combs | Friend | McDonald | Wehrbein |
|---------|-------|--------|----------|----------|

The Landis amendment lost with 22 ayes, 8 nays, 14 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Chambers withdrew his pending amendments, FA28, FA29, and FA30, found on page 571.

Senator Chambers offered the following amendment:

FA298

Strike section 9.

The Chambers amendment was adopted with 37 ayes, 0 nays, 6 present and not voting, and 6 excused and not voting.

Senator Beutler offered the following amendment:

FA300

On page 4, line 7 after the period add: "and (3) Holds the fund as a permanent endowment fund"

On page 4, line 3 after "organization" add "and used for Nebraska charitable purposes"

The Beutler amendment was adopted with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

Advanced to E & R for engrossment.

## **SPEAKER BRASHEAR PRESIDING**

### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 115 and 116 were adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 115 and 116.

**AMENDMENTS - Print in Journal**

Senator Beutler filed the following amendment to LR 12CA:  
AM1305

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. At a special election on May 9, 2006, 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 III, section 7:
- 8 III-7 At the general election to be held in November
- 9 1964, one-half the members of the Legislature, or as nearly thereto
- 10 as may be practicable, shall be elected for a term of four years
- 11 and the remainder for a term of two years, and thereafter all
- 12 members shall be elected for a term of four years, with the manner
- 13 of such election to be determined by the Legislature.
- 14 When the Legislature is redistricted, the members elected
- 15 prior to the redistricting shall continue in office, and the law
- 16 providing for such redistricting shall where necessary specify the
- 17 newly established district which they shall represent for the
- 18 balance of their term. Each member shall be nominated and elected
- 19 in a nonpartisan manner and without any indication on the ballot
- 20 that he or she is affiliated with or endorsed by any political
- 21 party or organization. Each member of the Legislature shall
- 22 receive an annual a salary of ~~not to exceed one~~ twenty-four
- 23 thousand dollars ~~per month~~ during the term of his or her office.
- 24 In addition to his or her salary, each member shall receive an
- 1 amount equal to his or her actual expenses in traveling by the most
- 2 usual route once to and returning from each regular or special
- 3 session of the Legislature. Members of the Legislature shall
- 4 receive no pay nor perquisites other than his or her salary and
- 5 expenses, and employees of the Legislature shall receive no
- 6 compensation other than their salary or per diem.
- 7 Sec. 2. If the proposed amendment to the Constitution of
- 8 Nebraska in section 1 of this resolution is submitted to the
- 9 electors at a special election on May 9, 2006, then at the general
- 10 election in November 2006 the following proposed amendment to the
- 11 Constitution of Nebraska shall be submitted to the electors of the
- 12 State of Nebraska for approval or rejection:
- 13 To amend Article III, section 19, and add a new section
- 14 31 to Article III:
- 15 III-19 (1) The Legislature shall never grant any extra
- 16 compensation to any public officer, agent, or servant after the

17 services have been rendered nor to any contractor after the  
 18 contract has been entered into, except that retirement benefits of  
 19 retired public officers and employees may be adjusted to reflect  
 20 changes in the cost of living and wage levels that have occurred  
 21 subsequent to the date of retirement.

22 (2) Except as otherwise provided by Article III, section  
 23 31, of this Constitution, the The compensation of any public  
 24 officer, including any officer whose compensation is fixed by the  
 25 Legislature, shall not be increased or diminished during his or her  
 26 term of office, except that when there are members elected or  
 27 appointed to ~~the Legislature or the judiciary~~, or officers elected  
 1 or appointed to a board or commission having more than one member,  
 2 and the terms of such members commence and end at different times,  
 3 the compensation of all members ~~of the Legislature~~, of the  
 4 judiciary, or of such board or commission may be increased or  
 5 diminished at the beginning of the full term of any member thereof.

6 (3) Nothing in this section shall prevent local governing  
 7 bodies from reviewing and adjusting vested pension benefits  
 8 periodically as prescribed by ordinance.

9 (4) The surviving spouse of any retired public officer,  
 10 agent, or servant, who has retired under a pension plan or system,  
 11 shall be considered as having pensionable status and shall be  
 12 entitled to the same benefits which may, at any time, be provided  
 13 for or available to spouses of other public officers, agents, or  
 14 servants who have retired under such pension plan or system at a  
 15 later date, and such benefits shall not be prohibited by the  
 16 restrictions of this section or of Article XIII, section 3, of the  
 17 Constitution of Nebraska this Constitution.

18 III-31 (1) There is hereby created the Ethics and  
 19 Compensation Review Commission. The members of the commission  
 20 shall be appointed by the Governor. There shall be two members  
 21 appointed from each congressional district and three members from  
 22 the state at large. Members of the commission shall serve for  
 23 terms of six years, except that of the members initially appointed,  
 24 one from each of the congressional districts and one of the  
 25 at-large members shall be appointed for terms of two years. No  
 26 more than five members of the commission may belong to the same  
 27 political party at any one time, and no elected official or  
 1 employee of the state or any political subdivision or registered  
 2 lobbyist may serve as a member. The term of an existing member  
 3 shall terminate on the date a new member is appointed. A member  
 4 may serve no more than two terms on the commission and shall  
 5 receive no compensation for the performance of his or her duties  
 6 but may be reimbursed for actual and necessary expenses.

7 (2) The Ethics and Compensation Review Commission shall  
 8 prepare and present to the Legislature prior to November 1, 2007, a  
 9 recommended legislative code of ethics which may be adopted by the  
 10 Legislature. The code of ethics shall include procedures for  
 11 implementing such code. Beginning three years after the initial

12 adoption of the recommended code of ethics, the Legislature may  
 13 modify the code of ethics as it deems necessary or advisable to  
 14 effectuate Article III, sections 10 and 16, of this Constitution.  
 15 The Legislature shall maintain a code of ethics in its permanent  
 16 rules.

17 (3) After the Ethics and Compensation Review Commission  
 18 has presented a code of ethics to the Legislature and a code of  
 19 ethics has been adopted as recommended as part of the Legislature's  
 20 permanent rules, the commission shall review compensation for  
 21 members of the Legislature and submit a report to the Governor and  
 22 the Legislature recommending any adjustment to such compensation  
 23 the commission deems appropriate. Notwithstanding the compensation  
 24 limitation in Article III, section 7, of this Constitution, the  
 25 Legislature may by legislative bill approve, disapprove, or reduce  
 26 any recommended adjustment but may not increase the recommended  
 27 adjustment, and such adjustments shall not become effective until  
 1 so approved by the Legislature and, when so approved, shall become  
 2 effective three calendar months following the end of the  
 3 legislative session in which the adjustments were approved. The  
 4 commission shall review and submit a report recommending any  
 5 adjustment to compensation every fourth year and shall review and  
 6 submit a recommendation with respect to changes in the legislative  
 7 code of ethics every fourth year after the submission of the  
 8 original recommendation.

9 Sec. 3. This section becomes operative on December 1,  
 10 2006. If the proposed amendment in section 1 of this resolution is  
 11 submitted to the electors at the general election in November 2006,  
 12 then at the general election in November 2008 the following  
 13 proposed amendment to the Constitution of Nebraska shall be  
 14 submitted to the electors of the State of Nebraska for approval or  
 15 rejection:

16 To amend Article III, section 19, and add a new section  
 17 31 to Article III:

18 III-19 (1) The Legislature shall never grant any extra  
 19 compensation to any public officer, agent, or servant after the  
 20 services have been rendered nor to any contractor after the  
 21 contract has been entered into, except that retirement benefits of  
 22 retired public officers and employees may be adjusted to reflect  
 23 changes in the cost of living and wage levels that have occurred  
 24 subsequent to the date of retirement.

25 (2) Except as otherwise provided by Article III, section  
 26 31, of this Constitution, the compensation of any public  
 27 officer, including any officer whose compensation is fixed by the  
 1 Legislature, shall not be increased or diminished during his or her  
 2 term of office, except that when there are members elected or  
 3 appointed to the Legislature or the judiciary, or officers elected  
 4 or appointed to a board or commission having more than one member,  
 5 and the terms of such members commence and end at different times,  
 6 the compensation of all members of the Legislature, of the

7 judiciary; or of such board or commission may be increased or  
8 diminished at the beginning of the full term of any member thereof.

9 (3) Nothing in this section shall prevent local governing  
10 bodies from reviewing and adjusting vested pension benefits  
11 periodically as prescribed by ordinance.

12 (4) The surviving spouse of any retired public officer,  
13 agent, or servant, who has retired under a pension plan or system,  
14 shall be considered as having pensionable status and shall be  
15 entitled to the same benefits which may, at any time, be provided  
16 for or available to spouses of other public officers, agents, or  
17 servants who have retired under such pension plan or system at a  
18 later date, and such benefits shall not be prohibited by the  
19 restrictions of this section or of Article XIII, section 3, of the  
20 ~~Constitution of Nebraska~~ this Constitution.

21 III-31 (1) There is hereby created the Ethics and  
22 Compensation Review Commission. The members of the commission  
23 shall be appointed by the Governor. There shall be two members  
24 appointed from each congressional district and three members from  
25 the state at large. Members of the commission shall serve for  
26 terms of six years, except that of the members initially appointed,  
27 one from each of the congressional districts and one of the  
1 at-large members shall be appointed for terms of two years. No  
2 more than five members of the commission may belong to the same  
3 political party at any one time, and no elected official or  
4 employee of the state or any political subdivision or registered  
5 lobbyist may serve as a member. The term of an existing member  
6 shall terminate on the date a new member is appointed. A member  
7 may serve no more than two terms on the commission and shall  
8 receive no compensation for the performance of his or her duties  
9 but may be reimbursed for actual and necessary expenses.

10 (2) The Ethics and Compensation Review Commission shall  
11 prepare and present to the Legislature prior to November 1, 2007, a  
12 recommended legislative code of ethics which may be adopted by the  
13 Legislature. The code of ethics shall include procedures for  
14 implementing such code. Beginning three years after the initial  
15 adoption of the recommended code of ethics, the Legislature may  
16 modify the code of ethics as it deems necessary or advisable to  
17 effectuate Article III, sections 10 and 16, of this Constitution.  
18 The Legislature shall maintain a code of ethics in its permanent  
19 rules.

20 (3) After the Ethics and Compensation Review Commission  
21 has presented a code of ethics to the Legislature and a code of  
22 ethics has been adopted as recommended as part of the Legislature's  
23 permanent rules, the commission shall review compensation for  
24 members of the Legislature and submit a report to the Governor and  
25 the Legislature recommending any adjustment to such compensation  
26 the commission deems appropriate. Notwithstanding the compensation  
27 limitation in Article III, section 7, of this Constitution, the  
1 Legislature may by legislative bill approve, disapprove, or reduce

2 any recommended adjustment but may not increase the recommended  
 3 adjustment, and such adjustments shall not become effective until  
 4 so approved by the Legislature and, when so approved, shall become  
 5 effective three calendar months following the end of the  
 6 legislative session in which the adjustments were approved. The  
 7 commission shall review and submit a report recommending any  
 8 adjustment to compensation every fourth year and shall review and  
 9 submit a recommendation with respect to changes in the legislative  
 10 code of ethics every fourth year after the submission of the  
 11 original recommendation.

12 Sec. 4. The proposed amendments shall be submitted to  
 13 the electors in the manner prescribed by the Constitution of  
 14 Nebraska, Article XVI, section 1, with the following ballot  
 15 language:

16 A constitutional amendment to change the annual salary of  
 17 members of the Legislature to twenty-four thousand  
 18 dollars.

19 For

20 Against.

21 A constitutional amendment to create the Ethics and  
 22 Compensation Review Commission, to change provisions  
 23 relating to compensation of members of the Legislature,  
 24 and to provide for the adoption of a legislative code of  
 25 ethics.

26 For

27 Against.

1 A constitutional amendment to create the Ethics and  
 2 Compensation Review Commission, to change provisions  
 3 relating to compensation of members of the Legislature,  
 4 and to provide for the adoption of a legislative code of  
 5 ethics.

6 For

7 Against."

Senator Preister filed the following amendment to LB 40:  
 AM1693

(Amendments to AM1227)

1 1. Insert the following new section:  
 2 "Sec. 3. Section 66-1519, Revised Statutes Supplement,  
 3 2004, is amended to read:  
 4 66-1519. (1) There is hereby created the Petroleum  
 5 Release Remedial Action Cash Fund to be administered by the  
 6 department. Revenue from the following sources shall be remitted  
 7 to the State Treasurer for credit to the fund:  
 8 (a) The fees imposed by sections 66-1520 and 66-1521;  
 9 (b) Money paid under an agreement, stipulation,  
 10 cost-recovery award under section 66-1529.02, or settlement; and  
 11 (c) Money received by the department in the form of  
 12 gifts, grants, reimbursements, property liquidations, or

13 appropriations from any source intended to be used for the purposes  
14 of the fund.

15 (2) Money in the fund may be spent for: (a)  
16 Reimbursement for the costs of remedial action by a responsible  
17 person or his or her designated representative and costs of  
18 remedial action undertaken by the department in response to a  
19 release first reported after July 17, 1983, and on or before June  
20 30, 2009, including reimbursement for damages caused by the  
21 department or a person acting at the department's direction while  
22 investigating or inspecting or during remedial action on property  
23 other than property on which a release or suspected release has  
1 occurred; (b) payment of any amount due from a third-party claim;  
2 (c) fee collection expenses incurred by the State Fire Marshal; (d)  
3 direct expenses incurred by the department in carrying out the  
4 Petroleum Release Remedial Action Act; (e) other costs related to  
5 fixtures and tangible personal property as provided in section  
6 66-1529.01; (f) interest payments as allowed by section 66-1524;  
7 (g) expenses incurred by the technical advisory committee created  
8 in section 81-15,189 in carrying out its duties pursuant to section  
9 81-15,190; (h) claims approved by the State Claims Board authorized  
10 under section 66-1531; (i) a grant to a city of the metropolitan  
11 class in the amount of three hundred thousand dollars, provided  
12 ~~within five days after October 1, 2003~~ no later than September 15,  
13 2005, to carry out the federal Residential Lead-Based Paint Hazard  
14 Reduction Act of 1992, 42 U.S.C. 4851 et seq., as such act existed  
15 on October 1, 2003; and (j) methyl tertiary butyl ether testing, to  
16 be conducted randomly at terminals within the state for up to two  
17 years ending June 30, 2003. The amount expended on the testing  
18 shall not exceed forty thousand dollars. The testing shall be  
19 conducted by the Department of Agriculture. The department may  
20 enter into contractual arrangements for such purpose. The results  
21 of the tests shall be made available to the Department of  
22 Environmental Quality.

23 (3) Transfers may be made from the Petroleum Release  
24 Remedial Action Cash Fund to the General Fund at the direction of  
25 the Legislature. Transfers may be made from the Petroleum Release  
26 Remedial Action Cash Fund to the Water Policy Task Force Cash Fund  
27 at the direction of the Legislature. The State Treasurer shall  
1 transfer one million five hundred thousand dollars from the  
2 Petroleum Release Remedial Action Cash Fund to the Ethanol  
3 Production Incentive Cash Fund on July 1 of each of the following  
4 years: 2004 through 2011.

5 (4) Any money in the Petroleum Release Remedial Action  
6 Cash Fund available for investment shall be invested by the state  
7 investment officer pursuant to the Nebraska Capital Expansion Act  
8 and the Nebraska State Funds Investment Act."

9 2. On page 10, line 7, strike "section 71-812" and  
10 insert "sections 66-1519 and 71-812".

11 3. Renumber the remaining sections accordingly.

Senator Preister filed the following amendment to LB 40A:  
AM1692

(Amendments to AM1259)

- 1 1. Insert the following new section:
- 2 "Sec. 4. There is hereby appropriated \$300,000 from the
- 3 Petroleum Release Remedial Action Cash Fund for FY2005-06 to the
- 4 Department of Environmental Quality, for Program 513, to aid in
- 5 carrying out the provisions of Legislative Bill 40, Ninety-ninth
- 6 Legislature, First Session, 2005.
- 7 No expenditures for permanent and temporary salaries and
- 8 per diems for state employees shall be made from funds appropriated
- 9 in this section.
- 10 There is included in the appropriation to this program
- 11 for FY2005-06 \$300,000 Cash Funds for state aid, which shall only
- 12 be used for such purpose."
- 13 2. Renumber the remaining sections accordingly.

Senator Thompson filed the following amendment to LB 761:  
AM1644

(Amendments to Standing Committee amendments, AM0659)

- 1 1. On page 1, strike beginning with the second "the" in
- 2 line 4 through "coordinator" in line 6 and insert "line 12 and
- 3 insert 'one director of a child advocacy center'".

Senator Cornett filed the following amendment to LB 478:  
AM1690

(Amendments to E & R amendments, AM7101)

- 1 1. On page 7, line 26, after "salaries" insert "by the
- 2 taxpayer who by nature of his or her duties must meet eligibility
- 3 requirements for access to classified information if such wages and
- 4 salaries are".
- 5 2. On page 8, line 7, after "Defense" insert "and that
- 6 the taxpayer meets eligibility requirements for access to
- 7 classified information".

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 233.** Introduced by Pahls, 31.

WHEREAS, Millard West freshman Brittany Poole won the Gold Medal in both the 1,600 meter and 3,200 meter races at the 2005 Girls' State High School Track Meet; and

WHEREAS, Brittany won the 1,600 meter race with a time of 5:15. 23 and won the 3,200 meter race with a time of 11:21. 67; and

WHEREAS, Brittany not only had the best times in Class A, but she had the best times for all classes; 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 Brittany Poole be congratulated for her exemplary effort this season and for winning the Gold Medal in both the 1,600 meter and 3,200 meter races at the state track meet.

2. That a copy of this resolution be sent to Brittany Poole.

Laid over.

**LEGISLATIVE RESOLUTION 234.** Introduced by Pahls, 31.

WHEREAS, the Millard North High School baseball team won the Class A State Baseball Championship Game; and

WHEREAS, the top-ranked Mustangs completed an undefeated season, the first such unbeaten baseball season since 1984, and compiled a 35-0 record; and

WHEREAS, the Mustang baseball team finished the season ranked fifth in the nation and claimed the school's second state title; 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 Millard North High School baseball team be congratulated for their exemplary effort this season and in winning the Class A state baseball championship.

2. That a copy of this resolution be sent to coach Dave Cork and the Millard North Mustang baseball team.

Laid over.

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

Senator Smith filed the following amendment to LB 70:

(Amendment, AM1670, is printed separately and available in the Bill Room, Room 1104.)

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

#### **Correctly Engrossed**

The following bills were correctly engrossed: LBs 117 and 566.

ER9041

Enrollment and Review Change to LB 117

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

1. In the Bourne amendment, FA283:
  - a. Amendment 4 has been struck; and
  - b. The matter beginning with the semicolon in line 20 through the quotation mark in line 22 has been struck.

ER9039

Enrollment and Review Change to LB 566

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

1. The Pederson amendment, AM1315, has been incorporated into the Schimek amendment, AM0993 as follows:
  - a. In the Pederson amendment, AM1315:
    - i. Sections 32, 60, and 61, have been renumbered as sections 30, 56, and 57, respectively; and
    - ii. On page 4, line 20, "32 and 61" has been struck and "30, 56, and 57" inserted; and
  - b. In the Schimek amendment, AM0993, section 55 has been struck.
2. On page 1, lines 3 through 10 have been struck and ", 32-315, 32-318 to 32-326, 32-328, 32-329, 32-554, 32-901, 32-908, 32-909, 32-914, 32-914.01, 32-914.02, 32-916, 32-921, and 32-1002, Reissue Revised Statutes of Nebraska, section 32-915, Reissue Revised Statutes of Nebraska, as amended by section 5, Legislative Bill 401, Ninety-ninth Legislature, First Session, 2005, and sections 32-938 to 32-943, 32-945 to 32-951, 32-1027, and 32-1502, Reissue Revised Statutes of Nebraska, as amended by sections 10 to 15, 17 to 23, 26, and 30, respectively, Legislative Bill 98, Ninety-ninth Legislature, First Session, 2005; to provide powers and duties and change and eliminate provisions relating to registration of voters and the conduct of elections; to change requirements for elections in certain political subdivisions; to harmonize provisions; to provide operative dates; to" inserted.

(Signed) Michael Flood, Chairperson

**AMENDMENT - Print in Journal**

Senator Connealy filed the following amendment to LB 28A:  
FA301

On page 2, line 1, strike "332,000" and insert "82,000"

**UNANIMOUS CONSENT - Add Cointroducer**

Senator Byars asked unanimous consent to have his name added as cointroducer to LB 373. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were 48 fourth-grade students and teachers from

Harvey Oaks Elementary School, Omaha.

**ADJOURNMENT**

At 4:59 p.m., on a motion by Senator Raikes, the Legislature adjourned until 9:00 a.m., Tuesday, May 24, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature