

FIFTY-FIRST DAY - MARCH 26, 2009
LEGISLATIVE JOURNAL
ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION
FIFTY-FIRST DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, March 26, 2009

PRAYER

The prayer was offered by Pastor Larry Ramsey, Beatrice State Developmental Center All Faith's Chapel, Beatrice.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Flood presiding.

The roll was called and all members were present except Senators Fischer and Howard who were excused; and Senators Cornett, Dierks, Friend, Louden, Schilz, and White who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fiftieth day was approved.

BILL ON FIRST READING

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

LEGISLATIVE BILL 414A. Introduced by Ashford, 20.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 414, One Hundred First Legislature, First Session, 2009; to provide an operative date; and to declare an emergency.

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of March 25, 2009, 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

Reynolds, Jeff
Center for Rural Affairs

REPORT

The following report was received by the Legislature:

Homeland Security, Office of
2008 State Preparedness Report

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 548. With Emergency Clause.

A BILL FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend sections 79-1022, 79-1023, 79-1026.01, 79-1027, and 79-1031.01, Reissue Revised Statutes of Nebraska, as amended by sections 1, 2, 3, 4, and 5, respectively, Legislative Bill 61, One Hundred First Legislature, First Session, 2009; to change certification dates as prescribed; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 35:

Adams	Cook	Hansen	McGill	Price
Ashford	Flood	Harms	Mello	Rogert
Avery	Fulton	Janssen	Nantkes	Stuthman
Campbell	Gay	Langemeier	Nelson	Sullivan
Carlson	Giese	Lathrop	Nordquist	Utter
Christensen	Haar	Lautenbaugh	Pankonin	Wallman
Coash	Hadley	McCoy	Pirsch	Wightman

Voting in the negative, 3:

Council Dubas Karpisek

Present and not voting, 3:

Gloor Heidemann Pahls

Excused and not voting, 8:

Cornett Fischer Howard Schilz
Dierks Friend Louden White

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LB548.

SELECT FILE

LEGISLATIVE BILL 403. Senator Karpisek renewed his amendment, AM680, found on page 811 and considered on page 838.

The Karpisek amendment was adopted with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

PRESENTED TO THE GOVERNOR

Presented to the Governor on March 26, 2009, at 9:18 a.m. was the following: LB548e.

(Signed) Jamie Kruse
Clerk of the Legislature's Office

MESSAGE FROM THE GOVERNOR

March 26, 2009

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bill 548e was received, signed, and delivered to the Secretary of State earlier today.

Sincerely,
(Signed) Dave Heineman
Governor

COMMITTEE REPORTS

Education

The Education Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Stan Carpenter - Nebraska Educational Telecommunications Commission
Kim Dinsdale - Nebraska Educational Telecommunications Commission
Clay Smith - Nebraska Educational Telecommunications Commission

Aye: 8 Senators Adams, Ashford, Avery, Cornett, Giese, Haar, Howard, Sullivan. Nay: 0. Absent: 0.

The Education Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

William Roskens - Board of Trustees of the Nebraska State Colleges
Michelle Suarez - Board of Trustees of the Nebraska State Colleges

Aye: 8 Senators Adams, Ashford, Avery, Cornett, Giese, Haar, Howard, Sullivan. Nay: 0. Absent: 0.

The Education Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

John Winkleblack - Coordinating Commission for Postsecondary Education

Aye: 8 Senators Adams, Ashford, Avery, Cornett, Giese, Haar, Howard, Sullivan. Nay: 0. Absent: 0.

(Signed) Greg Adams, Chairperson

RESOLUTIONS**LEGISLATIVE RESOLUTION 68.** Introduced by Christensen, 44.

WHEREAS, Traci Keyser, a senior at Cambridge High School, had an outstanding 2009 season in girls' high school basketball; and

WHEREAS, the Omaha World-Herald named Traci Keyser third-team All-Nebraska for 2009 and first-team All-State in Class C-2.

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

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Traci Keyser on her outstanding achievements in girls' high school basketball.

2. That a copy of this resolution be sent to Traci Keyser.

Laid over.

LEGISLATIVE RESOLUTION 69. Introduced by Christensen, 44.

WHEREAS, Ivan Simic, a senior at Arapahoe High School, had an outstanding 2009 season in boys' high school basketball; and

WHEREAS, the Omaha World-Herald named Ivan Simic first-team All-State in Class D-1 for 2009; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Ivan Simic on his outstanding achievements in boys' high school basketball.

2. That a copy of this resolution be sent to Ivan Simic.

Laid over.

LEGISLATIVE RESOLUTION 70. Introduced by Christensen, 44.

WHEREAS, Matt Gohl, a senior at Hayes Center High School, had an outstanding 2009 season in boys' high school basketball; and

WHEREAS, the Omaha World-Herald named Matt Gohl second-team All-State in Class D-2 for 2009; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Matt Gohl on his outstanding achievements in boys' high school basketball.

2. That a copy of this resolution be sent to Matt Gohl.

Laid over.

LEGISLATIVE RESOLUTION 71. Introduced by Christensen, 44.

WHEREAS, Sara Wilson, a senior at Perkins County High School, had an outstanding 2009 season in girls' high school basketball; and

WHEREAS, the Omaha World-Herald named Sara Wilson second-team All-Nebraska for 2009. Sara was also named first-team All-State and honorary captain in Class C-2; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Sara Wilson on her outstanding achievements in girls' high school basketball.

2. That a copy of this resolution be sent to Sara Wilson.

Laid over.

LEGISLATIVE RESOLUTION 72. Introduced by Janssen, 15; Lautenbaugh, 18; McCoy, 39; Rogert, 16.

WHEREAS, Ray C. Simmons of Fremont was a distinguished member of the Nebraska Legislature, serving from 1957 to 1961, representing Dodge and Washington counties; and

WHEREAS, Mr. Simmons chaired the Legislature's Judiciary Committee during the 1959 session; and

WHEREAS, Mr. Simmons was an active member of the Nebraska legal community, authoring the legal text entitled "Nebraska Automobile Negligence Law"; and

WHEREAS, Mr. Simmons was a 50-year member of the Nebraska State Bar Association; and

WHEREAS, Mr. Simmons served his country in the United States Navy during both World War II and the Korean War, later serving as commanding officer of Fremont's Naval Reserve Unit for many years; and

WHEREAS, Mr. Simmons was instrumental in forming the first John C. Fremont Days and was a member and past president of the Dodge County Historical Society and Fremont Opera House, Inc.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature posthumously honors Ray C. Simmons for his service to his country, state, and community.

2. That a copy of this resolution be sent to the family of Mr. Simmons.

Laid over.

LEGISLATIVE RESOLUTION 73. Introduced by Janssen, 15.

WHEREAS, Richard "Dick" Wikert was inducted into the Fremont Business Hall of Fame on January 9, 2009; and

WHEREAS, Mr. Wikert is a fixture in the Fremont business community, currently serving as the majority owner and chairman of the board of the American National Bank in Fremont; and

WHEREAS, Mr. Wikert formerly owned Taylor and Martin, Inc., building it from a small regional auction company into the nation's largest transportation equipment auction company; and

WHEREAS, Mr. Wikert is also a fixture in the Fremont philanthropic community, assisting with efforts at the Love-Larson Opera House, Midland Lutheran College, the Mid-American Council of the Boy Scouts of America, and many other community institutions; and

WHEREAS, Mr. Wikert served his country as a jet fighter pilot in the United States Air Force.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature honors Richard "Dick" Wikert for his talents and service to the city of Fremont and the State of Nebraska.

2. That the Legislature congratulates Mr. Wikert and his family for his induction into the Fremont Business Hall of Fame.

3. That a copy of this resolution be sent to Mr. Wikert and his family.

Laid over.

LEGISLATIVE RESOLUTION 74. Introduced by Janssen, 15.

WHEREAS, Bernard "Bernie" Paden was inducted into the Fremont Business Hall of Fame on January 9, 2009; and

WHEREAS, Mr. Paden founded Paden Construction and Paden Enterprises and handled many land and commercial developments throughout Fremont; and

WHEREAS, Mr. Paden's efforts helped preserve Fremont's historic Post Office which is now home to the Fremont Area Chamber of Commerce and many other civic groups; and

WHEREAS, Mr. Paden was also instrumental in starting the Fremont and Dodge County Convention and Visitor's Bureau and preserving the Holiday Lodge and convention center; and

WHEREAS, Mr. Paden was very involved in Fremont's philanthropic community, including working with the Masonic Youth Home and Fremont Shriners Club.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature posthumously honors Bernard "Bernie" Paden for his talents and service to the city of Fremont and the State of Nebraska.

2. That the Legislature congratulates Mr. Paden's family for Mr. Paden's induction into the Fremont Business Hall of Fame.

3. That a copy of this resolution be sent to the family of Mr. Paden.

Laid over.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 260. Placed on Final Reading.

ST9013

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

1. In the Lathrop-Rogert amendment, AM785:

a. Amendment 2 has been struck;

b. On page 1, line 3, "9" has been struck and "8" inserted; and

c. On page 8, line 17, "81-8,210" has been struck and "29-3506, 81-8,210," inserted.

2. In the E & R amendments, ER8026, on page 9, line 19, "81-8,210" has been struck and "29-3506, 81-8,210," inserted; and in line 21 "to redefine criminal history record information;" has been inserted after the semicolon.

LEGISLATIVE BILL 483. Placed on Final Reading.

ST9014

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

1. On page 1, line 2, "section" has been struck and "sections 2-32,115 and 46-720, Reissue Revised Statutes of Nebraska, and sections 46-706, 46-713, and" inserted; and in line 5 "to harmonize provisions;" has been inserted after the first semicolon and "section" has been struck and "sections" inserted.

(Signed) Jeremy Nordquist, Chairperson

GENERAL FILE

LEGISLATIVE BILL 458. Title read. Considered.

PRESIDENT SHEEHY PRESIDING

Pending.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 51, 52, 53, 54, 55, 56, 57, 58, 59, and 60 were adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 51, 52, 53, 54, 55, 56, 57, 58, 59, and 60.

GENERAL FILE

LEGISLATIVE BILL 458. Considered.

Senator Harms moved for a call of the house. The motion prevailed with 31 ayes, 0 nays, and 18 not voting.

Senator Harms requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 45:

Adams	Council	Haar	Lautenbaugh	Pirsch
Ashford	Dierks	Hadley	Louden	Price
Avery	Dubas	Hansen	McCoy	Rogert
Campbell	Flood	Harms	McGill	Schilz
Carlson	Friend	Heidemann	Mello	Sullivan
Christensen	Fulton	Janssen	Nantkes	Utter
Coash	Gay	Karpisek	Nelson	Wallman
Cook	Giese	Langemeier	Nordquist	White
Cornett	Gloor	Lathrop	Pahls	Wightman

Voting in the negative, 0.

Excused and not voting, 4:

Fischer	Howard	Pankonin	Stuthman
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Advanced to Enrollment and Review Initial with 45 ayes, 0 nays, and 4 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 206. Title read. Considered.

Committee AM512, found on page 612, was adopted with 37 ayes, 0 nays, 6 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 4 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 477. Title read. Considered.

Committee AM481, found on page 638, was adopted with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

AMENDMENT - Print in Journal

Senator Wightman filed the following amendment to LB121:
AM862

(Amendments to E & R amendments, ER8032)

1 1. Strike section 10 and insert the following new
2 section:
3 Sec. 10. (1) Each employee of the Department of Revenue
4 transferred to a county pursuant to section 77-1340 or section 8 of
5 this act shall be paid for his or her accrued annual leave hours
6 based on his or her straight-time rate of pay and, notwithstanding
7 section 81-1324, for twenty-five percent of the value of his or
8 her accrued sick leave hours based on his or her straight-time
9 rate of pay. For purposes of this subsection, straight-time rate
10 of pay means the rate of pay in effect on June 30 of the year
11 of transfer. The state shall reimburse employees on the date of
12 employment transfer.

13 (2) A transferred employee may credit years of service
14 with both the county and state toward the accrual rate for sick
15 leave and annual leave plans. The transferred employee shall not
16 receive any additional accrual rate value for county benefits until
17 the employee meets the qualifications for the increased accrual
18 rates pursuant to the county's requirements.

19 (3) The transferred employee may participate in and be
20 covered by the county's insurance program. The waiting period
21 for medical insurance coverage of a transferred employee shall
22 be waived, and any preexisting condition clause in the county's
1 insurance program shall be waived if the transferred employee has
2 health insurance under the Nebraska State Insurance Program or
3 comparable health insurance coverage immediately prior to the date
4 of employment transfer.

5 2. On page 11, line 27; and page 13, line 20, before
6 the second "to" insert "and all furniture, computers, and other
7 equipment and property used by the state to perform the county
8 assessment function, other than motor vehicles."

9 3. On page 12, line 6; and page 13, line 13, after
10 "employees" insert "by operation of law".

RESOLUTION**LEGISLATIVE RESOLUTION 75.** Introduced by Council, 11; Cook, 13.

WHEREAS, for more than 130 years, Juneteenth National Freedom Day has been the oldest and only African-American holiday observance in the United States; and

WHEREAS, Juneteenth is also known as Emancipation Day, Emancipation Celebration, Freedom Day, and Jun-Jun; and

WHEREAS, Juneteenth commemorates the strong survival instinct of African-Americans who were first brought to this country, stacked in the bottom of slave ships in a month-long journey across the Atlantic Ocean, known as the Middle Passage; and

WHEREAS, approximately eleven and one-half million African-Americans survived the voyage to the New World - the number that died is likely greater; and

WHEREAS, events in the history of the United States which led to the Civil War of 1861 centered around sectional differences between the North and South that were based on the economic and social divergence caused by the existence of slavery; and

WHEREAS, President Abraham Lincoln was inaugurated as President of the United States in 1861, and believed and stated that the paramount object of the Civil War was to save the Union rather than save or destroy slavery; and

WHEREAS, President Abraham Lincoln also stated his wish was that all men everywhere could be free, thus adding to a growing anticipation by slaves that their ultimate liberty was at hand; and

WHEREAS, in 1862, the first clear signs that the end of slavery was imminent came when laws abolishing slavery in the territories of Nebraska, Oklahoma, Colorado, and New Mexico were passed; and

WHEREAS, in September of that same year, President Abraham Lincoln warned the eleven rebellious Confederate States that if they did not return to the Union by January 1, 1863, he would declare their slaves forever free via the celebrated Emancipation Proclamation; and

WHEREAS, enforcement of the Emancipation Proclamation only occurred in Confederate States once under Union Army control; and

WHEREAS, Congress subsequently passed the Thirteenth Amendment to the Constitution on January 31, 1865, abolishing slavery throughout the United States and its territories. However, news of this action reached the states at different times. It was not until June 19, 1865, that the message of freedom reached the slaves in Texas, Oklahoma, Louisiana, Arkansas, and California; and

WHEREAS, spontaneous celebration erupted throughout the country when African-Americans learned of their freedom. Juneteenth National Freedom Day illuminates the fact that slaves hated slavery and celebrated its abolishment with excitement and great joy. It is a reminder to all Americans of the status and importance of Americans of African descent as American citizens; and

WHEREAS, Juneteenth has been an unofficial holiday observed and celebrated by thousands of African-Americans and other cultures in various communities throughout the United States of America and around the world; and

WHEREAS, twenty-two states and the District of Columbia observe Juneteenth as an official state holiday: Those states are Alaska, Arkansas, California, Connecticut, Delaware, Florida, Illinois, Iowa, Kentucky, Louisiana, Massachusetts, Michigan, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Tennessee, Texas, Vermont, Washington, and Wyoming. Other states have passed resolutions: Colorado, Idaho, Oregon, and Virginia; and

WHEREAS, Governor Heineman, of the State of Nebraska, issued proclamations observing Juneteenth Day on June 19, 2007, and June 19, 2008.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes June 19 as Juneteenth National Freedom Day and encourages celebration of this day to honor and reflect on the significant roles that African-Americans have played in the history of the United States.

2. That the Legislature acknowledges how African-Americans have enriched society through their steadfast commitment to promoting freedom, brotherhood, and equality.

3. That a copy of this resolution be sent to Brenda J. Council.

Laid over.

NOTICE OF COMMITTEE HEARING

Judiciary

Room 1113

Monday, April 6, 2009 9:00 a.m.

James Pearson - Board of Parole

(Signed) Brad Ashford, Chairperson

UNANIMOUS CONSENT - Add Cointroducers

Senators McGill and Nantkes asked unanimous consent to add their names as cointroducers to LB555. No objections. So ordered.

VISITORS

Visitors to the Chamber were Senator Lautenbaugh's son, Nathan Lautenbaugh, from Omaha; 32 fourth-grade students from Weeping Water; Senator Pirsch's mother, former Senator Carol Pirsch, from Omaha; 24 fourth-grade students and teacher from Freeman School, Adams; and 46 fourth-grade students and teachers from Syracuse/Dunbar/Avoca.

The Doctor of the Day was Dr. Mark Woodruff from Omaha.

ADJOURNMENT

At 11:54 a.m., on a motion by Senator Rogert, the Legislature adjourned until 10:00 a.m., Tuesday, March 31, 2009.

Patrick J. O'Donnell
Clerk of the Legislature

