

EIGHTY-FIRST DAY - MAY 19, 2009

LEGISLATIVE JOURNAL

**ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION**

EIGHTY-FIRST DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, May 19, 2009

PRAYER

The prayer was offered by Evangelist Sharon Anderson Towery, Sharon Adele Ministries, Lincoln.

ROLL CALL

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

The roll was called and all members were present except Senators Christensen, Cook, Cornett, Dierks, and Schilz who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the eightieth day was approved.

MESSAGE FROM THE GOVERNOR

May 19, 2009

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 311e, 312e, 314e, 318e, 628e, and 629 were received in my office on May 13, 2009.

These bills were signed and delivered to the Secretary of State on May 19, 2009.

Sincerely,
(Signed) Dave Heineman
Governor

NOTICE OF COMMITTEE HEARING
Government, Military and Veterans Affairs

Room 1507

Tuesday, May 26, 2009 9:45 a.m.

Kevin Brostrom - Nebraska Accountability and Disclosure Commission

(Signed) Bill Avery, Chairperson

GENERAL FILE

LEGISLATIVE BILL 36. Senator Council renewed her amendment, AM1452, found on page 1596.

SENATOR ROBERT PRESIDING

SENATOR CARLSON PRESIDING

Senator Council moved for a call of the house. The motion prevailed with 44 ayes, 0 nays, and 5 not voting.

Senator Council requested a roll call vote on her amendment.

Voting in the affirmative, 13:

Ashford	Cook	Haar	Mello	Rogert
Avery	Council	Lathrop	Nantkes	
Coash	Dierks	McGill	Nordquist	

Voting in the negative, 33:

Adams	Friend	Harms	McCoy	Stuthman
Campbell	Fulton	Heidemann	Nelson	Sullivan
Carlson	Gay	Howard	Pahls	Utter
Christensen	Giese	Janssen	Pankonin	White
Cornett	Gloor	Karpisek	Pirsch	Wightman
Fischer	Hadley	Lautenbaugh	Price	
Flood	Hansen	Louden	Schilz	

Present and not voting, 1:

Wallman

Excused and not voting, 2:

Dubas Langemeier

The Council amendment lost with 13 ayes, 33 nays, 1 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Pending.

REFERENCE COMMITTEE REPORT

The Executive Board submits the following report:

LB/LR	Committee
LR223	Judiciary
LR224	Executive Board

(Signed) John Wightman, Chairperson
Executive Board

NOTICE OF COMMITTEE HEARING

Executive Board

Room 2102

Tuesday, May 26, 2009 12:00 p.m.

LR224

(Signed) John Wightman, Chairperson

UNANIMOUS CONSENT - Add Cointroducers

Senators Carlson, Christensen, Cook, Dubas, Fulton, Haar, McCoy, and Schilz asked unanimous consent to add their names as cointroducers to LB561. No objections. So ordered.

Senator Giese asked unanimous consent to add his name as cointroducer to LR139. No objections. So ordered.

Senators Giese and Hansen asked unanimous consent to add their names as cointroducers to LR240. No objections. So ordered.

VISITORS

Visitors to the Chamber were 26 third- through fifth-grade students and teachers from Platteville Elementary, Fremont; 27 third-grade students, teachers, and sponsors from Arnold Elementary, Lincoln; 35 fourth-grade students, teachers, and sponsors from Ravenna; and former Lt. Governor, David I. Maurstad, from Landsdown, VA.

RECESS

At 12:01 p.m., on a motion by Senator Giese, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Senator Carlson presiding.

ROLL CALL

The roll was called and all members were present except Senators Coash, Dubas, and Langemeier who were excused until they arrive.

AMENDMENTS - Print in Journal

Senator Ashford filed the following amendment to LB35:
AM1468

(Amendments to Final Reading copy)

- 1 1. Strike section 4.
- 2 2. On page 1, strike beginning with "and" in line 10
- 3 through "judges" in line 11.
- 4 3. Renumber the remaining sections and correct internal
- 5 references, the operative date section, and the repealer section
- 6 accordingly.

Senator Ashford filed the following amendment to LB35A:
AM1467

(Amendments to Final Reading copy)

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

COMMITTEE REPORT

General Affairs

The General Affairs 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.

Janell Beveridge - State Racing Commission

Aye: 8 Senators Coash, Cook, Dierks, Dubas, Friend, Karpisek, Price, Rogert. Nay: 0. Absent: 0.

(Signed) Russ Karpisek, Chairperson

COMMITTEE REPORT
General Affairs

LEGISLATIVE BILL 404. Indefinitely postponed.

(Signed) Russ Karpisek, Chairperson

GENERAL FILE

LEGISLATIVE BILL 36. Considered.

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

Voting in the affirmative, 34:

Adams	Flood	Hansen	McCoy	Schilz
Ashford	Friend	Harms	Nelson	Stuthman
Campbell	Fulton	Heidemann	Pahls	Sullivan
Carlson	Gay	Janssen	Pankonin	Utter
Christensen	Giese	Karpisek	Pirsch	White
Cornett	Gloor	Lautenbaugh	Price	Wightman
Fischer	Hadley	Louden	Rogert	

Voting in the negative, 7:

Coash	Council	Haar	Nantkes
Cook	Dierks	Howard	

Present and not voting, 6:

Avery	McGill	Nordquist
Lathrop	Mello	Wallman

Excused and not voting, 2:

Dubas	Langemeier
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Advanced to Enrollment and Review Initial with 34 ayes, 7 nays, 6 present and not voting, and 2 excused and not voting.

PRESIDENT SHEEHY PRESIDING

SELECT FILE

LEGISLATIVE BILL 561. ER8126, found on page 1388, was adopted.

The Langemeier amendment, FA37, found on page 1421, was withdrawn.

Senator McCoy renewed the Langemeier amendment, AM1454, found on page 1579.

The Langemeier amendment was adopted with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 288. ER8118, found on page 1325, was adopted.

Senator Gloor withdrew his amendment, AM1280, found on page 1294.

Senator Stuthman renewed his amendment, AM1278, found on page 1324.

The Stuthman amendment was adopted with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

Senator Pirsch renewed his amendment, AM1428, found on page 1576.

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

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 288A. Senator Gay withdrew his amendment, AM1368, found on page 1413.

Senator Gay offered the following amendment:
AM1456

- 1 1. Insert the following new sections:
- 2 Sec. 2. The General Fund appropriation for FY2009-10 to
- 3 the Department of Health and Human Services, for Program 347, is
- 4 hereby reduced by \$116,064. The General Fund appropriation for
- 5 FY2010-11 to the Department of Health and Human Services, for
- 6 Program 347, is hereby reduced by \$232,128.
- 7 Sec. 3. The General Fund appropriation for FY2009-10 to
- 8 the Department of Health and Human Services, for Program 348, is
- 9 hereby reduced by \$158,879. The federal fund appropriation for
- 10 FY2009-10 to the Department of Health and Human Services, for
- 11 Program 348, is hereby reduced by \$241,421.
- 12 The General Fund appropriation for FY2010-11 to the
- 13 Department of Health and Human Services, for Program 348, is hereby
- 14 reduced by \$307,060. The federal fund appropriation for FY2010-11
- 15 to the Department of Health and Human Services, for Program 348, is
- 16 hereby reduced by \$465,939.
- 17 2. Renumber the remaining section accordingly.

The Gay amendment was adopted with 40 ayes, 0 nays, 8 present and not

voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

MESSAGES FROM THE GOVERNOR

May 19, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individuals are being reappointed to the Community Corrections Council:

Thomas Dorwart, 2310 11th Avenue, Sidney, NE 69162
Jeffrey Davis, 1104 Crest Road, Papillion, NE 68046

The aforementioned appointees are respectfully submitted for your consideration. Enclosed are copies of the certificates and background materials for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

May 19, 2009

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individuals are being appointed to the Community Corrections Council:

Darrell Fisher, 510 W. Chanceler, Lincoln, NE 68521
Eleanor Marie Devlin, 4862 Harney Street, Omaha, NE 68132

The aforementioned appointees are respectfully submitted for your consideration. Enclosed are copies of the certificates and background materials for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

SELECT FILE

LEGISLATIVE BILL 16. ER8110, found on page 1325, was adopted.

Senator Friend renewed his amendment, AM1431, found on page 1499.

Pending.

MESSAGES FROM THE GOVERNOR

May 19, 2009

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 198, 198A, and 430 were received in my office on May 13, 2009.

These bills were signed and delivered to the Secretary of State on May 19, 2009.

Sincerely,
(Signed) Dave Heineman
Governor

May 19, 2009

Mr. President, Mr. Speaker and
Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Today I signed into law the main line budget bill LB 315e without any vetoes. The bill has been forwarded to the Secretary of State along with LB 313e, 316e, 414e, 414Ae, 456e, 545e, and 545Ae.

I want to commend the leadership of your Appropriations Committee Chairman, Senator Lavon Heidemann, for his work on LB 315 and your Education Committee Chairman, Senator Greg Adams, for his work on

LB 545. I appreciate the strong support of the Legislature in voting for the Appropriations Committee's budget without any amendments. This has been a difficult budget cycle, given the financial challenges that America and Nebraska face.

In reviewing the budget the past few days, it was very clear that this budget met the four principles I outlined in my budget proposal. Those were:

1. No tax increases
2. Priority funding for education
3. Continued funding for programs for vulnerable children and families
4. Maintain a strong cash reserve.

Nebraskans expect us to exhibit fiscal discipline and fiscal responsibility with their hard earned tax dollars. We did two years ago when we restrained spending which put us in the position to weather the upcoming fiscal storm. This budget takes another step forward in preparing our state for the next two difficult years.

Finally, I want to note that there are very challenging decisions ahead of us when you review the out-biennium (FY 12 and 13). Your financial status indicates a projected deficit of \$477 million. That status is based upon a revenue receipt growth rate of 7.2%, which most would agree is an optimistic estimate.

Therefore, given that Nebraska's revenues are declining, I would ask that you carefully review each remaining appropriations bill. Are there appropriations bills that can wait until next January when we will have a more clear picture of the impact of the national economic slowdown on Nebraska's economy?

Even with these challenges, I am confident that we can continue to move Nebraska forward if we restrain spending in order to avoid any income or sales tax increase. Thank you.

Sincerely,
(Signed) Dave Heineman
Governor

REFERENCE COMMITTEE REPORT

The Executive Board submits the following report:

Davis, Jeffrey - Community Corrections Council - Judiciary
Devlin, Eleanor Marie - Community Corrections Council - Judiciary
Dorwart, Thomas - Community Corrections Council - Judiciary
Fisher, Darrell - Community Corrections Council - Judiciary

(Signed) John Wightman, Chairperson
Executive Board

SELECT FILE

LEGISLATIVE BILL 16. The Friend amendment, AM1431, found on page 1499 and considered in this day's Journal, was renewed.

Pending.

NOTICE OF COMMITTEE HEARING

Judiciary

Room 1113

Tuesday, May 26, 2009 12:30 p.m.

Jeffrey Davis - Community Corrections Council
 Eleanor Marie Devlin - Community Corrections Council
 Thomas Dorwart - Community Corrections Council
 Darrell Fisher - Community Corrections Council

LR223

(Signed) Brad Ashford, Chairperson

EXPLANATION OF VOTE

Had I been present, I would have voted "aye" on the advancement of LB36.

(Signed) Chris Langemeier

SELECT FILE

LEGISLATIVE BILL 16. Senator McCoy offered the following amendment to the Friend amendment:
 AM1469

(Amendments to AM1431)

- 1 1. On page 2, line 26, after the period insert "The web
- 2 site shall not include the treasurer's name, the treasurer's image,
- 3 the treasurer's seal, or a welcome message.".

Senator White moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

The McCoy amendment was adopted with 39 ayes, 0 nays, 9 present and not voting, and 1 excused and not voting.

The Friend amendment, AM1431, found on page 1499 and considered in this day's Journal, as amended, was renewed.

Senator Langemeier moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 30 ayes, 2 nays, and 17 not voting.

The Friend amendment, as amended, was adopted with 43 ayes, 0 nays, 5 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 16A. Senator Friend renewed his amendment, AM1383, found on page 1501.

Senator Friend withdrew his amendment.

Senator Mello offered the following motion:

MO51

Indefinitely postpone.

The Mello motion to indefinitely postpone prevailed with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 241. ER8111, found on page 1329, was adopted.

Senator Dierks renewed his amendment, AM1362, found on page 1401.

The Dierks amendment was adopted with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

AMENDMENTS - Print in Journal

Senator Karpisek filed the following amendment to LB542:
AM1430

(Amendments to AM1224)

- 1 1. On page 1, line 11, strike "may" and insert "shall".

Senator Karpisek filed the following amendment to LB542:
AM1426

(Amendments to AM1224)

- 1 1. Insert the following new section:
- 2 Section 1. Section 38-1135, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 38-1135 Any licensed dentist, public institution, or
- 5 school may employ dental assistants in addition to licensed dental

- 6 hygienists. Such dental assistants, under the indirect supervision
7 of a licensed dentist, may perform such duties as are prescribed
8 in accordance with rules and regulations adopted and promulgated by
9 the department, with the recommendation of the board.
10 2. On page 1, line 14, strike "section" and insert
11 "sections 38-1135 and"; and in line 15 strike "is" and insert
12 "are".
13 3. Renumber the remaining sections accordingly.

MOTION - Print in Journal

Senator Karpisek filed the following motion to LB542:
MO52
Bracket until May 29, 2009.

ANNOUNCEMENT

Senator Adams announced the Education Committee will hold an executive session Wednesday, May 20, 2009, at 12:30 p.m., in Room 1107.

UNANIMOUS CONSENT - Add Cointroducer

Senator Mello asked unanimous consent to add his name as cointroducer to LR172. No objections. So ordered.

VISITORS

Visitors to the Chamber were 42 fourth-grade students, teachers, and sponsors from Jefferson Elementary, Grand Island; and Bob Twiss from Gretna.

The Doctor of the Day was Dr. Ronald Craig from Lincoln.

ADJOURNMENT

At 5:23 p.m., on a motion by Senator Pahls, the Legislature adjourned until 9:00 a.m., Wednesday, May 20, 2009.

Patrick J. O'Donnell
Clerk of the Legislature