

EIGHTY-FIFTH DAY - MAY 27, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION****EIGHTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, May 27, 2009

PRAYER

The prayer was offered by Senator Heidemann.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senator Haar who was excused; and Senators Coash, Gay, and White who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the eighty-fourth day was approved.

PRESENTED TO THE GOVERNOR

Presented to the Governor on May 26, 2009, at 6:57 p.m. was the following: LB679.

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

RESOLUTIONS

LEGISLATIVE RESOLUTION 251. Introduced by Stuthman, 22.

WHEREAS, the Scotus Central Catholic High School girls' track team won the 2009 Class B State Track and Field Championship; and

WHEREAS, Scotus scored 58 points to win the title, outscoring runner-up Fillmore Central by 17 points; 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 the Scotus Central Catholic High School girls' track team on winning the 2009 Class B State Track and Field Championship.

2. That a copy of this resolution be sent to the Scotus Central Catholic High School girls' track team and their coach, Janet Tooley.

Laid over.

LEGISLATIVE RESOLUTION 252. Introduced by Stuthman, 22.

WHEREAS, the Lindsay Holy Family High School girls' track team won the 2009 Class D State Track and Field Championship; and

WHEREAS, Lindsay Holy Family scored 64.5 points to win the title, outscoring runner-up Humphrey St. Francis by 4.5 points; 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 the Lindsay Holy Family High School girls' track team on winning the 2009 Class D State Track and Field Championship.

2. That a copy of this resolution be sent to the Lindsay Holy Family High School girls' track team and their coach, Travis Friesen.

Laid over.

**MOTION - Suspend Rules to Request
Return of LB420 From Governor**

Senator Hadley renewed his motion, MO58, found on page 1731, to suspend Rule 7, Section 7(d) and (e) to request return of LB420 from the Governor for further action.

SENATOR ROBERT PRESIDING

Senator Pirsch moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 4 nays, and 19 not voting.

The Hadley motion to suspend the rules prevailed with 38 ayes, 3 nays, 4 present and not voting, and 4 excused and not voting.

COMMUNICATION

May 27, 2009

The Honorable David Heineman
Governor - State of Nebraska
State Capitol
Lincoln, NE 68509

Dear Governor Heineman:

The Legislature has directed that I respectfully request the return of LB420 to the Legislature for further consideration.

Sincerely,
(Signed) Patrick J. O'Donnell
Clerk of the Legislature

MESSAGE FROM THE GOVERNOR

May 27, 2009

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

Dear Mr. O'Donnell:

Engrossed Legislative Bill 420e was received in my office on May 21, 2009. Pursuant to the Legislature's formal request to return this bill for further action, I am returning LB 420e without having given any consideration to, or taken action upon, the legislation.

Sincerely,
(Signed) Dave Heineman
Governor

MOTION - Reconsider Final Passage of LB420

Senator Hadley offered the following motion to LB420:
MO63
Reconsider the vote on final passage.

PRESIDENT SHEEHY PRESIDING

Senator Pirsch moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 34 ayes, 2 nays, and 13 not voting.

The Hadley motion to reconsider prevailed with 41 ayes, 3 nays, 3 present and not voting, and 2 excused and not voting.

MOTION - Return LB420 to Select File

Senator Hadley moved to return LB420 to Select File for his specific amendment, AM1504, found on page 1721.

The Hadley motion to return prevailed with 40 ayes, 2 nays, 5 present and not voting, and 2 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 420. The Hadley specific amendment, AM1504, found on page 1721, was adopted with 43 ayes, 1 nay, 3 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Reengrossment.

COMMITTEE REPORTS

Education

LEGISLATIVE BILL 461. Indefinitely postponed.

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

Colleen Adam - Coordinating Commission for Postsecondary Education
 Ronald Hunter - Coordinating Commission for Postsecondary Education
 Eric Seacrest - Coordinating Commission for Postsecondary Education

Aye: 5 Senators Adams, Avery, Giese, Howard, Sullivan. Nay: 0. Absent: 3 Senators Ashford, Cornett, Haar.

(Signed) Greg Adams, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 253. Introduced by Pirsch, 4.

WHEREAS, Dennis Pavlik, of Omaha, Nebraska, is a veteran and former prisoner of war during the Korean War; and

WHEREAS, in recent years, Dennis Pavlik has shared his war experiences with numerous people through his writing, personal conversations, and public speaking engagements; and

WHEREAS, Dennis Pavlik has served as the commander of the Nebraska Department of American Ex-Prisoners of War; and

WHEREAS, Dennis Pavlik is establishing a monument in Omaha's Memorial Park to honor American prisoners of war.

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

1. That the Legislature recognizes Dennis Pavlik for his efforts in establishing a monument for American prisoners of war and honors Mr. Pavlik for his sacrifice and service to the United States of America.

2. That a copy of this resolution be sent to Dennis Pavlik.

Laid over.

MESSAGE FROM THE GOVERNOR

May 27, 2009

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 9e, 63e, 63Ae, 237, 237A, 246, 246A, 464, 464A, 555, 671, and 671A were received in my office on May 21, 2009.

These bills were signed and delivered to the Secretary of State on May 27, 2009.

Sincerely,
(Signed) Dave Heineman
Governor

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 561.

A BILL FOR AN ACT relating to electricity; to amend sections 70-670 and 70-1014.01, Reissue Revised Statutes of Nebraska, and sections 70-1903, 70-1904, and 77-2704.57, Revised Statutes Cumulative Supplement, 2008; to permit public power districts to agree to limit the power of eminent domain; to change provisions relating to special generation applications for electric generation facilities; to change provisions relating to community-based energy development projects; and to repeal the original sections.

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

Voting in the affirmative, 44:

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

Voting in the negative, 1:

Hansen

Present and not voting, 2:

Dierks Lautenbaugh

Excused and not voting, 2:

Haar White

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LB561.

MOTION - Return LB675 to Select File

Senator Fulton moved to return LB675 to Select File for his specific amendment, AM1503, found on page 1720.

The Fulton motion to return prevailed with 39 ayes, 2 nays, 6 present and not voting, and 2 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 675. The Fulton specific amendment, AM1503, found on page 1720, was adopted with 38 ayes, 4 nays, 5 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Reengrossment.

GENERAL FILE

LEGISLATIVE BILL 134. Title read. Considered.

Committee AM636, found on page 774, was adopted with 30 ayes, 0 nays, 17 present and not voting, and 2 excused and not voting.

Senator Pankonin renewed his motion, MO54, found on page 1696, to indefinitely postpone.

Laid over.

SELECT FILE

LEGISLATIVE BILL 658. ER8135, found on page 1708, was adopted.

Senator Friend withdrew his motion, MO57, found on page 1703, to bracket until May 29, 2009.

Senator Friend renewed his amendment, AM1505, found on page 1728.

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

Senator Friend renewed his amendment, AM1506, found on page 1730.

Senator Friend withdrew his amendment.

Advanced to Enrollment and Review for Engrossment.

PRESENTED TO THE GOVERNOR

Presented to the Governor on May 27, 2009, at 10:55 a.m. was the following: LB561.

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

RESOLUTIONS

LEGISLATIVE RESOLUTION 254. Introduced by Giese, 17; Dierks, 40.

WHEREAS, the Laurel-Concord High School girls' track and field team won the Class C team title at the 2009 State Track and Field Championships, the school's second consecutive state championship; and

WHEREAS, Laurel-Concord High School scored 54 points, outscoring runner-up Hastings St. Cecilia High School by just four points; and

WHEREAS, the Lady Bears' relay teams earned two medals, a gold medal in the 400-meter relay, and a silver medal in the 3200-meter relay; and

WHEREAS, the Lady Bears had four individual medalists, with Bethany DeLong earning gold medals in both the long jump and the 200-meter dash, and Katie Jacobsen earning silver medals in both the 800-meter run and the 1600-meter run; and

WHEREAS, Bethany DeLong set a new state record of 19 feet, one and one-half inches in the long jump at the 2009 State Track and Field Championships, breaking the previous record of 18 feet, 11 inches; and

WHEREAS, the Lady Bears have exemplified teamwork, sportsmanship, discipline, and determination; 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 the Laurel-Concord High School girls' track and field team on winning their second consecutive team title at the 2009 Class C State Track and Field Championships.

2. That a copy of this resolution be sent to the Lady Bears and their head coach, Nathaniel Sims.

Laid over.

LEGISLATIVE RESOLUTION 255. Introduced by Cook, 13; Council, 11.

WHEREAS, Native Omahans Club, Inc., founded in the fall of 1976, promotes, educates, reunites, and contributes to the betterment of the African American community and its social, historical, and cultural values; and

WHEREAS, Native Omahans Club, Inc., is a symbol of the tradition, pride, and unity of the Black community; and

WHEREAS, Native Omahans Club, Inc., will be holding its 17th Biennial Homecoming event, otherwise known as "Omaha Days", from Wednesday, July 29, 2009, through Monday, August 3, 2009.

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

1. That the Legislature designates July 29, 2009, through August 3, 2009, as "Omaha Days" in Nebraska.

2. That a copy of this resolution be sent to Native Omahans Club, Inc., and to the mayor of Omaha, Nebraska.

Laid over.

MOTION - Print in Journal

Senator Karpisek filed the following motion to LB626:
MO64

Becomes law notwithstanding the objections of the Governor.

VISITORS

Visitors to the Chamber were Senator Langemeier's wife and son, Kerri and Jakub Langemeier, and Shanda and Auston Hall and Noah Beebe from Schuyler; and Sue Handy from Lincoln.

RECESS

At 11:59 a.m., on a motion by Senator Campbell, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., President Sheehy presiding.

ROLL CALL

The roll was called and all members were present except Senator Haar who was excused; and Senators Cornett, Council, Dierks, Friend, Hansen, Price, and Schilz who were excused until they arrive.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 420. Placed on Final Reading Second.

LEGISLATIVE BILL 675. Placed on Final Reading Second.

(Signed) Jeremy Nordquist, Chairperson

SELECT FILE

LEGISLATIVE BILL 219. ER8024, found on page 580, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 219A. Advanced to Enrollment and Review for Engrossment.

GENERAL FILE

LEGISLATIVE BILL 134. Senator Pankonin renewed his motion, MO54, found on page 1696 and considered in this day's Journal, to indefinitely postpone.

The Pankonin motion to indefinitely postpone prevailed with 40 ayes, 0 nays, 5 present and not voting, and 4 excused and not voting.

RESOLUTION

LEGISLATIVE RESOLUTION 245. Read. Considered.

LR245 was adopted with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

COMMITTEE REPORT

Enrollment and Review

LEGISLATIVE BILL 658. Placed on Final Reading.

ST9065

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

1. In the Standing Committee amendment, AM1487, on page 18, line 13, "becomes" has been struck and "become" inserted.

(Signed) Jeremy Nordquist, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 256. Introduced by Mello, 5.

WHEREAS, the foundation of Nebraska agriculture, farm production, occurs on 47,400 farms representing 45.6 million acres of farmland in our state; and

WHEREAS, the acres of farmland in our state amount to 92.5% of the state's total land area; and

WHEREAS, Nebraska's farm families are stewards of the land who contribute to the health, beauty, productivity, and quality of our state's water, soil, and forest resources for the benefit of all Nebraskans; and

WHEREAS, agriculture and the farming sector are the core of our state's health and economy, generating a financial output of over \$16.1 billion annually; and

WHEREAS, the Nebraska farmer, a symbol of strength and strong moral fiber, has displayed ingenuity in times of prosperity and perseverance in the face of hardships while supplying our state, nation, and world, with an abundance of high-quality agricultural goods and products; and

WHEREAS, the State of Nebraska maintains a proactive role in supporting current family farmers and encouraging the succession of new, young farmers in an effort to raise awareness of the positive contribution farmers make in providing the necessary food and fiber of everyday life.

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

1. That the Legislature recognizes the importance of farmers to the State of Nebraska.

2. That the Legislature designates July 25, 2009, as Farmer Appreciation Day in Nebraska.

Laid over.

COMMITTEE REPORT
Executive Board

LEGISLATIVE RESOLUTION 171. Reported to the Legislature for further consideration with the following amendment:
AM1507

1 1. Strike the original provisions and insert the
2 following new provisions:
3 "With the April 24th announcement by the Director of
4 Correctional Services that the State of Nebraska's correctional
5 institutions have reached a level of one hundred forty percent of
6 capacity, Nebraska statutes require notification of the Governor
7 with a recommendation as to what should be done to address the
8 issue of capacity. This recent level of incarceration provides
9 an opportunity for the state to address the proper sentencing of
10 individuals for violations of the Nebraska Criminal Code and an
11 opportunity to assess the degree to which the state is successful
12 in rehabilitating individuals sentenced to Nebraska correctional
13 institutions, particularly when viewed through the reentry of
14 these convicted individuals into Nebraska communities. Failure to
15 provide proven and adequate reentry programming contributes to
16 the recidivism of previously convicted individuals, who then end
17 up back in Nebraska correctional institutions, thereby further
18 increasing Nebraska's rate of incarceration.

19 The Legislature, recognizing that a prolonged period
20 of high incarceration rates places a pronounced strain on the
21 state's fiscal resources, believes it to be imperative to implement
22 adequate measures to address sentencing and rehabilitative programs
23 for individuals incarcerated in Nebraska correctional institutions.

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

3 1. That the Legislature hereby calls for the Executive
4 Board of the Legislative Council to meet forthwith and appoint a
5 task force to be known as the Sentencing and Recidivism Task Force.
6 The task force shall consist of seven members of the Legislature
7 appointed by the Executive Board. The task force shall elect a
8 chairperson and vice-chairperson from the membership of the task
9 force. The Judiciary Committee of the Legislature shall provide
10 staff support for the task force.

11 2. The Sentencing and Recidivism Task Force is authorized
12 to study the sentencing of juveniles and adults to Nebraska
13 correctional institutions for rehabilitative purposes, including
14 the associated fiscal impact. The task force shall study issues
15 relating to the reentry of these juveniles and adults into Nebraska
16 communities, including, but not limited to, the sufficiency
17 and effectiveness of the rehabilitative and reentry programs,

18 the number of spaces available for these programs, and the
 19 effectiveness of these programs in reducing the rate of recidivism.
 20 Finally, the task force shall study the sentencing of individuals
 21 convicted of crimes for equality of sentencing for the same or
 22 similar crimes statewide. The task force shall issue a report of
 23 its findings and recommendations to the Legislature on or before
 24 January 1, 2011, and shall terminate on January 1, 2011."

(Signed) John Wightman, Chairperson

Transportation and Telecommunications

The Transportation and Telecommunications 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.

Paul Gerber - Motor Vehicle Industry Licensing Board
 Roy Neneman - Motor Vehicle Industry Licensing Board

Aye: 8 Senators Campbell, Fischer, Gay, Hadley, Janssen, Lautenbaugh, Loudon, Stuthman. Nay: 0. Absent: 0.

(Signed) Deb Fischer, Chairperson

EXPLANATIONS OF VOTES

Had I been present, I would have voted "aye" on final passage of LB561.

(Signed) Ken Haar

Had I been present, I would have voted "aye" on final passage of LB561.

(Signed) Tom White

EASE

The Legislature was at ease from 2:13 p.m. until 2:50 p.m.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 219. Placed on Final Reading.
LEGISLATIVE BILL 219A. Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 257. Introduced by Price, 3; Harms, 48; Sullivan, 41.

WHEREAS, the earliest designs of the Nebraska State Capitol building by architect Bertram Goodhue planned for a fountain at the center of each of the four courtyards; and

WHEREAS, each courtyard fountain was designed to be an 8-foot diameter that consists of a low-cast bronze bowl set into a granite outer ring 12 feet in diameter; and

WHEREAS, during the Great Depression, the state chose not to build the courtyard fountains to reduce the cost of the construction of the Capitol building; and

WHEREAS, the courtyard fountains are the only part of the Capitol design which have yet to be completed; and

WHEREAS, construction of the courtyard fountains would complete the Capitol building as designed by Bertram Goodhue and would enrich the experience of visitors at the Capitol.

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

1. That the Legislature supports the collection of private donations to design, construct, and install a fountain in each of the four courtyards of the Capitol building as designed by Bertram Goodhue.

Laid over.

LEGISLATIVE RESOLUTION 258. Introduced by Ashford, 20; Lathrop, 12; Nelson, 6.

WHEREAS, the Omaha Westside High School baseball team won the 2009 Class A State Baseball Championship; and

WHEREAS, Omaha Westside defeated Omaha Creighton Prep 6-5 in a hard-fought championship game; and

WHEREAS, head coach Bob Greco has served as a mentor and leader for all of the members of the team; 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 the Omaha Westside High School baseball team on winning the 2009 Class A State Baseball Championship.

2. That head coach Bob Greco be congratulated for his efforts in teaching, coaching, and providing guidance to the members of the team.

3. That a copy of this resolution be sent to the Omaha Westside High School baseball team and their head coach, Bob Greco.

Laid over.

VISITORS

Visitors to the Chamber were Senator Christensen's daughter, Brooklyn Christensen, from Imperial; former Senator Pat Engel from South Sioux City; and Paul and Margaret Hensley from Colorado Springs and Befkadu Meshesha from Ethiopia.

The Doctor of the Day was Dr. Dale Michels from Lincoln.

ADJOURNMENT

At 2:51 p.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Thursday, May 28, 2009.

Patrick J. O'Donnell
Clerk of the Legislature