

THIRTEENTH DAY - JANUARY 24, 2011
LEGISLATIVE JOURNAL
ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION

THIRTEENTH DAY

Legislative Chamber, Lincoln, Nebraska
Monday, January 24, 2011

PRAYER

The prayer was offered by Senator Krist.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Karpisek and Loudon who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twelfth day was approved.

COMMITTEE REPORT

Banking, Commerce and Insurance

LEGISLATIVE BILL 72. Placed on General File.

(Signed) Rich Pahls, Chairperson

NOTICE OF COMMITTEE HEARINGS

Agriculture

Room 1524

Tuesday, February 8, 2011 1:30 p.m.

LB427
LB305
LB306

Room 2102

Tuesday, February 15, 2011 1:30 p.m.

LB91
LB394
LB107
LB592

(Signed) Tom Carlson, Chairperson

Banking, Commerce and Insurance

Room 1507

Monday, January 31, 2011 1:30 p.m.

LB49
LB269
LB553
LB462
LB535
LB396

(Signed) Rich Pahls, Chairperson

Business and Labor

Room 2102

Monday, January 31, 2011 1:30 p.m.

LB113
LB288
LB386
LB416
LB472
LB530
LB640

(Signed) Steve Lathrop, Chairperson

Education

Room 1525

Monday, February 7, 2011 1:30 p.m.

LB657
LB637
LB372
LB547

Tuesday, February 8, 2011 1:30 p.m.

LB313
LB149
LB192
LB204

Monday, February 14, 2011 1:30 p.m.

LB381
LB446
LB403
LB445

Tuesday, February 22, 2011 1:30 p.m.

LB548
LB558
LB615
LB636

Monday, February 28, 2011 1:30 p.m.

LB572
LB53
LB520
LB145

Tuesday, March 1, 2011 1:30 p.m.

LB283
LB522
LB633
LB634

Tuesday, March 8, 2011 1:30 p.m.

LB582
LR20
LB63
LB575

Tuesday, March 15, 2011 1:30 p.m.

LB544
LB58
LB635

(Signed) Greg Adams, Chairperson

Transportation and Telecommunications

Room 1113

Monday, January 31, 2011 1:30 p.m.

Timothy Weander - Board of Public Roads Classifications and Standards
E.J. Militti Jr. - State Highway Commission

LB215
LB183
LB206
LB164

Tuesday, February 1, 2011 1:30 p.m.

LB98
LR3CA
LB327
LB584

Monday, February 7, 2011 1:30 p.m.

LB257
LB217
LB220
LB418
LB484

Tuesday, February 8, 2011 1:30 p.m.

LB250
LB255
LB259

(Signed) Deb Fischer, Chairperson

MESSAGE FROM THE GOVERNOR

January 13, 2011

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

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

Contingent upon your approval, the following individual is being appointed to the Foster Care Review Board:

Dr. Jill Reel, 25581 County Road 30, Arlington, NE 68002

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

MOTION - Print in Journal

Senator Krist filed the following motion to LB285:
MO2
Withdraw bill.

MOTION - Approve Appointment

Senator Carlson moved the adoption of the Agriculture Committee report for the confirmation of the following appointment(s) found on page 315:
Nebraska State Fair Board
Tam Allan

Voting in the affirmative, 42:

Ashford	Council	Harms	McGill	Schumacher
Bloomfield	Dubas	Harr, B.	Mello	Smith
Brasch	Fischer	Howard	Nelson	Sullivan
Carlson	Flood	Krist	Nordquist	Utter
Christensen	Fulton	Langemeier	Pahls	Wallman
Coash	Gloor	Larson	Pankonin	Wightman
Conrad	Haar, K.	Lathrop	Pirsch	
Cook	Hadley	Lautenbaugh	Price	
Cornett	Hansen	McCoy	Schilz	

Voting in the negative, 0.

Present and not voting, 3:

Avery Campbell Janssen

Excused and not voting, 4:

Adams Heidemann Karpisek Louden

The appointment was confirmed with 42 ayes, 0 nays, 3 present and not voting, and 4 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 1. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 2. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 3. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 4. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 5. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 6. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 7. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 8. ER1, found on page 323, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 9. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 10. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 11. Advanced to Enrollment and Review for Engrossment.

GENERAL FILE

LEGISLATIVE BILL 170. Title read. Considered.

Senator Heidemann offered the following amendment:

AM59

- 1 1. Strike original section 13 and insert the following
- 2 new section:
- 3 Sec. 13. Within sixty days after the operative date
- 4 of this act, twenty-five percent of the money remaining in the
- 5 Motorcycle Safety Education Fund shall be transferred to the
- 6 Department of Motor Vehicles Cash Fund and seventy-five percent of
- 7 the money remaining in the Motorcycle Safety Education Fund shall
- 8 be transferred to the Highway Trust Fund. The Motorcycle Safety
- 9 Education Fund shall be eliminated on such date after the transfers
- 10 are made.

SENATOR GLOOR PRESIDING

PRESIDENT SHEEHY PRESIDING

The Heidemann amendment was adopted with 45 ayes, 0 nays, 3 present and not voting, and 1 excused and not voting.

Senator Langemeier offered the following amendment:

FA2

On page 12, line 13, strike "twelve" and insert "twenty four"

Pending.

RESOLUTIONS**LEGISLATIVE RESOLUTION 57.** Introduced by McGill, 26.

WHEREAS, Drew Worster has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, Drew has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only a small percentage of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Drew, through his hard work and perseverance, has joined other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientists, and athletes.

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

1. That the Legislature congratulates Drew Worster on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Drew Worster.

Laid over.

LEGISLATIVE RESOLUTION 58. Introduced by Janssen, 15.

WHEREAS, the Fremont Tigers won the 2010 Class A Boys' State Cross Country Championship; and

WHEREAS, the win gave the Tigers their sixth state championship since 1980; and

WHEREAS, team members Steven Wilson, Britt Jensen, Daniel Aldaba, Cory Poehling, Tyler Soderberg, Arturo Garcia, and Mason Brown had exceptional performances at the championship meet held in Kearney; 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 SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the Fremont Tigers on winning the 2010 Class A Boys' State Cross Country Championship.
2. That a copy of this resolution be sent to the Fremont Tigers and their coaches, Sean McMahan and Erich Whitmore.

Laid over.

LEGISLATIVE RESOLUTION 59. Introduced by Janssen, 15.

WHEREAS, Bob Feurer was named the 2011 Nebraska Teacher of the Year; and

WHEREAS, Mr. Feurer has been a science teacher at North Bend Central Junior-Senior High School for thirty-two years; and

WHEREAS, Mr. Feurer continues to challenge himself and his students to perform to their highest ability; and

WHEREAS, good teachers and motivated students are the key to our state's future.

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

1. That the Legislature congratulates Bob Feurer for being named the 2011 Nebraska Teacher of the Year.

2. That a copy of this resolution be sent to Bob Feurer and the North Bend Central Public Schools Board of Education.

Laid over.

NOTICE OF COMMITTEE HEARING

General Affairs

Room 1510

Monday, January 31, 2011 1:30 p.m.

LB281

LB314

LB336

LB407

LB411

(Signed) Russ Karpisek, Chairperson

AMENDMENT - Print in Journal

Senator Langemeier filed the following amendment to LB135:
AM56 is available in the Bill Room.

BILL ON FIRST READING

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

LEGISLATIVE BILL 157A. Introduced by Coash, 27.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 157, One Hundred Second Legislature, First Session, 2011.

AMENDMENTS - Print in Journal

Senator Flood filed the following amendment to LB157:
AM67

- 1 1. On page 3, line 15, strike "Guardianship and
- 2 conservatorship" and insert "Contested guardianship and contested
- 3 conservatorship".
- 4 2. On page 4, line 4, strike the new matter and insert
- 5 "contested guardianship or contested conservatorship proceeding".

Senator Flood filed the following amendment to LB157:
AM68

- 1 1. Insert the following new section:
- 2 Sec. 6. Section 30-2601, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 30-2601 Unless otherwise apparent from the context, in
- 5 the Nebraska Probate Code:
- 6 (1) Incapacitated person means any person who is impaired
- 7 by reason of mental illness, mental deficiency, physical illness
- 8 or disability, chronic use of drugs, chronic intoxication, or
- 9 other cause (except minority) to the extent that the person
- 10 lacks sufficient understanding or capacity to make or communicate
- 11 responsible decisions concerning himself or herself;
- 12 (2) Interested person means a person entitled to notice
- 13 under sections 30-2625 and 30-2634, a creditor of the ward or
- 14 protected person, a debtor of the ward or protected person, an
- 15 individual or entity appointed by the court, a peace officer, or a
- 16 licensed health professional;
- 17 ~~(2)-(3)~~ A protective proceeding is a proceeding under
- 18 the provisions of section 30-2630 to determine that a person
- 19 cannot effectively manage or apply his or her estate to necessary
- 20 ends, either because the person lacks the ability or is otherwise
- 21 inconvenienced, or because the person is a minor, and to secure
- 22 administration of the person's estate by a conservator or other
- 23 appropriate relief;
- 1 ~~(3)-(4)~~ A protected person is a minor or other person for
- 2 whom a conservator has been appointed or other protective order has
- 3 been made;

- 4 ~~(4)-(5)~~ A ward is a person for whom a guardian has been
 5 appointed. A minor ward is a minor for whom a guardian has been
 6 appointed solely because of minority;
 7 ~~(5)-(6)~~ Full guardianship means the guardian has been
 8 granted all powers which may be conferred upon a guardian by law;
 9 and
 10 ~~(6)-(7)~~ Limited guardianship means any guardianship which
 11 is not a full guardianship.
 12 2. Renumber the remaining sections and correct internal
 13 references and the repealer section accordingly.

Senator Flood filed the following amendment to LB157:
 AM69

- 1 1. On page 7, strike lines 12 through 19 and insert the
 2 following new subsection:
 3 "(2) The State Court Administrator shall create and
 4 maintain a central data base of active guardianships and
 5 conservatorships that shall be accessible to the public. The data
 6 base shall include (a) the name of the protected person, the date,
 7 name, and address of a guardian or conservator that was appointed
 8 and whether that guardianship or conservatorship remains in effect;
 9 (b) the number of protected persons any one person or entity
 10 has been appointed either guardian or conservator by the court;
 11 (c) whether a guardian or conservator has ever been suspended or
 12 removed for cause in any protective proceeding; and (d) any other
 13 information required by court rule.".

Senator Flood filed the following amendment to LB157:
 AM70

- 1 1. On page 7, lines 22 and 23, strike "or concerned
 2 individual".
 3 2. On page 8, line 5, after the period insert "Any
 4 interested person that submits an affidavit under this subsection
 5 in bad faith or submits an affidavit under this subsection that
 6 lacks a factual basis as determined by the court, is guilty of a
 7 Class II misdemeanor.".

Senator Flood filed the following amendment to LB157:
 AM71

- 1 1. On page 7, line 20, strike "(1)".
 2 2. On page 8, strike lines 6 through 11.

Senator Flood filed the following amendment to LB157:
 AM72

- 1 1. On page 8, line 12, after "person" insert ", except
 2 for a licensed financial institution or trust company"; and in line
 3 15 after "date" insert ", unless waived or modified by the court in
 4 the event the protected person requests an expedited hearing under
 5 section 30-2630.01".

6 2. On page 9, strike beginning with "The" in line 2
 7 through the period in line 3 and insert "Such reports, or the lack
 8 thereof, shall be certified either by affidavit or by obtaining
 9 a certified copy of the report. No reports or checks shall be
 10 required by the court upon the application of a petitioner for an
 11 emergency temporary guardianship or conservatorship. The protected
 12 person's estate shall pay the costs incurred in obtaining the
 13 reports.".

Senator Flood filed the following amendment to LB157:

AM73

1 1. On page 17, line 2, after "requires" insert ", except
 2 that a temporary guardian shall not be required to provide the
 3 checks and reports under section 8 of this act".

Senator Flood filed the following amendment to LB157:

AM74

1 1. On page 25, strike lines 1 through 4 and insert
 2 "shall not require a bond if the protected person executed a
 3 written, valid power of attorney that specifically nominates a
 4 guardian or conservator and specifically does not require a bond.
 5 The court shall consider as one of the factors of good cause,
 6 when determining whether a bond should be required and the amount
 7 thereof, the protected person's choice of any attorney-in-fact or
 8 alternative attorney-in-fact.".

Senator Flood filed the following amendment to LB157:

AM66

1 1. On page 8, strike line 16; in line 17 strike "(2)" and
 2 insert "(1)"; in line 19 strike "(3)" and insert "(2)"; and in line
 3 23 strike "(4)" and insert "(3)".

Senator Coash filed the following amendment to LB157:

AM60 is available in the Bill Room.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 67. Placed on Select File.

LEGISLATIVE BILL 158. Placed on Select File.

LEGISLATIVE BILL 18. Placed on Select File with amendment.

ER2

1 1. On page 31, line 14, after "2011" insert an
 2 underscored comma.

LEGISLATIVE BILL 59. Placed on Select File with amendment.
ER3

- 1 1. On page 1, line 1, strike "college funding" and insert
- 2 "colleges"; and in line 5 after the second "to" insert "property
- 3 tax authority of and".
- 4 2. On page 24, line 19, insert an underscored comma after
- 5 "section".
- 6 3. On page 26, line 23, strike "subdivision", show as
- 7 stricken, and insert "subsection".
- 8 4. On page 28, line 1, strike the semicolon, show as
- 9 stricken, and insert an underscored period; and in line 21 strike
- 10 the semicolon and insert an underscored period.

LEGISLATIVE BILL 135. Placed on Select File.

(Signed) Tyson Larson, Chairperson

UNANIMOUS CONSENT - Add Cointroducers

Senator Larson asked unanimous consent to add his name as cointroducer to LB52. No objections. So ordered.

Senator McCoy asked unanimous consent to add his name as cointroducer to LB284. No objections. So ordered.

Senator Coash asked unanimous consent to add his name as cointroducer to LB484. No objections. So ordered.

Senator Smith asked unanimous consent to add his name as cointroducer to LB389 and LB548. No objections. So ordered.

Senator Fulton asked unanimous consent to add his name as cointroducer to LB197, LB629, and LB230. No objections. So ordered.

Senator Pankonin asked unanimous consent to add his name as cointroducer to LB483. No objections. So ordered.

VISITORS

Visitor to the Chamber was Ben Huls from Kearney.

The Doctor of the Day was Dr. Eric Thomsen from Beatrice.

ADJOURNMENT

At 11:44 a.m., on a motion by Speaker Flood, the Legislature adjourned until 10:00 a.m., Tuesday, January 25, 2011.

Patrick J. O'Donnell
Clerk of the Legislature