

SIXTY-FOURTH DAY - APRIL 14, 2011

LEGISLATIVE JOURNAL

**ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION**

SIXTY-FOURTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, April 14, 2011

PRAYER

The prayer was offered by Pastor Ernie Waltke, Our Savior Lutheran Church, Wymore.

ROLL CALL

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

The roll was called and all members were present except Senators Council, Larson, McGill, Nordquist, Pankonin, and Wightman who were excused; and Senators Lautenbaugh, Price, and Sullivan who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the sixty-third day was approved.

MESSAGE FROM THE GOVERNOR

April 14, 2011

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 20, 27, 31, 32, 34, 41, 45, 90, 90A, 100, 105, 207e, 218, 230, 237, 259, 260, 329, 342, 465e, 468, 509e, 546, 563e, and 621e were received in my office on April 8, 2011.

These bills were signed and delivered to the Secretary of State on April 14, 2011.

Sincerely,

(Signed) Dave Heineman
Governor

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of April 13, 2011, 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

Mueller Robak LLC
Sierra Club, Nebraska

SELECT FILE

LEGISLATIVE BILL 388. ER59, found on page 957, was adopted.

Senator Flood renewed his amendment, AM1136, found on page 1134.

The Flood amendment was adopted with 34 ayes, 0 nays, 7 present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 388A. Senator Harms renewed his amendment, AM1196, found on page 1195.

The Harms amendment was adopted with 33 ayes, 0 nays, 8 present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 606. Senator Krist renewed his amendment, AM1032, found on page 1178.

SENATOR CARLSON PRESIDING

Senator Wallman moved the previous question. The question is, "Shall the debate now close?" The motion failed with 18 ayes, 10 nays, and 21 not voting.

Senator Krist moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Senator Krist requested a roll call vote on his amendment.

Voting in the affirmative, 24:

Adams	Cornett	Hadley	Lautenbaugh	Price
Ashford	Fischer	Hansen	Louden	Schilz
Bloomfield	Flood	Janssen	McCoy	Smith
Brasch	Fulton	Krist	Nelson	Utter
Carlson	Gloor	Langemeier	Pirsch	

Voting in the negative, 14:

Avery	Cook	Harms	Karpisek	Sullivan
Coash	Dubas	Harr, B.	Lathrop	Wallman
Conrad	Haar, K.	Howard	Schumacher	

Present and not voting, 3:

Campbell	Mello	Pahls
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Absent and not voting, 1:

Christensen

Excused and not voting, 7:

Council	Larson	Nordquist	Wightman
Heidemann	McGill	Pankonin	

The Krist amendment lost with 24 ayes, 14 nays, 3 present and not voting, 1 absent and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Senator Nelson renewed his amendment, AM1063, found on page 1196.

Senator Nelson moved for a call of the house. The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

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

Voting in the affirmative, 15:

Bloomfield	Fulton	Krist	McCoy	Price
Carlson	Gloor	Lautenbaugh	Nelson	Schilz
Flood	Janssen	Louden	Pirsch	Smith

Voting in the negative, 16:

Adams	Coash	Hansen	Lathrop
Ashford	Conrad	Harr, B.	Schumacher
Avery	Cook	Howard	Sullivan
Campbell	Hadley	Karpisek	Wallman

Present and not voting, 9:

Brasch	Dubas	Haar, K.	Langemeier	Utter
Christensen	Fischer	Harms	Mello	

Excused and not voting, 9:

Cornett	Heidemann	McGill	Pahls	Wightman
Council	Larson	Nordquist	Pankonin	

The Nelson amendment lost with 15 ayes, 16 nays, 9 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

Senator Christensen offered the following motion:

MO30

Reconsider the vote taken on AM1032.

Senator Christensen asked unanimous consent to withdraw his motion to reconsider. No objections. So ordered.

Senator Lautenbaugh requested a machine vote on the advancement of the bill.

Senator Avery moved for a call of the house. The motion prevailed with 35 ayes, 0 nays, and 14 not voting.

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

Voting in the affirmative, 20:

Adams	Carlson	Dubas	Harms	Lathrop
Ashford	Coash	Haar, K.	Harr, B.	Schumacher
Avery	Conrad	Hadley	Howard	Sullivan
Campbell	Cook	Hansen	Karpisek	Wallman

Voting in the negative, 7:

Bloomfield	Krist	Louden	Schilz
Janssen	Lautenbaugh	Nelson	

Present and not voting, 15:

Brasch	Fischer	Gloor	McCoy	Price
Christensen	Flood	Heidemann	Mello	Smith
Cornett	Fulton	Langemeier	Pirsch	Utter

Excused and not voting, 7:

Council	McGill	Pahls	Wightman
Larson	Nordquist	Pankonin	

Failed to advance to Enrollment and Review for Engrossment with 20 ayes, 7 nays, 15 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 283. ER62, found on page 962, was adopted.

Senator Fulton renewed his amendment, AM933, found on page 1059.

The Fulton amendment was adopted with 31 ayes, 0 nays, 8 present and not voting, and 10 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 479. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 176. ER73, found on page 1045, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 279. Senator Karpisek withdrew his amendment AM1123, found on page 1134.

Senator Karpisek renewed his amendment, AM1173, found on page 1178.

The Karpisek amendment was adopted with 30 ayes, 1 nay, 7 present and not voting, and 11 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 600. ER79, found on page 1069, was adopted.

Senator Campbell renewed her amendment, AM1208, found on page 1196.

The Campbell amendment was adopted with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 600A. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 648. ER80, found on page 1069, was adopted.

Senator Janssen renewed his amendment, AM1142, found on page 1139.

SPEAKER FLOOD PRESIDING

The Janssen amendment was adopted with 27 ayes, 0 nays, 10 present and not voting, and 12 excused and not voting.

Pending.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 149, 150, 151, 152, 153, and 154 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 149, 150, 151, 152, 153, and 154.

AMENDMENTS - Print in Journal

Senator Fischer filed the following amendment to LB84:
AM1216

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Sections 1 to 5 of this act shall be known and
- 4 may be cited as the Build Nebraska Act.
- 5 Sec. 2. For purposes of the Build Nebraska Act:
- 6 (1) Department means the Department of Roads;
- 7 (2) Fund means the State Highway Capital Improvement
- 8 Fund; and
- 9 (3) Surface transportation project means (a) expansion or
- 10 reconstruction of a road or highway which is part of the state
- 11 highway system, (b) expansion or reconstruction of a bridge which
- 12 is part of the state highway system, or (c) construction of a new
- 13 road, highway, or bridge which, if built, would be a part of the
- 14 state highway system.
- 15 Sec. 3. (1) The State Highway Capital Improvement Fund
- 16 is created. The fund shall consist of money credited to the fund
- 17 pursuant to section 77-27,132 and any other money as determined by
- 18 the Legislature.

19 (2) The department may create or direct the creation
 20 of accounts within the fund as the department determines to be
 21 appropriate and useful in administering the fund.

22 (3) Any money in the fund available for investment
 23 shall be invested by the state investment officer pursuant to
 1 the Nebraska Capital Expansion Act and the Nebraska State Funds
 2 Investment Act. Investment earnings from investment of money in the
 3 fund shall be credited to the fund.

4 Sec. 4. The fund shall be used as follows:

5 (1) At least twenty-five percent of the money credited
 6 to the fund pursuant to section 77-27,132 each fiscal year shall
 7 be used, as determined by the department, for construction of the
 8 expressway system and federally designated high priority corridors;
 9 and

10 (2) The remaining money credited to the fund pursuant to
 11 section 77-27,132 each fiscal year shall be used to pay for surface
 12 transportation projects of the highest priority as determined by
 13 the department.

14 Sec. 5. The department may adopt and promulgate rules and
 15 regulations to carry out the Build Nebraska Act.

16 Sec. 6. Section 77-27,132, Reissue Revised Statutes of
 17 Nebraska, is amended to read:

18 77-27,132 (1) There is hereby created a fund to be
 19 designated the Revenue Distribution Fund which shall be set apart
 20 and maintained by the Tax Commissioner. Revenue not required to be
 21 credited to the General Fund or any other specified fund may be
 22 credited to the Revenue Distribution Fund. Credits and refunds of
 23 such revenue shall be paid from the Revenue Distribution Fund. The
 24 balance of the amount credited, after credits and refunds, shall be
 25 allocated as provided by the statutes creating such revenue.

26 (2) The Tax Commissioner shall pay to a depository bank
 27 designated by the State Treasurer all amounts collected under the
 1 Nebraska Revenue Act of 1967. The Tax Commissioner shall present
 2 to the State Treasurer bank receipts showing amounts so deposited
 3 in the bank, and of the amounts so deposited the State Treasurer
 4 shall

5 (a) Credit ~~credit~~ to the Highway Trust Fund all of the
 6 proceeds of the sales and use taxes derived from the sale or
 7 lease for periods of more than thirty-one days of motor vehicles,
 8 trailers, and semitrailers, except that the proceeds equal to any
 9 sales tax rate provided for in section 77-2701.02 that is in excess
 10 of five percent derived from the sale or lease for periods of more
 11 than thirty-one days of motor vehicles, trailers, and semitrailers
 12 shall be credited to the Highway Allocation Fund; ~~and~~.

13 (b) For transactions occurring on or after July 1, 2013,
 14 and before July 1, 2033, of the proceeds of the sales and use taxes
 15 derived from transactions other than those listed in subdivision
 16 (2)(a) of this section from a sales tax rate of one-quarter
 17 of one percent, credit monthly eighty-five percent to the State

18 Highway Capital Improvement Fund and fifteen percent to the Highway
 19 Allocation Fund.

20 The balance of all amounts collected under the Nebraska
 21 Revenue Act of 1967 shall be credited to the General Fund.

22 Sec. 7. Original section 77-27,132, Reissue Revised
 23 Statutes of Nebraska, is repealed.

Senator Campbell filed the following amendment to LB177:
 AM1215

(Amendments to E & R amendments, ER83)

- 1 1. On page 10, line 11, strike the new matter; in line
- 2 22 strike "Native American" and insert "an Indian child as defined
- 3 in section 43-1503"; and in line 23 strike "section 43-1503" and
- 4 insert "such section".
- 5 2. On page 11, line 10, strike "kinship"; and in line
- 6 27 strike "department" and insert "Department of Health and Human
- 7 Services".

BILL ON FIRST READING

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

LEGISLATIVE BILL 525A. Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 525, One Hundred Second Legislature, First Session, 2011.

VISITORS

Visitors to the Chamber were Jerda Garey from McCook; 80 fourth-grade students and teachers from Dodge Elementary, Grand Island; 73 fourth-grade students from Portal Elementary, La Vista; 50 fourth-grade students from Fillmore Central Elementary, Geneva; and social work students and faculty from across the state.

The Doctor of the Day was Dr. David Minnick from Broken Bow.

ADJOURNMENT

At 11:58 a.m., on a motion by Senator Nelson, the Legislature adjourned until 10:00 a.m., Monday, April 18, 2011.

Patrick J. O'Donnell
 Clerk of the Legislature