

TWENTY-FIFTH DAY - FEBRUARY 11, 2010**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
SECOND SESSION****TWENTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, February 11, 2010

PRAYER

The prayer was offered by Pastor Randy Fett, St. Paul's Lutheran Church, Grand Island.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., Speaker Flood presiding.

The roll was called and all members were present except Senator Pahls who was excused; and Senators Adams and Ashford who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-fourth day was approved.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 891. Placed on Select File with amendment.
ER8163

- 1 1. On page 3, line 3, strike the comma.
- 2 2. On page 4, lines 13 and 14, strike the underscored
- 3 semicolon and insert an underscored comma.
- 4 3. On page 5, line 19, strike "(i)" and insert "(a)"; in
- 5 line 21 strike ";(ii)" and insert ";(b)"; and in line 22 strike
- 6 ";or (iii)" and insert ";or (c)".

LEGISLATIVE BILL 892. Placed on Select File.

LEGISLATIVE BILL 643. Placed on Select File with amendment.
ER8162

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 70-311, Reissue Revised Statutes of

4 Nebraska, is amended to read:

5 70-311 (1) Whenever any county or township road
 6 construction, widening, repair, or grading project or any road
 7 ditch improvement project requires, or can reasonably be expected
 8 to require, the performance of any work within six-ten feet of
 9 any electric transmission or electric distribution line, poles,
 10 or anchors, notice to the owner of such line, poles, or anchors
 11 shall be given by the respective county or township officers in
 12 charge of such projects. Such notice shall be given at least
 13 thirty-ninety days prior to the start of any work when, because
 14 of road construction, widening, repair, or grading or a road ditch
 15 improvement project, or for any other reason, it is necessary
 16 to relocate such line, poles, or anchors or if such work will
 17 compromise the structural integrity of the line, poles, or anchors.

18 (2) If a natural resources district will be altering a
 19 road structure or grading or moving earth for a flood control,
 20 recreation, or other project that requires, or can reasonably be
 21 expected to require, the performance of any work within ten feet of
 22 any electric transmission or electric distribution line, poles, or
 23 anchors, notice to the owner of such line, poles, or anchors shall
 1 be given by the respective natural resources district in charge
 2 of such projects. Such notice shall be given at least ninety days
 3 prior to the start of any work when, because of such road structure
 4 alteration or grading or moving earth, or for any other reason, it
 5 is necessary to relocate such line, poles, or anchors or if such
 6 work will compromise the structural integrity of the line, poles,
 7 or anchors.

8 Sec. 2. Original section 70-311, Reissue Revised Statutes
 9 of Nebraska, is repealed.

10 2. On page 1, line 5, strike "resource" and insert
 11 "resources".

LEGISLATIVE BILL 723. Placed on Select File.

LEGISLATIVE BILL 787. Placed on Select File.

LEGISLATIVE BILL 914. Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 667. Placed on Final Reading.

LEGISLATIVE BILL 705. Placed on Final Reading.

LEGISLATIVE BILL 708. Placed on Final Reading.

LEGISLATIVE BILL 711. Placed on Final Reading.

LEGISLATIVE BILL 725. Placed on Final Reading.

LEGISLATIVE BILL 762. Placed on Final Reading.

LEGISLATIVE BILL 788. Placed on Final Reading.

LEGISLATIVE BILL 797. Placed on Final Reading.

LEGISLATIVE BILL 806. Placed on Final Reading.

LEGISLATIVE BILL 816. Placed on Final Reading.

LEGISLATIVE BILL 832. Placed on Final Reading.

LEGISLATIVE BILL 873. Placed on Final Reading.

ST9073

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

1. In the Fulton amendment, AM1765, on page 1, line 1, a comma has been inserted after "may"; and in line 2 an underscored comma has been inserted after "shall".

2. On page 1, line 2, "to require notice of taxes owed on certain property;" has been inserted after the semicolon.

LEGISLATIVE BILL 911. Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

COMMITTEE REPORT

Urban Affairs

LEGISLATIVE RESOLUTION 295CA. Placed on General File.

(Signed) Amanda McGill, Chairperson

NOTICE OF COMMITTEE HEARINGS

Natural Resources

Room 1525

Friday, February 19, 2010 1:30 p.m.

LB1048 - (Wind Briefing) Special briefing

(Signed) Chris Langemeier, Chairperson

Judiciary

Room 1113

Thursday, February 18, 2010 1:30 p.m.

LB894

LB955

LB1050

LB989

LB1062

LB1084

Friday, February 19, 2010 1:30 p.m.

LB939
LB971
LB1037
LB1045
LB1046
LB973

(Signed) Brad Ashford, Chairperson

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of February 10, 2010, 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

Micek, Cora
Peetz & Company
Sokol, Lawrence J.
National Popular Vote

REPORT

The following report was received by the Legislature:

Educational Lands and Funds, Board of
Annual Report

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 308, 309, 310, and 311 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 308, 309, 310, and 311.

MOTION - Approve Appointment

Senator Gay moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 517:

Foster Care Review Board
Acela Turco

Voting in the affirmative, 41:

Avery	Dubas	Hansen	McGill	Stuthman
Campbell	Fischer	Harms	Mello	Sullivan
Christensen	Flood	Howard	Nelson	Utter
Coash	Fulton	Janssen	Nordquist	Wallman
Conrad	Gay	Krist	Pankonin	Wightman
Cook	Giese	Lathrop	Pirsch	
Cornett	Gloor	Lautenbaugh	Price	
Council	Haar	Louden	Rogert	
Dierks	Hadley	McCoy	Schilz	

Voting in the negative, 0.

Present and not voting, 5:

Carlson	Heidemann	Karpisek	Langemeier	White
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Excused and not voting, 3:

Adams	Ashford	Pahls
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The appointment was confirmed with 41 ayes, 0 nays, 5 present and not voting, and 3 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 200. Senator Lautenbaugh renewed his motion, MO80, found on page 519, to bracket until April 14, 2010.

Senator Lautenbaugh withdrew his motion to bracket.

Senator Lathrop renewed his amendment, AM1832, found on page 519.

Senator Janssen offered the following motion:
MO82

Recommit to the Transportation and Telecommunications Committee.

Senator Janssen withdrew his motion to recommit to committee.

Senator Janssen offered the following motion:

MO81

Invoke cloture pursuant to Rule 7, Sec. 10.

Senator Janssen moved for a call of the house. The motion prevailed with 42 ayes, 0 nays, and 7 not voting.

Senator Janssen requested a roll call vote, in reverse order, on his motion to invoke cloture.

Voting in the affirmative, 27:

Ashford	Fulton	Karpisek	Mello	Stuthman
Carlson	Giese	Krist	Nelson	Sullivan
Christensen	Hadley	Langemeier	Pirsch	White
Coash	Hansen	Lautenbaugh	Price	
Fischer	Heidemann	Louden	Rogert	
Flood	Janssen	McCoy	Schilz	

Voting in the negative, 20:

Adams	Cornett	Gay	Howard	Pankonin
Avery	Council	Gloor	Lathrop	Utter
Campbell	Dierks	Haar	McGill	Wallman
Cook	Dubas	Harms	Nordquist	Wightman

Present and not voting, 1:

Conrad

Excused and not voting, 1:

Pahls

The Janssen motion to invoke cloture failed with 27 ayes, 20 nays, 1 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

COMMITTEE REPORTS

General Affairs

LEGISLATIVE BILL 786. Placed on General File.

LEGISLATIVE BILL 869. Placed on General File.

LEGISLATIVE BILL 1000. Placed on General File.

LEGISLATIVE BILL 883. Placed on General File with amendment.
 AM1684

1 1. Strike original section 2 and insert the following new
 2 section:

3 Sec. 2. Section 53-164.01, Revised Statutes Cumulative
 4 Supplement, 2008, is amended to read:

5 53-164.01 Payment of the tax provided for in section
 6 53-160 on alcoholic liquor shall be paid by the manufacturer or
 7 wholesaler as follows:

8 (1)(a) All manufacturers or wholesalers, except farm
 9 winery producers, whether inside or outside this state shall, on
 10 or before the twenty-fifth day of each calendar month following
 11 the month in which shipments were made, submit a report to the
 12 commission upon forms furnished by the commission showing the total
 13 amount of alcoholic liquor in gallons or fractional parts thereof
 14 shipped by such manufacturer or wholesaler, whether inside or
 15 outside this state, during the preceding calendar month;

16 (b) All beer wholesalers shall, on or before the
 17 twenty-fifth day of each calendar month following the month in
 18 which shipments were made, submit a report to the commission
 19 upon forms furnished by the commission showing the total amount
 20 of beer in gallons or fractional parts thereof shipped by all
 21 manufacturers, whether inside or outside this state, during the
 22 preceding calendar month to such wholesaler;

23 (c)(i) Except as provided in subdivision (ii) of this
 1 subdivision, farm winery producers which paid less than one
 2 thousand dollars of excise taxes pursuant to section 53-160 for the
 3 previous calendar year and which will pay less than one thousand
 4 dollars of excise taxes pursuant to section 53-160 for the current
 5 calendar year shall, on or before the twenty-fifth day of the
 6 calendar month following the end of the year in which wine was
 7 packaged or bottled for sale, submit a report to the commission
 8 upon forms furnished by the commission showing the total amount of
 9 wine in gallons or fractional parts thereof packaged or bottled by
 10 such producer during the preceding calendar year; and

11 (e)-(ii) Farm winery producers which paid one thousand
 12 dollars or more of excise taxes pursuant to section 53-160 for
 13 the previous calendar year or which become liable for one thousand
 14 dollars or more of excise taxes pursuant to section 53-160 during
 15 the current calendar year shall, on or before the twenty-fifth
 16 day of each calendar month following the month in which wine was
 17 packaged or bottled for sale, submit a report to the commission
 18 upon forms furnished by the commission showing the total amount of
 19 wine in gallons or fractional parts thereof packaged or bottled by
 20 such producer during the preceding calendar month. A farm winery
 21 producer which becomes liable for one thousand dollars or more of
 22 excise taxes pursuant to section 53-160 during the current calendar
 23 year shall also pay such excise taxes immediately;

24 (d) A craft brewery shall, on or before the twenty-fifth
25 day of each calendar month following the month in which the beer
26 was produced for sale, submit a report to the commission on forms
27 furnished by the commission showing the total amount of beer in
1 gallons or fractional parts thereof produced for sale by the craft
2 brewery during the preceding calendar month;

3 (e) A microdistillery shall, on or before the
4 twenty-fifth day of each calendar month following the month in
5 which the distilled liquor was produced for sale, submit a report
6 to the commission on forms furnished by the commission showing
7 the total amount of distilled liquor in gallons or fractional
8 parts thereof produced for sale by the microdistillery during the
9 preceding calendar month; and

10 (f) Reports submitted pursuant to subdivision (a), (b),
11 or (c) of this subdivision shall also contain a statement of
12 the total amount of alcoholic liquor, except beer, in gallons or
13 fractional parts thereof shipped to licensed retailers inside this
14 state and such other information as the commission may require;

15 (2) The wholesaler or farm winery producer shall at the
16 time of the filing of the report pay to the commission the tax
17 due on alcoholic liquor, except beer, shipped to licensed retailers
18 inside this state at the rate fixed in accordance with section
19 53-160. The tax due on beer shall be paid by the wholesaler on beer
20 shipped from all manufacturers;

21 (3) The tax imposed pursuant to section 53-160 shall be
22 due on the date the report is due less a discount of one percent
23 of the tax on alcoholic liquor for submitting the report and paying
24 the tax in a timely manner. The discount shall be deducted from the
25 payment of the tax before remittance to the commission and shall be
26 shown in the report to the commission as required in this section.
27 If the tax is not paid within the time provided in this section,
1 the discount shall not be allowed and shall not be deducted from
2 the tax;

3 (4) If the report is not submitted by the twenty-fifth
4 day of the calendar month or if the tax is not paid to the
5 commission by the twenty-fifth day of the calendar month, the
6 following penalties shall be assessed on the amount of the tax:
7 One to five days late, three percent; six to ten days late, six
8 percent; and over ten days late, ten percent. In addition, interest
9 on the tax shall be collected at the rate of one percent per month,
10 or fraction of a month, from the date the tax became due until
11 paid;

12 (5) No tax shall be levied or collected on alcoholic
13 liquor manufactured inside this state and shipped or transported
14 outside this state for sale and consumption outside this state;

15 (6) In order to insure the payment of all state taxes
16 on alcoholic liquor, together with interest and penalties, persons
17 required to submit reports and payment of the tax shall, at the
18 time of application for a license under section 53-124, enter

19 into a surety bond with corporate surety, both the bond form and
20 surety to be approved by the commission. Subject to the limitations
21 specified in this subdivision, the amount of the bond required of
22 any taxpayer shall be fixed by the commission and may be increased
23 or decreased by the commission at any time. In fixing the amount of
24 the bond, the commission shall require a bond equal to the amount
25 of the taxpayer's estimated maximum monthly excise tax ascertained
26 in a manner as determined by the commission. Nothing in this
27 section shall prevent or prohibit the commission from accepting
1 and approving bonds which run for a term longer than the license
2 period. The amount of a bond required of any one taxpayer shall
3 not be less than one thousand dollars. The bonds required by this
4 section shall be filed with the commission; and
5 (7) When a manufacturer or wholesaler sells and delivers
6 alcoholic liquor upon which the tax has been paid to any
7 instrumentality of the armed forces of the United States engaged
8 in resale activities as provided in section 53-160.01, the
9 manufacturer or wholesaler shall be entitled to a credit in
10 the amount of the tax paid in the event no tax is due on such
11 alcoholic liquor as provided in such section. The amount of the
12 credit, if any, shall be deducted from the tax due on the following
13 monthly report and subsequent reports until liquidated.

(Signed) Russ Karpisek, Chairperson

NOTICE OF COMMITTEE HEARING
Business and Labor

Room 1524

Monday, February 22, 2010 1:30 p.m.

LB700
LB995
LB1040
LB1041
LB1042
LB1090
LB1091

(Signed) Steve Lathrop, Chairperson

ANNOUNCEMENTS

Senator Dubas designates LB689 as her priority bill.

The Banking, Commerce and Insurance Committee designates LB888 as its priority bill.

GENERAL FILE

LEGISLATIVE BILL 735. Title read. Considered.

SENATOR STUTHMAN PRESIDING

Committee AM1747, found on page 439, was adopted with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 258. Title read. Considered.

Committee AM1803, found on page 502, was considered.

Pending.

ANNOUNCEMENT

Pursuant to Rule 8, Sec. 3, the Appropriations Committee presented its preliminary report on February 11, 2010, summarizing the recommended appropriations for the following biennium.

COMMITTEE REPORTS

Urban Affairs

LEGISLATIVE BILL 799. Placed on General File with amendment.
AM1556

- 1 1. On page 2, strike lines 19 through 21.

(Signed) Amanda McGill, Chairperson

Education

LEGISLATIVE BILL 1006. Placed on General File with amendment.
AM1816

- 1 1. Strike sections 3, 4, and 5.
- 2 2. On page 2, line 18; and page 5, line 7, strike "or
- 3 beginner grade".
- 4 3. On page 4, line 14, strike "or beginner grade" and
- 5 show as stricken.
- 6 4. On page 5, line 2, strike "or the beginner grade.",
- 7 show as stricken, and insert an underscored period; in lines 20 and
- 8 24 strike "or the beginner grade"; and strike beginning with "The"
- 9 in line 24 through line 25.
- 10 5. On page 6, strike line 1.
- 11 6. Amend the repealer and renumber the remaining section
- 12 accordingly.

LEGISLATIVE BILL 257. Indefinitely postponed.

LEGISLATIVE BILL 391. Indefinitely postponed.

LEGISLATIVE BILL 546. 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.

Martin Demuth - Board of Educational Lands and Funds

Aye: 8 Senators Adams, Ashford, Avery, Cornett, Giese, Haar, Howard, Sullivan. Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Greg Adams, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 318. Introduced by Pankonin, 2; Carlson, 38.

WHEREAS, Ann Toner Gottwald passed away on February 6, 2010, at the age of sixty; and

WHEREAS, Ann Toner Gottwald served the agricultural community for nearly forty years in the Midwest as an excellent journalist; and

WHEREAS, Ann Toner Gottwald received her degree in science journalism from Iowa State University; and

WHEREAS, Ann Toner Gottwald was an agricultural journalist for the Lincoln Journal Star in Lincoln, Nebraska, the Omaha World-Herald in Omaha, Nebraska, the Kansas City Star in Kansas City, Missouri, the Cape Coral Daily Breeze in Cape Coral, Florida, the Muscatine Journal in Muscatine, Iowa, the Dubuque Telegraph Herald in Dubuque, Iowa, Agribusiness Newspapers in New Ulm, Minnesota, and the Nebraska Farmer magazine; and

WHEREAS, Ann Toner Gottwald served as president of the North American Agricultural Journalists; and

WHEREAS, Ann Toner Gottwald received recognition by the American Agricultural Editors Association and the Nebraska Press Women and was awarded the Farm Editor of the Year by the North American Agricultural Journalists and Media Person of the Year by the Nebraska Agri-Business Association; and

WHEREAS, Ann Toner Gottwald is survived by her husband, Allen Gottwald, her son, Alex Gottwald, her brother, Michael Toner, and several nieces and nephews.

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

1. That the Legislature posthumously honors Ann Toner Gottwald for her personal accomplishments and service to agriculture.

2. That the Legislature extends its sympathy and condolences to the family of Ann Toner Gottwald.

3. That a copy of this resolution be sent to the family of Ann Toner Gottwald.

Laid over.

UNANIMOUS CONSENT - Add Cointroducers

Senator Ashford asked unanimous consent to add his name as cointroducer to LB381. No objections. So ordered.

Senator Fischer asked unanimous consent to add her name as cointroducer to LB705 and LB735. No objections. So ordered.

Senator Coash asked unanimous consent to add his name as cointroducer to LB754. No objections. So ordered.

VISITORS

Visitors to the Chamber were Karen Rathke from Grand Island; Aaron Davis from Lincoln; and Shanna, Abigaill, Alexis, and Rebecca Wright from Norfolk.

The Doctor of the Day was Dr. Charging Thunder from Omaha.

ADJOURNMENT

At 11:55 a.m., on a motion by Speaker Flood, the Legislature adjourned until 10:00 a.m., Tuesday, February 16, 2010.

Patrick J. O'Donnell
Clerk of the Legislature