

**TWELFTH DAY - NOVEMBER 20, 2009**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FIRST LEGISLATURE  
FIRST SPECIAL SESSION**

**TWELFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, November 20, 2009

**PRAYER**

The prayer was offered by Senator Sullivan.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 8:00 a.m., Speaker Flood presiding.

The roll was called and all members were present except Senators Council and Mello who were excused; and Senators Karpisek and Price who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eleventh day was approved.

**REPORTS**

The following reports were received by the Legislature:

**Correctional Services, Department of**

Annual Report for the Work Ethic Camp

**Economic Development, Department of**

Proposed 2010-2014 Consolidated Plan and 2010 Annual Action Plan

**Labor, Department of**

Nebraska Workforce Investment Board, PY2008 Annual Report

**Performance Audit, Legislative**

Closing of the Lincoln Regional Center Community Transition Program

DED's Job Training Grant Program

Recent Decisions of the Commission of Industrial Relations

**Power Review Board**

Annual Report - 2009 Monitoring of "Conditions Certain" Issues

**Roads, Nebraska Department of**

2009 State Highway Needs Assessment

**BILLS ON FINAL READING****Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB3 with 43 ayes, 0 nays, 2 present and not voting, and 4 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 3.** With Emergency Clause.

A BILL FOR AN ACT relating to state funds; to amend sections 2-1503.01, 2-1577, 2-1587, 2-15,122, 3-126, 13-2704, 24-205, 24-227.01, 24-229, 25-2921, 28-429, 29-2259.02, 29-2262.07, 29-3921, 33-102, 37-351, 38-157, 39-1390, 46-1121, 46-1403, 50-437, 57-919, 60-1409, 66-739, 70-1020, 71-222.02, 71-4732, 72-2009, 76-549, 77-3,110, 77-4310.03, 77-5031, 79-810, 79-1320, 81-188.01, 81-201.05, 81-2,147.11, 81-2,291, 81-528, 81-550, 81-5,153, 81-8,110.07, 81-8,194, 81-1120.23, 81-1201.22, 81-1278, 81-1413.01, 81-1428, 81-15,121, 81-15,165, 81-15,180, 81-1607.01, 81-1634, 81-2004.01, 81-2105, 81-3524, 82-108.02, 83-913.01, 84-409, 84-414, 84-1227, 85-1419, 85-1803, 86-127, 86-312, 86-463, 88-545.01, 88-552, and 89-1,100, Reissue Revised Statutes of Nebraska, sections 48-1,116, 49-14,140, 50-114.05, 53-117.06, 54-857, 54-2428, 55-131, 59-1608.04, 60-3,218, 61-210, 61-218, 71-5661, 71-5714, 71-8612, 72-2211, 72-2501, 76-2226, and 77-5601, Revised Statutes Cumulative Supplement, 2008, and sections 1-111, 2-5106, 47-632, 57-705, 60-2132, 66-1521, 66-1839, 77-1342, 81-885.15, 81-1201.21, 81-15,160, 81-3119, 81-3432, and 84-510, Revised Statutes Supplement, 2009; to provide for transfers to the General Fund; to authorize the Supreme Court to direct the use of certain funds; to provide for the investment of funds; to eliminate obsolete provisions; to repeal the original sections; and to declare an emergency.

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

Voting in the affirmative, 47:

Adams	Dierks	Hansen	Louden	Schilz
Ashford	Dubas	Harms	McCoy	Stuthman
Avery	Fischer	Heidemann	McGill	Sullivan
Campbell	Flood	Howard	Nelson	Utter
Carlson	Fulton	Janssen	Nordquist	Wallman
Christensen	Gay	Karpisek	Pahls	White
Coash	Giese	Krist	Pankonin	Wightman
Conrad	Gloor	Langemeier	Pirsch	
Cook	Haar	Lathrop	Price	
Cornett	Hadley	Lautenbaugh	Rogert	

Voting in the negative, 0.

Excused and not voting, 2:

Council            Mello

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 2.** With Emergency Clause.

A BILL FOR AN ACT relating to funds; to amend section 77-3,111, Reissue Revised Statutes of Nebraska, sections 71-5714 and 72-1001, Revised Statutes Cumulative Supplement, 2008, and sections 9-812 and 84-612, Revised Statutes Supplement, 2009; to provide for, change, and eliminate certain fund transfers; to provide for a lapse of certain funds to the General Fund; to harmonize provisions; to repeal the original sections; to outright repeal section 90-505, Revised Statutes Supplement, 2009; and to declare an emergency.

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

Voting in the affirmative, 47:

Adams	Dierks	Hansen	Louden	Schilz
Ashford	Dubas	Harms	McCoy	Stuthman
Avery	Fischer	Heidemann	McGill	Sullivan
Campbell	Flood	Howard	Nelson	Utter
Carlson	Fulton	Janssen	Nordquist	Wallman
Christensen	Gay	Karpisek	Pahls	White
Coash	Giese	Krist	Pankonin	Wightman
Conrad	Gloor	Langemeier	Pirsch	
Cook	Haar	Lathrop	Price	
Cornett	Hadley	Lautenbaugh	Rogert	

Voting in the negative, 0.

Excused and not voting, 2:

Council            Mello

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB1 with 46 ayes, 0 nays, 1 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

#### **LEGISLATIVE BILL 1.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2009, LB 313, section 7, Laws 2009, LB 314, sections 21 and 41, Laws 2009, LB 315, sections 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38, 40, 41, 42, 43, 44, 45, 46, 48, 50, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 70, 71, 72, 74, 75, 77, 78, 79, 85, 90, 91, 92, 93, 94, 96, 97, 98, 99, 100, 101, 103, 104, 106, 107, 108, 110, 111, 112, 113, 114, 115, 118, 119, 120, 121, 122, 123, 124, 125, 127, 131, 133, 134, 136, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 157, 158, 159, 160, 162, 165, 166, 167, 170, 171, 172, 173, 174, 175, 177, 178, 179, 181, 182, 184, 185, 187, 188, 189, 190, 191, 192, 193, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 218, 219, 220, 222, 225, 226, 227, 228, 229, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 264, 265, 266, 267, 268, 269, 270, 271, 272, and 282, and Laws 2009, LB 545A, section 1; to define terms; to appropriate and reappropriate funds; to state intent; to change and eliminate appropriations as prescribed; to change transfers; to provide for transfers; to harmonize provisions; to repeal the original sections; to outright repeal Laws 2009, LB 315, sections 80, 81, 82, 83, 84, 86, 87, 88, and 89; and to declare an emergency.

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

Voting in the affirmative, 47:

Adams	Dierks	Hansen	Louden	Schilz
Ashford	Dubas	Harms	McCoy	Stuthman
Avery	Fischer	Heidemann	McGill	Sullivan
Campbell	Flood	Howard	Nelson	Utter
Carlson	Fulton	Janssen	Nordquist	Wallman
Christensen	Gay	Karpisek	Pahls	White
Coash	Giese	Krist	Pankonin	Wightman
Conrad	Gloor	Langemeier	Pirsch	
Cook	Haar	Lathrop	Price	
Cornett	Hadley	Lautenbaugh	Rogert	

Voting in the negative, 0.

Excused and not voting, 2:

Council          Mello

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB5 with 44 ayes, 0 nays, 3 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

#### **LEGISLATIVE BILL 5. With Emergency Clause.**

A BILL FOR AN ACT relating to state aid to schools; to amend sections 79-1005.01, 79-1007.15, 79-1007.19, and 79-1008.01, Reissue Revised Statutes of Nebraska, and sections 77-3446, 79-1001, 79-1003, 79-1007.11, 79-1007.23, and 79-1023, Revised Statutes Supplement, 2009; to redefine terms; to change and eliminate provisions relating to disbursement of income tax receipts, calculation of formula need, elementary site allowance, teacher education adjustment, and instructional time allowance and expenditure limits as prescribed; to provide for calculation of a teacher education allowance; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Voting in the affirmative, 40:

Adams	Dierks	Haar	Langemeier	Price
Ashford	Dubas	Hadley	Lautenbaugh	Rogert
Avery	Fischer	Hansen	Louden	Schilz
Campbell	Flood	Harms	McCoy	Stuthman
Carlson	Fulton	Heidemann	Nelson	Sullivan
Christensen	Gay	Howard	Pahls	Utter
Coash	Giese	Janssen	Pankonin	Wallman
Cornett	Gloor	Krist	Pirsch	Wightman

Voting in the negative, 7:

Conrad	Karpisek	McGill	White
Cook	Lathrop	Nordquist	

Excused and not voting, 2:

Council	Mello
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A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 4.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the expenses incurred during the One Hundred First Legislature, First Special Session, 2009; and to declare an emergency.

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

Voting in the affirmative, 47:

Adams	Dierks	Hansen	Louden	Schilz
Ashford	Dubas	Harms	McCoy	Stuthman
Avery	Fischer	Heidemann	McGill	Sullivan
Campbell	Flood	Howard	Nelson	Utter
Carlson	Fulton	Janssen	Nordquist	Wallman
Christensen	Gay	Karpisek	Pahls	White
Coash	Giese	Krist	Pankonin	Wightman
Conrad	Gloor	Langemeier	Pirsch	
Cook	Haar	Lathrop	Price	
Cornett	Hadley	Lautenbaugh	Rogert	

Voting in the negative, 0.

Excused and not voting, 2:

Council Mello

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 3, 2, 1, 5, and 4.

### **RESOLUTIONS**

**LEGISLATIVE RESOLUTION 17.** Read. Considered.

**LEGISLATIVE RESOLUTION 18.** Read. Considered.

**LEGISLATIVE RESOLUTION 19.** Read. Considered.

**LEGISLATIVE RESOLUTION 20.** Read. Considered.

**LEGISLATIVE RESOLUTION 21.** Read. Considered.

**LEGISLATIVE RESOLUTION 22.** Read. Considered.

**LEGISLATIVE RESOLUTION 23.** Read. Considered.

**LEGISLATIVE RESOLUTION 24.** Read. Considered.

**LEGISLATIVE RESOLUTION 25.** Read. Considered.

**LEGISLATIVE RESOLUTION 26.** Read. Considered.

**LEGISLATIVE RESOLUTION 27.** Read. Considered.

**LEGISLATIVE RESOLUTION 28.** Read. Considered.

**LEGISLATIVE RESOLUTION 29.** Read. Considered.

**LEGISLATIVE RESOLUTION 30.** Read. Considered.

**LEGISLATIVE RESOLUTION 31.** Read. Considered.

LRs 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, and 31 were adopted with 44 ayes, 0 nays, 3 present and not voting, and 2 excused and not voting.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, and 31.

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on November 20, 2009, at 8:32 a.m. were the following: LBs 3e, 2e, 1e, 5e, and 4e.

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

**EXPLANATION OF VOTES**

Had I been present, I would have voted "aye" on final passage of LBs 1, 2, 3, and 4 and "nay" on final passage of LB5.

(Signed) Heath Mello

**VISITOR**

Visitor to the Chamber was Chuck Karpf from Morrill.

**RECESS**

At 8:42 a.m., on a motion by Senator Gloor, the Legislature recessed until 2:00 p.m.

**AFTER RECESS**

The Legislature reconvened at 2:00 p.m., Senator Langemeier presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Ashford, Council, Dierks, Mello, and Stuthman who were excused.

**MESSAGE FROM THE GOVERNOR**

November 20, 2009

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

Dear Mr. President and Members of the Legislature:



Earlier today, I received and signed LB 1e, LB 2e, LB 3e, LB 4e and LB 5e into law in order to resolve our state's \$335 million revenue shortfall.

I want to commend the leadership of Senator Heidemann on the budget bills and Senator Adams on LB 5. Both of these senators have done outstanding jobs under difficult circumstances. I also want the record to reflect that we are addressing Nebraska's revenue shortfall by reducing spending, not by increasing taxes. The final bills that you presented to me also preserve the property tax credit and maintain a strong cash reserve fund to address possible future financial challenges.

I do, however, have three reservations about these bills. I hope the Legislature will reconsider these items in the upcoming 2010 session.

The final budget bills include an additional \$2 million reduction from the Job Training Cash Fund which is the fund used to recruit businesses and bring jobs to Nebraska. With national unemployment rates rising and many states raising taxes, we are well-positioned to aggressively recruit businesses to our state. This fund is an important part of that effort.

Next, my recommendations to you reduced the Governor's office, most state agencies, the Legislature and the Nebraska Supreme Court budgets by 2.5% in Fiscal Year 2009-10 and by 5% in Fiscal Year 2010-11. In contrast to this recommendation, the Legislature has provided preferential treatment to the court system by only reducing its appropriation 1.5% in the current year and by 3% the following year.

The final item that draws concern is the Legislature's decision to restore \$1 million to its own budget. The Legislature should not treat itself or the courts better than the rest of state government. The Legislature and the courts can manage their budgets in a manner similar to that expected of state agencies.

In whole, these bills reflect the shared sacrifice that was necessary to close this budget shortfall. I appreciate the willingness and cooperative spirit of those who worked productively to address this challenge.

Sincerely,  
(Signed) Dave Heineman  
Governor

### **MOTION - Approve Journal**

Senator Pahls moved that the Journal for the Twelfth Day, as prepared by the Clerk of the Legislature, be approved.

The motion prevailed.

**MOTION - Adjourn Sine Die**

Senator Price moved that the One Hundred First Legislature, First Special Session of the Nebraska Legislature, having finished all business before it, now at 2:08 p.m., adjourn sine die.

The motion prevailed.

Patrick J. O'Donnell  
Clerk of the Legislature