

NINETEENTH DAY - FEBRUARY 1, 2011
LEGISLATIVE JOURNAL
ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION
NINETEENTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, February 1, 2011

PRAYER

The prayer was offered by Senator Brasch.

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 Cook, Heidemann, Janssen, and Karpisek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the eighteenth day was approved.

COMMITTEE REPORTS

Banking, Commerce and Insurance

LEGISLATIVE BILL 24. Placed on General File.

LEGISLATIVE BILL 396. Placed on General File.

(Signed) Rich Pahls, Chairperson

NOTICE OF COMMITTEE HEARINGS

Transportation and Telecommunications

Room 1113

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

LB52
LB477
LB495

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

LB289

LB573

LB353

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

LB104

LB102

LB35

LB420

(Signed) Deb Fischer, Chairperson

MOTION - Approve Appointments

Senator Langemeier moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 407:

Nebraska Ethanol Board

Mark McColley

Michael Thede

Voting in the affirmative, 40:

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

Voting in the negative, 0.

Present and not voting, 5:

Campbell	Cornett	Harms	Harr, B.	Nelson
----------	---------	-------	----------	--------

Excused and not voting, 4:

Cook	Heidemann	Janssen	Karpisek
------	-----------	---------	----------

The appointments were confirmed with 40 ayes, 0 nays, 5 present and not voting, and 4 excused and not voting.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 57, 58, 59, and 60 were adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 57, 58, 59, and 60.

MOTION - Withdraw LB547

Senator Flood renewed the Cook motion, MO5, found on page 412, to withdraw LB547.

The Cook motion to withdraw the bill prevailed with 41 ayes, 0 nays, 5 present and not voting, and 3 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 81. Committee AM14, found on page 333 and considered on pages 396, 404, 406, and 411, was renewed.

Senator Cornett offered the following amendment to the committee amendment:

AM198

(Amendments to Standing Committee amendments, AM14)

- 1 1. Strike amendments 1 through 4 and insert the following
- 2 new amendment:
- 3 "1. Strike the original sections and all amendments
- 4 thereto and insert the following new sections:
- 5 Section 1. Section 14-109, Reissue Revised Statutes of
- 6 Nebraska, is amended to read:
- 7 14-109 (1) The city council shall have power to
- 8 tax for revenue, license, and regulate pawnbrokers, peddlers,
- 9 auctioneers, brokers, hawkers, commission merchants, showmen,
- 10 jugglers, innkeepers, liquor dealers, toll bridges, ferries,
- 11 insurance, telegraph and express companies and vendors of patents.
- 12 any person within the limits of the city and regulate the same by
- 13 ordinance except as otherwise provided in this section. Such tax
- 14 may include both a tax for revenue and license. If the applicant
- 15 is an individual, an application for a license shall include the
- 16 applicant's social security number. The city council shall have
- 17 power to may raise revenue by levying and collecting a tax on any
- 18 occupation or business within the limits of the city, and regulate
- 19 the same by ordinance. All such taxes shall be uniform in respect
- 20 to the class upon which they are imposed. All scientific and
- 21 literary lectures and entertainments shall be exempt from taxation,
- 22 as well as concerts and all other musical entertainments given
- 1 exclusively by the citizens of the city. It shall be the duty of

2 the city clerk to deliver to the city treasurer the certified copy
 3 of the ordinance levying such tax, and the city clerk shall append
 4 thereto a warrant requiring the city treasurer to collect such tax.

5 (2)(a) Except as otherwise provided in subdivision (c)
 6 of this subsection, the city council shall also have power
 7 to require any person, firm, or corporation owning or using any
 8 vehicle in a city of the metropolitan class individual whose
 9 primary residence or person who owns a place of business which
 10 is within the limits of the city and that owns and operates a
 11 motor vehicle within such limits to annually register such motor
 12 vehicle in such manner as may be provided and to require such
 13 person to pay an annual registration fee motor vehicle tax therefor
 14 and to require the payment of registration fees such tax upon the
 15 change of ownership of such vehicle. All registration fees such
 16 taxes which may be thus provided for under this subsection shall
 17 be credited to a separate fund of the city, thereby created, to
 18 be used exclusively for the repairing of streets in such city.
 19 constructing, repairing, maintaining, or improving streets, roads,
 20 alleys, public ways, or parts thereof or for the amortization of
 21 bonded indebtedness when created for such purposes.

22 (b) No registration fee motor vehicle tax shall be
 23 required where under this subsection if (i) a vehicle is used but
 24 temporarily in such city for a period of not more than one week.
 25 six months or less in a twelve-month period, (ii) an individual
 26 does not have a primary residence or a person does not own a place
 27 of business within the limits of the city and does not own and
 1 operate a motor vehicle within the limits of the city, or (iii) a
 2 person is a full-time student attending a postsecondary institution
 3 within the limits of the city and the motor vehicle's situs under
 4 the Motor Vehicle Certificate of Title Act is different from the
 5 place at which he or she is attending such institution.

6 (c) After December 31, 2012, no motor vehicle tax shall
 7 be required of a person residing within the extraterritorial zoning
 8 jurisdiction of such city.

9 (3) For purposes of this section:

10 (a) Limits of the city includes the extraterritorial
 11 zoning jurisdiction of such city; and

12 (b) Person includes bodies corporate, societies,
 13 communities, the public generally, individuals, partnerships,
 14 limited liability companies, joint-stock companies, cooperatives,
 15 and associations. Person does not include any federal, state, or
 16 local government or any political subdivision thereof.

17 Sec. 2. Section 18-1214, Revised Statutes Cumulative
 18 Supplement, 2010, is amended to read:

19 18-1214 All cities and villages may levy a tax on all
 20 motor vehicles owned or used in such city or village. (1) Except as
 21 otherwise provided in subsection (3) of this section, the governing
 22 body of any city or village shall have power to require any
 23 individual whose primary residence or person who owns a place of

24 business which is within the limits of the city or village and
 25 that owns and operates a motor vehicle within such limits to pay
 26 an annual motor vehicle tax and to require the payment of such
 27 tax upon the change of ownership of such vehicle. All such taxes
 1 which may be provided for under this subsection shall be used
 2 exclusively for constructing, repairing, maintaining, or improving
 3 streets, roads, alleys, public ways, or parts thereof or for the
 4 amortization of bonded indebtedness when created for such purposes.

5 (2) No motor vehicle tax shall be required under this
 6 subsection if (a) a vehicle is used but temporarily in such city
 7 or village for a period of six months or less in a twelve-month
 8 period, (b) an individual does not have a primary residence or a
 9 person does not own a place of business within the limits of the
 10 city or village and does not own and operate a motor vehicle within
 11 the limits of the city or village, or (c) a person is a full-time
 12 student attending a postsecondary institution within the limits of
 13 the city or village and the motor vehicle's situs under the Motor
 14 Vehicle Certificate of Title Act is different from the place at
 15 which he or she is attending such institution.

16 (3) After December 31, 2012, no motor vehicle tax shall
 17 be required of a person residing within the extraterritorial zoning
 18 jurisdiction of such city or village.

19 (4) Until the implementation date designated by the
 20 Director of Motor Vehicles under section 23-186, the tax shall be
 21 paid to the designated county official of the county in which such
 22 city or village is located when the registration fees as provided
 23 in the Motor Vehicle Registration Act are paid. Such taxes shall
 24 be remitted to the county treasurer for credit to the road fund
 25 of such city or village. On and after the implementation date
 26 designated under section 23-186, the tax shall be paid to the
 27 county treasurer for credit to such road fund. Such funds shall
 1 be used by such city or village for constructing, resurfacing,
 2 maintaining, or improving streets, roads, alleys, public ways, or
 3 parts thereof or for the amortization of bonded indebtedness when
 4 created for such purposes.

5 (5) For purposes of this section:

6 (a) Limits of the city or village includes the
 7 extraterritorial zoning jurisdiction of such city or village; and

8 (b) Person includes bodies corporate, societies,
 9 communities, the public generally, individuals, partnerships,
 10 limited liability companies, joint-stock companies, cooperatives,
 11 and associations. Person does not include any federal, state, or
 12 local government or any political subdivision thereof.

13 Sec. 3. This act becomes operative on January 1, 2011.

14 Sec. 4. If any section in this act or any part of any
 15 section is declared invalid or unconstitutional, the declaration
 16 shall not affect the validity or constitutionality of the remaining
 17 portions.

18 Sec. 5. Original section 14-109, Reissue Revised Statutes

19 of Nebraska, and section 18-1214, Revised Statutes Cumulative
20 Supplement, 2010, are repealed.
21 Sec. 6. Since an emergency exists, this act takes effect
22 when passed and approved according to law.

Pending.

COMMITTEE REPORTS

General Affairs

LEGISLATIVE BILL 256. Placed on General File.

LEGISLATIVE BILL 311. Placed on General File.

(Signed) Russ Karpisek, Chairperson

NOTICE OF COMMITTEE HEARINGS

Natural Resources

Room 1525

Wednesday, February 9, 2011 1:30 p.m.

LB340
LB578
LB629

Thursday, February 10, 2011 1:30 p.m.

LB64
LB248
LB442

Friday, February 11, 2011 1:30 p.m.

LB155
LB156
LB393

(Signed) Chris Langemeier, Chairperson

Judiciary

Room 1113

Wednesday, February 9, 2011 1:30 p.m.

LB80
LB598
LB648

LB649
LB339

Thursday, February 10, 2011 1:30 p.m.

LB258
LB552
LB415
LB469
LB479

(Signed) Brad Ashford, Chairperson

Banking, Commerce and Insurance

Room 1507

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

LB205
LB345
LB684
LB551
LB424

(Signed) Rich Pahls, Chairperson

EXECUTIVE BOARD REPORT

Senator Wightman, Chairperson of the Executive Board, reported the appointments of the following members of the Legislature to the following special committee:

Redistricting Committee

Langemeier
Avery
Conrad
Nelson
Lautenbaugh
Mello
Fischer
Schilz
Dubas

(Signed) John Wightman, Chairperson
Legislative Council, Executive Board

GENERAL FILE

LEGISLATIVE BILL 81. The Cornett amendment, AM198, found in this day's Journal, to the committee amendment, was renewed.

The Cornett amendment was adopted with 28 ayes, 11 nays, 7 present and not voting, and 3 excused and not voting.

Senator Council offered the following amendment to the committee amendment:

AM188

(Amendments to Standing Committee amendments, AM14)

- 1 1. Insert the following amendment:
- 2 "3. On page 3, line 15, after the period insert
- 3 'Notwithstanding any other provision of law, no person shall
- 4 have a claim against a city of the metropolitan class for damage to
- 5 a vehicle due to any road condition unless such person has paid a
- 6 registration fee or motor vehicle tax pursuant to section 14-109 or
- 7 18-1214, respectively.'".
- 8 2. On page 1, line 4, strike the second "and"; and in
- 9 line 5 before the period insert "; and in line 20 after the period
- 10 insert 'Notwithstanding any other provision of law, no person shall
- 11 have a claim against a city of the metropolitan class for damage to
- 12 a vehicle due to any road condition unless such person has paid a
- 13 registration fee or motor vehicle tax pursuant to section 14-109 or
- 14 18-1214, respectively.'".
- 15 3. Renumber the remaining amendments accordingly.

Senator Council withdrew her amendment.

Committee AM14, found on page 333 and considered on pages 396, 404, 406, 411, and in this day's Journal, as amended, was renewed.

The committee amendment, as amended, was adopted with 42 ayes, 0 nays, 6 present and not voting, and 1 excused and not voting.

Senator Cornett withdrew her amendment, AM132, found on page 377.

Advanced to Enrollment and Review Initial with 43 ayes, 0 nays, 5 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 211. Title read. Considered.

Committee AM26, found on page 334, was adopted with 35 ayes, 0 nays, 13 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 154. Title read. Considered.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 10 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 208. Title read. Considered.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 9 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 72. Title read. Considered.

Advanced to Enrollment and Review Initial with 28 ayes, 0 nays, 20 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 28. Title read. Considered.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 15 present and not voting, and 1 excused and not voting.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 18. Placed on Final Reading.

LEGISLATIVE BILL 67. Placed on Final Reading.

LEGISLATIVE BILL 158. Placed on Final Reading.

(Signed) Tyson Larson, Chairperson

BILL ON FIRST READING

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

LEGISLATIVE BILL 163A. Introduced by Fischer, 43.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 163, One Hundred Second Legislature, First Session, 2011.

AMENDMENT - Print in Journal

Senator McCoy filed the following amendment to LB81:
AM146

- 1 1. Insert the following new section:
- 2 Sec. 6. Any registered voter residing in the
- 3 extraterritorial zoning jurisdiction of a city of the metropolitan
- 4 class may vote on issues and for officers that are subject to
- 5 a vote at an election conducted in the city of the metropolitan

6 class.

7 2. Renumber the remaining sections accordingly.

UNANIMOUS CONSENT - Add Cointroducers

Senator Hansen asked unanimous consent to add his name as cointroducer to LB149. No objections. So ordered.

Senator Howard asked unanimous consent to add her name as cointroducer to LB53. No objections. So ordered.

Senator Janssen asked unanimous consent to add his name as cointroducer to LB215. No objections. So ordered.

WITHDRAW - Cointroducer

Senator Christensen withdrew his name as cointroducer to LB229.

ANNOUNCEMENT

The Redistricting Committee elected Senator Langemeier as Chairperson and Senator Dubas as Vice Chairperson.

VISITORS

Visitors to the Chamber were Senator Coash's parents, Don and Paige Coash, from Bassett.

The Doctor of the Day was Dr. Theresa S. Hatcher from Bellevue.

ADJOURNMENT

At 11:50 a.m., on a motion by Speaker Flood, the Legislature adjourned until 10:00 a.m., Wednesday, February 2, 2011.

Patrick J. O'Donnell
Clerk of the Legislature