

FIFTIETH DAY - MARCH 23, 2011

LEGISLATIVE JOURNAL

**ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION**

FIFTIETH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 23, 2011

PRAYER

The prayer was offered by Reverend Michael Benischek, Prairie View United Methodist Church, Lincoln.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Flood presiding.

The roll was called and all members were present except Senators Cornett, Council, and Schilz who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-ninth day was approved.

COMMITTEE REPORT

Agriculture

LEGISLATIVE BILL 394. Placed on General File with amendment.
AM872

- 1 1. On page 3, line 5, strike "districts 1 and 2" and
- 2 insert "district 1 or 2 who shall represent districts 1 and 2"; and
- 3 in line 6 strike "districts 3 and 4" and insert "district 3 or 4
- 4 who shall represent districts 3 and 4".
- 5 2. Strike beginning with page 4, line 13, through page
- 6 5, line 5, and insert "Any grower may place his or her name on a
- 7 candidacy list for appointment as a grower member of the commission
- 8 by filing a petition signed by at least ten resident bean growers
- 9 (1) from the district in which he or she resides for an appointment
- 10 under subsection (1) of section 2-3746 or (2) from the district in
- 11 which he or she resides or the other district to be represented for
- 12 an appointment under subsection (2) of section 2-3746. The petition
- 13 shall be filed with the commission. The Governor and the commission
- 14 shall make appointments from the candidacy list unless there are no
- 15 names on the list.".

(Signed) Tom Carlson, Chairperson

COMMITTEE REPORT

Agriculture

The Agriculture Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Lowell Minert - Nebraska State Fair Board

Aye: 8 Senators Bloomfield, Brasch, Carlson, B. Harr, Karpisek, Larson, Lathrop, Wallman. Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Tom Carlson, Chairperson

COMMITTEE REPORT

Enrollment and Review

LEGISLATIVE BILL 90. Placed on Select File.

(Signed) Tyson Larson, Chairperson

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 117, 118, 119, 120, 122, 124, 125, 126, 127, 128, and 129 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 117, 118, 119, 120, 122, 124, 125, 126, 127, 128, and 129.

GENERAL FILE

LEGISLATIVE BILL 606. Senator Lautenbaugh renewed his amendment, AM895, found on page 921.

Senator Avery requested a ruling of the Chair on whether the Lautenbaugh amendment is germane to the bill.

The Chair ruled the Lautenbaugh amendment is not germane to the bill.

Senator Lautenbaugh challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?"

Senator Lautenbaugh withdrew his motion to overrule the Chair.

SENATOR LANGEMEIER PRESIDING

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

AMENDMENT - Print in Journal

Senator Fischer filed the following amendment to LB84:
AM916

(Amendments to Standing Committee amendments, AM385)

1 1. Strike amendment 1 and insert the following new
2 amendment:

3 1. Strike the original sections and insert the following
4 new sections:

5 Section 1. Sections 1 to 5 of this act shall be known and
6 may be cited as the Build Nebraska Act.

7 Sec. 2. For purposes of the Build Nebraska Act:

8 (1) Department means the Department of Roads;

9 (2) Fund means the State Highway Capital Improvement
10 Fund; and

11 (3) Surface transportation project means (a) expansion or
12 reconstruction of a road or highway which is part of the state
13 highway system, (b) expansion or reconstruction of a bridge which
14 is part of the state highway system, or (c) construction of a new
15 road, highway, or bridge which, if built, would be a part of the
16 state highway system.

17 Sec. 3. (1) The State Highway Capital Improvement Fund
18 is created. The fund shall consist of money credited to the fund
19 pursuant to section 77-27,132 and any other money as determined by
20 the Legislature.

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

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

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

8 (1) Up to eighty-five percent of the total aggregate
9 money credited to the fund pursuant to section 77-27,132 shall
10 be used to pay for surface transportation projects of the highest
11 priority as determined by the department; and

12 (2) At least thirty million dollars of the total
13 aggregate money credited to the fund pursuant to section 77-27,132
14 shall be used, as determined by the department, for construction
15 of the expressway system and federally designated high priority
16 corridors.

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

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

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

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

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

16 (b) For transactions occurring on or after July 1, 2013,
 17 and before July 1, 2033, of the proceeds of the sales and use taxes
 18 derived from transactions other than those listed in subdivision
 19 (2)(a) of this section from any sales tax rate provided for in
 20 section 77-2701.02 that is in excess of five percent, credit
 21 eighty-four percent to the State Highway Capital Improvement Fund
 22 and sixteen percent to the Highway Allocation Fund. No more than
 23 one hundred twenty-five million dollars in total may be credited
 24 to such funds under subdivision (2)(b) of this section during any
 25 fiscal year.

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

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

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:

LR47 Developmental Disabilities Special Investigative Committee

Coash
Cornett
Harms (VC)
Karpisek
Krist
Lathrop (C)
Wallman

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

RESOLUTION

LEGISLATIVE RESOLUTION 137. Introduced by Larson, 40.

WHEREAS, the Wynot High School girls' basketball team won the 2011 Class D-2 Girls' State Basketball Championship by defeating Hay Springs High School by a score of 45-33; and

WHEREAS, the Wynot High School girls' basketball team ended the season with a record of 25-2; 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 Wynot High School girls' basketball team on winning the 2011 Class D-2 Girls' State Basketball Championship.

2. That a copy of this resolution be sent to the Wynot High School girls' basketball team and their coach, Steve Wieseler.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 283. Title read. Considered.

Senator K. Haar renewed his amendment, AM615, found on page 858.

Senator K. Haar moved for a call of the house. The motion prevailed with 34 ayes, 0 nays, and 15 not voting.

The K. Haar amendment was adopted with 26 ayes, 7 nays, 15 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Advanced to Enrollment and Review Initial with 26 ayes, 9 nays, 13 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 407. Title read. Considered.

Committee AM696, found on page 806, was considered.

SENATOR SULLIVAN PRESIDING

The committee amendment was adopted with 34 ayes, 0 nays, 13 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.

BILL ON FIRST READING

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

LEGISLATIVE BILL 204A. Introduced by Council, 11.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 204, One Hundred Second Legislature, First Session, 2011; and to declare an emergency.

GENERAL FILE

LEGISLATIVE BILL 95. Title read. Considered.

Committee AM704, found on page 813, was considered.

Senator Janssen renewed his amendment, AM753, found on page 879, to the committee amendment.

Pending.

UNANIMOUS CONSENT - Add Cointroducers

Senator Smith asked unanimous consent to add his name as cointroducer to LB152. No objections. So ordered.

Senators Ashford and McGill asked unanimous consent to add their names as cointroducers to LB397. No objections. So ordered.

VISITORS

Visitors to the Chamber were Kenzee Kucera from Lawrence; members of No Limits Tobacco Prevention Program from across the state; and 138 fourth-grade students, teachers, and sponsors from Crete.

RECESS

At 11:57 a.m., on a motion by Speaker Flood, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Flood presiding.

ROLL CALL

The roll was called and all members were present except Senators Ashford, Cornett, Heidemann, and Nelson who were excused until they arrive.

SELECT FILE

LEGISLATIVE BILL 34. ER41, found on page 709, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 207. ER49, found on page 845, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 563. ER48, found on page 845, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 621. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 342. ER50, found on page 852, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 366. ER51, found on page 852, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 255. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 259. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 218. Senator Campbell renewed her amendment, AM758, found on page 915.

SENATOR CARLSON PRESIDING

The Campbell amendment was adopted with 34 ayes, 6 nays, 8 present and not voting, and 1 excused and not voting.

Senator Conrad requested a record vote on the advancement of the bill.

Voting in the affirmative, 35:

Adams	Flood	Heidemann	Lautenbaugh	Price
Avery	Fulton	Janssen	McCoy	Schilz
Bloomfield	Gloor	Karpisek	McGill	Schumacher
Carlson	Haar, K.	Krist	Nelson	Smith
Coash	Hadley	Langemeier	Pahls	Sullivan
Dubas	Hansen	Larson	Pankonin	Utter
Fischer	Harms	Lathrop	Pirsch	Wightman

Voting in the negative, 7:

Christensen	Cook	Howard	Nordquist
Conrad	Council	Mello	

Present and not voting, 6:

Ashford	Campbell	Harr, B.
Brasch	Cornett	Louden

Excused and not voting, 1:

Wallman

Advanced to Enrollment and Review for Engrossment with 35 ayes, 7 nays, 6 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 543. ER42, found on page 709, was adopted.

Senator Nordquist withdrew his amendment, AM884, found on page 905.

Senator Nordquist offered the following amendment:

AM935

- 1 1. In the Nordquist amendment, AM540, on page 1, strike
- 2 line 11 and insert "all asset limits for eligibility for federal
- 3 food assistance benefits, except that the total of liquid assets
- 4 which includes cash on hand and funds in personal checking and
- 5 savings accounts, money market accounts, and share accounts shall
- 6 not exceed twenty-five thousand dollars"; and in lines 12 and 13
- 7 strike "to the extent authorized pursuant to" and insert ", as
- 8 allowed under".

SENATOR LANGEMEIER PRESIDING

The Nordquist amendment was adopted with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 260. ER47, found on page 845, was adopted.

Senator Lathrop renewed his amendment, AM861, found on page 918.

The Lathrop amendment was adopted with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

COMMITTEE REPORTS

Revenue

LEGISLATIVE BILL 252. Placed on General File.

LEGISLATIVE BILL 426. Placed on General File with amendment.

AM928

- 1 1. On page 3, line 20, strike "Any", show as stricken,
- 2 and insert "Except as provided in subsection (8) of this section
- 3 for a city of the primary class, any"; and after line 25 insert the
- 4 following new subsection:
- 5 "(8) A city of the primary class shall not be eligible
- 6 to receive a grant of assistance from the Local Civic, Cultural,
- 7 and Convention Center Financing Act if the city has applied for

8 and received a grant of assistance under the Sports Arena Facility
 9 Financing Assistance Act.".

(Signed) Abbie Cornett, Chairperson

Natural Resources

The Natural Resources 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.

Stan Clouse - Nebraska Natural Resources Commission

Aye: 8 Senators Carlson, Christensen, Dubas, K. Haar, Langemeier, McCoy, Schilz, Smith. Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Chris Langemeier, Chairperson

AMENDMENTS - Print in Journal

Senator Lautenbaugh filed the following amendment to LB112:
 AM908

(Amendments to Standing Committee amendments, AM361)

- 1 1. On page 5, line 6, after "provided" insert "by an
- 2 entity licensed by the Department of Health and Human Services as
- 3 a child-caring agency, child care facility, or child-placing agency
- 4 or"; and in lines 6 and 7 strike "Department of Health and Human
- 5 Services" and insert "department".

Senator Coash filed the following amendment to LB95:
 AM922

(Amendments to Standing Committee amendments, AM704)

- 1 1. Strike section 2.

SELECT FILE

LEGISLATIVE BILL 105. Senator Schilz offered the following amendment:

AM763

- 1 1. On page 2, line 18, after "boating" insert "safety".

The Schilz amendment was adopted with 33 ayes, 0 nays, 14 present and not voting, and 2 excused and not voting.

Senator Larson offered the following amendment:

FA10

Strike page 2, line 15 beginning with "under" through "1985" and insert in its place "yet to reach the age of majority as defined in 43-2101".

SENATOR CARLSON PRESIDING**SPEAKER FLOOD PRESIDING**

Senator Larson withdrew his amendment.

Senator Larson offered the following amendment:

AM818

- 1 1. On page 2, line 15, strike "1985" and insert "1990".

SENATOR COASH PRESIDING

Senator Larson moved for a call of the house. The motion prevailed with 33 ayes, 2 nays, and 14 not voting.

Senator Larson requested a roll call vote on his amendment.

Voting in the affirmative, 13:

Bloomfield	Harr, B.	Larson	Pankonin	Smith
Brasch	Janssen	Lautenbaugh	Pirsch	
Coash	Karpisek	Nelson	Schumacher	

Voting in the negative, 29:

Adams	Conrad	Fulton	Howard	Nordquist
Ashford	Cook	Gloor	Krist	Pahls
Avery	Cornett	Haar, K.	Langemeier	Price
Campbell	Council	Hadley	Lathrop	Sullivan
Carlson	Dubas	Hansen	Louden	Utter
Christensen	Fischer	Harms	McCoy	

Present and not voting, 4:

McGill	Mello	Schilz	Wightman
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Excused and not voting, 3:

Flood	Heidemann	Wallman
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The Larsen amendment lost with 13 ayes, 29 nays, 4 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Advanced to Enrollment and Review for Grossment.

AMENDMENT - Print in Journal

Senator Fischer filed the following amendment to LB84:
AM940

1 1. Strike amendment 1 and insert the following new
2 amendment:

3 1. Strike the original sections and insert the following
4 new sections:

5 Section 1. Sections 1 to 5 of this act shall be known and
6 may be cited as the Build Nebraska Act.

7 Sec. 2. For purposes of the Build Nebraska Act:

8 (1) Department means the Department of Roads;

9 (2) Fund means the State Highway Capital Improvement
10 Fund; and

11 (3) Surface transportation project means (a) expansion or
12 reconstruction of a road or highway which is part of the state
13 highway system, (b) expansion or reconstruction of a bridge which
14 is part of the state highway system, or (c) construction of a new
15 road, highway, or bridge which, if built, would be a part of the
16 state highway system.

17 Sec. 3. (1) The State Highway Capital Improvement Fund
18 is created. The fund shall consist of money credited to the fund
19 pursuant to section 77-27,132 and any other money as determined by
20 the Legislature.

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

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

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

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

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

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

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

20 77-27,132 (1) There is hereby created a fund to be
21 designated the Revenue Distribution Fund which shall be set apart
22 and maintained by the Tax Commissioner. Revenue not required to be

23 credited to the General Fund or any other specified fund may be
 24 credited to the Revenue Distribution Fund. Credits and refunds of
 25 such revenue shall be paid from the Revenue Distribution Fund. The
 26 balance of the amount credited, after credits and refunds, shall be
 27 allocated as provided by the statutes creating such revenue.

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

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

15 (b) For transactions occurring on or after July 1, 2013,
 16 and before July 1, 2033, of the proceeds of the sales and use taxes
 17 derived from transactions other than those listed in subdivision
 18 (2)(a) of this section from any sales tax rate provided for in
 19 section 77-2701.02 that is in excess of five percent, credit
 20 eighty-four percent to the State Highway Capital Improvement Fund
 21 and sixteen percent to the Highway Allocation Fund. No more than
 22 one hundred twenty-five million dollars in total may be credited
 23 to such funds under subdivision (2)(b) of this section during any
 24 fiscal year.

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

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

RESOLUTION

LEGISLATIVE RESOLUTION 138. Introduced by Nordquist, 7;
 Campbell, 25; Conrad, 46; Cook, 13; Council, 11; Gloor, 35; Howard, 9;
 McGill, 26; Mello, 5.

PURPOSE: The purpose of this resolution is to find a solution to the exit of
 insurers from the health insurance marketplace for stand-alone health
 insurance policies for children.

Children can no longer be denied health insurance based on their health
 status, nor can insurers refuse to pay for treatment because of a preexisting
 condition as a result of the passage of the federal Patient Protection and
 Affordable Care Act, Public Law 111-148, as amended by the federal Health
 Care and Education Reconciliation Act of 2010, Public Law 111-152.

However, insurers in the individual market no longer offer new stand-alone or child-only policies in the State of Nebraska.

The Secretary of the United States Department of Health and Human Services has clarified a variety of policy options available to states under the new federal health care law to overcome the collapse of the health insurance market for stand-alone policies for children. The study committee should review these and other options to find a solution to this issue.

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

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

UNANIMOUS CONSENT - Add Cointroducers

Senator Janssen asked unanimous consent to add his name as cointroducer to LB279. No objections. So ordered.

Senator Carlson asked unanimous consent to add his name as cointroducer to LB600. No objections. So ordered.

VISITORS

Visitors to the Chamber were Senator Flood's brother, Patrick Flood, from Bangkok, Thailand; 20 twelfth-grade students and teachers from Southwest High School, Bartley; and 40 fourth-grade students, teachers, and sponsor from Washington East, Norfolk.

ADJOURNMENT

At 4:05 p.m., on a motion by Senator Avery, the Legislature adjourned until 9:00 a.m., Thursday, March 24, 2011.

Patrick J. O'Donnell
Clerk of the Legislature