

**NINTH DAY - NOVEMBER 14, 2011****LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE  
FIRST SPECIAL SESSION****NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, November 14, 2011

**PRAYER**

The prayer was offered by Senator Hansen.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 1:30 p.m., Senator Gloor presiding.

The roll was called and all members were present except Senator Nordquist who was excused; and Senator B. Harr who was excused until he arrives.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eighth day was approved.

**COMMITTEE REPORTS**

Government, Military and Veterans Affairs

**LEGISLATIVE RESOLUTION 8.** Reported to the Legislature for further consideration.

**LEGISLATIVE RESOLUTION 12.** Reported to the Legislature for further consideration.

(Signed) Bill Avery, Chairperson

**MOTION - Approve Appointments**

Senator Fischer moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointment(s) found on page 65:

State Highway Commission

David Copple

James Kindig

Doug Leafgreen

Rodney Vandeberg

Greg Wolford  
Nebraska Motor Vehicle Industry Licensing Board  
Donald Hansen

Voting in the affirmative, 43:

Adams	Cook	Harms	Lautenbaugh	Schilz
Ashford	Dubas	Heidemann	Louden	Schumacher
Bloomfield	Fischer	Howard	McCoy	Smith
Brasch	Flood	Janssen	McGill	Sullivan
Campbell	Fulton	Krist	Mello	Utter
Carlson	Gloor	Lambert	Nelson	Wallman
Christensen	Haar, K.	Langemeier	Pahls	Wightman
Coash	Hadley	Larson	Pirsch	
Conrad	Hansen	Lathrop	Price	

Voting in the negative, 0.

Present and not voting, 4:

Avery	Cornett	Council	Karpisek
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Excused and not voting, 2:

Harr, B.	Nordquist
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The appointments were confirmed with 43 ayes, 0 nays, 4 present and not voting, and 2 excused and not voting.

## COMMITTEE REPORTS

### Revenue

The Revenue 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.

Robert Hotz - Tax Equalization and Review Commission

Aye: 6 Cornett, Fischer, Hadley, Pirsch, Schumacher, Utter. Nay: 1 Louden. Absent: 1 Adams. Present and not voting: 0.

The Revenue 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.

Nancy Salmon - Tax Equalization and Review Commission

Aye: 7 Cornett, Fischer, Hadley, Louden, Pirsch, Schumacher, Utter. Nay: 0. Absent: 1 Adams. Present and not voting: 0.

The Revenue 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.

Thomas Freimuth - Tax Equalization and Review Commission

Aye: 7 Cornett, Fischer, Hadley, Louden, Pirsch, Schumacher, Utter. Nay: 0. Absent: 1 Adams. Present and not voting: 0.

(Signed) Abbie Cornett, Chairperson

### **BILL ON FIRST READING**

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

**LEGISLATIVE BILL 4A.** Introduced by Langemeier, 23.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 4, One Hundred Second Legislature, First Special Session, 2011; and to declare an emergency.

### **GENERAL FILE**

**LEGISLATIVE BILL 4.** Title read. Considered.

Committee AM13, found on page 68, was considered.

Senator Dubas renewed her amendment, AM14, found on page 69, to the committee amendment.

### **SENATOR COASH PRESIDING**

Pending.

### **AMENDMENT - Print in Journal**

Senators Flood and Langemeier filed the following amendment to LB4: AM37

(Amendments to Standing Committee amendments, AM13)

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. The Legislature finds that:
- 4 (1) The State of Nebraska is responsible for protecting
- 5 its natural resources, agricultural resources, aesthetics, economy,
- 6 and communities through reasonable regulation for the common good
- 7 and welfare. As such, the state is responsible for ensuring
- 8 that an oil pipeline proposed to be located within, through,
- 9 or across Nebraska is in compliance with all state laws, rules,
- 10 and regulations relating to water, air, and wildlife under the

11 Constitution of Nebraska and state law;

12 (2) Public policy should reflect this responsibility  
 13 while simultaneously recognizing the necessity for energy use and  
 14 the economic benefits to Nebraska of transporting oil within,  
 15 through, or across the state, the need for economic development  
 16 in Nebraska, and the opportunities for jobs and revenue that new  
 17 development brings to the state;

18 (3) The United States has the important ability to work  
 19 with foreign suppliers of crude oil to meet our overall energy  
 20 needs and to further our national security interests; and

21 (4) The economic benefits of oil pipeline construction  
 22 projects are important to the state, including the creation of  
 1 jobs. Nevertheless, the benefits of any proposed oil pipeline  
 2 project must be weighed against any concerns brought by the  
 3 residents of Nebraska.

4 Sec. 2. For purposes of sections 1 to 3 of this act:

5 (1) Department means the Department of Environmental  
 6 Quality;

7 (2) Oil pipeline means a pipeline which is larger than  
 8 eight inches in inside diameter and which is constructed or  
 9 operated in Nebraska for the transportation of petroleum, or  
 10 petroleum components, products, or wastes, including crude oil or  
 11 any fraction of crude oil, within, through, or across Nebraska, but  
 12 does not include in-field and gathering lines; and

13 (3) Pipeline carrier means an individual, a company, a  
 14 corporation, an association, or any other legal entity that engages  
 15 in owning, operating, or managing an oil pipeline.

16 Sec. 3. (1) The department may collaborate with a federal  
 17 agency or agencies in a review under the National Environmental  
 18 Policy Act involving a supplemental environmental impact statement  
 19 for oil pipeline projects within, through, or across the state.  
 20 Prior to entering into such shared jurisdiction and authority with  
 21 a federal agency or agencies, the department shall enter into a  
 22 memorandum of understanding with such federal agency or agencies  
 23 that sets forth the responsibilities and schedules that will lead  
 24 to an effective and timely review under the National Environmental  
 25 Policy Act involving a supplemental environmental impact statement.

26 (2) Since the objectives of the process are to ensure  
 27 adequate information gathering, full and careful agency and public  
 1 review, objective preparation of a supplemental environmental  
 2 impact statement, adherence to a defined schedule, and an  
 3 appropriate role for a pipeline carrier which avoids the appearance  
 4 of conflicts of interest, it is the intent of the Legislature that  
 5 the state fully fund the process of preparation of a supplemental  
 6 environmental impact statement and that no fees will be required of  
 7 an applicant. The department may contract with outside vendors in  
 8 the process of preparation of a supplemental environmental impact  
 9 statement. The department shall make every reasonable effort to  
 10 ensure that each vendor has no conflict of interest or relationship

11 to any pipeline carrier that applies for an oil pipeline permit.

12 (3) In order for the process to be efficient and  
13 expeditious, the department's contracts with vendors pursuant to  
14 this section for a supplemental environmental impact statement  
15 shall not be subject to sections 73-301 to 73-306 or 73-501 to  
16 73-509.

17 (4) After the supplemental environmental impact statement  
18 is prepared, the department shall submit it to the Governor. Within  
19 thirty days after receipt of the supplemental environmental impact  
20 statement from the department, the Governor shall indicate, in  
21 writing, to the federal agency or agencies involved in the review  
22 as to whether he or she approves any of the routes reviewed in the  
23 supplemental environmental impact statement.

24 Sec. 4. Section 73-307, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 73-307 Sections 73-301 to 73-306 shall not apply to the  
27 Nebraska Consultants' Competitive Negotiation Act or section 3 of  
1 this act.

2 Sections 73-301 to 73-306 shall not be construed to  
3 apply to renewals of contracts already approved pursuant to or  
4 not subject to such sections, to amendments to such contracts,  
5 or to renewals of such amendments unless the amendments would  
6 directly cause or result in the replacement by the private entity  
7 of additional permanent state employees or positions greater than  
8 the replacement caused by the original contract.

9 Sec. 5. Section 73-507, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 73-507 (1) Subject to review by the Director of  
12 Administrative Services, the materiel division shall provide  
13 procedures to grant limited exceptions from the provisions of  
14 sections 73-504, 73-508, and 73-509 for:

15 (a) Sole source and emergency contracts; and

16 (b) Other circumstances or specific contracts when any  
17 of the requirements of sections 73-504, 73-508, and 73-509 are not  
18 appropriate for or are not compatible with the circumstances or  
19 contract. The materiel division shall provide a written rationale  
20 which shall be kept on file when granting an exception under this  
21 subdivision.

22 (2) The following types of contracts for services are not  
23 subject to sections 73-504, 73-508, and 73-509:

24 (a) Contracts for services subject to the Nebraska  
25 Consultants' Competitive Negotiation Act;

26 (b) Contracts for services subject to federal law,  
27 regulation, or policy or state statute, under which a state  
1 agency is required to use a different selection process or to  
2 contract with an identified contractor or type of contractor;

3 (c) Contracts for professional legal services and  
4 services of expert witnesses, hearing officers, or administrative  
5 law judges retained by state agencies for administrative or court

- 6 proceedings;
- 7 (d) Contracts involving state or federal financial
- 8 assistance passed through by a state agency to a political
- 9 subdivision;
- 10 (e) Contracts with direct providers of medical,
- 11 behavioral, or developmental health services, child care, or child
- 12 welfare services to an individual;
- 13 (f) Agreements for services to be performed for a state
- 14 agency by another state or local government agency or contracts
- 15 made by a state agency with a local government agency for the
- 16 direct provision of services to the public;
- 17 (g) Agreements for services between a state agency and
- 18 the University of Nebraska, the Nebraska state colleges, the
- 19 courts, the Legislature, or other officers or agencies established
- 20 by the Constitution of Nebraska;
- 21 (h) Department of Insurance contracts for financial
- 22 or actuarial examination, for rehabilitation, conservation,
- 23 reorganization, or liquidation of licensees, and for professional
- 24 services related to residual pools or excess funds under the
- 25 agency's control;
- 26 (i) Department of Roads contracts for all road and bridge
- 27 projects; ~~and~~
- 1 (j) Nebraska Investment Council contracts; ~~and~~
- 2 (k) Contracts under section 3 of this act.
- 3 Sec. 6. Original sections 73-307 and 73-507, Reissue
- 4 Revised Statutes of Nebraska, are repealed.
- 5 Sec. 7. Since an emergency exists, this act takes effect
- 6 when passed and approved according to law.

### NOTICE OF COMMITTEE HEARING

Natural Resources

Room 1525

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

AM37 to LB4

(Signed) Chris Langemeier, Chairperson

### RESOLUTION

**LEGISLATIVE RESOLUTION 21.** Introduced by Cook, 13; Council, 11.

WHEREAS, faith, education, compassion, and family were the cornerstones of the rich life of the Reverend Doctor L. C. Menyweather-Woods. Menyweather-Woods' abilities as a mesmerizing speaker served him well from the pulpit of the Mount Moriah Missionary Baptist Church,

as an associate professor at the University of Nebraska at Omaha in the Black Studies Department, and as a community leader; and

WHEREAS, Menyweather-Woods ministered to the flock at Mount Moriah Missionary Baptist Church from 1989 until 2002 and taught at the University of Nebraska at Omaha from 1994 until 2009; and

WHEREAS, Menyweather-Woods was a longtime member of and often a spokesman for the Interdenominational Ministerial Alliance in the 1990s. He maintained that the church was the strongest institution within the African-American community. Menyweather-Woods not only encouraged others to better their community, he also led by example. He worked tirelessly to help people who were unable to help themselves have better lives; and

WHEREAS, Menyweather-Woods, 59, died Wednesday, November 2, 2011, in Winston-Salem, North Carolina.

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

1. That the Legislature expresses and extends its sympathy and condolences to the family of Reverend Doctor L. C. Menyweather-Woods.

2. That a copy of this resolution be sent to the family of Reverend Doctor L. C. Menyweather-Woods and Mount Moriah Missionary Baptist Church in Omaha, Nebraska.

Laid over.

### **GENERAL FILE**

**LEGISLATIVE BILL 4.** The Dubas amendment, AM14, found on page 69 and considered in this day's Journal, to the committee amendment, was renewed.

### **SPEAKER FLOOD PRESIDING**

Pending.

### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 3, 4, 5, 6, 7, 9, 11, 13, 14, and 15 were adopted.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 3, 4, 5, 6, 7, 9, 11, 13, 14, and 15.

### **GENERAL FILE**

**LEGISLATIVE BILL 4.** The Dubas amendment, AM14, found on page 69 and considered in this day's Journal, to the committee amendment, was

renewed.

Pending.

### AMENDMENTS - Print in Journal

Senator Lautenbaugh filed the following amendments to LB4:

AM16

(Amendments to Standing Committee amendments, AM13)

- 1 1. Strike section 16.

AM17

(Amendments to Standing Committee amendments, AM13)

- 1 1. On page 6, line 10, strike "or locations".

AM18

(Amendments to Standing Committee amendments, AM13)

- 1 1. On page 6, line 17, strike "five" and insert "one".

AM19

(Amendments to Standing Committee amendments, AM13)

- 1 1. On page 7, line 2, strike "and"; and in line 3 after
- 2 "Governor" insert "; and an expert in oil pipeline construction
- 3 appointed by the Governor".

AM20

(Amendments to Standing Committee amendments, AM13)

- 1 1. On page 7, line 13, strike "sixty" and insert
- 2 "fifteen".

AM21

(Amendments to Standing Committee amendments, AM13)

- 1 1. On page 7, line 24; and page 8, lines 6 and 9, strike
- 2 "significant" and insert "detrimental".

AM22

(Amendments to Standing Committee amendments, AM13)

- 1 1. On page 8, strike lines 11 through 14; in line 15
- 2 strike "(g)" and insert "(f)"; and in line 17 strike "(h)" and
- 3 insert "(g)".

AM23

(Amendments to Standing Committee amendments, AM13)

- 1 1. On page 4, strike beginning with the last comma in
- 2 line 16 through "lines" in line 17.

AM24

(Amendments to Standing Committee amendments, AM13)



- 1 1. Strike section 11.
- 2 2. On page 5, strike beginning with "a" in line 6 through
- 3 "act" in line 8 and insert "an application fee of five hundred
- 4 dollars which shall be remitted to the State Treasurer for credit
- 5 to the Oil Pipeline Route Certification Fund".
- 6 3. Renumber the remaining sections and correct internal
- 7 references accordingly.

## AM25

(Amendments to Standing Committee amendments, AM13)

- 1 1. On page 5, line 8, strike "The" and insert "Except as
- 2 otherwise provided in this subsection, the".
- 3 2. On page 6, line 1, after the period insert "If
- 4 any of the requirements of subdivisions (2)(a) through (g) of
- 5 this section are included in material submitted for a federal
- 6 permitting process, the applicant does not have to resubmit
- 7 separate material.".

## AM26

(Amendments to Standing Committee amendments, AM13)

- 1 1. On page 6, line 2, after "application" insert
- 2 "or within seven days if a presidential permit to cross an
- 3 international border has been applied for and has been pending
- 4 longer than twenty-four months"; and in line 15 strike "ten" and
- 5 insert "five".

## AM27

(Amendments to Standing Committee amendments, AM13)

- 1 1. On page 4, line 27, after "certificate" insert "except
- 2 that if a presidential permit is needed to cross an international
- 3 border, then no route certificate is required under this section".

## AM28

(Amendments to Standing Committee amendments, AM13)

- 1 1. On page 9, line 2, strike "thirty" and insert "five".

## AM29

(Amendments to Standing Committee amendments, AM13)

- 1 1. On page 9, line 5, after the period insert "In order
- 2 for the Governor to deny an application for an interstate pipeline
- 3 project, the Governor must find and declare that the State of
- 4 Nebraska's interest in protecting its welfare is affected and
- 5 therefor denying the application will withstand strict scrutiny.".

## AM30

(Amendments to Standing Committee amendments, AM13)

- 1 1. On page 12, line 24, strike "an oil" and insert "a";
- 2 and in line 25 strike "in section 4 of this act".

## AM31

(Amendments to Standing Committee amendments, AM13)

- 1 1. On page 12, line 25, strike "(1)"; and strike
- 2 beginning with "and" in line 26 through line 27.
- 3 2. On page 13, line 1, strike the new matter.

## AM32

(Amendments to Standing Committee amendments, AM13)

- 1 1. On page 13, line 10, after "portions" insert "unless
- 2 it is found that this act dealt with safety in anyway, then the
- 3 whole act shall be declared unconstitutional".

Senator Mello filed the following amendment to LB4:

## AM15

(Amendments to Standing Committee amendments, AM13)

- 1 1. On page 4, line 22, strike "and"; after line 22 insert
- 2 the following new subdivision:
- 3 "(5) Project labor agreement means a prehire collective
- 4 bargaining agreement that establishes terms and conditions of
- 5 employment for a specific construction project and is an agreement
- 6 described in 29 U.S.C. 158(f); and"; and in line 23 strike "(5)"
- 7 and insert "(6)".
- 8 2. On page 5, after line 17 insert the following new
- 9 subdivision:
- 10 "(f) The details of a project labor agreement or any
- 11 other agreement related to the application which provide local
- 12 hiring preferences for workers for the pipeline project;"; in line
- 13 18 strike "(f)" and insert "(g)"; and in line 24 strike "(g)" and
- 14 insert "(h)".
- 15 3. On page 8, line 16, strike "and"; after line 16 insert
- 16 the following new subdivision:
- 17 "(h) Whether the applicant has made assurances to hire
- 18 local workers through a project labor agreement or any other
- 19 agreement related to the application;"; and in line 17 strike "(h)"
- 20 and insert "(i)".

## COMMITTEE REPORT

Natural Resources

**LEGISLATIVE BILL 1.** Placed on General File with amendment.

## AM36

- 1 1. On page 4, after line 3 insert the following new
- 2 subsection:
- 3 "(3) The Major Oil Pipeline Siting Act shall not apply
- 4 to any major oil pipeline that has submitted an application to the
- 5 United States Secretary of State pursuant to Executive Order 13337
- 6 prior to the effective date of this act.".

(Signed) Chris Langemeier, Chairperson

**VISITORS**

Visitors to the Chamber were Joe Jablonski from Loup City; and Kenneth Zoeller from Concordia.

**ADJOURNMENT**

At 4:42 p.m., on a motion by Senator McCoy, the Legislature adjourned until 9:00 a.m., Tuesday, November 15, 2011.

Patrick J. O'Donnell  
Clerk of the Legislature

