

STATE SENATOR
KENT ROGERT

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2010 End of Session Report

Dear Neighbor,

After four productive months, the 2010 Legislative Session has come to a close.

During the 101st Legislature, Second Session in 2010, I have introduced and passed legislation with a focus on promoting small business growth, encouraging travel and tourism, assisting the agricultural community, saving revenue for the state, serving my constituents, protecting the public at large and ensuring freedom with responsibility for all our citizens.

Please do not hesitate to contact me with your questions, comments or concerns. I stand ready to serve you and I hope to hear from you soon.

Sincerely,



A handwritten signature in black ink that reads "Kent Rogert". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Senator Kent Rogert, District #16

Senator Rogert's Committees:

Judiciary Committee

General Affairs Committee (VC)

State-Tribal Relations Committee (VC)

Urban Affairs Committee

Rules Committee

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MY LEGISLATION HIGHLIGHTS ENACTED IN 2010

Reducing the Age of Majority

LB 226 opens the door so that eighteen year olds may contract for basic necessities such as medical care and housing in Nebraska. However, with that freedom and opportunity comes responsibility and liability under contract. This legislation minimizes the level of confusion for students and employees at the University of Nebraska when students need to acquire medical care and coverage. Now, students will be able to do so with parental designation through power of attorney. Under this legislation, eighteen year olds may contract for housing with the condition they have a job, steady income and a proper credit rating in order to be accepted under a contract. We have excluded state wards from this option as agreed upon per compromise with the Department of Health and Human Services.

This legislation originally began as a reduction in the age of majority from 19 to 18 to put Nebraska in line with our surrounding states. However, there was a concern that some of these 18 year olds would lose state services in the transition. With the legislation in its current amended form, I made certain that no 18 year old needing these services will fall through the cracks. I worked on a compromise with Boys Town and various child advocacy groups to ensure we will not be affecting these services. As such, LB 226 is the end result of compromise and compassion, thereby giving 18 year olds the ability to contract for medical care and housing under the circumstances that necessitate it but at the same time retain the availability of crucial state services.

LB 226 passed with 46 votes on Final Reading.

Stopping Minors from Underage Drinking

LB 261 assists law enforcement and protects retailers through additional safeguards in order to prevent the sale of alcohol to minors as well as to protect confidentiality and prevent identity theft. It gives retailers the option to use equipment to scan the bar code on the back of an operator's license when alcohol, tobacco or lottery tickets are purchased and temporarily store the driver's license number and the age of the card holder. This type of scan will identify minors who attempt to purchase alcohol and tobacco products and assist retailers in keeping those products out of the hands of minors in Nebraska. This kind of check is more secure and safer to use than a Black Book that retailers use to log a person's name and information when purchasing alcohol.

Under LB 261, retailers are able to implement software that will control the sale of age sensitive products by immediately stopping the sale if a fake ID is used or if the purchaser is underage, thereby curtailing the consequences of a minor drinking or in possession of alcohol.

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Signage will be posted at the point of sale on a plastic plaquard permanently attached to the register informing consumers that when these products are purchased, the operator license will be scanned and the information on age and the operator license number will be stored. The posted signage will prevent adults from purchasing alcohol for minors, since they will know that after having seen the sign, and under an investigation resulting from an accident or crime under the evidence of a receipt and the license number having been stored with the retailer, the information could be retrieved for legitimate and lawful investigation purposes.

This bill does not make the scanning equipment mandatory for retailers. However, when used it will hold adults accountable for their actions and curb underage drinking. Retailers have absolutely no access to the encrypted data obtained from the scanner and it can only be retrieved by law enforcement through the means of a software programmer. This bill helps protect our retailers and minors from the tragedies associated with alcohol or drinking and driving in Nebraska.

LB 261 passed with 34 votes on Final Reading.

Fighting White Collar and Small Organized Crime

LB 809 is a bill brought into fruition through partnership with the Nebraska Attorney General. This legislation extends the statute of limitations for Medicaid fraud and gives the Attorney General's office more time to investigate and prosecute this crime.

This legislation lengthens the statute of limitations in felony Medicaid fraud cases from three to five years. The reason for this bill is simple. As Medicaid crimes become more sophisticated, they take longer to investigate. Medicaid fraud cases are often complex schemes that are not learned about until they are well underway or concluded. It takes a significant amount of time and resources to investigate false Medicaid claims and without a longer statute of limitations, many criminals avoid prosecution. This bill gives law enforcement more time to complete their investigations.

LB 809 passed with 47 votes on Final Reading.

I have worked extensively with the Attorney General over the past two years to pass legislation fighting crime in Nebraska. This includes LB 781 in 2008 and LB 155 in 2009. LB 781 is a consumer protection bill that protects the elderly, small businesses and unsuspecting citizens from fake cashier's checks and fake billing invoices. For example, many small businesses were being sent fake billing invoices that when paid or a \$2 cashier's check that when cashed would tie them into hundreds of dollars in advertising costs. These agreements were made under false pretenses and these schemes took advantage of small businesses and unsuspecting citizens in Nebraska. I took care of that with LB 781.

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This legislation was supported by the American Association of Retired Persons and ensures that these schemes are a crime under the Uniform Deceptive Trade Practices Act.



In 2009, I introduced LB 155 to resolve a problem in my district. In my district, at least one gas station owner used the bait and switch tactic and sold ethanol-blend gasoline to customers at the higher unleaded price. People pumped and purchased what they believed to be unleaded gas, but were really pumping and paying a higher price for the lower-priced ethanol blend. The gas station owner received small penalties even under many multiple offenses. This piece of legislation amends the theft grading statute to allow the aggregation of multiple victims' losses from one scheme thereby raising the applicable level of punishment.

LB 155 protects the public from three criminal threats: organized crime, widespread theft schemes and identity theft. It makes it illegal to use funds from racketeering activities in the operation of any legal or illegal enterprise and addresses traditional organized activities such as loan sharking and strong arm protection. The federal government and a majority of states have some form of Racketeering and Corrupt Organization statutes to address organized criminal enterprises. We have put Nebraska in line with the other states and the federal law.

In cooperation with the Attorney General, I will continue my mission in protecting our public and the citizens of Nebraska from scam artists and corruption from small organized crime.

Lending a Helping Hand to Farm Wineries and Agri-Tourism Businesses

LB 926 makes it possible for our farm wineries to post tourist-oriented directional signs on our Nebraska Highways in order to advertise and promote the industry. This encourages our youth to remain in the state, attracts visitors and gathers travel and tourism dollars for Nebraska. It enhances the quality of life

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by offering more cultural venues for urban and rural areas as well as contributing to the economic growth factor and the retention of young citizens in our state. This contributes to the retention of a healthy population growth in Nebraska, which in turn contributes to our economic growth.

The quality of life for residents and the retention of our young citizens should not be forgotten as we also weigh in the positive spending growth and earning power estimated by our wine growers in Nebraska. The Nebraska Wine and Grape Growers Association approached me with this idea and we worked together to provide assistance to the farm winery industry in the agricultural community and to promote travel and tourism.

This legislation became chosen as a bill priority by the Speaker of the Legislature, Senator Mike Flood from Norfolk, District 19.

LB 926 passed with 47 votes on Final Reading.

Providing Opportunities for Cattle Producers and Federal Compliance

LB 882 benefits the citizens and producers in our agricultural community by providing a means to transport dead livestock to an appropriate rendering facility in Nebraska. This bill provides necessary compliance with federal regulations.

In April of 2009, the U.S. Food and Drug Administration (FDA) revised the portion of their rules that deal with rendering of dead cattle that has resulted in a serious dilemma for beef producers in Nebraska. Specifically, FDA's new rules require the brain and spinal cord, technically referred to as Specific Risk Material or SRMs, in cattle 30 months of age or older be removed prior to rendering.

Those plants who do pick up cattle 30 months of age and older do not service the entire geography of Nebraska. There are thousands of cattle producers, primarily cow/calf operations, who do not have access to rendering, and therefore, have no lawful way of properly disposing of these mortalities. This law provides the necessary opportunity to comply with federal standards.

This legislation became chosen as a bill priority by the Speaker of the Legislature, Senator Mike Flood from Norfolk, District 19.

LB 882 passed with 48 votes on Final Reading.

Saving Dollars on Duplicate Permits for Handguns and Eliminating Red Tape

LB 817 eliminates unnecessary and cumbersome red tape for citizens who want to purchase a handgun when they already carry a permit for a concealed carry weapon. It allows firearms dealers in Nebraska to accept a valid State of Nebraska Concealed Handgun Permit in lieu of a Firearm Purchase Certificate for

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the purchase of a handgun. The background check for the Concealed Handgun Permit is more extensive than the background for the Firearm Purchase Certificate. It would free Concealed Handgun Permit holders of the current burden of applying and paying the cost for what is essentially a duplicative permit. It eliminates a duplication cost for the citizen, saves the sheriff's office money for the duplicate process and ensures a proper background check. LB 817 is highly praised by the National Rifle Association, who asked Senator Rogert to speak about it live on their National Sirius Radio Channel.

This legislation became chosen as a bill priority by Senator Tony Fulton from Lincoln, District 29.

LB 817 passed with 43 votes on Final Reading.

Enhancing Fireworks Safety with National Standards and Generating Industry Revenue

LB 880 assists our retail businesses in the fireworks industry by expanding the range of products that can be sold in Nebraska. At the same time, it eliminates duplication costs to the state through testing with the State Fire Marshal and ensures a higher level of safety through national testing standards. The expanded sales will bring increased revenue to the state and the more logical list will allow the State Fire Marshal to focus on enforcing the new requirements. This legislation gives retailers a broad range of items to sell in order to generate more sales and tax revenue while maintaining a high level of public safety for Nebraska citizens. This legislation was brought to me by the State Fire Marshal and by representatives in the fireworks retail industry.

An attorney in Bellevue representing a large scale Fireworks company noted in a letter of support that, "It is not often that a law can be produced that is a win-win for both the industry and regulators, but this bill does."

I'm proud to say that after many hours of hard work, drafting and compromise, this legislation is a benefit to both the fireworks retail industry in Nebraska and the State Fire Marshal.

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Speaker Mike Flood, from Norfolk, chose this legislation to be one of his priority bills.

LB 880 passed this session with 48 votes on Final Reading.

Protecting Small Farmers from Unnecessary Litigation

LB 829 is a bill that protects our small farmers from unnecessary workers compensation claims, collection and lawsuits. It clarifies that the employer would only be liable for an action based solely on the employee or employees that were not given a workers compensation notice as is required under current law. The employer would still be held liable if a notice was not provided before 30 days prior to an injury on the job but only for the specific employee or employees to whom the employer did not provide the required notice.

This legislation became chosen as a bill designated for consent calendar by the Chairperson of Business and Labor Committee, Senator Steve Lathrop from Omaha, District 12 and the Speaker of the Legislature Mike Flood from Norfolk, District 19.

LB 829 passes this session with 44 votes on Final Reading.

Restoring the Horseracing Industry in Nebraska

LB 1012 is legislation that I introduced this session and after having been approved by the General Affairs Committee it was amended into LB 861 with virtually no opposition. LB 1012 expands the three member Horseracing Commission to five members and it allows the commissioners to participate in the industry they are passionate about, as well as extend the three year term to four years. There is also a

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provision that permits the members to remove themselves from a vote on an issue if there is a conflict of interest.

This legislation was brought to me by a constituent on the Horseracing Commission and we worked hard together to ensure its passage in the Legislature this session. It ensures that the Horseracing Commission in Nebraska remains competitive and on the same par with other states. It also enhances the quality of the commission in terms of knowledge, expertise and understanding of the industry.

LB 861, which included the amended provisions in LB 1012, became prioritized by the General Affairs Committee and passed on the floor of the Legislature this session.

LEGISLATION HIGHLIGHTS ENACTED IN 2010

Entrusting Parents and Kindergarten Eligibility

LB 1006 is a bill that changes the kindergarten eligibility date from October 15th to July 31st.

In 2008, I passed an amendment to LB 1153, an education bill sponsored by Senator Raikes that gave us a grace period for those children who had reached the age of five on or before October 15th to not have to attend kindergarten that current school year. In other words, it gave parents the option to hold their children back from kindergarten and retain them in preschool. We offered a two year grace period until we could establish a permanent solution in the Legislature.

These parents felt strongly that their children were not ready to start kindergarten at the age of four or the very early age of five. They felt it would affect their aptitude in testing, their confidence level and social development during later years in school.

My constituents have been heard with very careful consideration and appreciation. I have worked with Senator Adams, Chairman of the Education Committee, to formulate a bill that has passed this session. LB 1006 changes the kindergarten eligibility date from October 15th to July 31st. It also establishes August 1st as a date for a parent or guardian request depending on conditions that may require special consideration.

This goes into effect for the school year 2012-2013. In addition, LB 1006 establishes that on or before January 1st, 2012 each school board must create and update an assessment procedure that determines if a child is capable of carrying out the work in kindergarten.

I am proud of this cumulative work and applaud our Education Committee and the Legislature for listening to our constituencies in Nebraska and working with me to find a solution to this growing concern in my district.

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OTHER LEGISLATION ENACTED IN 2010

Expanding the Deer Hunting Season

LB 836 is a bill introduced by Senator Lautenbaugh from Omaha, District 18 that permits the extension of the deer hunting season for specific deer species and bag limits as may be authorized by the secretary of the state Game and Parks Commission. Previously restricted to firearms, now any weapon may be used while hunting during the regular deer season. The secretary may also issue free permits to owners of areas specified by the commission to engage in antlerless deer hunting during the deer depredation season. However, no rifle shall be used within 200 feet of a home or livestock feedlot. No trapping shall be used within 100 feet of a home or livestock feedlot. This bill takes into consideration the overpopulation of deer in Nebraska and the resulting damage made to crops and motor vehicles as a result of it.

LB 747 is a bill introduced by Senator Louden from Ellsworth, District 49 that allows a landowner to kill without prior notice any mountain lion found stalking, killing and consuming livestock on the property or attacking a person. Additionally, a landowner may apply for a 30 day permit to kill mountain lions stalking and preying on their livestock. This bill, simple in concept and form, was adopted into LB 836.

Adopting the Livestock Welfare Act

LB 865 introduced by Senator Fischer from Valentine, District 43 separates the prohibitions on animal cruelty for livestock by inserting the Livestock Welfare Act into Chapter 54. That being said, clarifications were made to the current animal cruelty statutes to exclude livestock from applicability. The prohibitions for animal cruelty to livestock in Chapter 54 are similar to those that apply otherwise, however certain provisions are made that apply only to livestock as may be appropriate.

Taking a Look at the Corn Excise Tax

LB 689 is a bill introduced by Senator Langemeier from Schuyler, District 23 enacting that corn producers will not be subject to a .6 cent per bushel check off on corn and grain sorghum, originally scheduled for October 1st, 2012 to October 1st, 2019. During this period, these funds would have been deposited into the Ethanol Production Incentive Cash Fund that would have been transferred to the Water Resources Cash Fund on December 31st, 2012. Instead, the funds will be divided between the Nebraska Corn and Grain Sorghum Development, Utilization and Marketing Fund and the Ethanol Production Incentive Cash Fund. After the division, those funds in the Ethanol Production Incentive Cash Fund will be transferred to the state General Fund.

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Utilizing Nebraska Wind for Renewable Energy Sources

LB 1048 is a bill introduced by the Natural Resources Committee that exempts wind turbines from a personal property tax and promotes renewable energy facilities in Nebraska that are owned by private entities to develop solar, wind, and biomass or landfill gas energy sources. It encourages private entities to set up these facilities here in Nebraska for the exportation of wind energy. A nameplate capacity tax will be issued on a per megawatt energy that is produced from the wind turbines. More importantly, the revenue accumulated where the wind turbines are located will be redirected to the local taxing entities.

Legalizing Mini trucks for Fuel Efficiency

LB 650 sponsored by Senator Christensen from Imperial, District 44 permits the use of mini trucks on Nebraska roads with the exception of the interstate, highways, expressways or freeways. Mini trucks are beneficial for farmers and small businesses because they are fuel efficient in an economy of high gas prices and prove useful for agricultural and transportation purposes. These vehicles must be titled, registered, licensed and insured. These vehicles will be recognized in most of the same ways as a motor vehicle. As such, those persons selling mini trucks must be licensed motor vehicle dealers. LB 650 passed as law in the Legislature this session.

MORE LEGISLATION ENACTED IN 2010

LB 1103 is the Abortion Pain Prevention Act sponsored by Speaker Flood from Norfolk, District 19. This legislation causes that abortions at or past 20 weeks of gestation be banned based upon medical evidence that purports to show a fetus can feel pain at this point in time. These abortions are prohibited with the exception that the life of the patient or the life of an additional fetus in the womb is at risk. This bill goes into effect on October 15th.

LB 594 is a bill introduced by Senator Dierks from Ewing, District 40 that makes it mandatory for a physician, psychiatrist, psychologist, mental health practitioner, physician assistant, registered nurse or social worker licensed under the Uniform Credentialing Act to evaluate the patient at least one hour prior to the abortion in order to identify physical, psychological and emotional risk factors that may be linked to the abortion. The providers will be held liable for civil remedies if this task is not performed.

This legislation passed this session on a 40-9 vote.

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LEGISLATION NOT ENACTED IN 2010

Developing Improvement Districts for the Community

LB 381 is a bill that I introduced that would have created Community Improvement Districts and Transportation Development Districts. These districts would have used a special assessment, real property tax or sales tax to fund for development projects within special designated areas for improvements such as parks, lakes, shopping malls, streetscape and lighting or security services, tourism promotion, arenas, convention centers and trash collection services for community development. It would have also funded bridges, streets, roads, parking lots, garages, light rail airports, river ports or other mass transit improvements for transportation development within the community.

We intended this legislation to serve as another economic development tool for Nebraska in order to enhance the quality of life and boost the economy in rural areas and downtown urban areas. In light of timing and budgetary constraints, we amended the bill to eliminate the property tax portion and the transportation and development district portion. The bill in its original form has been re-referred to the Revenue Committee for additional considerations and has not been advanced as of yet.

MY INTERIM STUDIES OF INTEREST 2010

Creating Jobs with a Nuclear Power Plant

LR 465 is an interim study I have proposed for this fall.

The purpose of this study is to research the benefits with constructing another nuclear power plant in Fort Calhoun, Nebraska. The current Fort Calhoun Station is a nuclear power plant owned and operated by the Omaha Public Power District and is located on the west bank of the Missouri River about 19 miles north of Omaha.

Nuclear power is consistent, available, environmentally clean, safe and cost effective. It does not produce harmful carbon dioxide emissions nor does it deplete our natural resources. Nuclear power has a long production life and the power that is produced has the potential for reprocessing as is done in France , Japan and Russia.

In February 2010, the federal loan guarantees under the administration of Barack Obama will fund the construction of two nuclear reactors and open up immediate opportunities to construct nuclear power plants all over the nation, thereby reducing green house gases associated with global warming and at the same time, revitalize our economy through the creation of jobs during the construction and operation of nuclear power plants.

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It is my plan to pursue and research the construction of another nuclear power plant in Fort Calhoun in order to create jobs and boost our economy in the district and in Nebraska.

Protecting Newborns with Congenital Heart Disease

LR 515 is an interim study I have proposed for this fall.

The purpose of this study is to examine the benefits associated with a procedure called pulse oximetry on newborns that may provide early detection and diagnosis for congenital heart disease.

Pulse oximetry is a procedure that is quick, inexpensive and non-invasive. It may detect congenital heart disease in newborns in the event the defects elude a prenatal ultrasound performed at 18 to 20 weeks gestation or a physical examination within the first 24 hours of birth. In addition, researchers may have found that half of serious congenital heart defects may be missed during routine examinations after birth.

Congenital heart defects may occur in approximately one of every one hundred ten births and are noted to be the leading cause of newborn and infant deaths. If congenital heart disease is not detected early in the newborn, the death rate is high. Pulse oximetry is a noninvasive test which may detect three-fourths of critical congenital heart defects. For these reasons, it is important to conduct a study that examines the benefits associated with pulse oximetry.

I introduced legislation on behalf of a constituent with first hand personal experience on the tragedies associated with newborn congenital heart disease. I feel tremendous gratitude to research this issue on her behalf and I hope to explore the benefits of pulse oximetry in greater depth in order to create awareness and to pass similar legislation when we find ourselves in a more positive budgetary environment.