

FOURTEENTH DAY - JANUARY 25, 2011**LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION****FOURTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, January 25, 2011

PRAYER

The prayer was offered by Father Brendan Kelly, Blessed Sacrament Church, Lincoln.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Gloor presiding.

The roll was called and all members were present except Senators Cornett and Smith who were excused; and Senators Cook, Lautenbaugh, and Pankonin who were excused until they arrive.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

LB/LR	Committee
LB195	Redistricting (rereferred)
LB233	Redistricting (rereferred)

Reel, Jill - Foster Care Review Board - Health and Human Services

(Signed) John Wightman, Chairperson
Executive Board

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL	1.	Placed on Final Reading.
LEGISLATIVE BILL	2.	Placed on Final Reading.
LEGISLATIVE BILL	3.	Placed on Final Reading.
LEGISLATIVE BILL	4.	Placed on Final Reading.
LEGISLATIVE BILL	5.	Placed on Final Reading.
LEGISLATIVE BILL	6.	Placed on Final Reading.
LEGISLATIVE BILL	7.	Placed on Final Reading.

LEGISLATIVE BILL 8. Placed on Final Reading.
LEGISLATIVE BILL 9. Placed on Final Reading.
LEGISLATIVE BILL 10. Placed on Final Reading.
LEGISLATIVE BILL 11. Placed on Final Reading.

(Signed) Tyson Larson, Chairperson

NOTICE OF COMMITTEE HEARINGS
 Banking, Commerce and Insurance

Room 1507

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

LB410
 LB268
 LB196
 LB43
 LB44
 LB90

(Signed) Rich Pahls, Chairperson

Judiciary

Room 1113

Wednesday, February 2, 2011 1:30 p.m.

LB231
 LB275
 LB133
 LB191
 LB137

(Signed) Brad Ashford, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 60. Introduced by Utter, 33.

WHEREAS, Daniel Eddy has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, Daniel

has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. For his Eagle Scout community service project, Daniel completed a landscaping project at St. Michael's Catholic Church in Hastings, Nebraska; and

WHEREAS, only five percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Daniel, through his hard work and perseverance, has joined other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientists, and athletes.

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

1. That the Legislature congratulates Daniel Eddy on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Daniel Eddy.

Laid over.

MOTIONS - Approve Appointments

Senator Langemeier moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 325:

Nebraska Power Review Board
Mark Graham

Voting in the affirmative, 33:

Adams	Conrad	Heidemann	Louden	Price
Avery	Dubas	Howard	McCoy	Schilz
Bloomfield	Fischer	Karpisek	McGill	Utter
Brasch	Fulton	Krist	Mello	Wallman
Campbell	Gloor	Langemeier	Nelson	Wightman
Carlson	Haar, K.	Larson	Nordquist	
Christensen	Hansen	Lathrop	Pirsch	

Voting in the negative, 0.

Present and not voting, 9:

Ashford	Council	Hadley	Janssen	Schumacher
Coash	Flood	Harr, B.	Pahls	

Excused and not voting, 7:

Cook	Harms	Pankonin	Sullivan
Cornett	Lautenbaugh	Smith	

The appointment was confirmed with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

Senator Langemeier moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 326:

Nebraska Natural Resources Commission
Thomas Knutson

Voting in the affirmative, 34:

Adams	Fischer	Howard	Louden	Pirsch
Bloomfield	Flood	Karpisek	McCoy	Price
Brasch	Fulton	Krist	McGill	Schilz
Carlson	Gloor	Langemeier	Mello	Schumacher
Christensen	Haar, K.	Larson	Nelson	Utter
Conrad	Harr, B.	Lathrop	Nordquist	Wallman
Dubas	Heidemann	Lautenbaugh	Pahls	

Voting in the negative, 0.

Present and not voting, 9:

Ashford	Campbell	Council	Hansen	Wightman
Avery	Coash	Hadley	Janssen	

Excused and not voting, 6:

Cook	Harms	Smith
Cornett	Pankonin	Sullivan

The appointment was confirmed with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

MOTION - Withdraw LB285

Senator Krist renewed his motion, MO2, found on page 341, to withdraw LB285.

The Krist motion to withdraw the bill prevailed with 40 ayes, 0 nays, 3 present and not voting, and 6 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 170. Senator Langemeier renewed his amendment, FA2, found on page 343.

The Langemeier amendment was adopted with 38 ayes, 0 nays, 5 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 19. Title read. Considered.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 5 present and not voting, and 3 excused and not voting.

CONFLICT OF INTEREST STATEMENT

Pursuant to Rule 1, Sec. 19, Senator Mello has filed a Potential Conflict of Interest Statement under the Nebraska Political Accountability and Disclosure Act. The statement is on file in the Clerk of the Legislature's Office.

COMMITTEE REPORTS
Nebraska Retirement Systems

The Nebraska Retirement Systems 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.

John Maginn - Nebraska Investment Council

Aye: 6 Senators Heidemann, Karpisek, Loudon, Mello, Nordquist, Pankonin. Nay: 0. Absent: 0. Present and not voting: 0.

The Nebraska Retirement Systems 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.

Randall Rehmeier - Public Employees Retirement Board
Richard Wassinger - Public Employees Retirement Board

Aye: 6 Senators Heidemann, Karpisek, Loudon, Mello, Nordquist, Pankonin. Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Jeremy Nordquist, Chairperson

NOTICE OF COMMITTEE HEARINGS

Urban Affairs

Room 1510

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

LB438

LB471

(Signed) Amanda McGill, Chairperson

Natural Resources

Room 1525

Wednesday, February 2, 2011 1:30 p.m.

LB243

LR51CA

Thursday, February 3, 2011 1:30 p.m.

LB529

LB563

LB621

Friday, February 4, 2011 1:30 p.m.

LB105

LB549

LB697

(Signed) Chris Langemeier, Chairperson

Health and Human Services

Room 1510

Thursday, February 3, 2011 1:30 p.m.

LB507

LB465

LB467

LB468

Friday, February 4, 2011 1:30 p.m.

LB431

LB574

LB466

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

LB662

LB539

LB540

LB541

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

LB125

LB267

LB663

LB543

Wednesday, February 16, 2011 1:30 p.m.

LB199

LB650

LB651

LB177

Thursday, February 17, 2011 1:30 p.m.

LB494

LB696

LB607

Wednesday, February 23, 2011 1:30 p.m.

LB525

LB456

LB602

Thursday, February 24, 2011 1:30 p.m.

LB304

LB413

LB542

LB591

Friday, February 25, 2011 1:30 p.m.

LB686

LB687

Wednesday, March 2, 2011 1:30 p.m.

LB265

LB646

LB600

LB601

Thursday, March 3, 2011 1:30 p.m.

LB316

LB534

LB557

LB581

Friday, March 4, 2011 1:30 p.m.

LB630

LB330

LB406

LB481

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

LB219

LR21

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

LB140

LB166

LB221

Wednesday, March 16, 2011 1:30 p.m.

LR23

LB237

LB599

LB433

(Signed) Kathy Campbell, Chairperson

COMMITTEE REPORTS

Natural Resources

LEGISLATIVE BILL 28. Placed on General File.

LEGISLATIVE BILL 29. Placed on General File.

LEGISLATIVE BILL 30. Placed on General File.

(Signed) Chris Langemeier, Chairperson

Judiciary

LEGISLATIVE BILL 20. Placed on General File with amendment.
AM64

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 28-101, Revised Statutes Cumulative
- 4 Supplement, 2010, is amended to read:
- 5 28-101 Sections 28-101 to 28-1356 and sections 3 to 7 of
- 6 this act shall be known and may be cited as the Nebraska Criminal
- 7 Code.
- 8 Sec. 2. Section 28-401.01, Reissue Revised Statutes of
- 9 Nebraska, is amended to read:
- 10 28-401.01 Sections 28-401 to 28-456.01 and sections 3 to
- 11 7 of this act shall be known and may be cited as the Uniform
- 12 Controlled Substances Act.
- 13 Sec. 3. For purposes of sections 3 to 7 of this act:
- 14 (1) Exchange means the National Precursor Log Exchange
- 15 administered by the National Association of Drug Diversion
- 16 Investigators;
- 17 (2) Methamphetamine precursor means any drug product
- 18 containing ephedrine, pseudoephedrine, or phenylpropanolamine that
- 19 is required to be documented pursuant to the logbook requirements
- 20 of 21 U.S.C. 830;
- 21 (3) Seller means any person who lawfully sells a
- 22 methamphetamine precursor pursuant to subdivision (1)(d) of section
- 23 28-456 or his or her employer; and
- 1 (4) Stop-sale alert means a notification sent to a seller
- 2 indicating that the completion of a methamphetamine precursor sale
- 3 would result in a violation of subdivision (1)(d)(i) or (ii) of
- 4 section 28-456.
- 5 Sec. 4. (1) Beginning January 1, 2012, each seller
- 6 shall, before completing a sale of a methamphetamine precursor,
- 7 electronically submit required information to the exchange, if
- 8 the exchange is available to sellers. Required information shall
- 9 include, but not be limited to:
- 10 (a) The name, age, and address of the person purchasing,
- 11 receiving, or otherwise acquiring the methamphetamine precursor;
- 12 (b) The name of the product and quantity of product
- 13 purchased;

14 (c) The date and time of the purchase;
15 (d) The name or initials of the seller who sold the
16 product; and
17 (e) The type of identification presented by the customer,
18 the governmental entity that issued the identification, and the
19 number on the identification.

20 (2) If a seller experiences mechanical or electronic
21 failure of the electronic logging equipment on the sales end of the
22 transaction or a failure of the exchange and is unable to comply
23 with subsection (1) of this section, the seller shall maintain a
24 written log or an alternative electronic recordkeeping mechanism or
25 may refrain from selling any methamphetamine precursor until such
26 time as the seller is able to comply with subsection (1) of this
27 section.

1 (3) The Attorney General may grant a waiver exempting a
2 seller from compliance with subsection (1) of this section upon a
3 showing of good cause by the seller that he or she is otherwise
4 unable to submit log information by electronic means, including,
5 but not limited to, any financial, technological, or other reason
6 which would place an undue burden on the seller, as established by
7 the Attorney General.

8 (4) Whenever the exchange generates a stop-sale alert,
9 the seller shall not complete the sale unless the seller has a
10 reasonable fear of imminent bodily harm if he or she does not
11 complete the sale. The exchange shall contain an override function
12 to the stop-sale alert for the seller to use in a situation in
13 which a reasonable fear of imminent bodily harm is present.

14 (5) This section does not apply if a lawful prescription
15 for the methamphetamine precursor is presented to a pharmacist
16 licensed under the Uniform Credentialing Act.

17 Sec. 5. As a condition of use in Nebraska, the National
18 Association of Drug Diversion Investigators shall provide real-time
19 access to the exchange through its online portal to law enforcement
20 in this state as authorized by the Attorney General and no fee or
21 charge shall be imposed on a seller for the use of the exchange.

22 Sec. 6. No claim or cause of action shall arise against
23 a seller solely based upon the electronic submission of information
24 to the exchange as required by sections 3 to 7 of this act.

25 Sec. 7. Beginning January 1, 2013, a seller that
26 knowingly fails to submit methamphetamine precursor information
27 to the exchange as required by sections 3 to 7 of this act or
1 knowingly submits incorrect information to the exchange shall be
2 guilty of a Class IV misdemeanor.

3 Sec. 8. Section 60-4,111.01, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 60-4,111.01 (1) The Department of Motor Vehicles,
6 the courts, or law enforcement agencies may store or compile
7 information acquired from an operator's license or a state
8 identification card for their statutorily authorized purposes.

9 (2) Except as otherwise provided in subsection (3) or
10 (4) of this section, no person having use of or access to
11 machine-readable information encoded on an operator's license or a
12 state identification card shall compile, store, preserve, trade,
13 sell, or share such information. Any person who trades, sells, or
14 shares such information shall be guilty of a Class IV felony. Any
15 person who compiles, stores, or preserves such information except
16 as authorized in subsection (3) or (4) of this section shall be
17 guilty of a Class IV felony.

18 (3)(a) For purposes of compliance with and enforcement
19 of restrictions on the purchase of alcohol, lottery tickets, and
20 tobacco products, a retailer who sells any of such items pursuant
21 to a license issued or a contract under the applicable statutory
22 provision may scan machine-readable information encoded on an
23 operator's license or a state identification card presented for the
24 purpose of such a sale. The retailer may store only the following
25 information obtained from the license or card: Age and license or
26 card identification number. The retailer shall post a sign at the
27 point of sale of any of such items stating that the license or
1 card will be scanned and that the age and identification number
2 will be stored. The stored information may only be used by a law
3 enforcement agency for purposes of enforcement of the restrictions
4 on the purchase of alcohol, lottery tickets, and tobacco products
5 and may not be shared with any other person or entity.

6 (b) For purposes of compliance with the provisions of
7 sections 3 to 7 of this act, a seller who sells methamphetamine
8 precursors pursuant to such sections may scan machine-readable
9 information encoded on an operator's license or a state
10 identification card presented for the purpose of such a sale.
11 The seller may store only the following information obtained from
12 the license or card: Name, age, address, type of identification
13 presented by the customer, the governmental entity that issued the
14 identification, and the number on the identification. The seller
15 shall post a sign at the point of sale stating that the license
16 or card will be scanned and stating what information will be
17 stored. The stored information may only be used by law enforcement
18 agencies, regulatory agencies, and the exchange for purposes
19 of enforcement of the restrictions on the sale or purchase of
20 methamphetamine precursors pursuant to sections 3 to 7 of this act
21 and may not be shared with any other person or entity. For purposes
22 of this subdivision, the terms exchange, methamphetamine precursor,
23 and seller have the same meanings as in section 3 of this act.

24 (c) The retailer or seller shall utilize software
25 that stores only the information allowed by this subsection. A
26 programmer for computer software designed to store such information
27 shall certify to the retailer that the software stores only the
1 information allowed by this subsection. Intentional or grossly
2 negligent programming by the programmer which allows for the

3 storage of more than the age and identification number or
4 wrongfully certifying the software shall be a Class IV felony.

5 (d) A retailer ~~or seller~~ who knowingly stores more
6 information than ~~the age and identification number authorized under~~
7 this subsection from the operator's license or state identification
8 card shall be guilty of a Class IV felony.

9 ~~(b)-(e)~~ Information scanned, compiled, stored, or
10 preserved pursuant to subdivision (a) of this subsection may not
11 be retained longer than eighteen months unless required by state
12 or federal law.

13 (4) In order to approve a negotiable instrument, an
14 electronic funds transfer, or a similar method of payment, a person
15 having use of or access to machine-readable information encoded on
16 an operator's license or a state identification card may:

17 (a) Scan, compile, store, or preserve such information
18 in order to provide the information to a check services company
19 subject to and in compliance with the federal Fair Credit Reporting
20 Act, 15 U.S.C. 1681, as such act existed on January 1, 2010, for
21 the purpose of effecting, administering, or enforcing a transaction
22 requested by the holder of the license or card or preventing fraud
23 or other criminal activity; or

24 (b) Scan and store such information only as necessary to
25 protect against or prevent actual or potential fraud, unauthorized
26 transactions, claims, or other liability or to resolve a dispute or
27 inquiry by the holder of the license or card.

1 (5) Except as provided in subdivision (4)(a) of this
2 section, information scanned, compiled, stored, or preserved
3 pursuant to this section may not be traded or sold to or shared
4 with a third party; used for any marketing or sales purpose by any
5 person, including the retailer who obtained the information; or,
6 unless pursuant to a court order, reported to or shared with any
7 third party. A person who violates this subsection shall be guilty
8 of a Class IV felony.

9 Sec. 9. This act becomes operative on January 1, 2012.

10 Sec. 10. Original sections 28-401.01 and 60-4,111.01,
11 Reissue Revised Statutes of Nebraska, and section 28-101, Revised
12 Statutes Cumulative Supplement, 2010, are repealed.

(Signed) Brad Ashford, Chairperson

Health and Human Services

LEGISLATIVE BILL 46. Placed on General File.

LEGISLATIVE BILL 68. Placed on General File.

LEGISLATIVE BILL 111. Placed on General File with amendment.
AM98

- 1 1. On page 2, line 16, after the second "a" insert
- 2 "licensed"; and in line 17 after "worker" insert "or a licensed
- 3 independent clinical social worker".

(Signed) Kathy Campbell, Chairperson

GENERAL FILE

LEGISLATIVE BILL 122. Title read. Considered.

Senator Harms moved for a call of the house. The motion prevailed with 33 ayes, 0 nays, and 16 not voting.

Senator Harms requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 35:

Adams	Christensen	Haar, K.	Larson	Price
Ashford	Coash	Hansen	Louden	Schilz
Avery	Conrad	Harms	McCoy	Schumacher
Bloomfield	Council	Harr, B.	Mello	Sullivan
Brasch	Flood	Heidemann	Pahls	Utter
Campbell	Fulton	Howard	Pankonin	Wallman
Carlson	Gloor	Langemeier	Pirsch	Wightman

Voting in the negative, 2:

Karpisek Lautenbaugh

Present and not voting, 9:

Dubas	Hadley	Krist	McGill	Nordquist
Fischer	Janssen	Lathrop	Nelson	

Excused and not voting, 3:

Cook Cornett Smith

Advanced to Enrollment and Review Initial with 35 ayes, 2 nays, 9 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

SPEAKER FLOOD PRESIDING

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 24, 25, 26, 27, 31, 32, 33, 34, 35, and 36 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 24, 25, 26, 27, 31, 32, 33, 34, 35, and 36.

COMMITTEE REPORT

Health and Human Services

The Health and Human Services 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.

Rebecca Brown - Nebraska Child Abuse Prevention Fund Board

Brandon Verzal - Nebraska Child Abuse Prevention Fund Board

Aye: 6 Senators Bloomfield, Campbell, Gloor, Howard, Krist, Wallman.

Nay: 0. Absent: 1 Senator Cook. Present and not voting: 0.

(Signed) Kathy Campbell, Chairperson

UNANIMOUS CONSENT - Add Cointroducers

Senator Howard asked unanimous consent to add her name as cointroducer to LB552. No objections. So ordered.

Senator Lautenbaugh asked unanimous consent to add his name as cointroducer to LB51. No objections. So ordered.

Senators Brasch, Carlson, Christensen, Fulton, Pirsch, and Schilz asked unanimous consent to add their names as cointroducers to LB51. No objections. So ordered.

Senator Schilz asked unanimous consent to add his name as cointroducer to LB608. No objections. So ordered.

VISITOR

The Doctor of the Day was Dr. Marlon Weiss from Lincoln.

ADJOURNMENT

At 11:44 a.m., on a motion by Senator Sullivan, the Legislature adjourned until 10:00 a.m., Wednesday, January 26, 2011.

Patrick J. O'Donnell
Clerk of the Legislature

