

**TWENTY-SECOND DAY - FEBRUARY 4, 2011****LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE  
FIRST SESSION****TWENTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, February 4, 2011

**PRAYER**

The prayer was offered by Pastor Lyle K. Schoen, First United Methodist Church, Falls City.

**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 Cook and Cornett who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-first day was approved.

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of February 3, 2011, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

Badeer, Debra A.

Christian Home Educators Association, Nebraska

Bromm, Curt

National Tobacco Company

Kissel Erickson and Sederstrom Associates, LLC

Golf Alliance, NE

Kutilek, William R.

Cooperative Council, Nebraska

Mueller Robak LLC

Ducks Unlimited, Great Plains

O'Hara, Lindsay and Associates, Inc.

Alter Trading Corporation  
 Peetz, Natalie, Peetz & Company  
 Omaha Tourism Coalition  
 Plucker, Julia  
 Fraternal Order of Police, Nebraska  
 Shrewsbury, Ann  
 Time Warner Cable

## REPORTS

The following reports were received by the Legislature:

### **Banking and Finance, Nebraska Department of**

Total Number of Applicants for Public Benefits and the Number of Applicants Rejected Pursuant to Such Sections

### **Coordinating Commission for Postsecondary Education**

2010 Biennial Report

### **Criminal Justice, Commission on Law Enforcement and**

Nebraska Crime Victim's Reparations Program Report FY 08/09 and FY 09/10

### **Economic Development, Department of**

Total Number of Applicants for Public Benefits and the Number of Applicants Rejected Pursuant to Such Sections

### **Energy Office, Nebraska**

Total Number of Applicants for Public Benefits and the Number of Applicants Rejected Pursuant to Such Sections

### **Fire Marshal, State**

Total Number of Applicants for Public Benefits and the Number of Applicants Rejected Pursuant to Such Sections

### **Health and Human Services, Department of**

Child Support Enforcement License Suspension Annual Report to the Legislature

Child Support Enforcement New Hire Annual Report to the Legislature

Child Support Enforcement State Disbursement Unit Annual Report to the Legislature

FY 2010 Annual Report, Disabled Persons and Family Support Program

### **Investment Finance Authority, Nebraska (NIFA)**

2009 Series A, B, C, D, E and F Community Development Loan Notes (City of Lincoln Program – 2009) as of December 31, 2010

2010 Series ABC Single Family Housing Revenue Bonds Notice

Single Family Housing Revenue Bonds Series 2010 ABC

### **Library Commission, Nebraska**

NCompass Biennial Report

### **Motor Vehicles, Department of**

Total Number of Applicants for Public Benefits and the Number of Applicants Rejected Pursuant to Such Sections

### **Public Service Commission, Nebraska**

Total Number of Applicants for Public Benefits and the Number of Applicants Rejected Pursuant to Such Sections

**Railway Council, Nebraska**

2010 Annual Report

**Real Estate Commission, Nebraska**

Total Number of Applicants for Public Benefits and the Number of Applicants Rejected Pursuant to Such Sections

**Revenue, Nebraska Department of**

Total Number of Applicants for Public Benefits and the Number of Applicants Rejected Pursuant to Such Sections

**State College System, Nebraska**

Total Number of Applicants for Public Benefits and the Number of Applicants Rejected Pursuant to Such Sections

**MOTION - Withdraw LB435**

Senator Pahls renewed his motion, MO7, found on page 436, to withdraw LB435.

The Pahls motion to withdraw the bill prevailed with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

**MOTION - Withdraw LB511**

Senator Christensen renewed his motion, MO9, found on page 441, to withdraw LB511.

The Christensen motion to withdraw the bill prevailed with 42 ayes, 0 nays, 5 present and not voting, and 2 excused and not voting.

**BILLS ON FINAL READING**

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 1.**

A BILL FOR AN ACT relating to the Republican River; to repeal a cost-share program that is no longer needed; and to outright repeal section 46-692, Reissue Revised Statutes of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Cook

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

## LEGISLATIVE BILL 2.

A BILL FOR AN ACT relating to irrigation; to amend sections 2-1579, 46-2,141, 46-753, 46-1117, 46-1125, and 66-1519, Reissue Revised Statutes of Nebraska; to eliminate obsolete statutes, the Water Policy Task Force, and the Water Policy Task Force Cash Fund; to harmonize provisions; to repeal the original sections; and to outright repeal sections 46-2,131, 46-2,132, 46-2,133, 46-2,134, 46-2,135, 46-2,136, 46-2,137, 46-2,138, 46-633, 46-634.01, and 46-1118, Reissue Revised Statutes of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Cook

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 3.**

A BILL FOR AN ACT relating to the Nebraska Construction Lien Act; to eliminate obsolete provisions relating to the enforcement of certain liens; and to outright repeal section 52-158, Reissue Revised Statutes of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

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

Voting in the negative, 0.

Present and not voting, 1:

Bloomfield

Excused and not voting, 1:

Cook

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 4.**

A BILL FOR AN ACT relating to the Small Business Development Authority; to eliminate obsolete provisions relating to the authority and a repealed fund; and to outright repeal section 58-326, Reissue Revised Statutes of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure

having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Cook

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### ANNOUNCEMENT

The Chair announced February 6 is Senator Wallman's birthday.

### BILLS ON FINAL READING

The following bills were read and put upon final passage:

#### LEGISLATIVE BILL 5.

A BILL FOR AN ACT relating to the Research and Development Authority; to eliminate obsolete provisions; and to outright repeal section 58-443, Reissue Revised Statutes of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Cook

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 6.**

A BILL FOR AN ACT relating to the Judges Retirement Act; to amend section 24-701, Reissue Revised Statutes of Nebraska; to eliminate obsolete language relating to acting judges of the county court; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Cook

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 7.**

A BILL FOR AN ACT relating to the Nebraska Workers' Compensation Court; to repeal a transitional provision relating to Laws 1992, LB360; and to outright repeal section 48-181, Reissue Revised Statutes of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Cook

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 8.**

A BILL FOR AN ACT relating to schools; to amend section 79-413, Reissue Revised Statutes of Nebraska, and section 79-1008.01, Revised Statutes Cumulative Supplement, 2010; to repeal a provision governing incentive payments to school districts that were to be made prior to July 1, 2004; to harmonize provisions; to repeal the original sections; and to outright repeal section 79-1010, Reissue Revised Statutes of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 48:



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

Voting in the negative, 0.

Excused and not voting, 1:

Cook

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 9.**

A BILL FOR AN ACT relating to civil procedure; to amend section 25-212, Reissue Revised Statutes of Nebraska; to change an erroneous reference to previous sections rather than the entire chapter; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Cook

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 10.**

A BILL FOR AN ACT relating to the Nebraska Retirement Systems Committee; to amend section 50-417, Reissue Revised Statutes of Nebraska; to clarify the reference to committee; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Cook

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 11.**

A BILL FOR AN ACT relating to the Employment Security Law; to amend section 48-631, Reissue Revised Statutes of Nebraska; to correct a recodification internal reference error from 1943; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Cook

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB18 with 46 ayes, 0 nays, 2 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 18.** With Emergency Clause.

A BILL FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend section 79-1022.02, Reissue Revised Statutes of Nebraska, and sections 79-1001, 79-1003, 79-1007.07, 79-1007.09, 79-1008.01, 79-1022, 79-1023, 79-1026.01, 79-1027, 79-1028.02, and 79-1031.01, Revised Statutes Cumulative Supplement, 2010; to redefine terms; to provide for distribution of allocations from the federal Education Jobs Fund as prescribed; to change provisions relating to certifications; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Cook

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bills were read and put upon final passage:

#### **LEGISLATIVE BILL 67.**

A BILL FOR AN ACT relating to occupant protection systems; to amend sections 60-6,267 and 60-6,268, Reissue Revised Statutes of Nebraska; to clarify references to required use of occupant protection systems and related enforcement; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Cook

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 158.**

A BILL FOR AN ACT relating to the Motor Vehicle Operator's License Act; to amend sections 60-462, 60-4,112, and 60-4,122, Reissue Revised Statutes of Nebraska; to provide requirements for retaking the driving skills examination as prescribed; to provide for and change provisions relating to electronic issuance and renewal of operators' licenses and state identification cards; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 49:

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

Voting in the negative, 0.

Not voting, 0.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 18, 67, and 158.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 67.** Introduced by Hadley, 37.

WHEREAS, Bryant Elementary School in Kearney, Nebraska, was recognized as a 2010 National Blue Ribbon School by the United States Department of Education; and

WHEREAS, the Blue Ribbon Schools Program honors public and private elementary, middle, and high schools that are high performing or have improved student achievement to high levels, especially among disadvantaged and minority students; and

WHEREAS, Bryant Elementary school was recognized for this award at a ceremony held in Washington, D.C.; and

WHEREAS, the students, parents, teachers, and staff at Bryant Elementary School worked hard to achieve this coveted national award.

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

1. That the Legislature congratulates Bryant Elementary School on being named a 2010 National Blue Ribbon School.

2. That a copy of this resolution be sent to Bryant Elementary School.

Laid over.

**COMMITTEE REPORTS**

Natural Resources

**LEGISLATIVE BILL 243.** Placed on General File.

(Signed) Chris Langemeier, Chairperson

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 62.** Placed on General File with amendment. AM245

- 1 1. On page 2, strike beginning with "and" in line 13
- 2 through the first "county" in line 16 and insert "for every county
- 3 office or department".

(Signed) Bill Avery, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 46.** Title read. Considered.

**SENATOR SULLIVAN PRESIDING**

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

**LEGISLATIVE BILL 68.** Title read. Considered.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, and 9 present and not voting.

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on February 4, 2011, at 9:49 a.m. were the following: LBs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 18e, 67, and 158.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

**NOTICE OF COMMITTEE HEARING**  
Health and Human Services

Room 1510

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

Dale Michels - State Board of Health

(Signed) Kathy Campbell, Chairperson

**AMENDMENTS - Print in Journal**

Senator Coash filed the following amendment to LB157:  
AM215

(Amendments to E & R amendments, ER6)

- 1 1. Insert the following new sections:
- 2 Sec. 30. Section 30-2210, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 30-2210 Except as otherwise provided in this code, this
- 5 code applies to (1) the affairs and estates of decedents, missing
- 6 persons, and persons to be protected, domiciled in this state,
- 7 (2) the property of nonresidents located in this state or property
- 8 coming into the control of a fiduciary who is subject to the laws
- 9 of this state, (3) incapacitated persons and minors in this state,
- 10 except as provided in the Nebraska Uniform Adult Guardianship and
- 11 Protective Proceedings Jurisdiction Act, and (4) survivorship and
- 12 related accounts in this state.
- 13 Sec. 31. Section 30-2211, Reissue Revised Statutes of
- 14 Nebraska, is amended to read:
- 15 30-2211 (a) To the full extent permitted by the
- 16 Constitution of Nebraska, the court has jurisdiction over all
- 17 subject matter relating to (1) estates of decedents, including
- 18 construction of wills and determination of heirs and successors of
- 19 decedents, and estates of protected persons; and (2) protection

20 of minors and incapacitated persons, except as provided in the  
 21 Nebraska Uniform Adult Guardianship and Protective Proceedings  
 22 Jurisdiction Act.

1 (b) The court has full power to make orders, judgments,  
 2 and decrees and take all other action necessary and proper to  
 3 administer justice in the matters which come before it.

4 Sec. 36. Section 30-2618, Reissue Revised Statutes of  
 5 Nebraska, is amended to read:

6 30-2618 ~~The~~ Unless otherwise provided in the Nebraska  
 7 Uniform Adult Guardianship and Protective Proceedings Jurisdiction  
 8 Act, the venue for guardianship proceedings for an incapacitated  
 9 person is in the place where the incapacitated person resides  
 10 or is present, or where property is located if he or she is  
 11 a nonresident. If the incapacitated person is admitted to an  
 12 institution pursuant to order of a court of competent jurisdiction,  
 13 venue is also in the county in which that court sits.

14 Sec. 40. Section 30-2629, Reissue Revised Statutes of  
 15 Nebraska, is amended to read:

16 30-2629 (a) ~~The~~ Unless otherwise provided in the Nebraska  
 17 Uniform Adult Guardianship and Protective Proceedings Jurisdiction  
 18 Act, the court where the ward resides has concurrent jurisdiction  
 19 with the court which appointed the guardian, or in which acceptance  
 20 of a testamentary appointment was filed, over resignation, removal,  
 21 accounting, and other proceedings relating to the guardianship.

22 (b) ~~If~~ Unless otherwise provided in the Nebraska Uniform  
 23 Adult Guardianship and Protective Proceedings Jurisdiction Act,  
 24 if the court located where the ward resides is not the court  
 25 in which acceptance of appointment is filed, the court in which  
 26 proceedings subsequent to appointment are commenced shall in all  
 27 appropriate cases notify the other court, in this or another  
 1 state, and after consultation with that court determine whether to  
 2 retain jurisdiction or transfer the proceedings to the other court,  
 3 whichever may be in the best interest of the ward. A copy of any  
 4 order accepting a resignation or removing a guardian shall be sent  
 5 to the court in which acceptance of appointment is filed.

6 (c) Any action or proposed action by a guardian may be  
 7 challenged at any time by any interested person.

8 Sec. 42. Section 30-2632, Reissue Revised Statutes of  
 9 Nebraska, is amended to read:

10 30-2632 ~~Venue~~ Unless otherwise provided in the Nebraska  
 11 Uniform Adult Guardianship and Protective Proceedings Jurisdiction  
 12 Act, venue for proceedings under this part is:

13 (1) In the place in this state where the person to be  
 14 protected resides whether or not a guardian has been appointed in  
 15 another place; or

16 (2) If the person to be protected does not reside in this  
 17 state, in any place where he or she has property.

18 2. On page 20, line 3, after the period insert "If the  
 19 incapacitated person does not have a conservator and has real



20 property or an interest in real property in Nebraska, the guardian  
 21 shall file in every county where such property is located as  
 22 required by section 25-2708."; in line 9 strike "any" and insert  
 23 "every"; and in line 10 after "located" insert "as required by  
 24 section 25-2708".

25 3. On page 21, lines 16 and 17, strike the new matter and  
 26 insert "and sections 5 to 27, 33, and 34 of this act".

27 4. On page 30, line 16, after "meaning" insert "of  
 1 interested person"; and in lines 26 and 27, strike "or concerned  
 2 individual".

3 5. On page 31, line 7, after the period insert "Any  
 4 interested person that submits an affidavit under this section in  
 5 bad faith, or submits an affidavit under this section that lacks  
 6 a factual basis as determined by the court, shall be ordered to  
 7 pay the opposing party reasonable attorney's fees and costs."; in  
 8 line 8 before "A" insert "(1)"; in line 12, strike "the following  
 9 checks and reports" and insert "a national criminal history record  
 10 check through a process approved by the State Court Administrator  
 11 and a report"; in line 13 strike "reports" and insert "report"; in  
 12 line 14 after "court" insert "(a) for good cause shown by affidavit  
 13 filed simultaneously with the petition for appointment or (b)";  
 14 in line 16 strike the semicolon and insert an underscored period;  
 15 strike lines 17 through 24; in line 25 before "An" insert "(2)"; in  
 16 line 26 strike "reports have" and insert "report has"; and in line  
 17 27 strike "reports" and insert "report".

18 6. On page 32, line 2, strike "reports or checks" and  
 19 insert "report or national criminal history record check"; and  
 20 strike beginning with "Reports" in line 6 through line 7.

21 7. On page 39, line 17, strike "checks and reports" and  
 22 insert "check or report" and strike "32" and insert "34".

23 8. On page 41, lines 24 and 25, strike ", by certified  
 24 mail, return receipt requested, and".

25 9. On page 45, line 24, after "requires" insert ", except  
 26 that a temporary conservator shall not be required to provide the  
 27 national criminal history record check and report under section 34  
 1 of this act".

2 10. On page 49, lines 12 and 13, strike "31 and 32" and  
 3 insert "33 and 34"; strike line 16 and insert "30-1601, 30-2209,  
 4 30-2210, 30-2211, 30-2601, 30-2613, 30-2618, 30-2620, 30-2626,  
 5 30-2628, 30-2629,"; and in line 17 after the first comma insert  
 6 "30-2632,".

7 11. Renumber the remaining sections accordingly.

Senator Coash filed the following amendment to LB157A:  
 AM216

- 1 1. Strike sections 1 and 3.
- 2 2. Renumber the remaining section accordingly.

**COMMITTEE REPORTS**

Health and Human Services

**LEGISLATIVE BILL 36.** Placed on General File.**LEGISLATIVE BILL 225.** Placed on General File.**LEGISLATIVE BILL 274.** Placed on General File.**LEGISLATIVE BILL 401.** Placed on General File.**LEGISLATIVE BILL 179.** Placed on General File with amendment.  
AM124

1 1. Strike original section 4 and insert the following new  
2 section:

3 Sec. 4. Drug sample or sample medication means a unit of  
4 a prescription drug that is not intended to be sold and is intended  
5 to promote the sale of the drug. Each sample unit shall bear a  
6 label that clearly denotes its status as a drug sample, which may  
7 include, but need not be limited to, the words sample, not for  
8 sale, or professional courtesy package.

9 2. Strike beginning with "(1)" on page 10, line 6,  
10 through the period on page 11, line 19, show the old matter as  
11 stricken, and insert the following new subsections:

12 "(1) To be eligible to take the pharmacist licensure  
13 examination, every applicant must present proof of graduation from  
14 an accredited pharmacy program. A graduate of a pharmacy program  
15 located outside of the United States and which is not accredited  
16 shall be deemed to have satisfied the requirement of being a  
17 graduate of an accredited pharmacy program upon providing evidence  
18 satisfactory to the department, with the recommendation of the  
19 board, of graduation from such foreign pharmacy program and upon  
20 successfully passing an equivalency examination approved by the  
21 board.

22 (2) Every applicant for licensure as a pharmacist shall

23 (a) pass a pharmacist licensure examination approved by the board,  
1 (b) have graduated from a pharmacy program pursuant to subsection  
2 (1) of this section, and (c) present proof satisfactory to the  
3 department, with the recommendation of the board, that he or she  
4 has met one of the following requirements to demonstrate his or  
5 her current competency: (i) Within the last three years, has passed  
6 a pharmacist licensure examination approved by the board; (ii)  
7 has been in the active practice of the profession of pharmacy  
8 in another state, territory, or the District of Columbia for at  
9 least one year within the three years immediately preceding the  
10 application for licensure; (iii) has become board certified in  
11 a specialty recognized by the Board of Pharmacy Specialties or  
12 its successor within the seven years immediately preceding the  
13 application for licensure; (iv) is duly licensed as a pharmacist in  
14 some other state, territory, or the District of Columbia in which,  
15 under like conditions, licensure as a pharmacist is granted in this  
16 state; or (v) has completed continuing competency in pharmacy that

- 17 is approved by the Board of Pharmacy."
- 18 3. On page 11, line 20, strike the new matter and
- 19 reinstate the stricken matter.

(Signed) Kathy Campbell, Chairperson

### COMMITTEE REPORT

Enrollment and Review

**LEGISLATIVE BILL 20.** Placed on Select File with amendment.

ER11

- 1 1. In the Standing Committee amendments, AM64, on page 5,
- 2 line 22, strike "subdivision" and insert "subsection".
- 3 2. On page 1, lines 1 and 2, strike "section 28-401.01"
- 4 and insert "sections 28-401.01 and 60-4,111.01"; and in line 5
- 5 after the last semicolon insert "to provide for storage and use of
- 6 information encoded on a motor vehicle operator's license or state
- 7 identification card;".

(Signed) Tyson Larson, Chairperson

### EXPLANATION OF VOTES

Had I been present, I would have voted "aye" on final passage of LB18e and LB67.

(Signed) Tanya Cook

### GENERAL FILE

**LEGISLATIVE BILL 111.** Title read. Considered.

Committee AM98, found on page 363, was adopted with 39 ayes, 0 nays, and 10 present and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, and 9 present and not voting.

**LEGISLATIVE BILL 163.** Title read. Considered.

### SENATOR GLOOR PRESIDING

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 163A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 241.** Title read. Considered.

Senator Hadley renewed his amendment, AM226, found on page 431.

Senator Hadley moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

The Hadley amendment was adopted with 27 ayes, 0 nays, and 22 present and not voting.

The Chair declared the call raised.

Advanced to Enrollment and Review Initial with 46 ayes, 0 nays, and 3 present and not voting.

**LEGISLATIVE BILL 47.** Title read. Considered.

Committee AM109, found on page 375, was adopted with 35 ayes, 0 nays, 13 present and not voting, and 1 excused and not voting.

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

**LEGISLATIVE BILL 212.** Title read. Considered.

Committee AM2, found on page 375, was adopted with 34 ayes, 0 nays, 14 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 14 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 23.** Title read. Considered.

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

**LEGISLATIVE BILL 74.** Title read. Considered.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 17 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 75.** Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 13 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 76.** Title read. Considered.

Committee AM40, found on page 381, was adopted with 34 ayes, 0 nays, 14 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 13 present and not voting, and 1 excused and not voting.

## COMMITTEE REPORTS

### Judiciary

**LEGISLATIVE BILL 197.** Placed on General File.

**LEGISLATIVE BILL 61.** Placed on General File with amendment.  
AM211

1 1. Strike the original sections and insert the following  
2 new sections:  
3 Section 1. Section 28-311.08, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 28-311.08 (1) It shall be unlawful for any person to  
6 knowingly intrude upon any other person without his or her consent  
7 or knowledge in a place of solitude or seclusion.

8 (2) For purposes of this section:

9 (a) Intrude means either the

10 (i) Viewing of another person in a state of undress; or

11 (ii) Recording viewing or recording, either by video,  
12 audio, or other electronic means, of a another person in a state of  
13 undress; and

14 (b) Place of solitude or seclusion means a place where  
15 a person would intend to be in a state of undress and have a  
16 reasonable expectation of privacy, including, but not limited to,  
17 any facility, public or private, used as a restroom, tanning booth,  
18 locker room, shower room, fitting room, or dressing room.

19 ~~(3) Violation~~ (3)(a) Violation of this section involving  
20 an intrusion as defined in subdivision (2)(a)(i) of this section  
21 is a Class III misdemeanor, unless the victim is under the age  
22 of eighteen in which case a violation is a Class II misdemeanor.  
23 ~~Lack of knowledge as to the victim's age is not a defense to the~~  
1 ~~enhanced penalty under this section.~~

2 (b) Violation of this section involving an intrusion as  
3 defined in subdivision (2)(a)(ii) of this section is a Class IV  
4 felony.

5 (c) Violation of this section is a Class III felony if  
6 video or an image from the intrusion is distributed to another  
7 person or otherwise made public in any manner which would enable it  
8 to be viewed by another person.

9 (4) No person shall be prosecuted for unlawful intrusion  
10 pursuant to subdivision (3)(b) or (c) of this section unless the

11 indictment for such offense is found by a grand jury or a complaint  
 12 filed before a magistrate within three years after the later of:

13 (a) The commission of the crime;

14 (b) Law enforcement's or a victim's receipt of actual or  
 15 constructive notice of either the existence of a video or other  
 16 electronic recording of the unlawful intrusion or the distribution  
 17 of images, video, or other electronic recording of the unlawful  
 18 intrusion; or

19 (c) The youngest victim of the intrusion reaching the age  
 20 of twenty-one years.

21 Sec. 2. Section 29-4003, Revised Statutes Cumulative  
 22 Supplement, 2010, is amended to read:

23 29-4003 (1)(a) The Sex Offender Registration Act applies  
 24 to any person who on or after January 1, 1997:

25 (i) Has ever pled guilty to, pled nolo contendere to, or  
 26 been found guilty of any of the following:

27 (A) Kidnapping of a minor pursuant to section 28-313,  
 1 except when the person is the parent of the minor and was not  
 2 convicted of any other offense in this section;

3 (B) False imprisonment of a minor pursuant to section  
 4 28-314 or 28-315;

5 (C) Sexual assault pursuant to section 28-319 or 28-320;

6 (D) Sexual assault of a child in the second or third  
 7 degree pursuant to section 28-320.01;

8 (E) Sexual assault of a child in the first degree  
 9 pursuant to section 28-319.01;

10 (F) Sexual abuse of a vulnerable adult pursuant to  
 11 subdivision (1)(c) of section 28-386;

12 (G) Incest of a minor pursuant to section 28-703;

13 (H) Pandering of a minor pursuant to section 28-802;

14 (I) Visual depiction of sexually explicit conduct of a  
 15 child pursuant to section 28-1463.03 or 28-1463.05;

16 (J) Knowingly possessing any visual depiction of sexually  
 17 explicit conduct which has a child as one of its participants or  
 18 portrayed observers pursuant to section 28-813.01;

19 (K) Criminal child enticement pursuant to section 28-311;

20 (L) Child enticement by means of an electronic  
 21 communication device pursuant to section 28-320.02;

22 (M) Debauching a minor pursuant to section 28-805; or

23 (N) Attempt, solicitation, aiding or abetting, being  
 24 an accessory, or conspiracy to commit an offense listed in  
 25 subdivisions (1)(a)(i)(A) through (1)(a)(i)(M) of this section;

26 (ii) Has ever pled guilty to, pled nolo contendere to, or  
 27 been found guilty of any offense that is substantially equivalent  
 1 to a registrable offense under subdivision (1)(a)(i) of this  
 2 section by any village, town, city, state, territory, commonwealth,  
 3 or other jurisdiction of the United States, by the United States  
 4 Government, by court-martial or other military tribunal, or by  
 5 a foreign jurisdiction, notwithstanding a procedure comparable

6 in effect to that described under section 29-2264 or any other  
 7 procedure to nullify a conviction other than by pardon;  
 8 (iii) Is incarcerated in a jail, a penal or correctional  
 9 facility, or any other public or private institution or is under  
 10 probation or parole as a result of pleading guilty to or being  
 11 found guilty of a registrable offense under subdivision (1)(a)(i)  
 12 or (ii) of this section prior to January 1, 1997; or  
 13 (iv) Enters the state and is required to register as  
 14 a sex offender under the laws of another village, town, city,  
 15 state, territory, commonwealth, or other jurisdiction of the United  
 16 States.  
 17 (b) In addition to the registrable offenses under  
 18 subdivision (1)(a) of this section, the Sex Offender Registration  
 19 Act applies to any person who on or after January 1, 2010:  
 20 (i)(A) Except as provided in subdivision (1)(b)(i)(B) of  
 21 this section, has ever pled guilty to, pled nolo contendere to, or  
 22 been found guilty of any of the following:  
 23 (I) Murder in the first degree pursuant to section  
 24 28-303;  
 25 (II) Murder in the second degree pursuant to section  
 26 28-304;  
 27 (III) Manslaughter pursuant to section 28-305;  
 1 (IV) Assault in the first degree pursuant to section  
 2 28-308;  
 3 (V) Assault in the second degree pursuant to section  
 4 28-309;  
 5 (VI) Assault in the third degree pursuant to section  
 6 28-310;  
 7 (VII) Stalking pursuant to section 28-311.03;  
 8 ~~(VIII) Unlawful intrusion on a minor pursuant to section~~  
 9 ~~28-311.08;~~  
 10 ~~(IX)-(VIII) Kidnapping pursuant to section 28-313;~~  
 11 ~~(X)-(IX) False imprisonment pursuant to section 28-314 or~~  
 12 ~~28-315;~~  
 13 ~~(XI)-(X) Sexual abuse of an inmate or parolee in the~~  
 14 ~~first degree pursuant to section 28-322.02;~~  
 15 ~~(XII)-(XI) Sexual abuse of an inmate or parolee in the~~  
 16 ~~second degree pursuant to section 28-322.03;~~  
 17 ~~(XIII)-(XII) Sexual abuse of a protected individual~~  
 18 ~~pursuant to section 28-322.04;~~  
 19 ~~(XIV)-(XIII) Incest pursuant to section 28-703;~~  
 20 ~~(XV)-(XIV) Child abuse pursuant to subdivision (1)(d) or~~  
 21 ~~(e) of section 28-707;~~  
 22 ~~(XVI)-(XV) Enticement by electronic communication device~~  
 23 ~~pursuant to section 28-833; or~~  
 24 ~~(XVII)-(XVI) Attempt, solicitation, aiding or abetting,~~  
 25 ~~being an accessory, or conspiracy to commit an offense~~  
 26 ~~listed in subdivisions (1)(b)(i)(A)(I) through ~~(1)(b)(i)(A)(XVI)~~~~  
 27 (1)(b)(i)(A)(XV) of this section.

1 (B) In order for the Sex Offender Registration Act to  
 2 apply to the offenses listed in subdivisions (1)(b)(i)(A)(I), (II),  
 3 (III), (IV), (V), (VI), (VII), ~~(IX)~~, ~~(VIII)~~, and ~~(X)~~ ~~(IX)~~ of  
 4 this section, a court shall have found that evidence of sexual  
 5 penetration or sexual contact, as those terms are defined in  
 6 section 28-318, was present in the record, which shall include  
 7 consideration of the factual basis for a plea-based conviction and  
 8 information contained in the presentence report;

9 (ii) Has ever pled guilty to, pled nolo contendere to, or  
 10 been found guilty of any offense that is substantially equivalent  
 11 to a registrable offense under subdivision (1)(b)(i) of this  
 12 section by any village, town, city, state, territory, commonwealth,  
 13 or other jurisdiction of the United States, by the United States  
 14 Government, by court-martial or other military tribunal, or by  
 15 a foreign jurisdiction, notwithstanding a procedure comparable  
 16 in effect to that described under section 29-2264 or any other  
 17 procedure to nullify a conviction other than by pardon; or

18 (iii) Enters the state and is required to register as  
 19 a sex offender under the laws of another village, town, city,  
 20 state, territory, commonwealth, or other jurisdiction of the United  
 21 States.

22 (2) A person appealing a conviction of a registrable  
 23 offense under this section shall be required to comply with the act  
 24 during the appeals process.

25 Sec. 3. Original section 28-311.08, Reissue Revised  
 26 Statutes of Nebraska, and section 29-4003, Revised Statutes  
 27 Cumulative Supplement, 2010, are repealed.

(Signed) Brad Ashford, Chairperson

Urban Affairs

**LEGISLATIVE BILL 308.** Placed on General File.

**LEGISLATIVE BILL 335.** Placed on General File.

(Signed) Amanda McGill, Chairperson

### **NOTICE OF COMMITTEE HEARING**

Government, Military and Veterans Affairs

Room 1507

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

Tim Hofbauer - State Emergency Response Commission

Keith Hansen - State Emergency Response Commission

Brian Tessman - State Personnel Board



LB691  
LB628  
LB616

(Signed) Bill Avery, Chairperson

**UNANIMOUS CONSENT - Add Cointroducers**

Senator K. Haar asked unanimous consent to add his name as cointroducer to LB68. No objections. So ordered.

Senator Coash asked unanimous consent to add his name as cointroducer to LB284. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Mark and Susan Masterson from Scottsbluff.

The Doctor of the Day was Dr. Roger Meyer from Utica.

**ADJOURNMENT**

At 11:52 a.m., on a motion by Senator Hansen, the Legislature adjourned until 10:00 a.m., Monday, February 7, 2011.

Patrick J. O'Donnell  
Clerk of the Legislature

