

TWENTY-SEVENTH DAY - FEBRUARY 11, 2011**LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION****TWENTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Friday, February 11, 2011

PRAYER

The prayer was offered by Reverend Valjean Warman, United Methodist Church, Fullerton.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Gloor presiding.

The roll was called and all members were present except Senators Conrad and Cornett who were excused; and Senators Campbell, Coash, B. Harr, Karpisek, Louden, Pahls, and Price who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-sixth day was approved.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 474. Placed on Select File with amendment.
ER23

- 1 1. On page 1, line 6, after the semicolon insert "to
- 2 eliminate certain report submission and notification requirements;
- 3 to provide powers for the Auditor of Public Accounts;".

LEGISLATIVE BILL 181. Placed on Select File.

LEGISLATIVE BILL 94. Placed on Select File.

LEGISLATIVE BILL 24. Placed on Select File.

(Signed) Tyson Larson, Chairperson

MOTIONS - Approve Appointments

Senator Fischer moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointment(s) found on page 495:

State Highway Commission
E.J. Militti Jr.

Voting in the affirmative, 35:

Adams	Council	Harms	Lautenbaugh	Schilz
Avery	Fischer	Heidemann	McCoy	Schumacher
Bloomfield	Fulton	Howard	McGill	Smith
Brasch	Gloor	Janssen	Mello	Sullivan
Carlson	Haar, K.	Langemeier	Nordquist	Utter
Christensen	Hadley	Larson	Pankonin	Wallman
Cook	Hansen	Lathrop	Pirsch	Wightman

Voting in the negative, 0.

Present and not voting, 5:

Ashford	Dubas	Flood	Krist	Nelson
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Excused and not voting, 9:

Campbell	Conrad	Harr, B.	Louden	Price
Coash	Cornett	Karpisek	Pahls	

The appointment was confirmed with 35 ayes, 0 nays, 5 present and not voting, and 9 excused and not voting.

Senator Fischer moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointment(s) found on page 495:

Board of Public Roads Classifications and Standards
Timothy Weander

Voting in the affirmative, 35:

Adams	Cook	Hansen	Lautenbaugh	Schilz
Avery	Council	Harms	McCoy	Schumacher
Bloomfield	Fischer	Harr, B.	Mello	Smith
Brasch	Fulton	Heidemann	Nelson	Sullivan
Campbell	Gloor	Howard	Nordquist	Utter
Carlson	Haar, K.	Langemeier	Pankonin	Wallman
Christensen	Hadley	Lathrop	Pirsch	Wightman

Voting in the negative, 0.

Present and not voting, 7:

Ashford	Flood	Krist	McGill
Dubas	Janssen	Larson	

Excused and not voting, 7:

Coash	Cornett	Louden	Price
Conrad	Karpisek	Pahls	

The appointment was confirmed with 35 ayes, 0 nays, 7 present and not voting, and 7 excused and not voting.

Senator Avery moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment(s) found on page 502:

Nebraska Accountability and Disclosure Commission
 Roger Bradford "Brad" von Gillern

Voting in the affirmative, 34:

Avery	Cook	Harms	McCoy	Schilz
Bloomfield	Council	Harr, B.	McGill	Schumacher
Brasch	Fischer	Heidemann	Mello	Smith
Campbell	Gloor	Howard	Nelson	Sullivan
Carlson	Haar, K.	Karpisek	Nordquist	Wallman
Christensen	Hadley	Lathrop	Pankonin	Wightman
Coash	Hansen	Lautenbaugh	Pirsch	

Voting in the negative, 0.

Present and not voting, 10:

Adams	Dubas	Fulton	Krist	Larson
Ashford	Flood	Janssen	Langemeier	Utter

Excused and not voting, 5:

Conrad	Cornett	Louden	Pahls	Price
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The appointment was confirmed with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 98. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 178. Title read. Considered.

Advanced to Enrollment and Review Initial with 36 ayes, 1 nay, 9 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 178A. Title read. Considered.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 215. Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 43. Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 410. Title read. Considered.

Committee AM197, found on page 433, was adopted with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 410A. Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 108. Title read. Considered.

Committee AM223, found on page 436, was considered.

Senator Heidemann renewed his amendment, AM308, found on page 511, to the committee amendment.

SENATOR LANGEMEIER PRESIDING

SENATOR GLOOR PRESIDING

The Heidemann amendment was adopted with 36 ayes, 3 nays, 6 present and not voting, and 4 excused and not voting.

The committee amendment, as amended, was adopted with 29 ayes, 2 nays, 12 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 1 nay, 4 present and not voting, and 6 excused and not voting.

COMMITTEE REPORTS

Urban Affairs

LEGISLATIVE BILL 471. Placed on General File.

LEGISLATIVE BILL 159. Placed on General File with amendment.
AM244

- 1 1. Insert the following new section:
- 2 Sec. 7. Since an emergency exists, this act takes effect
- 3 when passed and approved according to law.
- 4 2. On page 2, line 7, after "charters" insert "and
- 5 entities created by interlocal agreements among cities, villages,
- 6 and counties"; and in line 10 after "organization" insert
- 7 "incorporated or authorized to do business in this state".
- 8 3. On page 13, line 3, after the period insert "No
- 9 municipality, county, or governing body or officer thereof shall
- 10 be subject to the Securities Act of Nebraska with respect to any
- 11 revenue bonds issued under sections 13-1101 to 13-1110.".

(Signed) Amanda McGill, Chairperson

Judiciary

LEGISLATIVE BILL 191. Placed on General File.

LEGISLATIVE BILL 66. Placed on General File with amendment.
AM241

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 29-4106, Revised Statutes Cumulative
- 4 Supplement, 2010, is amended to read:
- 5 29-4106 (1) A person who is convicted of a felony offense
- 6 or other specified offense on or after July 15, 2010, who does not
- 7 have a DNA sample available for use in the State DNA Sample Bank,
- 8 shall, at his or her own expense, have a DNA sample collected:
- 9 (a) Upon intake to a prison, jail, or other detention
- 10 facility or institution to which such person is sentenced. If
- 11 the person is already confined at the time of sentencing, the

12 person shall have a DNA sample collected immediately after the
 13 sentencing. Such DNA ~~samples~~ sample shall be collected at the place
 14 of incarceration or confinement. If the place of incarceration or
 15 confinement is a county facility, the DNA sample shall be collected
 16 by the county sheriff. Such person shall not be released unless and
 17 until a DNA sample has been collected; or

18 (b) As a condition for any sentence which will not
 19 involve an intake into a prison, jail, or other detention facility
 20 or institution. Such DNA samples shall be collected as follows:

21 (i) In any county containing a city of the metropolitan
 22 class, a person placed on probation or who received a penalty of
 23 a fine or time served shall have such DNA sample collected by a
 1 probation officer at a probation office. Such person shall not be
 2 released unless and until a DNA sample has been collected; and

3 (ii) In all other counties, a person placed on probation
 4 shall have such DNA sample collected by a probation officer at a
 5 probation office, and a person not placed on probation who receives
 6 a penalty of a fine or time served shall have such DNA sample
 7 collected at a detention facility or institution as specified by
 8 the court, by the county sheriff. Such person shall not be released
 9 unless and until a DNA sample has been collected.

10 (2) A person who has been convicted of a felony offense
 11 or other specified offense before July 15, 2010, who does not have
 12 a DNA sample available for use in the State DNA Sample Bank, and
 13 who is still serving a term of confinement or probation for such
 14 felony offense or other specified offense on July 15, 2010, shall
 15 not be released prior to the expiration of his or her maximum term
 16 of confinement or revocation or discharge from his or her probation
 17 unless and until a DNA sample has been collected.

18 (3) A person who is serving a term of probation and has a
 19 DNA sample collected pursuant to this section shall pay all costs
 20 associated with the collection of the DNA sample.

21 (4) If the court waives the cost of taking a DNA sample
 22 for any reason, a county jail or other county detention facility or
 23 institution collecting the DNA sample shall not be held financially
 24 responsible for the cost of the DNA sample kit.

25 Sec. 2. Original section 29-4106, Revised Statutes
 26 Cumulative Supplement, 2010, is repealed.

LEGISLATIVE BILL 128. Indefinitely postponed.

(Signed) Brad Ashford, Chairperson

Natural Resources

LEGISLATIVE BILL 27. Placed on General File.

LEGISLATIVE BILL 32. Placed on General File.

LEGISLATIVE BILL 31. Placed on General File with amendment.

AM206

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

(Signed) Chris Langemeier, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 73. Introduced by Flood, 19.

WHEREAS, the NEBRASKAland Foundation, on Saturday, March 5, 2011, at the annual Statehood Day Dinner held in the Nebraska State Capitol, presents the distinguished Nebraskalander Award to three honorees; and

WHEREAS, a distinguished Nebraskalander Award is presented to Allen Beermann, of Lincoln, who has served as Nebraska's official and unofficial goodwill ambassador for over forty years, first for twenty-four years as Secretary of State and currently as the executive director of the Nebraska Press Association. His many honors include the National Guard Meritorious Service Award, the Boy Scouts of America's Silver Beaver Award, the Ambassador Plenipotentiary Award from the Nebraska Diplomats, the Foreign Service Medallion from the Republic of China, and the Downtown Lincoln Rotary Club Nebraskan of the Year; and

WHEREAS, a distinguished Nebraskalander Award is presented to DiAnna Schimek, of Lincoln, who was a Nebraska state senator from 1989 to 2009 and worked tirelessly in the areas of child and family issues, women's and minority issues, health care, and election law. She is past chair of the Midwestern Legislative Conference of the Council of State Governments. Her many honors include the Distinguished Service Award from both the National Guard Association and the League of Nebraska Municipalities, the Civil Libertarian of the Year Award, and the Ethics in Government Award, and in 2008 she was made an honorary member of the Ponca Tribe of Nebraska; and

WHEREAS, a distinguished Nebraskalander Award is presented to Tom Plummer, of Lincoln, who was a fourth generation farmer/rancher near Ogallala, Nebraska. He has been an active leader in protecting the natural resources in our state. He chaired the Friends of Big Mac Committee to raise funds to build the Lake McConaughy Visitor/Water Interpretive Center and was founder of the Nebraska Water Center Foundation. He was recognized by the Nebraska State Historical Society as the Guardian of Nebraska History and served as state president of both the Nebraska Elks and the Easter Seal Society.

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

1. That the Legislature extends its appreciation to the honorees for their service to the State of Nebraska.
2. That a copy of this resolution be given to all honorees.

Laid over.

AMENDMENT - Print in Journal

Senator Ashford filed the following amendment to LB61:
AM329

(Amendments to Standing Committee amendments, AM211)

- 1 1. Strike section 2 and insert the following new section:
- 2 Sec. 2. Section 29-4003, Revised Statutes Cumulative
- 3 Supplement, 2010, is amended to read:
- 4 29-4003 (1)(a) The Sex Offender Registration Act applies
- 5 to any person who on or after January 1, 1997:
- 6 (i) Has ever pled guilty to, pled nolo contendere to, or
- 7 been found guilty of any of the following:
- 8 (A) Kidnapping of a minor pursuant to section 28-313,
- 9 except when the person is the parent of the minor and was not
- 10 convicted of any other offense in this section;
- 11 (B) False imprisonment of a minor pursuant to section
- 12 28-314 or 28-315;
- 13 (C) Sexual assault pursuant to section 28-319 or 28-320;
- 14 (D) Sexual assault of a child in the second or third
- 15 degree pursuant to section 28-320.01;
- 16 (E) Sexual assault of a child in the first degree
- 17 pursuant to section 28-319.01;
- 18 (F) Sexual abuse of a vulnerable adult pursuant to
- 19 subdivision (1)(c) of section 28-386;
- 20 (G) Incest of a minor pursuant to section 28-703;
- 21 (H) Pandering of a minor pursuant to section 28-802;
- 22 (I) Visual depiction of sexually explicit conduct of a
- 1 child pursuant to section 28-1463.03 or 28-1463.05;
- 2 (J) Knowingly possessing any visual depiction of sexually
- 3 explicit conduct which has a child as one of its participants or
- 4 portrayed observers pursuant to section 28-813.01;
- 5 (K) Criminal child enticement pursuant to section 28-311;
- 6 (L) Child enticement by means of an electronic
- 7 communication device pursuant to section 28-320.02;
- 8 (M) Debauching a minor pursuant to section 28-805; or
- 9 (N) Attempt, solicitation, aiding or abetting, being
- 10 an accessory, or conspiracy to commit an offense listed in
- 11 subdivisions (1)(a)(i)(A) through (1)(a)(i)(M) of this section;
- 12 (ii) Has ever pled guilty to, pled nolo contendere to, or
- 13 been found guilty of any offense that is substantially equivalent
- 14 to a registrable offense under subdivision (1)(a)(i) of this
- 15 section by any village, town, city, state, territory, commonwealth,
- 16 or other jurisdiction of the United States, by the United States
- 17 Government, by court-martial or other military tribunal, or by
- 18 a foreign jurisdiction, notwithstanding a procedure comparable

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

13 subdivisions (1)(b)(i)(A)(I) through (1)(b)(i)(A)(XVI) of this
14 section.

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

23 (ii) Has ever pled guilty to, pled nolo contendere to, or
24 been found guilty of any offense that is substantially equivalent
25 to a registrable offense under subdivision (1)(b)(i) of this
26 section by any village, town, city, state, territory, commonwealth,
27 or other jurisdiction of the United States, by the United States
1 Government, by court-martial or other military tribunal, or by
2 a foreign jurisdiction, notwithstanding a procedure comparable
3 in effect to that described under section 29-2264 or any other
4 procedure to nullify a conviction other than by pardon; or

5 (iii) Enters the state and is required to register as
6 a sex offender under the laws of another village, town, city,
7 state, territory, commonwealth, or other jurisdiction of the United
8 States.

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

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of February 10,
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

American Communications Group, Inc.

Midwest Housing Equity Group

Beck, Ellen

League of Women Voters of Nebraska

Fernandez, David

Altria Client Services Inc. and its Affiliates (formerly Philip Morris USA
Inc.)

Johnston, Brian

My Wireless.Org

Kaminski, Ronald Lee, Jr.

Laborers Local #1140

Kruse, Bonnie

League of Women Voters of Nebraska

Kulesher Jarecke, Kate M.

Eli Lilly and Company

McKenzie, Janis M.

Mines & Associates

Morrissey, Spencer W.

Brotherhood of Maintenance of Way Employees

Quasius, Robert T. Sr.

Somos Republicans

Reale, C. Anthony

Altria Client Services Inc. and its Affiliates (formerly Philip Morris USA Inc.)

Wadum, Michael W.

American Lung Association Plains-Gulf Region

Wintner, Jeffrey M.

Altria Client Services Inc. and its Affiliates (formerly Philip Morris USA Inc.)

GENERAL FILE

LEGISLATIVE BILL 114. Title read. Considered.

Committee AM199, found on page 436, was considered.

Pending.

UNANIMOUS CONSENT - Add Cointroducers

Senator Pahls asked unanimous consent to add his name as cointroducer to LB84. No objections. So ordered.

Senator Nelson asked unanimous consent to add his name as cointroducer to LB401. No objections. So ordered.

VISITORS

Visitors to the Chamber were Ann Warman from Fullerton and Heather, Breeanna, Laci, and William Othmer from Omaha; members of Cub Scout Pack 490 from Bellevue; Michael Huston and Janna Buttrick from Lincoln; and Kendall, Zebediah, and Emmett Black from Hildreth.

The Doctor of the Day was Dr. Joe Miller from Lexington.

ADJOURNMENT

At 11:45 a.m., on a motion by Speaker Flood, the Legislature adjourned until 10:00 a.m., Monday, February 14, 2011.

Patrick J. O'Donnell
Clerk of the Legislature

