

**THIRTY-SECOND DAY - FEBRUARY 22, 2011****LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE  
FIRST SESSION****THIRTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, February 22, 2011

**PRAYER**

The prayer was offered by Reverend Jimmy Shelbourn, First Presbyterian Church, Beatrice.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Nelson, Nordquist, and Pankonin who were excused; and Senator Lautenbaugh who was excused until he arrives.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-first day was approved.

**COMMITTEE REPORTS**

## Enrollment and Review

**LEGISLATIVE BILL 12.** Placed on Final Reading.  
**LEGISLATIVE BILL 25.** Placed on Final Reading.  
**LEGISLATIVE BILL 26.** Placed on Final Reading.  
**LEGISLATIVE BILL 77.** Placed on Final Reading.  
**LEGISLATIVE BILL 78.** Placed on Final Reading.  
**LEGISLATIVE BILL 146.** Placed on Final Reading.  
**LEGISLATIVE BILL 264.** Placed on Final Reading.  
**LEGISLATIVE BILL 303.** Placed on Final Reading.  
**LEGISLATIVE BILL 326.** Placed on Final Reading.  
**LEGISLATIVE BILL 331.** Placed on Final Reading.  
**LEGISLATIVE BILL 332.** Placed on Final Reading.  
**LEGISLATIVE BILL 334.** Placed on Final Reading.

(Signed) Tyson Larson, Chairperson

**MOTION - Approve Appointments**

Senator Fischer moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointment(s) found on page 579:

Nebraska Railway Council  
 Ralph Holzfaster  
 Frank Landis  
 Gary Rasmussen  
 John Rebensdorf

Voting in the affirmative, 38:

Adams	Cook	Hansen	Langemeier	Schilz
Avery	Cornett	Harms	Larson	Schumacher
Bloomfield	Dubas	Harr, B.	Louden	Smith
Brasch	Fischer	Heidemann	McCoy	Sullivan
Campbell	Flood	Howard	Mello	Utter
Carlson	Fulton	Janssen	Pahls	Wightman
Christensen	Haar, K.	Karpisek	Pirsch	
Conrad	Hadley	Krist	Price	

Voting in the negative, 0.

Present and not voting, 7:

Ashford	Council	Lathrop	Wallman
Coash	Gloor	McGill	

Excused and not voting, 4:

Lautenbaugh	Nelson	Nordquist	Pankonin
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The appointments were confirmed with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

**RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 72, 74, and 75 were adopted.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 72, 74, and 75.

**GENERAL FILE**

**LEGISLATIVE BILL 237.** Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 6 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 164.** Title read. Considered.

Committee AM286, found on page 495, was adopted with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 257.** Title read. Considered.

Committee AM58, found on page 495, was adopted with 33 ayes, 0 nays, 10 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 24.** Placed on Final Reading.

**LEGISLATIVE BILL 94.** Placed on Final Reading.

**LEGISLATIVE BILL 98.** Placed on Final Reading.

**LEGISLATIVE BILL 311.** Placed on Final Reading.

**LEGISLATIVE BILL 347.** Placed on Final Reading.

**LEGISLATIVE BILL 396.** Placed on Final Reading.

**LEGISLATIVE BILL 462.** Placed on Final Reading.

**LEGISLATIVE BILL 474.** Placed on Final Reading.

(Signed) Tyson Larson, Chairperson

**AMENDMENTS - Print in Journal**

Senator Council filed the following amendment to LB383:

AM331

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 77-27,136, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 77-27,136 The Legislature may appropriate funds collected
- 6 by a general sales tax and income tax for aid to incorporated
- 7 municipalities, counties, and natural resources districts. The
- 8 transfer to the Property Tax Credit Cash Fund from the General

9 Fund for FY2011-12 is reduced by \$22,000,000. The transfer to the  
 10 Property Tax Credit Cash Fund from the General Fund for FY2012-13  
 11 is reduced by \$22,000,000.

12 Sec. 2. Original section 77-27,136, Reissue Revised  
 13 Statutes of Nebraska, is repealed.

14 Sec. 3. Since an emergency exists, this act takes effect  
 15 when passed and approved according to law.

Senator Council filed the following amendment to LB383:  
 AM334

1 1. Insert the following new sections:

2 Sec. 7. For purposes of sections 7 to 10 of this act:

3 (1) Criminal detention facility has the same meaning as  
 4 in section 83-4,125; and

5 (2) State prisoner means a person who has been convicted  
 6 and sentenced as an adult to a Department of Correctional Services  
 7 facility, has been placed on probation for such offense, or is a  
 8 parolee held on behalf of the department.

9 Sec. 8. (1) The county in which a prisoner committed an  
 10 offense or is alleged to have committed an offense is responsible  
 11 for the cost of keeping and maintaining the prisoner in a criminal  
 12 detention facility located within the state which is not reimbursed  
 13 by a city, the state, or the federal government.

14 (2) Subject to the appropriation limitations and claims  
 15 filing deadlines established in this section for county jail  
 16 reimbursement assistance, after sentencing if a prisoner is a state  
 17 prisoner, the state shall reimburse the county where the state  
 18 prisoner was or is maintained in a criminal detention facility at  
 19 the rate of thirty-five dollars per day for each day the state  
 20 prisoner was maintained in the criminal detention facility for  
 21 such offense until the day the state prisoner is transferred to a  
 22 Department of Correctional Services facility, placed on probation  
 23 for such offense, or released from custody at the request of  
 1 the department, except that during any quarterly fiscal period  
 2 if state appropriations are not sufficient to satisfy all of the  
 3 eligible county jail reimbursement claims filed, then the state  
 4 shall prorate each county's total reimbursement for that quarterly  
 5 fiscal period in proportion to the remaining appropriation.

6 (3) Any county jail reimbursement claims not timely filed  
 7 by any county and any county jail reimbursement claims paid by the  
 8 state on a prorated basis shall not be filed or refiled, and no  
 9 such claims shall be reimbursed by the state.

10 (4) Subject to available appropriations, the department  
 11 shall reimburse all counties on a quarterly basis for all eligible  
 12 county jail reimbursement claims as soon as practicable after the  
 13 end of each quarterly filed period.

14 (5) The county board or county board of corrections shall  
 15 request reimbursement as provided in section 9 of this act. If  
 16 the department has been notified under section 83-4,133 that the

17 criminal detention facility which is requesting reimbursement does  
18 not qualify for reimbursement under this section, the department  
19 shall deny the reimbursement request for the days the facility was  
20 not qualified.

21 (6) If a conviction on which reimbursement for prisoner  
22 costs was based is reversed and the case dismissed, the amount of  
23 such reimbursement shall be refunded as provided in section 9 of  
24 this act. The county attorney shall notify the sheriff or county  
25 board of corrections of the dismissal of any such case.

26 (7) The Department of Correctional Services shall  
27 reimburse counties for eligible county jail reimbursement claims  
1 subject to the appropriation limitations and claims filing  
2 deadlines in this section. The total annual appropriations approved  
3 by the Legislature for the department for county jail reimbursement  
4 assistance shall not exceed three million nine hundred ten thousand  
5 dollars. County jail reimbursement claims filed for any fiscal year  
6 shall only be paid out of the same fiscal year's appropriation,  
7 including any amounts reappropriated or certified as encumbrances  
8 for county jail reimbursement assistance, but no previous fiscal  
9 year claims shall be paid or filed by counties to be paid from a  
10 subsequent fiscal year's new appropriation established for county  
11 jail reimbursement assistance. County jail reimbursement claims, as  
12 certified by each county, shall be received in the office of the  
13 accounting section of the department within forty-five days after  
14 the end of any quarterly fiscal period ending on March 31, June  
15 30, September 30, and December 31. Any claims not meeting these  
16 deadlines shall be determined ineligible for future filing and  
17 shall not be reimbursed by the state.

18 Sec. 9. (1) The county board of each county and the  
19 county board of corrections serving pursuant to Chapter 23, article  
20 28, confining state prisoners within its jails shall receive  
21 reimbursement from the state pursuant to section 8 of this act  
22 for boarding such prisoners. Such boards are hereby authorized to  
23 provide such meals, fuel, lights, washing, and clothing as may be  
24 necessary for the comfort of such prisoners while in custody in  
25 the county. The sheriff or county board of corrections shall, on  
26 a regular basis not less than quarterly nor more than monthly,  
27 make a report in writing to the Director of Correctional Services  
1 of the number of state prisoners in custody in such county for  
2 whom reimbursement is claimed and the number of days for which  
3 reimbursement is claimed and the number of state prisoners for  
4 whom reimbursement was obtained under section 8 of this act  
5 and the amount of reimbursement to be refunded. Such report  
6 shall be consistent with the rules and regulations adopted and  
7 promulgated by the Department of Correctional Services. All claims  
8 for reimbursement shall be sworn to by the sheriff or a designated  
9 representative of the county board of corrections before the clerk  
10 of the county and certified to under his or her seal. Thereupon  
11 the director shall request that a warrant be drawn upon the State

12 Treasurer for the amount due to the county treasurer of the county,  
 13 and the amount drawn shall be credited to the general fund of the  
 14 county.

15 (2) For purposes of substantiating a claim, the  
 16 department may audit the records and reports of a county relating  
 17 to the county's claim for reimbursement under this section and  
 18 section 8 of this act. The department shall audit such records and  
 19 reports once every two years or as otherwise deemed necessary by  
 20 the department. The county board or county board of corrections  
 21 shall keep the records pertaining to a claim for two years after  
 22 the date the claim is submitted to the department.

23 Sec. 10. The Department of Correctional Services shall  
 24 adopt and promulgate rules and regulations to implement sections 7  
 25 to 10 of this act.

26 2. On page 4, line 20, after "60-3,190" insert "and  
 27 section 8 of this act".

1 3. Renumber the remaining sections accordingly.

Senator Krist filed the following amendment to LB179:  
 AM423

1 1. Insert the following new section:

2 Sec. 6. Section 38-2854, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:

4 38-2854 (1) A pharmacist intern shall be (a) a student  
 5 currently enrolled in an accredited pharmacy program, (b) a  
 6 graduate of an accredited pharmacy program serving his or her  
 7 internship, or (c) a graduate of a pharmacy program located  
 8 outside the United States which is not accredited and who has  
 9 successfully passed equivalency examinations approved by the board.  
 10 Intern registration based on enrollment in or graduation from an  
 11 accredited pharmacy program shall expire not later than fifteen  
 12 months after the date of graduation or at the time of professional  
 13 licensure, whichever comes first. Intern registration based on  
 14 graduation from a pharmacy program located outside of the United  
 15 States which is not accredited shall expire not later than fifteen  
 16 months after the date of issuance of the registration or at the  
 17 time of professional licensure, whichever comes first.

18 (2) A pharmacist intern may compound and dispense drugs  
 19 or devices and fill prescriptions only in the presence of and under  
 20 the immediate personal supervision of a licensed pharmacist. Such  
 21 licensed pharmacist shall either be (a) the person to whom the  
 22 pharmacy license is issued or a person in the actual employ of  
 23 the pharmacy licensee or (b) the delegating pharmacist designated  
 1 in a delegated dispensing agreement by a hospital with a delegated  
 2 dispensing permit.

3 (3) Performance as a pharmacist intern under the  
 4 supervision of a licensed pharmacist shall be predominantly related  
 5 to the practice of pharmacy and shall include the keeping of  
 6 records and the making of reports required under state and federal

- 7 statutes. The department, with the recommendation of the board,  
 8 shall adopt and promulgate rules and regulations as may be required  
 9 to establish standards for internship.  
 10 2. On page 11, strike beginning with the second comma in  
 11 line 22 through "in" in line 23, show as stricken, and insert "2  
 12 Graduation from".  
 13 3. On page 12, strike lines 2 through 10 and show as  
 14 stricken; and in line 11 strike "section 38-2851" and insert  
 15 "sections 38-2851 and 38-2854".  
 16 4. Renumber the remaining section accordingly.

### NOTICE OF COMMITTEE HEARINGS

Judiciary

Room 1113

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

LB461  
 LB521  
 LB690

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

LB665  
 LB652  
 LB689  
 LB350

(Signed) Brad Ashford, Chairperson

### COMMITTEE REPORTS

General Affairs

**LEGISLATIVE BILL 249.** Placed on General File with amendment.  
 AM297

- 1 1. On page 3, line 25, strike "surrounded by property  
 2 owned by" and insert "(a) surrounded by property owned by the  
 3 college or university including any public or private easement,  
 4 street, or right-of-way adjacent to the property owned by the  
 5 college or university or (b) adjacent to property on two or more  
 6 sides owned by the college or university including any public or  
 7 private easement, street, or right-of-way adjacent to the property  
 8 owned by the college or university.".  
 9 2. On page 4, strike line 1.

**LEGISLATIVE BILL 524.** Placed on General File with amendment.  
AM340

1 1. Strike the original sections and insert the following  
2 new sections:

3 Section 1. Section 9-701, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 9-701 (1) For purposes of this section:

6 (a) Financial institution has the same meaning as in  
7 section 8-101;

8 (a)-(b) Gift enterprise means a contest, game of chance,  
9 savings promotion raffle, or game promotion which is conducted  
10 within the state or throughout the state and other states in  
11 connection with the sale of consumer or trade products or services  
12 solely as business promotions and in which the elements of chance  
13 and prize are present. Gift enterprise does not include any scheme  
14 using the game of bingo or keno; any non-telecommunication-related,  
15 player-activated electronic or electromechanical facsimile of any  
16 game of chance; or any slot machine of any kind. A gift enterprise  
17 shall not utilize pickle cards as defined in section 9-315.

18 Promotional game tickets may be utilized subject to the following:

19 (i) The tickets utilized shall be manufactured or  
20 imprinted with the name of the operator on each ticket;

21 (ii) The tickets utilized shall not be manufactured with  
22 a cost per play printed on them; and

23 (iii) The tickets utilized shall not be substantially  
1 similar to any type of pickle card approved by the Department of  
2 Revenue pursuant to section 9-332.01; ~~and~~

3 (b)-(c) Operator means any person, firm, corporation,  
4 association, governmental entity, or agent or employee thereof who  
5 promotes, operates, or conducts a gift enterprise. Operator does  
6 not include any nonprofit organization or any agent or employee  
7 thereof, except that operator includes any ~~credit union~~ financial  
8 institution chartered under state or federal law or any agent  
9 or employee thereof who promotes, operates, or conducts a gift  
10 enterprise; and-

11 (d) Savings promotion raffle means a contest conducted by  
12 a financial institution chartered under state or federal law or any  
13 agent or employee thereof in which a chance of winning a designated  
14 prize is obtained by the deposit of a specified amount of money in  
15 a savings account or other savings program if each entry has an  
16 equal chance of winning.

17 (2) Any operator may conduct a gift enterprise within  
18 this state in accordance with this section.

19 (3) An operator shall not:

20 (a) Design, engage in, promote, or conduct a gift  
21 enterprise in connection with the promotion or sale of consumer  
22 products or services in which the winner may be unfairly  
23 predetermined or the game may be manipulated or rigged;



24 (b) Arbitrarily remove, disqualify, disallow, or reject  
25 any entry;

26 (c) Fail to award prizes offered;

27 (d) Print, publish, or circulate literature or  
1 advertising material used in connection with such gift enterprise  
2 which is false, deceptive, or misleading; or

3 (e) Require an entry fee, a payment or promise of payment  
4 of any valuable consideration, or any other consideration as a  
5 condition of entering a gift enterprise or winning a prize from the  
6 gift enterprise, except that a contest, game of chance, or business  
7 promotion may require, as a condition of participation, evidence  
8 of the purchase of a product or service as long as the purchase  
9 price charged for such product or service is not greater than it  
10 would have been without the contest, game of chance, or business  
11 promotion. For purposes of this section, consideration shall not  
12 include (i) filling out an entry blank, (ii) entering by mail  
13 with the purchase of postage at a cost no greater than the cost  
14 of postage for a first-class letter weighing one ounce or less,  
15 ~~or~~(iii) entering by a telephone call to the operator of or for  
16 the gift enterprise at a cost no greater than the cost of postage  
17 for a first-class letter weighing one ounce or less, or (iv) the  
18 deposit of money in a savings account or other savings program,  
19 regardless of the interest rate earned by such account or program.  
20 When the only method of entry is by telephone, the cost to the  
21 entrant of the telephone call shall not exceed the cost of postage  
22 for a first-class letter weighing one ounce or less for any reason,  
23 including (A) whether any communication occurred during the call  
24 which was not related to the gift enterprise or (B) the fact that  
25 the cost of the call to the operator was greater than the cost to  
26 the entrant allowed under this section.

27 (4) An operator shall disclose to participants all terms  
1 and conditions of a gift enterprise.

2 ~~(4)(a)~~~~(5)(a)~~ The Department of Revenue may adopt and  
3 promulgate rules and regulations necessary to carry out the  
4 operation of gift enterprises.

5 (b) Whenever the department has reason to believe that a  
6 gift enterprise is being operated in violation of this section or  
7 the department's rules and regulations, it may bring an action in  
8 the district court of Lancaster County in the name of and on behalf  
9 of the people of the State of Nebraska against the operator of  
10 the gift enterprise to enjoin the continued operation of such gift  
11 enterprise anywhere in the state.

12 ~~(5)(a)~~~~(6)(a)~~ Any person, firm, corporation, association,  
13 or agent or employee thereof who engages in any unlawful acts or  
14 practices pursuant to this section or violates any of the rules and  
15 regulations promulgated pursuant to this section shall be guilty of  
16 a Class II misdemeanor.

17 (b) Any person, firm, corporation, association, or agent  
18 or employee thereof who violates any provision of this section

19 or any of the rules and regulations promulgated pursuant to this  
 20 section shall be liable to pay a civil penalty of not more than  
 21 one thousand dollars imposed by the district court of Lancaster  
 22 County for each such violation which shall ~~accrue to the permanent~~  
 23 ~~school fund.~~ be remitted to the State Treasurer for distribution  
 24 in accordance with Article VII, section 5, of the Constitution  
 25 of Nebraska. Each day of continued violation shall constitute a  
 26 separate offense or violation for purposes of this section.

27 (7) A financial institution may limit the number of  
 1 chances that a participant in a savings promotion raffle may obtain  
 2 for making the required deposits, but shall not limit the number of  
 3 deposits.

4 ~~(6)-(8)~~ In all proceedings initiated in any court or  
 5 otherwise under this section, the Attorney General or appropriate  
 6 county attorney shall prosecute and defend all such proceedings.

7 ~~(7)-(9)~~ This section shall not apply to any activity  
 8 authorized and regulated under the Nebraska Bingo Act, the Nebraska  
 9 County and City Lottery Act, the Nebraska Lottery and Raffle Act,  
 10 the Nebraska Pickle Card Lottery Act, or the Nebraska Small Lottery  
 11 and Raffle Act.

12 Sec. 2. Original section 9-701, Reissue Revised Statutes  
 13 of Nebraska, is repealed.

(Signed) Russ Karpisek, Chairperson

Judiciary

**LEGISLATIVE BILL 202.** Placed on General File with amendment.  
 AM399

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 section 2 of this  
 6 act shall be known and may be cited as the Nebraska Criminal Code.

7 Sec. 2. (1) Notwithstanding any other provision of law,  
 8 any person sentenced to life imprisonment, who, at the time of the  
 9 commission of the crime, was under eighteen years of age and has  
 10 served at least twenty years of that sentence, may submit to the  
 11 Board of Pardons a petition for sentence commutation.

12 (a) Those persons who entered custody prior to July 1,  
 13 1994, may submit a petition in 2012;

14 (2) The person shall file the original petition with the  
 15 board. A copy of the petition shall be served on the Attorney  
 16 General or county attorney that prosecuted the case. The petition  
 17 shall include the person's statement that he or she was under  
 18 eighteen years of age at the time of the crime, was sentenced to  
 19 life imprisonment, and that one of the following is true:

20 (a) The person was convicted pursuant to section 28-303  
21 or 28-304 or of aiding and abetting another person in the violation  
22 of such section;

23 (b) The person does not have juvenile felony  
1 adjudications for assault or other felony crimes with a significant  
2 potential for personal harm to victims prior to the offense for  
3 which the sentence is being considered for commutation;

4 (c) The person committed the offense with at least one  
5 adult co-person; or

6 (d) The person has performed acts that tend to indicate  
7 rehabilitation or the potential for rehabilitation, including, but  
8 not limited to, availing himself or herself of rehabilitative,  
9 educational, or vocational programs, if those programs have been  
10 available at his or her classification level and facility, using  
11 self-study for self-improvement, or showing evidence of remorse.

12 (3) If any of the information required in subsection  
13 (2) of this section is missing from the petition, or if proof of  
14 service on the Attorney General or county attorney is not provided,  
15 the board shall return the petition to the person and advise him  
16 or her that the matter cannot be considered without the missing  
17 information. The person may resubmit a petition that includes the  
18 information or proof of service.

19 (4) A reply to the petition, if any, shall be filed with  
20 the board within sixty days after the date on which the Attorney  
21 General or county attorney was served with the petition, unless a  
22 continuance is granted for good cause.

23 (5) If the board finds by a preponderance of the evidence  
24 that the statements in the petition are true, the board shall  
25 hold a hearing to consider whether to commute the sentence of the  
26 person. Victims, or family members of a victim if the victim is  
27 deceased, may participate in the hearing.

1 (6) The factors that the board shall consider when  
2 determining whether to commute the sentence include, but are not  
3 limited to, the following:

4 (a) The person was convicted pursuant to section 28-303  
5 or 28-304 or of aiding and abetting another person in the violation  
6 of such section;

7 (b) The person does not have juvenile felony  
8 adjudications for assault or other felony crimes with a significant  
9 potential for personal harm to victims prior to the offense for  
10 which the sentence is being considered for commutation;

11 (c) The person committed the offense with at least one  
12 adult co-person;

13 (d) Prior to the offense for which the sentence is  
14 being considered for commutation, the person had insufficient adult  
15 support or supervision and had suffered from psychological or  
16 physical trauma, or significant stress;

17 (e) The person suffers from cognitive limitations due  
18 to mental illness, developmental disabilities, or other factors

19 that did not constitute a defense, but influenced the person's  
 20 involvement in the offense;

21 (f) The person has performed acts that tend to indicate  
 22 rehabilitation or the potential for rehabilitation, including, but  
 23 not limited to, availing himself or herself of rehabilitative,  
 24 educational, or vocational programs, if those programs have been  
 25 available at his or her classification level and facility, using  
 26 self-study for self-improvement, or showing evidence of remorse;

27 (g) The person has maintained family ties or connections  
 1 with others through letter writing, calls, or visits, or has  
 2 eliminated contact with individuals outside of prison who are  
 3 involved with crime; and

4 (h) The person has had no disciplinary actions for  
 5 violent activities in the last five years in which the person was  
 6 determined to be the aggressor.

7 (7) The board shall have the discretion to commute the  
 8 sentence of the person. The discretion of the board shall be  
 9 exercised in consideration of the criteria in subsection (6) of  
 10 this section. Victims, or family members of a victim if the victim  
 11 is deceased, shall be notified of the sentence commutation hearing  
 12 and may participate in the hearing.

13 (8) If the sentence is not commuted, the person may  
 14 submit another petition for sentence commutation to the board five  
 15 years after the initial filing. If sentence commutation is not  
 16 granted under that petition, the person may file another petition  
 17 ten years after the initial filing. If sentence commutation is not  
 18 granted under that petition, the person may file another petition  
 19 fifteen years after the initial filing. If sentence commutation is  
 20 not granted under that petition, a final petition may be submitted  
 21 twenty years after the initial filing.

22 (9) In addition to the criteria in subsection (6) of this  
 23 section, the board may consider any other criteria that the board  
 24 deems relevant to its decision, so long as the board identifies  
 25 them on the record, provides a statement of reasons for adopting  
 26 them, and states why the person does or does not satisfy the  
 27 criteria.

1 (10) This section applies retroactively and shall be  
 2 utilized as part of the board's pardon authority as defined in  
 3 section 83-170.

4 Sec. 3. Section 83-1,127, Reissue Revised Statutes of  
 5 Nebraska, is amended to read:

6 83-1,127 The Board of Pardons shall:

7 (1) Exercise the pardon authority as defined in section  
 8 83-170 for all criminal offenses except treason and cases of  
 9 impeachment;

10 (2) Hold sentence commutation hearings pursuant to  
 11 section 2 of this act;

12 ~~(2)-(3)~~ (3) Make rules and regulations for its own  
 13 administration and operation;

14 ~~(3)~~(4) Appoint and remove its employees as prescribed  
15 by the State Personnel System and delegate appropriate powers and  
16 duties to them;  
17 ~~(4)~~(5) Consult with the Board of Parole concerning  
18 applications for the exercise of pardon authority;  
19 ~~(5)~~(6) Consult with the Department of Motor Vehicles  
20 concerning applications received from the department pursuant to  
21 section 60-6,209 for the exercise of pardon authority; and  
22 ~~(6)~~(7) Exercise all powers and perform all duties  
23 necessary and proper in carrying out its responsibilities under the  
24 provisions of the Nebraska Treatment and Corrections Act.  
25 Sec. 4. Original section 83-1,127, Reissue Revised  
26 Statutes of Nebraska, and section 28-101, Revised Statutes  
27 Cumulative Supplement, 2010, are repealed.

(Signed) Brad Ashford, Chairperson

## RESOLUTION

**LEGISLATIVE RESOLUTION 78.** Introduced by Krist, 10; Cornett, 45; Langemeier, 23; McCoy, 39; McGill, 26; Mello, 5; Price, 3; Smith, 14.

WHEREAS, Brigadier General John N.T. "Jack" Shanahan served as the Commander of the 55th Wing, Offutt Air Force Base, Nebraska, from April 24, 2009, to March 9, 2011; and

WHEREAS, General Shanahan provided superlative leadership in organizing, training, and equipping six groups and 32 squadrons executing worldwide intelligence, surveillance, and reconnaissance; electronic attack; command and control; presidential support; and treaty verification missions totaling an unprecedented 1,700 missions around the globe; and

WHEREAS, General Shanahan is also responsible for base support to 90 associate units, including United States Strategic Command, the Air Force Weather Agency, and more than 57,000 active-duty members, civilians, family members, and retirees; and

WHEREAS, General Shanahan's leadership was key to the success of seven uniquely designed RC/OC/WC-135 aircraft, which include the COBRA BALL, COMBAT SENT, OPEN SKIES, and CONSTANT PHOENIX; and

WHEREAS, General Shanahan's vision led to the success of the EC-130H COMPASS CALL and its electronic attack mission, which has flown missions in support of both Iraq and Afghanistan; and

WHEREAS, General Shanahan was able to secure the success of the National Airborne Operations Center as it flew more than 2,700 hours with four aircraft supporting the President of the United States and the Secretary of Defense around the world; and

WHEREAS, General Shanahan distinguished himself by exceptional meritorious conduct in the performance of outstanding service to the United States as Commander of the 55th Wing, Offutt Air Force Base; and

WHEREAS, during General Shanahan's command, his exemplary ability, diligence, and devotion to duty were instrumental factors in the resolution of

many complex problems of major importance to the United States Air Force; and

WHEREAS, the superior initiative, outstanding leadership, and personal endeavor displayed by General Shanahan reflect great credit upon himself and the United State Air Force.

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

1. That the Legislature hereby congratulates and extends its sincere appreciation to Brigadier General John N.T. "Jack" Shanahan and thanks him for his excellent service to our state and nation.

2. That a copy of this resolution be sent to Brigadier General John N.T. "Jack" Shanahan.

Laid over.

### GENERAL FILE

**LEGISLATIVE BILL 210.** Title read. Considered.

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 471.** Title read. Considered.

### SENATOR GLOOR PRESIDING

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 6 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 159.** Title read. Considered.

Committee AM244, found on page 517, 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 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 191.** Title read. Considered.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 11 present and not voting, and 7 excused and not voting.

**COMMITTEE REPORTS**

## Enrollment and Review

**LEGISLATIVE BILL 278.** Placed on Select File with amendment.  
ER34

- 1 1. On page 1, line 5, after the semicolon insert "to
- 2 provide a duty for the Revisor of Statutes;".

**LEGISLATIVE BILL 368.** Placed on Select File.

**LEGISLATIVE BILL 399.** Placed on Select File.

**LEGISLATIVE BILL 556.** Placed on Select File.

**LEGISLATIVE BILL 281.** Placed on Select File.

**LEGISLATIVE BILL 314.** Placed on Select File.

(Signed) Tyson Larson, Chairperson

**COMMITTEE REPORTS**

## Banking, Commerce and Insurance

**LEGISLATIVE BILL 404.** Placed on General File.

**LEGISLATIVE BILL 70.** Placed on General File with amendment.  
AM82

- 1 1. Insert the following new section:
- 2 Sec. 2. Section 44-5503, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 44-5503 The department, in consideration of the payment
- 5 of the license fee, may issue a surplus lines license, revocable
- 6 at any time, to any individual who currently holds an insurance
- 7 producer license or to a foreign or domestic corporation. The
- 8 corporate surplus lines license shall list all officers or
- 9 employees of the corporation who currently hold an insurance
- 10 producer license or meet the requirements for an individual surplus
- 11 lines license and who have authority to transact surplus lines
- 12 business on behalf of the corporation. Only individuals listed
- 13 on the corporate surplus lines license shall transact surplus
- 14 lines business on behalf of the corporate licensee. If the
- 15 applicant is an individual, the application for the license shall
- 16 include the applicant's social security number. The director may
- 17 utilize the national insurance producer data base of the National
- 18 Association of Insurance Commissioners, or any other equivalent
- 19 uniform national data base, for the licensure of an individual or
- 20 an entity as a surplus lines producer and for renewal of such
- 21 license.
- 22 2. On page 8, strike beginning with "Every" in line
- 23 3 through the period in line 22, show the old matter as
- 1 stricken, and insert "(1) For the purposes of carrying out the
- 2 Nonadmitted and Reinsurance Reform Act of 2010, which is Subtitle
- 3 B of the Dodd-Frank Wall Street Reform and Consumer Protection

4 Act, Public Law 111-203, as such act existed on January 1,  
5 2011, the director may enter the Nonadmitted Insurance Multi-State  
6 Agreement in order to facilitate the collection, allocation, and  
7 disbursement of premium taxes attributable to the placement of  
8 nonadmitted insurance, provide for uniform methods of allocation  
9 and reporting among nonadmitted insurance risk classifications, and  
10 share information among states relating to nonadmitted insurance  
11 premium taxes.

12 (2) The director may participate in the clearinghouse  
13 established through the Nonadmitted Insurance Multi-State Agreement  
14 for the purpose of collecting and disbursing to reciprocal  
15 states any funds collected applicable to properties, risks, or  
16 exposures located or to be performed outside of this state. To  
17 the extent that other states where portions of the properties,  
18 risks, or exposures reside have failed to enter into a compact  
19 or reciprocal allocation procedure with the State of Nebraska,  
20 the net premium tax shall be retained by the State of Nebraska.  
21 If the director chooses to participate in the clearinghouse for  
22 the purpose authorized by this subsection, the director may also  
23 participate in such clearinghouse for purposes of surplus lines  
24 policies applicable to risks located solely within this state.

25 (3) Every surplus lines licensee transacting business  
26 under the Surplus Lines Insurance Act shall, on or before February  
27 15 for the quarter ending the preceding December 31, May 15 for the  
1 quarter ending the preceding March 31, August 15 for the quarter  
2 ending the preceding June 30, and November 15 for the quarter  
3 ending the preceding September 30 of each year, make and file with  
4 the department a verified statement upon a form prescribed by the  
5 department or a designee of the director which shall exhibit the  
6 true amount of all such business transacted during that period.

7 (4)(a) Every surplus lines licensee transacting business  
8 under the Surplus Lines Insurance Act shall collect and pay to  
9 the director or the director's designee, at the time the statement  
10 required under subsection (3) of this section is filed, a sum based  
11 on the total gross premiums charged, less any return premiums,  
12 for surplus lines insurance provided by the licensee pursuant to  
13 the license. In no event shall such taxes be determined on a  
14 retaliatory basis pursuant to section 44-150.

15 (b) When the insurance covers properties, risks, or  
16 exposures located or to be performed solely in this state on behalf  
17 of an insured whose home state is the State of Nebraska, the sum  
18 payable shall be computed based on an amount equal to three percent  
19 of the premiums to be remitted to the State Treasurer in accordance  
20 with section 77-912.

21 (c) When the insurance covers properties, risks, or  
22 exposures located or to be performed both in and out of this state,  
23 the sum payable shall be computed based on:



24 (i) For purposes of the portion that is attributable to  
 25 instate risks, an amount and rate equal to that set forth in  
 26 subdivision (4)(b) of this section; plus

27 (ii) For purposes of the portion that is attributable to  
 1 out-of-state risks, an amount equal to the portion of the premiums  
 2 allocated to each of the other states or territories and at a rate  
 3 as established by each state or territory as being applicable to  
 4 the properties, risks, or exposures located or performed outside  
 5 of this state. The tax on any portion of the premium unearned at  
 6 termination of insurance having been credited by the state to the  
 7 licensee shall be returned to the policyholder directly by the  
 8 surplus lines licensee or through the producing broker, if any. The  
 9 surplus lines licensee is prohibited from rebating, for any reason,  
 10 any portion of the tax.

11 (5) The director may utilize or adopt the allocation  
 12 schedule included in the Nonadmitted Insurance Multi-State  
 13 Agreement for the purpose of allocating risk and computing the  
 14 tax due on the portion of premium attributable to each risk  
 15 classification and to each state in which properties, risks, or  
 16 exposures are located."

17 3. On page 13, strike beginning with "No" in line 13  
 18 through the comma in line 14, show as stricken, and insert "On or  
 19 before February 15 for the quarter ending the preceding December  
 20 31, May 15 for the quarter ending the preceding March 31, August 15  
 21 for the quarter ending the preceding June 30, and November 15 for  
 22 the quarter ending the preceding September 30 of each year."

23 4. On page 14, strike beginning with "annually" in line  
 24 3 through the period in line 8, show the old matter as stricken,  
 25 and insert ", on or before February 15 for the quarter ending the  
 26 preceding December 31, May 15 for the quarter ending the preceding  
 27 March 31, August 15 for the quarter ending the preceding June 30,  
 1 and November 15 for the quarter ending the preceding September 30  
 2 of each year, pay to the department a tax in the amount required by  
 3 subdivision (4)(a) of section 44-5506."

4 5. Renumber the remaining sections and correct the  
 5 repealer accordingly.

(Signed) Rich Pahls, Chairperson

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 343.** Placed on General File.

**LEGISLATIVE BILL 628.** Placed on General File.

**LEGISLATIVE BILL 230.** Placed on General File with amendment.  
 AM365

1 1. On page 4, lines 2 and 3, strike the new matter;  
 2 in line 4 strike "or" and show as stricken and after the last  
 3 semicolon insert "or public utility infrastructure specifications

4 or design drawings the public disclosure of which would create a  
 5 substantial likelihood of endangering public safety or property,  
 6 unless otherwise provided by state or federal law;"; in line 17  
 7 after "payment" insert "and customer use"; and in lines 17 and 18  
 8 strike "customer use information,".

**LEGISLATIVE BILL 337.** Placed on General File with amendment.  
 AM275

- 1 1. Strike original sections 2 and 8.
- 2 2. On page 25, line 12, strike "23-2301,"; and in line 13
- 3 strike "77-2608, and 84-1301" and insert "and 77-2608".
- 4 3. Renumber the remaining sections accordingly.

**LEGISLATIVE BILL 499.** Placed on General File with amendment.  
 AM404

- 1 1. Strike original sections 3 and 4 and renumber the
- 2 remaining sections accordingly.
- 3 2. On page 12, line 4, strike "32-628, 32-631,".

**LEGISLATIVE BILL 338.** Indefinitely postponed.

(Signed) Bill Avery, Chairperson

### COMMITTEE REPORTS

Enrollment and Review

**LEGISLATIVE BILL 43.** Placed on Final Reading.

**LEGISLATIVE BILL 108.** Placed on Final Reading.

**LEGISLATIVE BILL 178.** Placed on Final Reading.

ST4

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, line 4, "60-4,171," has been inserted after the last comma.

**LEGISLATIVE BILL 178A.** Placed on Final Reading.

**LEGISLATIVE BILL 215.** Placed on Final Reading.

ST5

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 39, the matter beginning with "proof" in line 6 through "in" in line 7 has been struck and "the information and documentation required by" inserted.

**LEGISLATIVE BILL 410.** Placed on Final Reading.

**LEGISLATIVE BILL 410A.** Placed on Final Reading.

(Signed) Tyson Larson, Chairperson

**NOTICE OF COMMITTEE HEARINGS**

Natural Resources

Room 1525

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

Mark Pinkerton - Game and Parks Commission

LB526

LB595

LB596

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

LB127

LB655

LB656

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

LR40CA

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

LB587

LB626

LB653

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

LB328

LB645

LB683

(Signed) Chris Langemeier, Chairperson

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 181A.** Introduced by Hansen, 42.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 181, One Hundred Second Legislature, First Session, 2011.

**RESOLUTION****LEGISLATIVE RESOLUTION 79.** Introduced by Hadley, 37.

WHEREAS, Sara Culey, an esteemed resident of Kearney, Nebraska, and a student at Kearney High School, has achieved national recognition for exemplary volunteer service by receiving a 2011 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Ms. Culey earned this award by giving generously of her time and energy to organize a community-wide memorial event and a physical memorial at the local community tennis courts to honor her best friend, an avid tennis player, who died in a car accident. Ms. Culey, who helped raise two thousand dollars to support the project, managed the event logistics, promotion, and volunteer recruitment for the memorial candle-lighting event and the building of a new shade shelter at the courts in her friend's honor; and

WHEREAS, the success of the State of Nebraska, the strength of our communities, and the overall vitality of American society depend in great measure upon the dedication of young people like Ms. Culey who use their considerable talents and resources to serve others.

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

1. That the Legislature congratulates and honors Sara Culey as a recipient of a 2011 Prudential Spirit of Community Award, recognizes her outstanding record of volunteer service, peer leadership, and community spirit, and extends best wishes for her continued success and happiness.

2. That a copy of this resolution be sent to Sara Culey.

Laid over.

**VISITORS**

Visitors to the Chamber were Vickie and Somer Young from Omaha; members of Leadership Lincoln County from North Platte; and Merlin Boelling from Clearwater.

The Doctor of the Day was Dr. Mandy Bajwa from Omaha.

**ADJOURNMENT**

At 11:59 a.m., on a motion by Senator Utter, the Legislature adjourned until 9:00 a.m., Wednesday, February 23, 2011.

Patrick J. O'Donnell  
Clerk of the Legislature