

**SEVENTY-FOURTH DAY - MAY 4, 2011****LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE  
FIRST SESSION****SEVENTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, May 4, 2011

**PRAYER**

The prayer was offered by Pastor Michael Brown, Redeemer Lutheran Church, Lincoln.

**ROLL CALL**

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

The roll was called and all members were present except Senators Ashford, Cornett, Fischer, K. Haar, Heidemann, Janssen, Lautenbaugh, Pahls, Pankonin, and Wightman who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventy-third day was approved.

**MESSAGE FROM THE GOVERNOR**

May 4, 2011

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 54, 177, 382e, 382Ae, 464e, 637e, 637Ae, and 648 were received in my office on April 28, 2011.

These bills were signed and delivered to the Secretary of State on May 4, 2011.

Sincerely,  
(Signed) Dave Heineman  
Governor

**MOTIONS - Approve Appointments**

Senator Lathrop moved the adoption of the Business and Labor Committee report for the confirmation of the following appointment(s) found on page 1349:

Boiler Safety Code Advisory Board

Steven Bley

Robert Kirkpatrick

Thomas Phipps

Voting in the affirmative, 28:

Brasch	Dubas	Howard	Mello	Smith
Campbell	Flood	Krist	Nordquist	Sullivan
Carlson	Gloor	Larson	Pirsch	Utter
Conrad	Hadley	Lathrop	Price	Wallman
Cook	Hansen	Louden	Schilz	
Council	Harms	McCoy	Schumacher	

Voting in the negative, 0.

Present and not voting, 11:

Adams	Christensen	Harr, B.	McGill
Avery	Coash	Karpisek	Nelson
Bloomfield	Fulton	Langemeier	

Excused and not voting, 10:

Ashford	Fischer	Heidemann	Lautenbaugh	Pankonin
Cornett	Haar, K.	Janssen	Pahls	Wightman

The appointments were confirmed with 28 ayes, 0 nays, 11 present and not voting, and 10 excused and not voting.

Senator Campbell moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 1351:

Foster Care Review Board

Jill Reel

Voting in the affirmative, 33:

Bloomfield	Cook	Harms	McGill	Schumacher
Brasch	Council	Howard	Mello	Smith
Campbell	Dubas	Krist	Nordquist	Sullivan
Carlson	Flood	Langemeier	Pahls	Utter
Christensen	Gloor	Larson	Pirsch	Wallman
Coash	Hadley	Lathrop	Price	
Conrad	Hansen	McCoy	Schilz	

Voting in the negative, 0.

Present and not voting, 7:

Adams	Fulton	Karpisek	Nelson
Avery	Harr, B.	Louden	

Excused and not voting, 9:

Ashford	Fischer	Heidemann	Lautenbaugh	Wightman
Cornett	Haar, K.	Janssen	Pankonin	

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

Senator Campbell moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 1351:

Commission for the Deaf and Hard of Hearing

Dillard Delts

Amy Kasch

Voting in the affirmative, 32:

Adams	Conrad	Harms	Mello	Smith
Bloomfield	Cook	Howard	Nordquist	Sullivan
Brasch	Council	Krist	Pahls	Utter
Campbell	Dubas	Langemeier	Pirsch	Wallman
Carlson	Flood	Larson	Price	
Christensen	Gloor	Lathrop	Schilz	
Coash	Hansen	McGill	Schumacher	

Voting in the negative, 0.

Present and not voting, 8:

Avery	Hadley	Karpisek	McCoy
Fulton	Harr, B.	Louden	Nelson

Excused and not voting, 9:

Ashford	Fischer	Heidemann	Lautenbaugh	Wightman
Cornett	Haar, K.	Janssen	Pankonin	

The appointments were confirmed with 32 ayes, 0 nays, 8 present and not voting, and 9 excused and not voting.

Senator Campbell moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 1352:

State Board of Health  
Janet Coleman

Voting in the affirmative, 33:

Adams	Cook	Harms	McGill	Schumacher
Bloomfield	Council	Howard	Mello	Smith
Brasch	Dubas	Janssen	Nordquist	Sullivan
Campbell	Flood	Krist	Pahls	Utter
Carlson	Gloor	Langemeier	Pirsch	Wallman
Christensen	Haar, K.	Larson	Price	
Conrad	Hansen	Louden	Schilz	

Voting in the negative, 0.

Present and not voting, 9:

Avery	Fulton	Harr, B.	Lathrop	Nelson
Coash	Hadley	Karpisek	McCoy	

Excused and not voting, 7:

Ashford	Fischer	Lautenbaugh	Wightman
Cornett	Heidemann	Pankonin	

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

Senator Langemeier moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 1399:

Environmental Quality Council  
Douglas Anderson  
John Baker  
John Kinter  
John Turnbull  
Donald Williams

Voting in the affirmative, 33:

Adams	Council	Hansen	McGill	Schumacher
Bloomfield	Dubas	Harms	Mello	Smith
Campbell	Fischer	Howard	Nordquist	Sullivan
Carlson	Flood	Krist	Pahls	Utter
Christensen	Gloor	Langemeier	Pirsch	Wallman
Conrad	Haar, K.	Larson	Price	
Cook	Hadley	McCoy	Schilz	

Voting in the negative, 0.

Present and not voting, 10:

Avery	Coash	Harr, B.	Karpisek	Louden
Brasch	Fulton	Janssen	Lathrop	Nelson

Excused and not voting, 6:

Ashford	Heidemann	Pankonin
Cornett	Lautenbaugh	Wightman

The appointments were confirmed with 33 ayes, 0 nays, 10 present and not voting, and 6 excused and not voting.

### GENERAL FILE

**LEGISLATIVE BILL 590A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

### SELECT FILE

**LEGISLATIVE BILL 404.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 590.** ER111, found on page 1387, was adopted.

Senator Gloor renewed his amendment, AM1364, found on page 1415.

Senator Gloor offered the following amendment to his amendment:

FA21

Amend AM1364

Page 4, line 26, after "shall", delete "not".

The Gloor amendment was adopted with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

The Gloor amendment, AM1364, as amended, was adopted with 33 ayes, 0 nays, 10 present and not voting, and 6 excused and not voting.

Senator Gloor offered the following amendment:

AM1387

(Amendments to E & R amendments, ER111)

1 1. On page 53, strike lines 1 through 8, and insert the  
 2 following new subsection:  
 3 "(4) The agreement may provide for the sale of cigarettes  
 4 not included in the directory under section 69-2706, but only if  
 5 the agreement requires that such cigarettes bear the tribal stamp  
 6 under section 24 of this act and only if the agreement includes  
 7 provisions to account for escrow deposits on such cigarettes in  
 8 amounts equal to and in a manner consistent with the deposits  
 9 required of manufacturers under section 69-2703 or otherwise  
 10 requires payment of escrow by the manufacturers in accordance  
 11 with section 69-2703."

The Gloor amendment was adopted with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 106.** ER100, found on page 1321, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 549.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 549A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 345.** ER102, found on page 1321, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 345A.** Advanced to Enrollment and Review for Engrossment.

### GENERAL FILE

**LEGISLATIVE BILL 673.** Title read. Considered.

Committee AM1254, found on page 1357, was adopted with 39 ayes, 0 nays, 5 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 5 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 226.** Title read. Considered.

Committee AM1068, found on page 1356, was considered.

Senator Hadley renewed his amendment, AM1381, found on page 1421, to the committee amendment.

**SENATOR SULLIVAN PRESIDING**

Senator Wallman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 1 nay, and 20 not voting.

Senator Hadley moved for a call of the house. The motion prevailed with 36 ayes, 0 nays, and 13 not voting.

Senator Hadley requested a roll call vote on his amendment.

Voting in the affirmative, 27:

Avery	Flood	Karpisek	Pahls	Sullivan
Bloomfield	Hadley	Krist	Pankonin	Utter
Carlson	Hansen	Langemeier	Pirsch	Wallman
Christensen	Harms	Louden	Price	
Cornett	Howard	McCoy	Schilz	
Fischer	Janssen	Nelson	Smith	

Voting in the negative, 13:

Adams	Campbell	Cook	Haar, K.	Nordquist
Ashford	Coash	Council	Larson	
Brasch	Conrad	Gloor	McGill	

Present and not voting, 5:

Dubas	Lathrop	Lautenbaugh	Mello	Schumacher
-------	---------	-------------	-------	------------

Absent and not voting, 1:

Harr, B.

Excused and not voting, 3:

Fulton	Heidemann	Wightman
--------	-----------	----------

The Hadley amendment was adopted with 27 ayes, 13 nays, 5 present and not voting, 1 absent and not voting, and 3 excused and not voting.

The Chair declared the call raised.

The committee amendment, as amended, was adopted with 37 ayes, 3 nays, 6 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 35 ayes, 5 nays, 6 present and not voting, and 3 excused and not voting.

### **COMMITTEE REPORTS**

#### Enrollment and Review

**LEGISLATIVE BILL 151.** Placed on Select File with amendment. ER125 is available in the Bill Room.

**LEGISLATIVE BILL 590A.** Placed on Select File.

(Signed) Tyson Larson, Chairperson

### **VISITORS**

Visitors to the Chamber were 60 fourth-grade students, teachers, and sponsors from Cardinal Elementary, South Sioux City; Jesse and Melissa Hall from Blair and Chuck Sattig, Dana Vincent, Brenda Worth, and Mark Spadaro; 38 ninth-grade students and teachers from Wood River; and 48 second-grade students and teachers from Wilber-Clatonia Public School, Wilber.

### **RECESS**

At 11:51 a.m., on a motion by Speaker Flood, the Legislature recessed until 1:30 p.m.

### **AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Speaker Flood presiding.

### **ROLL CALL**

The roll was called and all members were present except Senator Carlson who was excused; and Senators Coash, Cornett, Heidemann, Lautenbaugh, Mello, and Wightman who were excused until they arrive.

### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 170, 171, and 172 were adopted.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 170, 171, and 172.



**GENERAL FILE**

**LEGISLATIVE BILL 397.** Title read. Considered.

Committee AM1116, found on page 1095, was considered.

Senator Lathrop withdrew his amendment, AM1125, found on page 1095.

Senator Lathrop renewed his amendment, AM1383, found on page 1421, to the committee amendment.

**SENATOR SULLIVAN PRESIDING**

**SPEAKER FLOOD PRESIDING**

Pending.

**NOTICE OF COMMITTEE HEARING**

Judiciary

Room 1113

Tuesday, May 17, 2011 1:00 p.m.

Miguel "Mike" Gomez - Board of Parole

(Signed) Brad Ashford, Chairperson

**COMMITTEE REPORT**

Business and Labor

**LEGISLATIVE BILL 564.** Indefinitely postponed.

(Signed) Steve Lathrop, Chairperson

Judiciary

**LEGISLATIVE BILL 521.** Placed on General File with amendment.

AM1100

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

3 Section 1. Section 28-335, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 28-335 (1) The performing of an abortion by any person  
6 other than a licensed physician is a Class IV felony.

7 (2) No abortion shall be performed, induced, or attempted  
8 unless the physician who uses or prescribes any instrument, device,  
9 medicine, drug, or other substance to perform, induce, or attempt

10 the abortion is physically present in the same room with the  
 11 patient when the physician performs, induces, or attempts to  
 12 perform or induce the abortion. Any person who knowingly or  
 13 recklessly violates this subsection shall be guilty of a Class IV  
 14 felony. No civil or criminal penalty shall be assessed against the  
 15 patient upon whom the abortion is performed, induced, or attempted  
 16 to be performed or induced.

17 Sec. 2. If any one or more provisions, sections,  
 18 subsections, sentences, clauses, phrases, or words of this act  
 19 or the application thereof to any person or circumstance is found  
 20 to be unconstitutional, the same is hereby declared to be severable  
 21 and the balance of this act shall remain effective notwithstanding  
 22 such unconstitutionality. The Legislature hereby declares that  
 23 it would have passed this act, and each provision, section,  
 1 subsection, sentence, clause, phrase, or word thereof, irrespective  
 2 of the fact that any one or more provisions, sections, subsections,  
 3 sentences, clauses, phrases, or words be declared unconstitutional.  
 4 Sec. 3. Original section 28-335, Reissue Revised Statutes  
 5 of Nebraska, is repealed.

(Signed) Brad Ashford, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 397.** The Lathrop amendment, AM1383, found on page 1421 and considered in this day's Journal, to the committee amendment, was renewed.

Pending.

### COMMITTEE REPORTS

Business and Labor

**LEGISLATIVE BILL 555.** Indefinitely postponed.

**LEGISLATIVE BILL 623.** Indefinitely postponed.

**LEGISLATIVE BILL 664.** Indefinitely postponed.

**LEGISLATIVE RESOLUTION 29CA.** Indefinitely postponed.

**LEGISLATIVE BILL 482.** Indefinitely postponed.

**LEGISLATIVE BILL 619.** Indefinitely postponed.

**LEGISLATIVE BILL 624.** Indefinitely postponed.

(Signed) Steve Lathrop, Chairperson

**AMENDMENT - Print in Journal**

Senator Gloor filed the following amendment to LB591:  
AM1398

- 1 1. On page 14, line 1, after "entity" insert "listed in
- 2 section 71-539".

**MESSAGE FROM THE SECRETARY OF STATE**

May 4, 2011

Mr. President, Mr. Speaker and  
Members of the Legislature  
State Capitol  
Lincoln, NE 68509

Dear Mr. President and Senators,

The purpose of this letter is to inform the honorable members of the Legislature that I have made the following appointment requiring Legislative confirmation:

Mr. Timothy M. Schulz, as an "at-large" member of the Accountability and Disclosure Commission, for a six-year term beginning July 1, 2011 and ending on June 30, 2017.

This appointment is made by me pursuant to the provisions of Sections 49-14,105, 49-14,110, 49-14,112 and 49-14,114 and is respectfully submitted for your consideration.

Attached is additional background information on the qualifications of the appointment.

Sincerely,  
(Signed) John A. Gale  
Secretary of State

Cc: Frank Daley  
Sh

**AMENDMENTS - Print in Journal**

Senator Heidemann filed the following amendment to LB374:  
AM1397

- 1 1. In the Standing Committee amendments, AM902:
- 2 a. Purpose: To correct for an error, reappropriation
- 3 language was omitted.
- 4 Amendment:
- 5 1. On page 5, after line 27 insert:

6 "The unexpended General Fund appropriation balance  
7 existing on June 30, 2011, is hereby reappropriated.";

8 b. Purpose: Decrease Tax Equity and Educational  
9 Opportunities Support Act aid for FY2011-12 by \$2,809,152 to  
10 reflect actual insurance premium tax receipts used to offset  
11 general funds and increase Tax Equity and Educational Opportunities  
12 Support Act aid for FY2011-12 by \$28,578 to reflect adjustments  
13 made by the State Department of Education.

14 Amendment:

15 1. On page 24, line 1, strike "1,008,822,743" and insert  
16 "1,006,042,169"; in line 4 strike "1,302,952,819" and insert  
17 "1,300,172,245"; in line 6 strike "\$1,008,822,743" and insert  
18 "\$1,006,042,169"; and in line 14, strike "\$807,469,661" and insert  
19 "\$804,689,087";

20 c. Purpose: Change description of health care positions  
21 to harmonize with legislative change to licensure classification.

22 Amendment:

23 1. On page 53, lines 22 and 23, and page 53,  
1 line 26 and page 54, line 1, strike each occurrence of  
2 "emergency medical technicians-intermediate and emergency medical  
3 technicians-paramedic" and insert "out-of-hospital emergency care  
4 providers";

5 d. Purpose: Change funding language for federally  
6 qualified health centers.

7 Amendment:

8 1. On page 71, line 19, strike "a" and insert "the  
9 second"; strike beginning with "with" in line 20 through  
10 "inhabitants" in line 21 and insert ". Such funds shall be used  
11 for the purpose of implementing a minority health initiative  
12 which may target, but shall not be limited to, infant mortality,  
13 cardiovascular disease, obesity, diabetes, and asthma"; and

14 e. Purpose: Add transfer language.

15 Amendments:

16 1. On page 182, line 14, after "Fund" insert "to the  
17 General Fund".

18 2. Purpose: Increase the cash fund appropriation \$45,000  
19 in the first year in anticipation of additional gifts and grants  
20 and allow for carryover of unspent cash fund balances related to  
21 sections 81-2509 to 81-2515.

22 Amendment: In AM1313, on page 1, strike lines 7 and 8 and  
23 insert:

24 CASH FUND	137,922	92,922
25 PROGRAM TOTAL	317,408	260,332

26 and in line 10 after "Fund" insert "and cash fund".

Senator Heidemann filed the following amendment to LB376:  
AM1384

(Amendments to E & R amendments, ER105)

- 1 1. On page 6, strike lines 2 and 3 and insert the  
2 following:  
3 "GENERAL FUND 120,018 120,018  
4 PROGRAM TOTAL 120,018 120,018".

### GENERAL FILE

**LEGISLATIVE BILL 397.** The Lathrop amendment, AM1383, found on page 1421 and considered in this day's Journal, to the committee amendment, was renewed.

Pending.

### AMENDMENT - Print in Journal

Senator Fischer filed the following amendment to LB289:  
AM1376

(Amendments to Final Reading copy)

- 1 1. Insert the following new sections:  
2 Sec. 18. Section 60-393, Reissue Revised Statutes of  
3 Nebraska, is amended to read:  
4 60-393 Any owner who has two or more motor vehicles  
5 or trailers required to be registered under the Motor Vehicle  
6 Registration Act may register all such motor vehicles or trailers  
7 on a calendar-year basis or on an annual basis for the same  
8 registration period beginning in a month chosen by the owner. When  
9 electing to establish the same registration period for all such  
10 motor vehicles or trailers, the owner shall pay the registration  
11 fee, the motor vehicle tax imposed in section 60-3,185, ~~and~~  
12 the motor vehicle fee imposed in section 60-3,190, and the  
13 alternative fuel fee imposed in section 24 of this act on each  
14 motor vehicle for the number of months necessary to extend its  
15 current registration period to the registration period under which  
16 all such motor vehicles or trailers will be registered. Credit  
17 shall be given for registration paid on each motor vehicle or  
18 trailer when the motor vehicle or trailer has a later expiration  
19 date than that chosen by the owner except as otherwise provided in  
20 sections 60-3,121, 60-3,122.02, and 60-3,128. Thereafter all such  
21 motor vehicles or trailers shall be registered on an annual basis  
22 starting in the month chosen by the owner.  
1 Sec. 19. Section 60-395, Reissue Revised Statutes of  
2 Nebraska, is amended to read:  
3 60-395 (1) Except as otherwise provided in subsection  
4 (2) of this section and sections 60-3,121, 60-3,122.02, and  
5 60-3,128, the registration shall expire and the registered owner or  
6 lessee may, by returning the registration certificate, the license

7 plates, and, when appropriate, the validation decals and by either  
8 making application on a form prescribed by the department to the  
9 county treasurer or designated county official of the occurrence  
10 of an event described in subdivisions (a) through (e) of this  
11 subsection or, in the case of a change in situs, displaying to  
12 the county treasurer or designated county official the registration  
13 certificate of such other state as evidence of a change in situs,  
14 receive a refund of that part of the unused fees and taxes on  
15 motor vehicles or trailers based on the number of unexpired months  
16 remaining in the registration period from the date of any of the  
17 following events:

18 (a) Upon transfer of ownership of any motor vehicle or  
19 trailer;

20 (b) In case of loss of possession because of fire, theft,  
21 dismantlement, or junking;

22 (c) When a salvage branded certificate of title is  
23 issued;

24 (d) Whenever a type or class of motor vehicle or trailer  
25 previously registered is subsequently declared by legislative act  
26 or court decision to be illegal or ineligible to be operated or  
27 towed on the public roads and no longer subject to registration  
1 fees, the motor vehicle tax imposed in section 60-3,185, ~~and the~~  
2 motor vehicle fee imposed in section 60-3,190, and the alternative  
3 fuel fee imposed in section 24 of this act;

4 (e) Upon a trade-in or surrender of a motor vehicle under  
5 a lease; or

6 (f) In case of a change in the situs of a motor vehicle  
7 or trailer to a location outside of this state.

8 (2) If the date of the event falls within the same  
9 calendar month in which the motor vehicle or trailer is acquired,  
10 no refund shall be allowed for such month.

11 (3) If the transferor or lessee acquires another motor  
12 vehicle at the time of the transfer, trade-in, or surrender, the  
13 transferor or lessee shall have the credit provided for in this  
14 section applied toward payment of the motor vehicle fees and taxes  
15 then owing. Otherwise, the transferor or lessee shall file a claim  
16 for refund with the county treasurer or designated county official  
17 upon an application form prescribed by the department.

18 (4) The registered owner or lessee shall make a claim for  
19 refund or credit of the fees and taxes for the unexpired months  
20 in the registration period within sixty days after the date of the  
21 event or shall be deemed to have forfeited his or her right to such  
22 refund or credit.

23 (5) For purposes of this section, the date of the event  
24 shall be: (a) In the case of a transfer or loss, the date of  
25 the transfer or loss; (b) in the case of a change in the situs,  
26 the date of registration in another state; (c) in the case of  
27 a trade-in or surrender under a lease, the date of trade-in or  
1 surrender; (d) in the case of a legislative act, the effective date

2 of the act; and (e) in the case of a court decision, the date the  
3 decision is rendered.

4 (6) Application for registration or for reassignment of  
5 license plates and, when appropriate, validation decals to another  
6 motor vehicle or trailer shall be made within thirty days of the  
7 date of purchase.

8 (7) If a motor vehicle or trailer was reported stolen  
9 under section 60-178, a refund under this section shall not be  
10 reduced for a lost plate charge and a credit under this section may  
11 be reduced for a lost plate charge but the applicant shall not be  
12 required to pay the plate fee for new plates.

13 (8) The county treasurer or designated county official  
14 shall refund the motor vehicle fee and registration fee from  
15 the fees which have not been transferred to the State Treasurer.  
16 The county treasurer shall make payment to the claimant from the  
17 undistributed motor vehicle taxes of the taxing unit where the  
18 tax money was originally distributed. No refund of less than two  
19 dollars shall be paid.

20 2. On page 1, line 4, after the first comma insert  
21 "60-393, 60-395,".

22 3. On page 4, line 11, strike "30" and insert "32".

23 4. On page 16, line 1, strike "22" and insert "24".

24 5. On page 20, line 3, strike "22" and insert "24".

25 6. On page 29, line 18, after the period insert "The  
26 fee shall be collected by the county treasurer and remitted to the  
27 State Treasurer for credit to the Highway Trust Fund.".

1 7. On page 35, line 4, strike "29 and 30" and insert "31  
2 and 32"; and in line 10 strike "29" and insert "31".

3 8. On page 36, line 13, strike "30" and insert "32".

4 9. On page 45, line 3, after the third comma insert  
5 "60-393, 60-695,".

6 10. Renumber the remaining sections accordingly.

## REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Schulz, Timothy M. - Nebraska Accountability and Disclosure Commission  
- Government, Military and Veterans Affairs

(Signed) John Wightman, Chairperson  
Executive Board

**RESOLUTION**

**LEGISLATIVE RESOLUTION 201.** Introduced by Bloomfield, 17; Adams, 24; Ashford, 20; Avery, 28; Brasch, 16; Campbell, 25; Christensen, 44; Coash, 27; Conrad, 46; Cook, 13; Cornett, 45; Council, 11; Dubas, 34; Fischer, 43; Flood, 19; Fulton, 29; Gloor, 35; K. Haar, 21; Hadley, 37; Hansen, 42; Harms, 48; B. Harr, 8; Heidemann, 1; Howard, 9; Janssen, 15; Karpisek, 32; Krist, 10; Langemeier, 23; Larson, 40; Lathrop, 12; Lautenbaugh, 18; Loudon, 49; McCoy, 39; McGill, 26; Mello, 5; Nelson, 6; Nordquist, 7; Pahls, 31; Pankonin, 2; Pirsch, 4; Price, 3; Schilz, 47; Schumacher, 22; Smith, 14; Sullivan, 41; Utter, 33; Wallman, 30.

WHEREAS, "Freedom is Not Free," and our members of the armed forces of the United States of America lead the way in bringing peace, democracy, and the joy of freedom around the world; and

WHEREAS, our young men and women of the armed forces swear to defend the United States of America against all evil; and

WHEREAS, our young men and women of the armed forces leave home, family, and employment behind and embark upon a journey for which they do not know if they will be reunited; and

WHEREAS, the bravery and dedication of our American military is above all measures a display of loyalty, perseverance, and commitment; and

WHEREAS, there are those who leave us way too early and return adorned with the flag of the United States of America - "Old Glory"; and

WHEREAS, such a young soldier has returned home to his loved ones having given the ultimate sacrifice, life, for our freedoms; and

WHEREAS, Staff Sergeant James Alan Justice gave his life on April 23, 2011; and

WHEREAS, James volunteered for duty in Afghanistan in early 2011 to be with his unit in the Iowa Army National Guard because he loved his country and felt that was where he should be; and

WHEREAS, after completing a routine security patrol at Bagram Airfield in Afghanistan, word was received of a downed OH-58 Kiowa helicopter in the neighboring Kapisa province northeast of Kabul. James and some of his fellow soldiers from the Iowa Army National Guard's Alpha Troop 1st Squadron 113th Cavalry boarded a UH-60 Black Hawk helicopter to rescue the two-man crew of the downed helicopter; and

WHEREAS, after their craft landed the group came under small arms fire. James was killed at the site. James was 32 years, 9 months, and 24 days of age. James was escorted home to Iowa from Dover Air Force Base by OC Alan Schmeckpepper; and

WHEREAS, James served his nation with honor, and this resolution honors his service and sacrifice; and

WHEREAS, James left behind a loving wife, Amanda Jo Sand Justice, a three-year-old daughter, Caydence Lillian Justice, parents, Larry and Lillian Justice, and siblings, Kenneth Justice, Denise Christensen, and Christina Lingle.



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

1. That the Legislature recognizes the service and sacrifice made by Staff Sergeant James Alan Justice and his family for our freedom. There is no price that will ever repay this soldier and his family for what James did out of love for God, country, family, and freedom for one and all.

2. That the Legislature extends its sympathy and gratitude to the loved ones of Staff Sergeant James Alan Justice. Indeed, "Freedom is Not Free." May his soul rest in peace and may God bless America.

Laid over.

### GENERAL FILE

**LEGISLATIVE BILL 397.** The Lathrop amendment, AM1383, found on page 1421 and considered in this day's Journal, to the committee amendment, was renewed.

Pending.

### COMMITTEE REPORTS

#### Enrollment and Review

**LEGISLATIVE BILL 22.** Placed on Final Reading.

**LEGISLATIVE BILL 404.** Placed on Final Reading.

**LEGISLATIVE BILL 575.** Placed on Final Reading.

ST34

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

1. In the E & R amendments, ER99, on page 39, lines 18 and 21, ", and section 9-812, Revised Statutes Cumulative Supplement, 2010, as amended by section 1, Legislative Bill 333, One Hundred Second Legislature, First Session, 2011" has been inserted after "2010"; in line 18 "is" has been struck and "are" inserted; and in line 25 "to allocate money in the Education Innovation Fund for the compact; to provide an operative date;" has been inserted after the semicolon and "section" has been struck and "sections" inserted.

**LEGISLATIVE BILL 575A.** Placed on Final Reading.

(Signed) Tyson Larson, Chairperson

**MESSAGE FROM THE GOVERNOR**

May 4, 2011

Mr. President, Mr. Speaker, and  
Members of the Legislature  
State Capitol  
Lincoln, NE 68509

Dear Mr. President and Members of the Legislature:

I am returning LB 283 without my signature and with my objections.

LB 283 would add energy efficiency projects to the narrow list of activities for which school districts are allowed to issue bonds without voter approval. Historically, the authority granted to districts to use this special bonding provision has been limited to primarily life, health, and safety issues. The definition of energy efficiency projects in this bill is vague and will greatly increase use of this authority.

I am convinced that the expanded scope and reduced voter oversight contained in LB 283 will result in significant property tax increases. Bond issues for energy efficiency projects should not be outside of the levy limits unless approved by a vote of the people.

For these reasons, I urge you to sustain my veto of LB 283.

Sincerely,  
(Signed) Dave Heineman  
Governor

**GENERAL FILE**

**LEGISLATIVE BILL 397.** The Lathrop amendment, AM1383, found on page 1421 and considered in this day's Journal, to the committee amendment, was renewed.

Senator Schumacher moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 6 nays, and 17 not voting.

Senator Lathrop moved for a call of the house. The motion prevailed with 42 ayes, 0 nays, and 7 not voting.

Senator Lathrop requested a roll call vote, in reverse order, on his amendment.

Voting in the affirmative, 30:

Adams	Cornett	Hadley	Louden	Schumacher
Ashford	Council	Harms	McGill	Smith
Avery	Dubas	Harr, B.	Mello	Sullivan
Campbell	Flood	Howard	Nordquist	Utter
Conrad	Gloor	Karpisek	Pahls	Wallman
Cook	Haar, K.	Lathrop	Pirsch	Wightman

Voting in the negative, 9:

Bloomfield	Fulton	Janssen	McCoy	Schilz
Brasch	Hansen	Larson	Nelson	

Present and not voting, 9:

Christensen	Fischer	Krist	Lautenbaugh	Price
Coash	Heidemann	Langemeier	Pankonin	

Excused and not voting, 1:

Carlson

The Lathrop amendment was adopted with 30 ayes, 9 nays, 9 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Senator Fulton renewed his amendment, AM1379, found on page 1422, to the committee amendment.

**SENATOR LANGEMEIER PRESIDING**

**SPEAKER FLOOD PRESIDING**

Pending.

### **AMENDMENTS - Print in Journal**

Senator Cook filed the following amendment to LB628:  
AM1400

(Amendments to Final Reading copy)

- 1 1. On page 5, line 25, after "Act" insert "unless such
- 2 donation is prohibited by law".
- 3 2. On page 6, line 3, strike "an immediate" and insert
- 4 "a"; and in line 4 after the period insert "For purposes of
- 5 this section, family member means a spouse, child, parent,
- 6 brother, sister, grandchild, or grandparent by blood, marriage,
- 7 or adoption".

Senator Karpisek filed the following amendment to LB490:  
AM840

(Amendments to Standing Committee amendments, AM595)

- 1 1. Strike sections 1, 2, 7, 8, and 9 and renumber the
- 2 remaining sections accordingly.

Senator Karpisek filed the following amendment to LB256:  
AM1195

- 1 1. Strike original section 2 and insert the following new
- 2 sections:
- 3 Sec. 2. Section 2-1205, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 2-1205 If the commission is satisfied that its rules and
- 6 regulations and all provisions of sections 2-1201 to 2-1218 have
- 7 been and will be complied with, it may issue a license for a period
- 8 of not more than one year. The license shall set forth the name
- 9 of the licensee, the place where the races or race meetings are
- 10 to be held, and the time and number of days during which racing
- 11 may be conducted by such licensee. Any such license issued shall
- 12 not be transferable or assignable. The commission shall have the
- 13 power to revoke any license issued at any time for good cause upon
- 14 reasonable notice and hearing. No license shall be granted to any
- 15 corporation or association except upon the express condition that
- 16 it shall not, by any lease, contract, understanding, or arrangement
- 17 of whatever kind or nature, grant, assign, or turn over to any
- 18 person, corporation, or association the operation or management of
- 19 any racing or race meeting licensed under such sections or of the
- 20 parimutuel system of wagering described in section 2-1207 or in any
- 21 manner permit any person, corporation, or association other than
- 22 the licensee to have any share, percentage, or proportion of the
- 23 money received for admissions to the racing or race meeting or from
- 1 the operation of the parimutuel system; and any violation of such
- 2 conditions shall authorize and require the commission immediately
- 3 to revoke such license. Notwithstanding the provisions of this
- 4 section to the contrary, a racetrack licensee may contract with
- 5 another licensee under sections 2-1201 to 2-1218 to conduct all but
- 6 one day of live race meetings on its behalf, and until January 1,
- 7 2027, a racetrack licensee located in a county which contains a
- 8 city of the primary class may contract with another licensee under
- 9 sections 2-1201 to 2-1218 to conduct all live race meetings on its
- 10 behalf.

- 11 Sec. 3. Section 2-1226, Reissue Revised Statutes of
- 12 Nebraska, is amended to read:

- 13 2-1226 Any racetrack issued a license under sections
- 14 2-1201 to 2-1223 which operates at least one live race meet
- 15 during each calendar year except as provided in section 2-1228
- 16 or contracts for one or more live race meets as authorized under
- 17 section 2-1205 may apply to the commission for a simulcast facility

18 license. An application for such license shall be in such form  
19 as may be prescribed by the commission and shall contain such  
20 information, material, or evidence as the commission may require.  
21 Any racetrack issued a simulcast facility license may display the  
22 simulcast of a horserace on which parimutuel wagering shall be  
23 allowed.

24 Sec. 4. Section 2-1228, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 2-1228 (1) Any racetrack issued a license under sections  
27 2-1201 to 2-1223 ~~(1)-(a)~~ conducting primarily quarterhorse races  
1 in the year immediately preceding the year for which application  
2 is made, regardless of the total number of days of live  
3 racing conducted in such year, ~~or (2)-(b) conducting primarily~~  
4 thoroughbred horseraces in the year immediately preceding the year  
5 for which application is made which conducted live racing on at  
6 least seventy percent of the days for which it was authorized  
7 to conduct live racing in 1988 unless the commission determines  
8 that such racetrack licensee was unable to conduct live racing on  
9 the required number of days due to factors beyond its control,  
10 including, but not limited to, fire, earthquake, tornado, or  
11 other natural disaster, ~~or (c) contracting for one or more live~~  
12 race meets as authorized under section 2-1205, may apply to  
13 the commission for an interstate simulcast facility license. An  
14 application for such license shall be in a form prescribed by  
15 the commission and shall contain such information, material, or  
16 evidence as the commission may require. Any racetrack licensee  
17 issued an interstate simulcast facility license may conduct the  
18 interstate simulcast of any horserace permitted under its license,  
19 and parimutuel wagering shall be allowed on such horserace. The  
20 commission shall not authorize interstate simulcasting for any  
21 racetrack licensee pursuant to sections 2-1201 to 2-1223 unless all  
22 of the thoroughbred racetracks together applied for and received  
23 authority to conduct at least one hundred eighty live racing days  
24 in the calendar year in which the application is made.

25 (2) If any racetrack licensee, other than a racetrack  
26 licensee contracting for one or more live race meets as authorized  
27 under section 2-1205, conducts live racing for less than seventy  
1 percent of the days assigned such racetrack licensee in 1988,  
2 (a) such racetrack licensee shall be precluded from conducting  
3 interstate simulcasts and (b) the number of live racing days  
4 conducted by such racetrack licensee shall be subtracted from an  
5 amount equal to seventy percent of all the days assigned such  
6 racetrack licensee in 1988 and the amount remaining shall be  
7 deducted from the one-hundred-eighty-day total required by this  
8 section. If any racetrack licensee ceases to conduct live racing,  
9 other than a racetrack licensee contracting for one or more live  
10 race meets as authorized under section 2-1205, seventy percent of  
11 the days assigned such racetrack licensee in 1988 shall be deducted  
12 from the one-hundred-eighty-day total required by this section.

- 13 Sec. 5. Original sections 2-1205, 2-1226, and 2-1228,  
14 Reissue Revised Statutes of Nebraska, and section 2-1201, Revised  
15 Statutes Cumulative Supplement, 2010, are repealed.  
16 2. Renumber the remaining section accordingly.

### GENERAL FILE

**LEGISLATIVE BILL 397.** The Fulton amendment, AM1379, found on page 1422 and considered in this day's Journal, to the committee amendment, was renewed.

### SENATOR LANGEMEIER PRESIDING

### SPEAKER FLOOD PRESIDING

Senator Fulton withdrew his amendment.

Committee AM1116, found on page 1095 and considered in this day's Journal, as amended, was renewed.

The committee amendment, as amended, was adopted with 29 ayes, 9 nays, 8 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

### SELECT FILE

**LEGISLATIVE BILL 252.** ER101, found on page 1320, was adopted.

Advanced to Enrollment and Review for Engrossment.

### VISITORS

Visitors to the Chamber were Luke Peterson from Lincoln; 50 fourth-grade students, teachers, and sponsors from Arbor Park Elementary, Blair; 40 fourth-grade students, teachers, and sponsors from Wood River; and 19 sixth-grade students and teachers from Valentine.

### ADJOURNMENT

At 8:30 p.m., on a motion by Senator Cornett, the Legislature adjourned until 9:00 a.m., Thursday, May 5, 2011.

Patrick J. O'Donnell  
Clerk of the Legislature