

**FIFTY-THIRD DAY - MARCH 28, 2011****LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE  
FIRST SESSION****FIFTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, March 28, 2011

**PRAYER**

The prayer was offered by Pastor Thomas Scherer, Community of Christ Church, Lincoln.

**ROLL CALL**

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

The roll was called and all members were present except Senators Krist and Wightman who were excused; and Senators Coash, Cornett, Janssen, Lautenbaugh, and Pankonin who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-second day was approved.

**COMMITTEE REPORT**

Enrollment and Review

**LEGISLATIVE BILL 84.** Placed on Select File.

(Signed) Tyson Larson, Chairperson

**MOTIONS - Approve Appointments**

Senator Ashford moved the adoption of the Judiciary Committee report for the confirmation of the following appointment(s) found on page 897:

Community Corrections Council

Jeffrey Davis

Thomas Dorwart

Frank Peak

Voting in the affirmative, 34:

Ashford	Conrad	Haar, K.	Karpisek	Pahls
Avery	Cook	Hadley	Lathrop	Pirsch
Bloomfield	Council	Hansen	McCoy	Price
Brasch	Dubas	Harms	McGill	Schumacher
Campbell	Fischer	Harr, B.	Mello	Smith
Carlson	Flood	Heidemann	Nelson	Wallman
Christensen	Gloor	Howard	Nordquist	

Voting in the negative, 0.

Present and not voting, 8:

Adams	Langemeier	Louden	Sullivan
Fulton	Larson	Schilz	Utter

Excused and not voting, 7:

Coash	Janssen	Lautenbaugh	Wightman
Cornett	Krist	Pankonin	

The appointments were confirmed with 34 ayes, 0 nays, 8 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 908:

Nebraska State Patrol  
Superintendent David Sankey

Voting in the affirmative, 36:

Adams	Cook	Hansen	McCoy	Schumacher
Avery	Council	Harms	McGill	Smith
Bloomfield	Dubas	Harr, B.	Mello	Utter
Brasch	Flood	Heidemann	Nelson	Wallman
Campbell	Fulton	Howard	Nordquist	
Carlson	Gloor	Karpisek	Pahls	
Christensen	Haar, K.	Langemeier	Pirsch	
Conrad	Hadley	Lathrop	Price	

Voting in the negative, 0.

Present and not voting, 6:

Ashford	Larson	Schilz
Fischer	Louden	Sullivan

Excused and not voting, 7:

Coash	Janssen	Lautenbaugh	Wightman
Cornett	Krist	Pankonin	

The appointment was confirmed with 36 ayes, 0 nays, 6 present and not voting, and 7 excused and not voting.

Senator Carlson moved the adoption of the Agriculture Committee report for the confirmation of the following appointment(s) found on page 924:

Nebraska State Fair Board  
Lowell Minert

Voting in the affirmative, 36:

Adams	Dubas	Harms	McCoy	Schumacher
Bloomfield	Fischer	Harr, B.	McGill	Smith
Brasch	Flood	Heidemann	Mello	Utter
Carlson	Fulton	Howard	Nelson	Wallman
Christensen	Gloor	Karpisek	Nordquist	
Conrad	Haar, K.	Langemeier	Pahls	
Cook	Hadley	Larson	Pirsch	
Council	Hansen	Lathrop	Price	

Voting in the negative, 0.

Present and not voting, 6:

Ashford	Campbell	Schilz
Avery	Louden	Sullivan

Excused and not voting, 7:

Coash	Janssen	Lautenbaugh	Wightman
Cornett	Krist	Pankonin	

The appointment was confirmed with 36 ayes, 0 nays, 6 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 932:

Nebraska Natural Resources Commission  
Stan Clouse

Voting in the affirmative, 34:

Adams	Council	Hansen	Louden	Price
Avery	Fischer	Harms	McCoy	Schumacher
Bloomfield	Flood	Harr, B.	Mello	Smith
Brasch	Fulton	Howard	Nelson	Sullivan
Carlson	Gloor	Karpisek	Nordquist	Utter
Conrad	Haar, K.	Langemeier	Pahls	Wallman
Cook	Hadley	Larson	Pirsch	

Voting in the negative, 0.

Present and not voting, 8:

Ashford	Christensen	Heidemann	McGill
Campbell	Dubas	Lathrop	Schilz

Excused and not voting, 7:

Coash	Janssen	Lautenbaugh	Wightman
Cornett	Krist	Pankonin	

The appointment was confirmed with 34 ayes, 0 nays, 8 present and not voting, and 7 excused and not voting.

Senator Adams moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 945:

Nebraska Educational Telecommunications Commission

Dennis Baack

Steve Seline

Darlene Starman

Voting in the affirmative, 34:

Adams	Cook	Hadley	Louden	Price
Avery	Council	Hansen	McCoy	Schumacher
Bloomfield	Fischer	Harms	Mello	Smith
Brasch	Flood	Heidemann	Nelson	Sullivan
Carlson	Fulton	Howard	Nordquist	Utter
Christensen	Gloor	Karpisek	Pahls	Wallman
Conrad	Haar, K.	Larson	Pirsch	

Voting in the negative, 0.

Present and not voting, 8:

Ashford	Dubas	Langemeier	McGill
Campbell	Harr, B.	Lathrop	Schilz

Excused and not voting, 7:

Coash	Janssen	Lautenbaugh	Wightman
Cornett	Krist	Pankonin	

The appointments were confirmed with 34 ayes, 0 nays, 8 present and not voting, and 7 excused and not voting.

Senator Adams moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 945:

Board of Educational Lands and Funds  
Charles Ward

Voting in the affirmative, 35:

Adams	Cook	Hadley	Louden	Pirsch
Avery	Council	Hansen	McCoy	Price
Bloomfield	Fischer	Harms	Mello	Schumacher
Brasch	Flood	Heidemann	Nelson	Smith
Carlson	Fulton	Howard	Nordquist	Sullivan
Christensen	Gloor	Karpisek	Pahls	Utter
Conrad	Haar, K.	Larson	Pankonin	Wallman

Voting in the negative, 0.

Present and not voting, 8:

Ashford	Dubas	Langemeier	McGill
Campbell	Harr, B.	Lathrop	Schilz

Excused and not voting, 6:

Coash	Janssen	Lautenbaugh
Cornett	Krist	Wightman

The appointment was confirmed with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

Senator Adams moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 945:

Board of Trustees of the Nebraska State Colleges  
Gary Bieganski  
Robert Engles  
Carter Peterson

Voting in the affirmative, 33:

Adams	Fischer	Harms	McCoy	Schumacher
Avery	Flood	Heidemann	Mello	Smith
Bloomfield	Fulton	Howard	Nelson	Sullivan
Brasch	Gloor	Karpisek	Pahls	Utter
Carlson	Haar, K.	Larson	Pankonin	Wallman
Christensen	Hadley	Lathrop	Pirsch	
Council	Hansen	Louden	Price	

Voting in the negative, 0.

Present and not voting, 10:

Ashford	Conrad	Dubas	Langemeier	Nordquist
Campbell	Cook	Harr, B.	McGill	Schilz

Excused and not voting, 6:

Coash	Janssen	Lautenbaugh
Cornett	Krist	Wightman

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

Senator Adams moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 945:

Technical Advisory Committee for Statewide Assessment  
 Wayne Camara  
 Dallas Watkins

Voting in the affirmative, 35:

Adams	Cook	Hansen	Lathrop	Pirsch
Avery	Council	Harms	Louden	Price
Bloomfield	Fischer	Harr, B.	McCoy	Schumacher
Brasch	Flood	Heidemann	Mello	Smith
Carlson	Gloor	Howard	Nelson	Sullivan
Christensen	Haar, K.	Karpisek	Pahls	Utter
Conrad	Hadley	Larson	Pankonin	Wallman

Voting in the negative, 0.

Present and not voting, 8:

Ashford	Dubas	Langemeier	Nordquist
Campbell	Fulton	McGill	Schilz

Excused and not voting, 6:

Coash	Janssen	Lautenbaugh
Cornett	Krist	Wightman

The appointments were confirmed with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

### AMENDMENTS - Print in Journal

Senator Ashford filed the following amendment to LB460:  
AM873

- 1 1. Insert the following new sections:
- 2 Section 1. Section 29-4001, Revised Statutes Cumulative
- 3 Supplement, 2010, is amended to read:
- 4 29-4001 Sections 29-4001 to 29-4014 and section 6 of
- 5 this act shall be known and may be cited as the Sex Offender
- 6 Registration Act.
- 7 Sec. 6. (1) Any person identified as having a low
- 8 risk of recidivism under the Sex Offender Registration Act on or
- 9 before December 31, 2009, shall be subject to the registration and
- 10 community notification procedures of the act as the act, and any
- 11 rules and regulations adopted and promulgated pursuant to the act,
- 12 existed on December 31, 2009.
- 13 (2) Subsection (1) of this section does not apply if such
- 14 person has (a) been reevaluated and identified as having a moderate
- 15 or high risk of recidivism or (b) had a law violation requiring
- 16 registration under the Sex Offender Registration Act as the act
- 17 existed on or after January 1, 2010.
- 18 2. Renumber the remaining sections and correct the
- 19 repealer section accordingly.

Senator Ashford filed the following amendment to LB460:  
AM969 is available in the Bill Room.

Senator Fischer filed the following amendment to LB229:  
AM1000

(Amendments to Standing Committee amendments, AM281)

- 1 1. Insert the following new amendment:
- 2 2. On page 5, line 16, strike "seven" and insert "five";
- 3 and in line 19 strike "2021" and insert "2015".

### BILL ON FIRST READING

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

**LEGISLATIVE BILL 229A.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 229, One Hundred Second Legislature, First Session, 2011; to reduce an appropriation; and to

declare an emergency.

**NOTICE OF COMMITTEE HEARING**

Judiciary

Room 1113

Tuesday, April 5, 2011 12:00 p.m.

AM873 to LB460

AM969 to LB460

(Signed) Brad Ashford, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 90A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 4 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 35.** Title read. Considered.

Committee AM512, found on page 695, was adopted with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 204.** Title read. Considered.

Committee AM659, found on page 775, was considered.

Senator Council renewed her amendment, AM938, found on page 944, to the committee amendment.

Pending.

**COMMITTEE REPORTS**

Education

**LEGISLATIVE BILL 235.** Placed on General File with amendment. AM952 is available in the Bill Room.

(Signed) Greg Adams, Chairperson



## Revenue

**LEGISLATIVE BILL 384.** Placed on General File with amendment. AM944 is available in the Bill Room.

(Signed) Abbie Cornett, Chairperson

**AMENDMENTS - Print in Journal**

Senator Louden filed the following amendment to LB84:  
AM999

(Amendments to AM940)

- 1 1. Strike sections 6 and 7 and insert the following new  
2 sections:
- 3 Sec. 6. Section 66-489, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 66-489 (1) At the time of filing the return required by  
6 section 66-488, such producer, supplier, distributor, wholesaler,  
7 or importer shall, in addition to the tax imposed pursuant  
8 to sections 66-489.02, 66-4,140, 66-4,145, and 66-4,146 and in  
9 addition to the other taxes provided for by law, pay a tax of  
10 ~~seven and one-half~~ twelve and one-half cents per gallon upon all  
11 motor fuels as shown by such return, except that there shall be  
12 no tax on the motor fuels reported if (a) the required taxes on  
13 the motor fuels have been paid, (b) the motor fuels have been sold  
14 to a licensed exporter exclusively for resale or use in another  
15 state, (c) the motor fuels have been sold from a Nebraska barge  
16 line terminal, pipeline terminal, refinery, or ethanol or biodiesel  
17 facility, including motor fuels stored offsite in bulk, by a  
18 licensed producer or supplier to a licensed distributor, (d) the  
19 motor fuels have been sold by a licensed distributor or licensed  
20 importer to a licensed distributor or to a licensed wholesaler  
21 and the seller acquired ownership of the motor fuels directly from  
22 a licensed producer or supplier at or from a refinery, barge,  
1 barge line, pipeline terminal, or ethanol or biodiesel facility,  
2 including motor fuels stored offsite in bulk, in this state or  
3 was the first importer of such fuel into this state, or (e)  
4 as otherwise provided in this section. Such producer, supplier,  
5 distributor, wholesaler, or importer shall remit such tax to the  
6 department.
- 7 (2) As part of filing the return required by section  
8 66-488, each producer of ethanol shall, in addition to other  
9 taxes imposed by the motor fuel laws, pay an excise tax of one  
10 and one-quarter cents per gallon through December 31, 2004, and  
11 commencing January 1, 2010, and two and one-half cents per gallon  
12 commencing January 1, 2005, through December 31, 2009, on natural  
13 gasoline purchased for use as a denaturant by the producer at  
14 an ethanol facility. All taxes, interest, and penalties collected  
15 under this subsection shall be remitted to the State Treasurer

16 for credit to the Agricultural Alcohol Fuel Tax Fund, except that  
17 commencing January 1, 2005, through December 31, 2009, one and  
18 one-quarter cents per gallon of such excise tax shall be credited  
19 to the Ethanol Production Incentive Cash Fund. For fiscal years  
20 2007-08 through 2011-12, if the total receipts from the excise  
21 tax authorized in this subsection and designated for deposit in  
22 the Agricultural Alcohol Fuel Tax Fund exceed five hundred fifty  
23 thousand dollars, the State Treasurer shall deposit amounts in  
24 excess of five hundred fifty thousand dollars in the Ethanol  
25 Production Incentive Cash Fund.

26 (3)(a) Motor fuels, methanol, and all blending agents  
27 or fuel expanders shall be exempt from the taxes imposed by this  
1 section and sections 66-489.02, 66-4,105, 66-4,140, 66-4,145, and  
2 66-4,146, when the fuels are used for buses equipped to carry  
3 more than seven persons for hire and engaged entirely in the  
4 transportation of passengers for hire within municipalities or  
5 within a radius of six miles thereof.

6 (b) The owner or agent of any bus equipped to carry  
7 more than seven persons for hire and engaged entirely in the  
8 transportation of passengers for hire within municipalities, or  
9 within a radius of six miles thereof, in lieu of the excise tax  
10 provided for in this section, shall pay an equalization fee of a  
11 sum equal to twice the amount of the registration fee applicable to  
12 such vehicle under the laws of this state. Such equalization fee  
13 shall be paid in the same manner as the registration fee and be  
14 disbursed and allocated as registration fees.

15 (c) Nothing in this section shall be construed as  
16 permitting motor fuels to be sold tax exempt. The department  
17 shall refund tax paid on motor fuels used in buses deemed exempt by  
18 this section.

19 (4) Natural gasoline purchased for use as a denaturant  
20 by a producer at an ethanol facility as defined in section 66-1333  
21 shall be exempt from the motor fuels tax imposed by subsection (1)  
22 of this section as well as the tax imposed pursuant to sections  
23 66-489.02, 66-4,140, 66-4,145, and 66-4,146.

24 (5) Unless otherwise provided by an agreement entered  
25 into between the State of Nebraska and the governing body of any  
26 federally recognized Indian tribe within the State of Nebraska,  
27 motor fuels purchased on a Nebraska Indian reservation where the  
1 purchaser is a Native American who resides on the reservation shall  
2 be exempt from the motor fuels tax imposed by this section as  
3 well as the tax imposed pursuant to sections 66-489.02, 66-4,140,  
4 66-4,145, and 66-4,146.

5 (6) Motor fuels purchased for use by the United States  
6 Government or its agencies shall be exempt from the motor fuels  
7 tax imposed by this section as well as the tax imposed pursuant to  
8 sections 66-489.02, 66-4,140, 66-4,145, and 66-4,146.

9 (7) In the case of diesel fuel, there shall be no tax on  
10 the motor fuels reported if (a) the diesel fuel has been indelibly

11 dyed and chemically marked in accordance with regulations issued by  
12 the Secretary of the Treasury of the United States under 26 U.S.C.  
13 4082 or (b) the diesel fuel contains a concentration of sulphur  
14 in excess of five-hundredths percent by weight or fails to meet  
15 a cetane index minimum of forty and has been indelibly dyed in  
16 accordance with regulations promulgated by the Administrator of the  
17 Environmental Protection Agency pursuant to 42 U.S.C. 7545.

18 (8) The changes made to this section by ~~Laws 2008, LB~~  
19 ~~846, this legislative bill~~ apply for tax periods beginning on and  
20 after ~~July 1, 2009, January 1, 2012.~~

21 (9) The tax revenue from the increase in the tax rate  
22 provided by this legislative bill shall be remitted to the State  
23 Treasurer for credit to the State Highway Capital Improvement Fund.

24 Sec. 7. Section 66-4,105, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 66-4,105 There is hereby levied and imposed an excise  
27 tax of ~~seven and one-half twelve and one-half cents~~ per gallon,  
1 increased by the amounts imposed or determined under sections  
2 66-489.02, 66-4,140, 66-4,145, and 66-4,146, upon the use of all  
3 motor fuels used in this state and due the State of Nebraska under  
4 section 66-489. Users of motor fuels subject to taxation under  
5 this section shall be allowed the same exemptions, deductions,  
6 and rights of reimbursement as are authorized and permitted by  
7 Chapter 66, article 4, other than any commissions provided under  
8 such article. For purposes of this section and section 66-4,106,  
9 use shall mean the purchase or consumption of motor fuels in this  
10 state. The changes made to this section by ~~Laws 2008, LB 846, this~~  
11 ~~legislative bill~~ apply for tax periods beginning on and after ~~July~~  
12 ~~1, 2009, January 1, 2012.~~ The tax revenue from the increase in the  
13 tax rate provided by this legislative bill shall be remitted to the  
14 State Treasurer for credit to the State Highway Capital Improvement  
15 Fund.

16 Sec. 8. Section 66-6,107, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 66-6,107 In addition to the tax imposed pursuant to  
19 sections 66-6,108, 66-6,109, and 66-6,109.02, an excise tax of  
20 ~~seven and one-half twelve and one-half cents~~ per gallon or gallon  
21 equivalent is levied and imposed on all compressed fuel sold  
22 for use in registered motor vehicles. The changes made to this  
23 section by ~~Laws 2008, LB 846, this legislative bill~~ apply for  
24 tax periods beginning on and after ~~July 1, 2009, January 1, 2012.~~  
25 The tax revenue from the increase in the tax rate provided by  
26 this legislative bill shall be remitted to the State Treasurer for  
27 credit to the State Highway Capital Improvement Fund.

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

2 Sec. 10. Original sections 66-489, 66-4,105, and  
3 66-6,107, Reissue Revised Statutes of Nebraska, are repealed.

Senator Louden filed the following amendment to LB106:  
AM870

(Amendments to Standing Committee amendments, AM731)

- 1 1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:  
3 Section 1. For purposes of sections 13-318 to 13-326,  
4 public safety services means crime prevention, offender detention,  
5 and firefighter, police, medical, ambulance, or other emergency  
6 services.  
7 Sec. 2. Section 13-319, Reissue Revised Statutes of  
8 Nebraska, is amended to read:  
9 13-319 Any county by resolution of the governing body may  
10 impose a sales and use tax of one-half percent, one percent, or one  
11 and one-half percent upon the same transactions sourced as provided  
12 in sections 77-2703.01 to 77-2703.04 within the county, but outside  
13 any incorporated municipality which has adopted a local sales tax  
14 pursuant to section 77-27,142, on which the state is authorized  
15 to impose a tax pursuant to the Nebraska Revenue Act of 1967, as  
16 amended from time to time. Any sales and use tax imposed pursuant  
17 to this section must be used (1) to finance public safety services  
18 provided by a public safety commission, (2) ~~or~~ to provide the  
19 county share of funds required under any other agreement executed  
20 under the Interlocal Cooperation Act or Joint Public Agency Act,  
21 or (3) to finance public safety services provided by the county.  
22 A sales and use tax shall not be imposed pursuant to this section  
1 until an election has been held and a majority of the qualified  
2 electors have approved the tax pursuant to sections 13-322 and  
3 13-323.  
4 Sec. 3. Original section 13-319, Reissue Revised Statutes  
5 of Nebraska, is repealed.

### REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LR141	Government, Military and Veterans Affairs

(Signed) John Nelson, Vice Chairperson  
Executive Board

### UNANIMOUS CONSENT - Add Cointroducer

Senator Wallman asked unanimous consent to add his name as cointroducer to LB152. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were 40 fourth-grade students and teachers from York; and 7 fourth-grade students and teacher from Dodge.

**RECESS**

At 11:59 a.m., on a motion by Senator Bloomfield, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Gloor presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Krist and Wightman who were excused; and Senators Janssen, Langemeier, Louden, and Schilz who were excused until they arrive.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 90A.** Placed on Select File.

**LEGISLATIVE BILL 35.** Placed on Select File.

(Signed) Tyson Larson, Chairperson

**NOTICE OF COMMITTEE HEARING**

Government, Military and Veterans Affairs

Room 1507

Tuesday, April 5, 2011 9:30 a.m.

LR141

(Signed) Bill Avery, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 204.** The Council amendment, AM938, found on page 944 and considered in this day's Journal, to the committee amendment, was renewed.

Senator Council moved for a call of the house. The motion prevailed with 31 ayes, 0 nays, and 18 not voting.

Senator Council requested a roll call vote on her amendment.

Voting in the affirmative, 47:

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

Voting in the negative, 0.

Excused and not voting, 2:

Krist                      Wightman

The Council amendment was adopted with 47 ayes, 0 nays, and 2 excused and not voting.

The Chair declared the call raised.

Senator Karpisek offered the following amendment to the committee amendment:

AM1014

(Amendments to Standing Committee amendments, AM659)

- 1 1. On page 4, line 6, after "district" insert "and the
- 2 governing authority of each private, denominational, or parochial
- 3 school"; and in line 11 strike "district" and insert "school".
- 4 2. On page 4, line 14; and page 7, line 13, strike
- 5 "district".

Senator Karpisek withdrew his amendment.

Committee AM659, found on page 775 and considered in this day's Journal, as amended, was renewed.

The committee amendment, as amended, was adopted with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

Senator Council moved for a call of the house. The motion prevailed with 38 ayes, 0 nays, and 11 not voting.

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

Voting in the affirmative, 29:

Adams	Christensen	Flood	Karpisek	Pirsch
Ashford	Coash	Fulton	Lathrop	Price
Avery	Conrad	Gloor	McGill	Schumacher
Brasch	Cook	Haar, K.	Mello	Sullivan
Campbell	Cornett	Harms	Nordquist	Wallman
Carlson	Council	Harr, B.	Pahls	

Voting in the negative, 9:

Hansen	Langemeier	Louden	Nelson	Utter
Janssen	Lautenbaugh	McCoy	Pankonin	

Present and not voting, 7:

Bloomfield	Hadley	Larson	Smith
Fischer	Howard	Schilz	

Excused and not voting, 4:

Dubas	Heidemann	Krist	Wightman
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Advanced to Enrollment and Review Initial with 29 ayes, 9 nays, 7 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

## COMMITTEE REPORTS

### Judiciary

**LEGISLATIVE BILL 276.** Placed on General File.

**LEGISLATIVE BILL 665.** Placed on General File.

**LEGISLATIVE BILL 251.** Placed on General File with amendment.  
AM945

- 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)~~ 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

### AMENDMENTS - Print in Journal

Senator Campbell filed the following amendment to LB541:  
 AM988

- 1 1. On page 3, strike beginning with the period in line
- 2 22 through line 24 and insert ", and initial contracts shall be
- 3 entered into as soon as practicable under such federal law and
- 4 regulations.".

Senator Nordquist filed the following amendment to LB509:  
 AM1013

(Amendments to E & R amendments, ER60)

- 1 1. On page 2, line 4, reinstate the stricken matter and
- 2 strike the new matter.
- 3 2. On page 13, line 7, after the period insert "Any money
- 4 in the fund available for investment shall be invested by the state
- 5 investment officer pursuant to the Nebraska Capital Expansion Act
- 6 and the Nebraska State Funds Investment Act.".
- 7 3. On page 20, lines 22 and 23; page 62, lines 18 and 19;
- 8 and page 95, lines 12 and 13, strike "eligible retirees" and insert
- 9 "retired members or beneficiaries described in subdivision (4)(b)
- 10 of this section".
- 11 4. On page 49, line 1, strike "(35)(d)(i)" and insert
- 12 "(35)".
- 13 5. On page 75, line 26, strike "2011" and insert "2009".

14 6. On page 130, line 27, after the period insert "The  
 15 terms shall begin on January 1 of the appropriate year.".

### GENERAL FILE

**LEGISLATIVE BILL 204A.** Title read. Considered.

Senator Council offered the following amendment:  
 AM989

- 1 1. Strike section 2.

The Council amendment was adopted with 29 ayes, 0 nays, 16 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 29 ayes, 0 nays, 16 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 431.** Title read. Considered.

### SENATOR COASH PRESIDING

Committee AM407, found on page 814, was adopted with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

Senator Lathrop offered the following amendment:  
 AM1016

- 1 1. On page 2, strike beginning with "prepared" in line 22
- 2 through the first "of" in line 23 and insert "created specifically
- 3 for and collected and maintained for exclusive use by".

The Lathrop amendment was adopted with 32 ayes, 1 nay, 12 present and not voting, and 4 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 558.** Title read. Considered.

Committee AM728, found on page 847, was considered.

### SPEAKER FLOOD PRESIDING

Pending.

### RESOLUTION

Pursuant to Rule 4, Sec. 5(b), LR130 was adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR130.

**AMENDMENTS - Print in Journal**

Senator Lautenbaugh filed the following amendment to LB512:  
AM976

(Amendments to Standing Committee amendments, AM225)

- 1 1. Insert the following new section:
- 2 Sec. 3. Section 69-2433, Revised Statutes Cumulative
- 3 Supplement, 2010, is amended to read:
- 4 69-2433 An applicant shall:
  - 5 (1) Be at least twenty-one years of age;
  - 6 (2) Not be prohibited from purchasing or possessing a
  - 7 handgun by 18 U.S.C. 922, as such section existed on January 1,
  - 8 2005;
  - 9 (3) Possess the same powers of eyesight as required under
  - 10 section 60-4,118 for a Class O operator's license. If an applicant
  - 11 does not possess a current Nebraska motor vehicle operator's
  - 12 license, the applicant may present a current optometrist's or
  - 13 ophthalmologist's statement certifying the vision reading obtained
  - 14 when testing the applicant. If such certified vision reading meets
  - 15 the vision requirements prescribed by section 60-4,118 for a Class
  - 16 O operator's license, the vision requirements of this subdivision
  - 17 shall have been met;
  - 18 (4) Not have pled guilty to, not have pled nolo
  - 19 contendere to, or not have been convicted of a felony under
  - 20 the laws of this state or under the laws of any other jurisdiction;
  - 21 (5) Not have pled guilty to, not have pled nolo
  - 22 contendere to, or not have been convicted of a misdemeanor crime
  - 1 of violence under the laws of this state or under the laws of any
  - 2 other jurisdiction within the ten years immediately preceding the
  - 3 date of application;
  - 4 (6) Not have been found in the previous ten years to be a
  - 5 mentally ill and dangerous person under the Nebraska Mental Health
  - 6 Commitment Act or a similar law of another jurisdiction or not be
  - 7 currently adjudged mentally incompetent;
  - 8 (7)(a) Have been a resident of this state for at least
  - 9 one hundred eighty days. For purposes of this section, resident
  - 10 does not include an applicant who maintains a residence in another
  - 11 state and claims that residence for voting or tax purposes except
  - 12 as provided in subdivision (b) or (c) of this subdivision; ~~or~~
  - 13 (b) If an applicant is a member of the United States
  - 14 Armed Forces, such applicant shall be considered a resident of
  - 15 this state for purposes of this section after he or she has been
  - 16 stationed at a military installation in this state pursuant to
  - 17 permanent duty station orders even though he or she maintains a

18 residence in another state and claims that residence for voting or  
19 tax purposes; or

20 (c) If an applicant is a new Nebraska resident and  
21 possesses a valid permit to carry a concealed handgun issued by his  
22 or her previous state of residence that is recognized by this state  
23 pursuant to section 69-2448, such applicant shall be considered a  
24 resident of this state for purposes of this section;

25 (8) Have had no violations of any law of this state  
26 relating to firearms, unlawful use of a weapon, or controlled  
27 substances or of any similar laws of another jurisdiction in the  
1 ten years preceding the date of application;

2 (9) Not be on parole, probation, house arrest, or work  
3 release;

4 (10) Be a citizen of the United States; and

5 (11) Provide proof of training.

6 2. Renumber the remaining sections and correct internal  
7 references and the repealer section accordingly.

Senator Hadley filed the following amendment to LB387:  
AM897

(Amendments to E & R amendments, ER57)

1 1. On page 2, line 25; and page 7, line 13, after  
2 "public" insert "or private".

3 2. On page 3, lines 11 and 12, strike "by the fund"  
4 and insert "under the act"; in line 23, after "nonprofit" insert  
5 "entity"; and in line 27 strike "for" and insert "under".

6 3. On page 4, line 17; page 7, line 2; and page 8, line  
7 1, strike "total".

8 4. On page 4, line 25, strike "a total of".

9 5. On page 6, line 6; and page 7, line 10, strike  
10 "headquartered" and insert "operating".

11 6. On page 6, lines 10 and 12, after "product" insert "or  
12 process".

13 7. On page 11, lines 7 and 11, strike "No less than" and  
14 insert "At least".

### UNANIMOUS CONSENT - Add Cointroducer

Senator Wallman asked unanimous consent to add his name as cointroducer to LR40CA. No objections. So ordered.

### VISITORS

Visitors to the Chamber were 56 fourth-grade students and teachers from Cottonwood Elementary, Omaha.

**ADJOURNMENT**

At 4:59 p.m., on a motion by Senator Conrad, the Legislature adjourned until 9:00 a.m., Tuesday, March 29, 2011.

Patrick J. O'Donnell  
Clerk of the Legislature