

TWENTY-NINTH DAY - FEBRUARY 15, 2011**LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION****TWENTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, February 15, 2011

PRAYER

The prayer was offered by Reverend Casey Karges, Cortland United Church, Cortland.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senator Pankonin who was excused; and Senators Cornett and Schilz who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-eighth day was approved.

COMMITTEE REPORTS

Health and Human Services

LEGISLATIVE BILL 237. Placed on General File.

LEGISLATIVE BILL 543. Placed on General File.

LEGISLATIVE BILL 34. Placed on General File with amendment.
AM201

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 71-401, Revised Statutes Cumulative
- 4 Supplement, 2010, is amended to read:
- 5 71-401 Sections 71-401 to 71-465 and section 2 of this
- 6 act shall be known and may be cited as the Health Care Facility
- 7 Licensure Act.
- 8 Sec. 2. Any facility which is used as a residence
- 9 by members of an organization, association, order, or society
- 10 organized and operated for religious purposes, which is not
- 11 operated for financial gain or profit for the organization,

12 association, order, or society, and which serves as a residence
 13 only for such members who in the exercise of their duties in
 14 the organization, association, order, or society are required to
 15 participate in congregant living within such a facility is exempt
 16 from the provisions of the Health Care Facility Licensure Act
 17 relating to licensure or regulation of assisted-living facilities,
 18 intermediate care facilities, and nursing facilities.

19 Sec. 3. Original section 71-401, Revised Statutes
 20 Cumulative Supplement, 2010, is repealed.

LEGISLATIVE BILL 51. Placed on General File with amendment.

AM79

- 1 1. On page 2, line 12, strike "clinical privileges for
- 2 the" and insert "qualified"; and in line 13 after "clinic" insert
- 3 "clinical privileges pursuant to section 71-2048.01".

LEGISLATIVE BILL 260. Placed on General File with amendment.

AM310

- 1 1. Strike sections 4 and 5 and insert the following new
- 2 sections:
- 3 Sec. 4. (1) Each approved or accredited public, private,
- 4 denominational, or parochial school shall:
- 5 (a) Make available training approved by the Board of
- 6 Medicine and Surgery on how to recognize the symptoms of a
- 7 concussion or brain injury and how to seek proper medical treatment
- 8 for a concussion or brain injury to all coaches of school athletic
- 9 teams; and
- 10 (b) Require that concussion and brain injury information
- 11 be provided on an annual basis to students and the students'
- 12 parents or guardians prior to such students initiating practice or
- 13 competition. The information provided to students and the students'
- 14 parents or guardians shall include, but need not be limited to:
- 15 (i) The signs and symptoms of a concussion;
- 16 (ii) The risks posed by sustaining a concussion; and
- 17 (iii) The actions a student should take in response to
- 18 sustaining a concussion, including the notification of his or her
- 19 coaches.
- 20 (2)(a) A student who participates on a school athletic
- 21 team and is reasonably suspected after observation by a coach,
- 22 an athletic trainer, or a medical professional of sustaining a
- 23 concussion or brain injury in a practice or game shall be removed
- 1 from the practice or game at that time. Such student shall not
- 2 be permitted to participate in any school supervised team athletic
- 3 activities involving physical exertion, including, but not limited
- 4 to, practices or games, until the student has been evaluated
- 5 by a licensed health care professional and has received written
- 6 clearance to resume participation in athletic activities from the
- 7 licensed health care professional.

8 (b) If a student is reasonably suspected after
 9 observation of sustaining a concussion or brain injury and is
 10 removed from an athletic activity under subdivision (2)(a) of this
 11 section, the parent or guardian of the student shall be notified by
 12 the school of the date, time, and extent of the injury suffered by
 13 the student and any actions taken to treat the student.

14 Sec. 5. (1) Any city, village, business, or nonprofit
 15 organization that organizes an athletic activity in which the
 16 athletes are nineteen years of age or younger and are required to
 17 pay a fee to participate in the athletic activity or whose cost to
 18 participate in the athletic activity is sponsored by a business or
 19 nonprofit organization shall:

20 (a) Make available training approved by the Board of
 21 Medicine and Surgery on how to recognize the symptoms of a
 22 concussion or brain injury and how to seek proper medical treatment
 23 for a concussion or brain injury to all coaches; and

24 (b) Provide information on concussions and brain injuries
 25 to all coaches and athletes and to a parent or guardian of each
 26 athlete that shall include, but need not be limited to:

27 (i) The signs and symptoms of a concussion;

1 (ii) The risks posed by sustaining a concussion; and

2 (iii) The actions an athlete should take in response to
 3 sustaining a concussion, including the notification of his or her
 4 coaches.

5 (2)(a) An athlete who participates in an athletic
 6 activity under subsection (1) of this section and is reasonably
 7 suspected after observation by a coach, an athletic trainer, or a
 8 medical professional of sustaining a concussion or brain injury
 9 in a practice or game shall be removed from the practice or game
 10 at that time. Such athlete shall not be permitted to participate
 11 in any supervised athletic activities involving physical exertion,
 12 including, but not limited to, practices or games, until the
 13 athlete has been evaluated by a licensed health care professional
 14 and has received written clearance to resume participation in
 15 athletic activities from the licensed health care professional.

16 (b) If an athlete is reasonably suspected after
 17 observation of sustaining a concussion or brain injury and is
 18 removed from an athletic activity under subdivision (2)(a) of this
 19 section, the parent or guardian of the athlete shall be notified by
 20 the coach or a representative of the city, village, business, or
 21 nonprofit organization that organized the athletic activity of the
 22 date, time, and extent of the injury suffered by the athlete and
 23 any actions taken to treat the athlete.

(Signed) Kathy Campbell, Chairperson

ANNOUNCEMENT

Senator Howard designates LB237 as her priority bill.

MESSAGES FROM THE GOVERNOR

February 10, 2011

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

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individuals are being appointed to the Foster Care Review Board:

Thomas Incontro, 1904 Farnam Street, Suite 400, Omaha, NE 68102
Mark Zimmerer, 603 W. Nebraska, Pierce, NE 68767

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

February 10, 2011

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

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Nebraska State Fair Board:

Lowell Minert, P.O. Box 68, Dunning, NE 68833

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

February 10, 2011

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

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Nebraska Natural Resources Commission:

Stan Clouse, 4907 Linden Drive Place, Kearney, NE 68447

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

February 10, 2011

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

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individuals are being appointed to the Commission for the Deaf and Hard of Hearing:

Amy Kasch, 12521 Arbor Street, Omaha, NE 68144
Carol Lomicky, 14 Skyline Drive, Kearney, NE 68845

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

February 10, 2011

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

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being
reappointed to the Boiler Safety Code Advisory Board:

Robert Kirkpatrick, 6315 Huntington Avenue, Lincoln, NE 68507

Contingent upon your approval, the following individuals are being
appointed to the Boiler Safety Code Advisory Board:

Steven Bley, 8609 Hwy 1, Nehawka, NE 68413
Thomas Phipps, 3724 North 101st Street, Omaha, NE 68134

The aforementioned appointees are respectfully submitted for your
consideration. Copies of the certificates and background information are
included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 68 and 69 were adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the
President signed the following: LRs 68 and 69.

GENERAL FILE

LEGISLATIVE BILL 401. Senator Howard renewed her amendment,
AM341, found on page 532.

The Howard amendment was adopted with 41 ayes, 0 nays, 6 present and
not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 13 present
and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 179. Title read. Considered.

Committee AM124, found on page 460, was adopted with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

COMMITTEE REPORTS

Natural Resources

LEGISLATIVE BILL 105. Placed on General File.

LEGISLATIVE BILL 207. Placed on General File.

LEGISLATIVE BILL 563. Placed on General File.

LEGISLATIVE BILL 621. Placed on General File.

LEGISLATIVE BILL 41. Placed on General File with amendment.
AM219

1 1. Strike original sections 4 and 25 and insert the
2 following new sections:
3 Sec. 4. Section 37-407, Revised Statutes Cumulative
4 Supplement, 2010, is amended to read:
5 37-407 (1) The commission may offer multiple-year permits
6 or combinations of permits at reduced rates and may establish
7 fees pursuant to section 37-327 to be paid to the state for
8 resident and nonresident annual hunting permits, annual fishing
9 permits, three-day fishing permits, one-day fishing permits,
10 combination hunting and fishing permits, fur-harvesting permits,
11 and nonresident ~~special~~ two-day hunting permits issued for periods
12 of two consecutive days, as provided in this section. ~~between the~~
13 ~~Wednesday immediately preceding Thanksgiving Day and December 31 of~~
14 ~~the same calendar year and limited to one special two-day permit~~
15 ~~per applicant per year, as follows:~~

16 (2) The fee for a multiple-year permit shall be
17 established by the commission pursuant to section 37-327 and shall
18 not be more than the number of years the permit will be valid times
19 the fee required for an annual permit as provided in subsection (3)
20 or (4) of this section. Payment for a multiple-year permit shall
21 be made in a lump sum at the time of application. A replacement
22 multiple-year permit may be issued under section 37-409 if the
23 original is lost or destroyed.

1 (1)-(3) Resident fees shall be (a) not more than thirteen
2 dollars for an annual hunting permit, (b) not more than seventeen
3 dollars and fifty cents for an annual fishing permit, (c) not more
4 than eleven dollars and fifty cents for a three-day fishing permit,
5 (d) not more than eight dollars for a one-day fishing permit, (e)
6 not more than twenty-nine dollars for ~~both~~ an annual fishing and
7 hunting permit, and (f) not more than twenty dollars for an annual
8 fur harvesting permit. ~~;~~ ~~and~~

9 ~~(2)-(4)~~ Nonresident fees shall be (a) not more than
 10 two hundred sixty dollars for a period of time specified by the
 11 commission for fur harvesting one thousand or less fur-bearing
 12 animals and not more than seventeen dollars and fifty cents
 13 additional for each one hundred or part of one hundred fur-bearing
 14 animals harvested, (b)(i) for persons sixteen years of age and
 15 older, not more than eighty dollars for an annual hunting permit
 16 and (ii) for persons under sixteen years of age, not less than
 17 the fee required pursuant to subdivision ~~(1)(a)-(3)(a)~~ of this
 18 section for an annual hunting permit, (c) not more than ~~thirty five~~
 19 fifty-five dollars for a ~~special~~-two-day hunting permit plus the
 20 cost of a habitat stamp, (d) not more than nine dollars for a
 21 one-day fishing permit, (e) not more than sixteen dollars and fifty
 22 cents for a three-day fishing permit, (f) not more than forty-nine
 23 dollars and fifty cents for an annual fishing permit, and (g)(i)
 24 for persons sixteen years of age and older, not more than one
 25 hundred fifty dollars for ~~both an annual~~ fishing and hunting permit
 26 and (ii) for persons under sixteen years of age, not less than the
 27 fee required pursuant to subdivision ~~(1)(e)-(3)(e)~~ of this section
 1 for both an annual fishing and hunting permit.

2 Sec. 25. Section 37-4,103, Reissue Revised Statutes of
 3 Nebraska, is amended to read:

4 37-4,103 Any person violating any provision of ~~sections~~
 5 section 37-497 to 37-4,102 or 37-498 shall be guilty of a Class
 6 IV misdemeanor. ~~In , and, in~~ addition, the court shall ~~require~~
 7 ~~that any raptor or raptors in the possession of the offender be~~
 8 ~~confiscated and the license order the revocation of the permit of~~
 9 the offender. ~~be revoked.~~

10 2. On page 9, line 16, strike "may" and insert "shall,
 11 upon application and without payment of any fee,".

12 3. On page 10, line 18, reinstate the stricken "(3)" and
 13 strike "(2)".

14 4. On page 29, line 5, after "season" insert "and dog
 15 training or dog trial activities may be permitted as prescribed by
 16 rules and regulations of the commission".

17 5. On page 32, strike beginning with "four" in line 2
 18 through "permits" in line 3 and insert "two hundred dollars".

LEGISLATIVE BILL 342. Placed on General File with amendment.
 AM221

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

3 Section 1. Section 31-409, Reissue Revised Statutes of
 4 Nebraska, is amended to read:

5 31-409 A majority of the directors shall be residents of
 6 the county or counties in which the district is located. Except
 7 as provided in section 31-409.03, any person or the officer or
 8 representative of any corporation owning or controlling any land
 9 assessed for benefits may be a director. The person elected a

10 director receiving the least number of votes shall hold office
 11 for one year, the next higher for two years, and so on, and the
 12 term of each shall be adjusted so as to make the term of one
 13 director expire each year. The officers, consisting of a president,
 14 a treasurer, and a secretary, shall be chosen by the directors from
 15 their own number and for a term of one year. Unless the directors
 16 choose by February fifteenth of a given year to use the procedures
 17 provided in section 31-409.01, annual elections of directors shall
 18 be held ~~from 8 a.m. until 6 p.m.,~~ on the second Tuesday of
 19 April each year, at the county courthouse or at such other place
 20 designated by the board pursuant to section 31-409.03. ~~The, but~~
 21 ~~the~~ annual election shall be omitted if such date occurs less than
 22 nine months after the first election. Vacancies in the office of
 23 directors may be filled by the remaining directors until the next
 1 election. All directors and officers shall hold office until their
 2 successors are elected and qualified.

3 Sec. 2. Section 31-409.02, Reissue Revised Statutes of
 4 Nebraska, is amended to read:

5 31-409.02 Notice of an annual election held pursuant to
 6 section 31-409, 31-409.01, or 31-409.03 shall be published once
 7 each week for two consecutive weeks in a newspaper of general
 8 circulation in the district, or the precinct if the district
 9 has been divided into voting precincts as provided in section
 10 31-409.03, designated by the district. The last publication shall
 11 not be less than thirty days prior to the election. The notice
 12 shall include the date and location or locations of the election
 13 and the hours for voting, the number of directors to be elected,
 14 the names of those whose terms will expire, and the procedure for
 15 filing as a candidate.

16 Sec. 3. Original sections 31-409 and 31-409.02, Reissue
 17 Revised Statutes of Nebraska, are repealed.

LEGISLATIVE BILL 366. Placed on General File with amendment.
 AM122

1 1. Insert the following new section:

2 Sec. 2. Section 84-1409, Reissue Revised Statutes of
 3 Nebraska, is amended to read:

4 84-1409 For purposes of the Open Meetings Act, unless the
 5 context otherwise requires:

6 (1)(a) Public body means (i) governing bodies of
 7 all political subdivisions of the State of Nebraska, (ii)
 8 governing bodies of all agencies, created by the Constitution of
 9 Nebraska, statute, or otherwise pursuant to law, of the executive
 10 department of the State of Nebraska, (iii) all independent boards,
 11 commissions, bureaus, committees, councils, subunits, or any other
 12 bodies created by the Constitution of Nebraska, statute, or
 13 otherwise pursuant to law, (iv) all study or advisory committees
 14 of the executive department of the State of Nebraska whether
 15 having continuing existence or appointed as special committees with

16 limited existence, (v) advisory committees of the bodies referred
 17 to in subdivisions (i), (ii), and (iii) of this subdivision, and
 18 (vi) instrumentalities exercising essentially public functions; and

19 (b) Public body does not include (i) subcommittees
 20 of such bodies unless a quorum of the public body attends a
 21 subcommittee meeting or unless such subcommittees are holding
 22 hearings, making policy, or taking formal action on behalf of
 23 their parent body, except that all meetings of any subcommittee
 1 established under section 81-15,175 are subject to the Open
 2 Meetings Act, and (ii) entities conducting judicial proceedings
 3 unless a court or other judicial body is exercising rulemaking
 4 authority, deliberating, or deciding upon the issuance of
 5 administrative orders;

6 (2) Meeting means all regular, special, or called
 7 meetings, formal or informal, of any public body for the purposes
 8 of briefing, discussion of public business, formation of tentative
 9 policy, or the taking of any action of the public body; and

10 (3) Videoconferencing means conducting a meeting
 11 involving participants at two or more locations through the use of
 12 audio-video equipment which allows participants at each location
 13 to hear and see each meeting participant at each other location,
 14 including public input. Interaction between meeting participants
 15 shall be possible at all meeting locations.

16 2. On page 3, line 8, after the second "the" insert
 17 "meetings of such subcommittee shall be subject to the Open
 18 Meetings Act. The".

19 3. On page 4, line 3, after the period insert "Such rules
 20 and regulations shall include, but not be limited to, rules and
 21 regulations providing for a public hearing on the proposed projects
 22 and funding and providing that the board shall make no decision on
 23 the proposed projects and funding until at least thirty days after
 24 such public hearing.".

25 4. Renumber the remaining section and amend the repealer
 26 accordingly.

LEGISLATIVE BILL 421. Placed on General File with amendment.
 AM228

1 1. On page 2, line 24, strike "of display of permits
 2 for", show as stricken, and insert "for displaying permits on the
 3 driver's side of the windshield of".

(Signed) Chris Langemeier, Chairperson

ANNOUNCEMENT

The Education Committee designates LB333 as its priority bill.

GENERAL FILE

LEGISLATIVE BILL 197. Title read. Considered.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 6 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 61. Title read. Considered.

Committee AM211, found on page 463, was considered.

Senator Ashford withdrew his amendment, AM329, found on page 520.

The committee amendment was adopted with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

Senator Heidemann offered the following amendment:

AM357

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 28-311.08, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 28-311.08 (1) It shall be unlawful for any person to
- 6 knowingly intrude upon any other person without his or her consent
- 7 or knowledge in a place of solitude or seclusion.
- 8 (2) For purposes of this section:
- 9 (a) Intrude means either the
- 10 (i) Viewing of another person in a state of undress; or
- 11 (ii) Recording viewing or recording, either by video,
- 12 audio, or other electronic means, of a another person in a state of
- 13 undress; and
- 14 (b) Place of solitude or seclusion means a place where
- 15 a person would intend to be in a state of undress and have a
- 16 reasonable expectation of privacy, including, but not limited to,
- 17 any facility, public or private, used as a restroom, tanning booth,
- 18 locker room, shower room, fitting room, or dressing room.
- 19 ~~(3) Violation~~ (3)(a) Violation of this section involving
- 20 an intrusion as defined in subdivision (2)(a)(i) of this section
- 21 is a Class III misdemeanor, unless the victim is under the age
- 22 of eighteen in which case a violation is a Class II misdemeanor.
- 23 ~~Lack of knowledge as to the victim's age is not a defense to the~~
- 24 ~~enhanced penalty under this section.~~
- 25 (b) Violation of this section involving an intrusion as
- 26 defined in subdivision (2)(a)(ii) of this section is a Class IV
- 27 felony.
- 28 (c) Violation of this section is a Class III felony if
- 29 video or an image from the intrusion is distributed to another
- 30 person or otherwise made public in any manner which would enable it
- 31 to be viewed by another person.

9 (4) As part of sentencing following a conviction for a
 10 violation of this section, the court shall make a finding as to
 11 the ages of the defendant and the victim at the time the offense
 12 occurred. If the defendant is found to have been nineteen years
 13 of age or older and the victim is found to have been less than
 14 eighteen years of age at such time, then the defendant shall be
 15 required to register under the Sex Offender Registration Act.

16 (5) No person shall be prosecuted for unlawful intrusion
 17 pursuant to subdivision (3)(b) or (c) of this section unless the
 18 indictment for such offense is found by a grand jury or a complaint
 19 filed before a magistrate within three years after the later of:

20 (a) The commission of the crime;

21 (b) Law enforcement's or a victim's receipt of actual or
 22 constructive notice of either the existence of a video or other
 23 electronic recording of the unlawful intrusion or the distribution
 24 of images, video, or other electronic recording of the unlawful
 25 intrusion; or

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

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

3 29-4003 (1)(a) The Sex Offender Registration Act applies
 4 to any person who on or after January 1, 1997:

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

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

10 (B) False imprisonment of a minor pursuant to section
 11 28-314 or 28-315;

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

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

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

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

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

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

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

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

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

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

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

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

- 24 (XIII) Sexual abuse of a protected individual pursuant to
 25 section 28-322.04;
- 26 (XIV) Incest pursuant to section 28-703;
- 27 (XV) Child abuse pursuant to subdivision (1)(d) or (e) of
 1 section 28-707;
- 2 (XVI) Enticement by electronic communication device
 3 pursuant to section 28-833; or
- 4 (XVII) Attempt, solicitation, aiding or abetting, being
 5 an accessory, or conspiracy to commit an offense listed in
 6 subdivisions (1)(b)(i)(A)(I) through (1)(b)(i)(A)(XVI) of this
 7 section.
- 8 (B) In order for the Sex Offender Registration Act to
 9 apply to the offenses listed in subdivisions (1)(b)(i)(A)(I), (II),
 10 (III), (IV), (V), (VI), (VII), (IX), and (X) of this section,
 11 a court shall have found that evidence of sexual penetration or
 12 sexual contact, as those terms are defined in section 28-318, was
 13 present in the record, which shall include consideration of the
 14 factual basis for a plea-based conviction and information contained
 15 in the presentence report;
- 16 (ii) Has ever pled guilty to, pled nolo contendere to, or
 17 been found guilty of any offense that is substantially equivalent
 18 to a registrable offense under subdivision (1)(b)(i) of this
 19 section by any village, town, city, state, territory, commonwealth,
 20 or other jurisdiction of the United States, by the United States
 21 Government, by court-martial or other military tribunal, or by
 22 a foreign jurisdiction, notwithstanding a procedure comparable
 23 in effect to that described under section 29-2264 or any other
 24 procedure to nullify a conviction other than by pardon; or
- 25 (iii) Enters the state and is required to register as
 26 a sex offender under the laws of another village, town, city,
 27 state, territory, commonwealth, or other jurisdiction of the United
 1 States.
- 2 (2) A person appealing a conviction of a registrable
 3 offense under this section shall be required to comply with the act
 4 during the appeals process.
- 5 Sec. 3. Original section 28-311.08, Reissue Revised
 6 Statutes of Nebraska, and section 29-4003, Revised Statutes
 7 Cumulative Supplement, 2010, are repealed.

The Heidemann amendment was adopted with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 308. Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 335. Title read. Considered.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 160. Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 218. Title read. Considered.

SENATOR GLOOR PRESIDING

Senator Janssen moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 32 ayes, 9 nays, and 8 not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 8 nays, 6 present and not voting, and 2 excused and not voting.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 178. Placed on Select File with amendment.
ER28

- 1 1. On page 1, line 8, after "adopt" insert "and change".
- 2 2. On page 17, line 9, strike "driver" and insert
- 3 "driver's".
- 4 3. On page 23, lines 8 and 9; and page 24, line 23,
- 5 strike "Department of Motor Vehicles", show as stricken, and insert
- 6 "department".

LEGISLATIVE BILL 178A. Placed on Select File.

LEGISLATIVE BILL 215. Placed on Select File with amendment.
ER31

- 1 1. On page 1, line 9, strike "and payment for"; and
- 2 in line 11 after the semicolon insert "to change provisions
- 3 relating to issuance and renewal of operators' licenses and state
- 4 identification cards;".
- 5 2. On page 8, line 17, strike "(2)(f)", show as stricken,
- 6 and insert "(1)(f)".
- 7 3. On page 11, line 12, strike "(2)(f)(i)", show as
- 8 stricken, and insert "(1)(f)(i)".
- 9 4. On page 16, line 9, strike "U.S." and insert "United
- 10 States"; in line 17 strike "1-551" and insert "I-551"; in line 21
- 11 strike "1-766" and insert "I-766"; and in line 23 strike "1-94" and
- 12 insert "I-94".

13 5. On page 17, line 18, strike "above" and insert "of
14 this section".

15 6. On page 37, line 21, strike "examiner", show as
16 stricken, and insert "department personnel".

17 7. On page 41, line 24, strike "examiner's", show as
18 stricken, and insert "issuance".

19 8. On page 44, line 23, strike "(1)".

20 9. On page 45, line 9, strike "(a)", show as stricken,
21 and insert "(1)"; in line 13 strike "(b)", show as stricken, and
22 insert "(2)"; and in line 15 strike "(c)", show as stricken, and
23 insert "(3)".

LEGISLATIVE BILL 43. Placed on Select File.

LEGISLATIVE BILL 410. Placed on Select File with amendment.
ER27 is available in the Bill Room.

LEGISLATIVE BILL 410A. Placed on Select File.

LEGISLATIVE BILL 108. Placed on Select File with amendment.
ER24

1 1. Strike the original sections and all amendments
2 thereto and insert the following new section:
3 Section 1. Every person liable to contribute to the
4 construction and maintenance of a division fence or any portion
5 thereof shall maintain his or her portion in good repair, including
6 the necessary removal or trimming of trees and woody growth within
7 or encroaching upon the fenceline to repair or avoid damage to,
8 or dislocation of, the division fence. The occurrence of trees
9 and woody growth within or encroaching upon a division fence that
10 causes damage to, or dislocation of, the fence shall constitute a
11 private nuisance to the adjacent landowner's possessory interests
12 in his or her land.

13 2. On page 1, strike beginning with "amend" in line 1
14 through line 4 and insert "require maintenance of division fences
15 as prescribed."

LEGISLATIVE BILL 114. Placed on Select File with amendment.
ER25

1 1. Strike the original section and all amendments thereto
2 and insert the following new section:
3 Section 1. (1) It is the intent of the Legislature to
4 provide for an identity standard for packaged food products labeled
5 as honey in order to aid consumer information and to protect the
6 integrity of the honey industry in Nebraska.
7 (2) The Department of Agriculture shall adopt and
8 promulgate rules and regulations that adopt a standard for all
9 honeys produced by honey bees. Such standard shall be consistent
10 with Codex Standard 12-1981, as revised in 2001, from the Codex

11 Alimentarius Commission of the Food and Agriculture Organization
 12 and the World Health Organization of the United Nations. Such rules
 13 and regulations shall be effective on or before January 1, 2012.

14 (3) A product shall not be labeled as honey or be labeled
 15 as to imply that the product is honey unless the product meets the
 16 standard for honey adopted by the Department of Agriculture under
 17 subsection (2) of this section.

18 (4) A violation of subsection (3) of this section shall
 19 constitute a deceptive trade practice under the Uniform Deceptive
 20 Trade Practices Act and shall be subject to any remedies or
 21 penalties available for a violation under the act.

22 2. On page 1, line 2, strike "for damages" and insert
 23 "under the Uniform Deceptive Trade Practices Act".

LEGISLATIVE BILL 243. Placed on Select File.

LEGISLATIVE BILL 62. Placed on Select File with amendment.

ER26

- 1 1. On page 3, line 1, strike "they", show as stricken,
- 2 and insert "the county officers".

LEGISLATIVE BILL 36. Placed on Select File with amendment.

ER29

- 1 1. On page 2, line 15, strike "adopt", show as stricken,
- 2 and insert "adopted".

LEGISLATIVE BILL 225. Placed on Select File.

LEGISLATIVE BILL 274. Placed on Select File with amendment.

ER30

- 1 1. On page 2, line 20, after the semicolon insert "or".

(Signed) Tyson Larson, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 76. Introduced by Brasch, 16; Flood, 19.

WHEREAS, in May 2010, twenty-year-old Cameron Klitz and her mother were walking around a pond near West Point, Nebraska, when they heard someone calling for help. Clinging to a tipped canoe, forty-six-year-old Joe Lee was having difficulty keeping his head above water. Cameron, drawing upon her experience from previous American Red Cross lifeguard training, swam out to Joe Lee, pulled him back to shore, and saved him from drowning; and

WHEREAS, for her heroic actions, Cameron will be awarded the Certificate of Merit by the American Red Cross; and

WHEREAS, the Certificate of Merit is the highest award given by the American Red Cross to an individual who saves or sustains a life by using

skills and knowledge learned in an American Red Cross health and safety course.

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

1. That the Legislature congratulates Cameron Klitz on being awarded the Certificate of Merit by the American Red Cross.
2. That a copy of this resolution be sent to Cameron Klitz.

Laid over.

AMENDMENT - Print in Journal

Senator Dubas filed the following amendment to LB114:
AM354

(Amendments to E & R amendments, ER25)

- 1 1. On page 1, strike beginning with "Codex" in line 10
- 2 through the period in line 12 and insert "the standard for honey
- 3 in Codex standard 12-1981, as revised in 1987 and 2001, with
- 4 deviations as presented in the Petition for Review of the standard
- 5 under the 21 C.F.R. 130.6 procedure by the United States Food
- 6 and Drug Administration, Docket 2006P-0101, Exhibit C, submitted
- 7 by the American Beekeeping Federation, American Honey Producers
- 8 Association, National Honey Packers and Dealers Association, Sioux
- 9 Honey Association, and Western States Honey Packers and Dealers
- 10 Association in March of 2006. The rules and regulations may
- 11 deviate from such standard only in specific particulars where the
- 12 Director of Agriculture determines that they are not appropriate to
- 13 conditions in this state.".

UNANIMOUS CONSENT - Add Cointroducer

Senator Karpisek asked unanimous consent to add his name as cointroducer to LB52. No objections. So ordered.

VISITORS

Visitors to the Chamber were Sam Whipple from Lincoln; NSEA Retired Teachers from across the state; and Tom Black from West Point and Art Tanderup from Blair.

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

ADJOURNMENT

At 11:53 a.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Wednesday, February 16, 2011.

Patrick J. O'Donnell
Clerk of the Legislature