

**THIRTY-FIRST DAY - FEBRUARY 17, 2011****LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE  
FIRST SESSION****THIRTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, February 17, 2011

**PRAYER**

The prayer was offered by Pastor Jim McGaffin, Liberty Christian Center, Omaha.

**ROLL CALL**

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

The roll was called and all members were present except Senator Pankonin who was excused; and Senators Adams, Cornett, K. Haar, Lathrop, Lautenbaugh, Schumacher, and Wightman who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirtieth day was approved.

**COMMITTEE REPORT**

Enrollment and Review

**LEGISLATIVE BILL 181.** Placed on Final Reading.

(Signed) Tyson Larson, Chairperson

**COMMITTEE REPORTS**

Education

**LEGISLATIVE BILL 130.** Indefinitely postponed.

**LEGISLATIVE BILL 440.** Indefinitely postponed.

**LEGISLATIVE BILL 657.** Indefinitely postponed.

(Signed) Greg Adams, Chairperson

## Health and Human Services

**LEGISLATIVE BILL 465.** Placed on General File.

(Signed) Kathy Campbell, Chairperson

Banking, Commerce and Insurance

**LEGISLATIVE BILL 424.** Placed on General File.

**LEGISLATIVE BILL 453.** Placed on General File.

**LEGISLATIVE BILL 454.** Placed on General File.

**LEGISLATIVE BILL 455.** Placed on General File.

**LEGISLATIVE BILL 90.** Placed on General File with amendment.  
AM141

- 1 1. On page 26, line 10, strike "that".
- 2 2. On page 56, lines 20 and 23; and page 57, line 9,
- 3 strike "financial" and insert "financing".
- 4 3. On page 58, line 13, strike "The" and insert "In this
- 5 section, the".

**LEGISLATIVE BILL 684.** Placed on General File with amendment.  
AM375

- 1 1. Strike original section 1 and insert the following new
- 2 section:
- 3 Section 1. Section 81-1201.13, Reissue Revised Statutes
- 4 of Nebraska, is amended to read:
- 5 81-1201.13 (1) The Travel and Tourism Division shall
- 6 develop a program to provide promotional services and technical
- 7 assistance to local governments and industry members and to ensure
- 8 the protection and development of Nebraska's attraction resources.
- 9 (2)(a) The department shall have an advisory committee to
- 10 provide regular consultation to the Travel and Tourism Division,
- 11 which committee shall be named the Travel and Tourism Division
- 12 Advisory Committee. Such advisory committee shall include, at a
- 13 minimum, one representative from the Game and Parks Commission,
- 14 one representative from the Nebraska Travel Association, one
- 15 representative from the Nebraska Hotel and Motel Association,
- 16 one representative from a tourism attraction that records at least
- 17 two thousand out-of-state visitors per year, and one representative
- 18 from the Nebraska Association of Convention and Visitors Bureaus.
- 19 (b) The Travel and Tourism Division Advisory Committee
- 20 shall develop a statewide strategic plan to cultivate and promote
- 21 tourism in Nebraska. The advisory committee shall adopt policy
- 22 criteria to be used in the development of the plan. The plan shall
- 23 include:
  - 1 (i) A review of the existing and potential sources of
  - 2 funding for tourism at the state and local levels;

- 3 (ii) A comprehensive inventory of local tourism boards,  
4 the structure of such boards, and their funding;
- 5 (iii) Criteria for local tourism boards in terms of  
6 appointments to such boards and for awarding grants by such boards  
7 at the local level to ensure local resources are used to achieve  
8 the greatest return;
- 9 (iv) An examination of other states' funding models for  
10 tourism;
- 11 (v) Marketing strategies for promoting tourism;
- 12 (vi) A proposal for creating new or expanding existing  
13 tourism capacity, which may include encouraging regional  
14 cooperation, collaboration, or privatization; and
- 15 (vii) Recommended legislation or funding requirements.
- 16 (c) The department may hire a consultant to assist the  
17 Travel and Tourism Division Advisory Committee in developing the  
18 statewide strategic plan. The department may accept, in trust, any  
19 gifts, devises, and bequests to be held and administered by the  
20 department for the purposes of hiring a consultant. The advisory  
21 committee shall prepare and present the statewide strategic plan to  
22 the Legislature by September 1, 2012.
- 23 (3) All advertising contracts awarded by the department  
24 concerning travel and tourism shall be based on competitive bids.  
25 Contracts shall be awarded to the lowest responsible bidder, taking  
26 into consideration the best interests of the state, the quality  
27 of performance of the services rendered, the conformity with  
1 specifications, the purposes for which required, and the time of  
2 completion, and with the consultation of the Travel and Tourism  
3 Division Advisory Committee. In determining the lowest responsible  
4 bidder, in addition to price, the following elements shall be  
5 given consideration: ~~(1)~~ (a) The ability, capacity, creativity,  
6 and skill of the bidder to perform the contract required; ~~(2)~~  
7 (b) the character, integrity, reputation, judgment, experience,  
8 and efficiency of the bidder; ~~(3)~~ (c) whether the bidder can  
9 perform the contract within the time specified; ~~(4)~~ (d) the  
10 quality of performance of previous contracts; ~~(5)~~ (e) the previous  
11 and existing compliance by the bidder with laws relating to the  
12 contract; and ~~(6)~~ (f) such other information as may be secured  
13 having a bearing on the decision to award the contract. The  
14 department shall advertise for bids for the awarding of contracts  
15 concerning travel and tourism pursuant to sections 73-101 to  
16 73-105. At least thirty working days shall elapse between the time  
17 formal bids are advertised for and the time of their opening.  
18 Contracts shall be awarded within sixty working days after the  
19 bidding has been closed. Each person submitting a bid shall, by  
20 certified mail, be notified as to whom the contract was awarded.

(Signed) Rich Pahls, Chairperson

**NOTICE OF COMMITTEE HEARINGS**

General Affairs

Room 1510

Monday, February 28, 2011 1:30 p.m.

Kristopher Covi - State Racing Commission  
Jeffrey Galyen - State Racing Commission  
Mark Laughlin - Nebraska Arts Council  
Robert "Bob" Culver Jr. - Nebraska Arts Council  
Donna Hastings - Nebraska Arts Council  
Nana Smith - Nebraska Arts Council  
Edwin Bergstraesser - State Electrical Board  
Cory Mueller - State Electrical Board

LB56  
LB470  
LB554  
LB567

Monday, March 7, 2011 1:30 p.m.

Lynn Roper - Nebraska Arts Council

(Signed) Russ Karpisek, Chairperson

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of February 16, 2011, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

Farrell, Kay  
National Safety Council, Greater Omaha Chapter  
Kulesher Jarecke, Kate M.  
Amack, Angela K.  
Nielsen, Coleen J.  
Larsen, Stephanie  
Center for Rural Affairs  
Mulherin, William T.  
National Safety Council, Greater Omaha Chapter

**REPORTS**

The following reports were received by the Legislature:

**Energy Office, Nebraska**

Annual Report for Fiscal Year 2009 – 2010

Nebraska Energy Statistics

**SELECT FILE**

**LEGISLATIVE BILL 264.** ER17, found on page 479, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 326.** ER18, found on page 479, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 12.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 146.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 331.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 332.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 334.** ER19, found on page 508, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 25.** ER20, found on page 508, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 26.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 78.** ER22, found on page 509, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 77.** ER21, found on page 509, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 303.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 474.** ER23, found on page 513, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 94.** Senator Christensen offered the following amendment:

AM358

(Amendments to Standing Committee amendments, AM180)

- 1 1. Strike line 4 and insert "released based upon state
- 2 statute, federal statute, federal rule, or federal".

The Christensen amendment was adopted with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 24.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 396.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 311.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 347.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 462.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 98.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 178.** ER28, found on page 549, was adopted.

Senator Fischer renewed her amendment, AM374, found on page 580.

The Fischer amendment was adopted with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 178A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 215.** ER31, found on page 549, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 43.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 410.** ER27, found on page 550, was adopted.

Senator Utter renewed his amendment, AM360, found on page 580.

The Utter amendment was adopted with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 410A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 108.** ER24, found on page 550, was adopted.

Advanced to Enrollment and Review for Engrossment.

### ANNOUNCEMENT

The Chair announced today is Senator Harms' birthday and February 21 is Senator Utter's birthday.

**COMMITTEE REPORTS**

## Enrollment and Review

**LEGISLATIVE BILL 333.** Placed on Select File with amendment. ER33 is available in the Bill Room.

**LEGISLATIVE BILL 228.** Placed on Select File.

(Signed) Tyson Larson, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 278.** Title read. Considered.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 368.** Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 11 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 399.** Title read. Considered.

**SENATOR LANGEMEIER PRESIDING**

Advanced to Enrollment and Review Initial with 31 ayes, 2 nays, 15 present and not voting, and 1 excused and not voting.

**COMMITTEE REPORTS**

## Judiciary

**LEGISLATIVE BILL 167.** Placed on General File.

**LEGISLATIVE BILL 284.** Placed on General File.

(Signed) Brad Ashford, Chairperson

## Urban Affairs

**LEGISLATIVE BILL 546.** Placed on General File with amendment. AM348

- 1 1. On page 2, line 5, strike "2000", show as stricken,
- 2 and insert "2009"; and strike lines 16 through 18 and show as
- 3 stricken.
- 4 2. On page 3, line 10, strike ", new edition," and show
- 5 as stricken; and in line 11 strike "2000", show as stricken, and
- 6 insert "2009".
- 7 3. On page 4, line 3, strike "recent edition", show as
- 8 stricken, and insert "recently enacted state building code"; strike



9 beginning with "after" in line 4 through the period in line 5, show  
10 as stricken, and insert an underscored period; in line 10 after  
11 "standard" insert "by modifying or deleting any portion of the  
12 state building code in order"; and in line 14 strike "new edition,"  
13 and show as stricken.

(Signed) Amanda McGill, Chairperson

## **NOTICE OF COMMITTEE HEARING**

Banking, Commerce and Insurance

Room 1507

Monday, March 14, 2011 2:00 p.m.

Department of Insurance - Federal Health Care Reform Briefing by Bruce Ramage, Director of Insurance (testimony will not be received during briefing)

(Signed) Rich Pahls, Chairperson

## **RESOLUTION**

**LEGISLATIVE RESOLUTION 77.** Introduced by Gloor, 35.

WHEREAS, Irene Abernethy has been an outstanding advocate for children for over fifty years through her profession as a teacher, her volunteer work as a Teammates mentor, her attendance and involvement in many youth activities, and her passionate leadership on many issues that will continue to benefit generations of children; and

WHEREAS, Irene has performed outstanding juvenile justice work and was instrumental in establishing a Boys Town facility in Grand Island; and

WHEREAS, Irene has been an outstanding political leader for over twenty years in the city of Grand Island and in Hall County through her work on the Grand Island Public Schools Board of Education, the Hall County Board of Supervisors, the Grand Island Chamber of Commerce, the Grand Island Area Economic Development Corporation, and the Nebraska Association of County Officials; and

WHEREAS, Irene has been an outstanding civic leader through her leadership on the boards of Leadership Tomorrow, the YMCA Foundation, the Women's Club, the Hall County Historical Society, the Center for Independent Living, and the Central Community College Advisory Committee and on Heartland United Way committees; and

WHEREAS, Irene has been the Grand Island Independent's Woman of the Year and has received Ak-Sar-Ben's Ike Friedman Community Leadership Award and the national A.L. Carlisle Child Advocacy Award; and

WHEREAS, Irene has always been a shining example of her motto, "Get involved."

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

1. That the Legislature congratulates, commends, and thanks Irene Abernethy on her lifetime of leadership, advocacy, and achievement.

2. That a copy of this resolution be sent to Irene Abernethy.

Laid over.

### GENERAL FILE

**LEGISLATIVE BILL 556.** Title read. Considered.

### SENATOR GLOOR PRESIDING

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 161.** Title read. Considered.

Committee AM264, found on page 481, was considered.

Senator Lautenbaugh offered the following motion:

MO13

Bracket until June 8, 2011.

Pending.

### ANNOUNCEMENT

Pursuant to Rule 8, Sec. 3, the Appropriations Committee presented its preliminary report on February 17, 2011, summarizing the recommended appropriations for the following biennium.

### GENERAL FILE

**LEGISLATIVE BILL 161.** The Lautenbaugh motion, MO13, found in this day's Journal, to bracket until June 8, 2011, was renewed.

Senator Langemeier moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 12 nays, and 11 not voting.

The Lautenbaugh motion to bracket prevailed with 26 ayes, 11 nays, 10 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 281.** Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 1 nay, 9 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 314.** 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.

**SPEAKER FLOOD PRESIDING**

**RESOLUTION**

Pursuant to Rule 4, Sec. 5(b), LR71 was adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR71.

**NOTICE OF COMMITTEE HEARING**

Health and Human Services

Room 1510

Friday, February 25, 2011 1:30 p.m.

Douglas Dilly - Nebraska Rural Health Advisory Commission  
Shawn Kralik - Nebraska Rural Health Advisory Commission  
Kathy Boswell - Nebraska Rural Health Advisory Commission

(Signed) Kathy Campbell, Chairperson

**COMMITTEE REPORT**

Revenue

**LEGISLATIVE BILL 84.** Placed on General File with amendment.  
AM385

- 1 1. On page 3, strike beginning with "to" in line 15
- 2 through "department" in line 16 and insert "as determined by the
- 3 department, for construction of the expressway system and federally
- 4 designated high priority corridors".

(Signed) Abbie Cornett, Chairperson

**AMENDMENT - Print in Journal**

Senator Cornett filed the following amendment to LB66:  
AM386

(Amendments to Standing Committee amendments, AM241)

- 1 1. Strike sections 1 and 2 and insert the following new  
2 sections:
- 3 Section 1. Section 29-4106, Revised Statutes Cumulative  
4 Supplement, 2010, is amended to read:
- 5 29-4106 (1) A person who is convicted of a felony offense  
6 or other specified offense on or after July 15, 2010, who does not  
7 have a DNA sample available for use in the State DNA Sample Bank,  
8 shall, at his or her own expense, have a DNA sample collected:
- 9 (a) Upon intake to a prison, jail, or other detention  
10 facility or institution to which such person is sentenced. If  
11 the person is already confined at the time of sentencing, the  
12 person shall have a DNA sample collected immediately after the  
13 sentencing. Such DNA ~~samples~~ ~~sample~~ shall be collected at the place  
14 of incarceration or confinement. Such person shall not be released  
15 unless and until a DNA sample has been collected; or
- 16 (b) As a condition for any sentence which will not  
17 involve an intake into a prison, jail, or other detention facility  
18 or institution. Such DNA samples shall be collected as follows:
- 19 (i) In any county containing a city of the metropolitan  
20 class, a person placed on probation or who received a penalty of  
21 a fine or time served shall have such DNA sample collected by a  
22 probation officer at a probation office. Such person shall not be  
1 released unless and until a DNA sample has been collected; and  
2 (ii) In all other counties, a person placed on probation  
3 shall have such DNA sample collected by a probation officer at a  
4 probation office, and a person not placed on probation who receives  
5 a penalty of a fine or time served shall have such DNA sample  
6 collected at a detention facility or institution as specified by  
7 the court by the county sheriff. Such person shall not be released  
8 unless and until a DNA sample has been collected.
- 9 (2) A person who has been convicted of a felony offense  
10 or other specified offense before July 15, 2010, who does not have  
11 a DNA sample available for use in the State DNA Sample Bank, and  
12 who is still serving a term of confinement or probation for such  
13 felony offense or other specified offense on July 15, 2010, shall  
14 not be released prior to the expiration of his or her maximum term  
15 of confinement or revocation or discharge from his or her probation  
16 unless and until a DNA sample has been collected.
- 17 (3) A person who is serving a term of probation and has a  
18 DNA sample collected pursuant to this section shall pay all costs  
19 associated with the collection of the DNA sample.
- 20 (4) If the court waives the cost of taking a DNA sample  
21 for any reason, a county jail or other county detention facility or  
22 institution collecting the DNA sample shall not be held financially

23 responsible for the cost of the DNA sample kit.

24 Sec. 2. Section 29-4107, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 29-4107 (1) Only individuals (a) who are physicians or  
27 registered nurses, (b) who are trained to withdraw human blood for  
1 scientific or medical purposes and are obtaining blood specimens  
2 while working under orders of or protocols and procedures approved  
3 by a physician, registered nurse, or other independent health care  
4 practitioner licensed to practice by the state if the scope of  
5 practice of that practitioner permits the practitioner to obtain  
6 blood specimens, or (c) who are both employed by a licensed  
7 institution or facility and have been trained to withdraw human  
8 blood for scientific or medical purposes shall withdraw blood for  
9 a DNA blood sample under the DNA Identification Information Act.  
10 Withdrawal of blood shall be performed in a medically approved  
11 manner using a collection kit provided or accepted by the Nebraska  
12 State Patrol. The collection of buccal cell samples shall be  
13 performed by any person approved or designated by the Nebraska  
14 State Patrol and using a collection kit provided or accepted by the  
15 Nebraska State Patrol.

16 (2) In addition to the DNA sample, one thumb print or  
17 fingerprint shall be taken from the person from whom the DNA sample  
18 is being collected for the exclusive purpose of verifying the  
19 identity of such person. The DNA sample and the thumb print or  
20 fingerprint shall be delivered to the Nebraska State Patrol within  
21 five working days after collecting the sample unless the DNA sample  
22 was collected from buccal cell samples, in which case the DNA  
23 sample shall be delivered within ten working days after collecting  
24 the sample.

25 (3) A person authorized to collect DNA samples under  
26 the act is not criminally liable for collecting a DNA sample and  
27 transmitting DNA records pursuant to the act if he or she performs  
1 these activities in good faith and is not civilly liable for such  
2 activities if he or she performed such activities in a reasonable  
3 manner according to generally accepted medical standards for blood  
4 samples or in accordance with the collection kit and procedures  
5 approved by the Nebraska State Patrol for tissue samples.

6 Sec. 3. Original section 29-4107, Reissue Revised  
7 Statutes of Nebraska, and section 29-4106, Revised Statutes  
8 Cumulative Supplement, 2010, are repealed.

### UNANIMOUS CONSENT - Add Cointroducer

Senator Bloomfield asked unanimous consent to add his name as cointroducer to LB52, LB221, and LB284. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were members of Leadership Box Butte from Alliance; Senator Christensen's niece, Sara Pelton, from Bertrand and Maddi Brown from Imperial; and members of Leadership Hastings from Hastings, Leadership Tomorrow from Grand Island, Leadership York from York, and Odegeo - Leadership for Fillmore County from Geneva.

The Doctor of the Day was Dr. Richard Gustafson from Lincoln.

**ADJOURNMENT**

At 11:47 a.m., on a motion by Senator Campbell, the Legislature adjourned until 10:00 a.m., Tuesday, February 22, 2011.

Patrick J. O'Donnell  
Clerk of the Legislature