

THIRTY-THIRD DAY - FEBRUARY 23, 2011**LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION****THIRTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, February 23, 2011

PRAYER

The prayer was offered by Senator Wallman.

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 Senators B. Harr, Lautenbaugh, and Nelson who were excused; and Senators Heidemann, Schilz, and Wightman who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-second day was approved.

MESSAGE FROM THE GOVERNOR

February 22, 2011

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 19e, 23, 28, 29, 30, 46, 47e, 59e, 68, 72, 74e, 75e, 76e, 111, 122, 134e, 154, 157, 157A, 163, 163A, 208, 211, 212e, and 241e were received in my office on February 16, 2011.

These bills were signed and delivered to the Secretary of State on February 22, 2011.

Sincerely,
(Signed) Dave Heineman
Governor

ANNOUNCEMENT

Senator Krist designates LB284 as his priority bill.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 237. Placed on Select File.

LEGISLATIVE BILL 164. Placed on Select File.

LEGISLATIVE BILL 257. Placed on Select File with amendment.
ER35

- 1 1. On page 1, strike beginning with "section" in line
- 2 2 through line 5 and insert "sections 86-143 and 86-144, Reissue
- 3 Revised Statutes of Nebraska; to change filing requirements for
- 4 telecommunications companies as prescribed; and to repeal the
- 5 original sections."

(Signed) Tyson Larson, Chairperson

SELECT FILE

LEGISLATIVE BILL 383. Senator Council renewed her amendment, AM331, found on page 603.

SENATOR GLOOR PRESIDING**PRESIDENT SHEEHY PRESIDING**

Senator Krist moved the previous question. The question is, "Shall the debate now close?"

Senator Krist moved for a call of the house. The motion prevailed with 35 ayes, 0 nays, and 14 not voting.

The motion to cease debate prevailed with 26 ayes, 8 nays, 11 present and not voting, and 4 excused and not voting.

Senator Council requested a roll call vote on her amendment.

Voting in the affirmative, 6:

Cook	Howard	Louden
Council	Karpisek	Wallman

Voting in the negative, 35:

Adams	Christensen	Fulton	Langemeier	Price
Ashford	Coash	Gloor	Larson	Schilz
Avery	Conrad	Hadley	McCoy	Schumacher
Bloomfield	Cornett	Hansen	McGill	Smith
Brasch	Dubas	Harms	Pahls	Sullivan
Campbell	Fischer	Janssen	Pankonin	Utter
Carlson	Flood	Krist	Pirsch	Wightman

Present and not voting, 4:

Haar, K. Lathrop Mello Nordquist

Excused and not voting, 4:

Harr, B. Heidemann Lautenbaugh Nelson

The Council amendment lost with 6 ayes, 35 nays, 4 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Pending.

ANNOUNCEMENT

The Chair announced today is Senator Flood's birthday.

COMMITTEE REPORTS

Agriculture

LEGISLATIVE BILL 107. Placed on General File.

LEGISLATIVE BILL 305. Placed on General File.

(Signed) Tom Carlson, Chairperson

AMENDMENT - Print in Journal

Senator Nordquist filed the following amendment to LB474:
AM417

(Amendments to Final Reading copy)

- 1 1. Insert the following section:
- 2 Sec. 13. Section 84-304.02, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 84-304.02 ~~The~~ (1) Except as provided in subsection (2)
- 5 of this section, the Auditor of Public Accounts, or a person
- 6 designated by him or her, shall prepare a written review of all
- 7 audit, accounting, or financial reports required to be filed by
- 8 a political subdivision of the state with the Auditor of Public
- 9 Accounts and cause one copy of such written review to be mailed to

10 the political subdivision involved and one copy to the accountant
 11 who prepared the report. Such written review shall specifically
 12 set forth wherein the audit, accounting, or financial report fails
 13 to comply with the applicable minimum standards and the necessary
 14 action to be taken to bring the report into compliance with such
 15 standards. The Auditor of Public Accounts may, upon continued
 16 failure to comply with such standards, refuse to accept for filing
 17 an audit, accounting, or financial report or any future report
 18 submitted for filing by any political subdivision.

19 (2) For public retirement system plan reports required to
 20 be submitted to the Auditor of Public Accounts pursuant to sections
 21 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017,
 22 16-1037, 19-3501, 23-1118, 23-3526, and 71-1631.02, the auditor may
 1 prepare a review of such report pursuant to subsection (1) of this
 2 section but is not required to do so.

3 2. On page 1, line 3; and page 44, line 1, strike "and
 4 84-1503" and insert "84-304.02, and 84-1503".

5 3. Renumber the remaining sections accordingly.

ANNOUNCEMENT

Senator McCoy designates LB22 as his priority bill.

SELECT FILE

LEGISLATIVE BILL 383. Senator Council renewed her amendment, AM334, found on page 604.

Senator Council moved for a call of the house. The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

Senator Council requested a roll call vote on her amendment.

Voting in the affirmative, 4:

Cook	Council	Karpisek	Wallman
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Voting in the negative, 35:

Adams	Christensen	Gloor	Larson	Price
Ashford	Coash	Haar, K.	Lathrop	Schilz
Avery	Conrad	Hansen	McCoy	Schumacher
Bloomfield	Cornett	Harms	McGill	Smith
Brasch	Dubas	Janssen	Pahls	Sullivan
Campbell	Fischer	Krist	Pankonin	Utter
Carlson	Flood	Langemeier	Pirsch	Wightman

Present and not voting, 4:

Howard Louden Mello Nordquist

Excused and not voting, 6:

Fulton Harr, B. Lautenbaugh
Hadley Heidemann Nelson

The Council amendment lost with 4 ayes, 35 nays, 4 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Mello offered the following amendment:
AM490

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 77-27,136, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 77-27,136 The For fiscal years beginning on and after
- 6 July 1, 2013, the Legislature may appropriate funds collected
- 7 by a general sales tax and income tax for aid to incorporated
- 8 municipalities, counties, and natural resources districts.
- 9 Sec. 2. Section 77-27,137.03, Reissue Revised Statutes of
- 10 Nebraska, is amended to read:
- 11 77-27,137.03 The For fiscal years beginning on and after
- 12 July 1, 2013, the Legislature shall may appropriate funds as aid to
- 13 counties in an amount equal to a percentage of the total real and
- 14 personal property valuation of all counties, and if the Legislature
- 15 appropriates funds, such percent to be shall not be less than .0075
- 16 percent nor more than .0125 percent.
- 17 Of the appropriation, each county shall receive thirty
- 18 thousand dollars and the remaining amount shall be distributed
- 19 to each county on the basis of the ratio of the total real and
- 20 personal property valuation in the county to the total real and
- 21 personal property valuation in the state.
- 22 The Tax Commissioner shall determine the amount to be
- 23 distributed to the various counties under this section and certify
- 1 such amounts to the Director of Administrative Services on or
- 2 before July 1 of each year. Each amount shall be distributed in
- 3 nine as nearly as possible equal monthly payments on the last
- 4 business day of each month beginning in September.
- 5 Sec. 3. This act becomes operative on July 1, 2011.
- 6 Sec. 4. Original sections 77-27,136 and 77-27,137.03,
- 7 Reissue Revised Statutes of Nebraska, are repealed.
- 8 Sec. 5. Since an emergency exists, this act takes effect
- 9 when passed and approved according to law.

Senator Lathrop offered the following amendment to the Mello amendment:

FA5

Amend AM490

Strike "may" in page 1 line 6 and insert in its place "shall".

Senator Lathrop withdrew his amendment.

Senator Mello moved for a call of the house. The motion prevailed with 34 ayes, 0 nays, and 15 not voting.

Senator Mello requested a roll call vote on his amendment.

Voting in the affirmative, 11:

Cook	Karpisek	McGill	Sullivan
Council	Lathrop	Mello	Wallman
Howard	Louden	Nordquist	

Voting in the negative, 32:

Adams	Coash	Gloor	Langemeier	Schumacher
Avery	Conrad	Haar, K.	Larson	Smith
Bloomfield	Cornett	Hansen	McCoy	Utter
Brasch	Dubas	Harms	Pahls	Wightman
Campbell	Fischer	Heidemann	Pankonin	
Carlson	Flood	Janssen	Pirsch	
Christensen	Fulton	Krist	Price	

Excused and not voting, 6:

Ashford	Harr, B.	Nelson
Hadley	Lautenbaugh	Schilz

The Mello amendment lost with 11 ayes, 32 nays, and 6 excused and not voting.

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

Voting in the affirmative, 34:

Adams	Coash	Gloor	Langemeier	Price
Avery	Conrad	Haar, K.	Larson	Schumacher
Bloomfield	Cornett	Hansen	McCoy	Smith
Brasch	Dubas	Harms	McGill	Sullivan
Campbell	Fischer	Heidemann	Pahls	Utter
Carlson	Flood	Janssen	Pankonin	Wightman
Christensen	Fulton	Krist	Pirsch	

Voting in the negative, 9:

Cook	Howard	Lathrop	Mello	Wallman
Council	Karpisek	Louden	Nordquist	

Excused and not voting, 6:

Ashford	Harr, B.	Nelson
Hadley	Lautenbaugh	Schilz

Advanced to Enrollment and Review for Engrossment with 34 ayes, 9 nays, and 6 excused and not voting.

The Chair declared the call raised.

COMMITTEE REPORT

Transportation and Telecommunications

LEGISLATIVE BILL 289. Placed on General File with amendment. AM416 is available in the Bill Room.

(Signed) Deb Fischer, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 80. Introduced by Utter, 33.

WHEREAS, Brandon Bankson has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, Brandon has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. For his Eagle Scout community service project, Brandon refurbished a livestock trailer for the Rural Ranchers 4-H Club; and

WHEREAS, only five percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Brandon, through his hard work and perseverance, has joined other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientists, and athletes.

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

1. That the Legislature congratulates Brandon Bankson on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Brandon Bankson.

Laid over.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 210. Placed on Select File.

LEGISLATIVE BILL 471. Placed on Select File.

LEGISLATIVE BILL 159. Placed on Select File with amendment.
ER36

- 1 1. On page 1, line 4, strike "and"; and in line 5 after
- 2 "sections" insert "; and to declare an emergency".
- 3 2. On page 2, line 21, strike "provided" and insert
- 4 "except".
- 5 3. On page 3, line 19, strike the underscored comma.

(Signed) Tyson Larson, Chairperson

MOTION - Print in Journal

Senator Cook filed the following motion to LB51:

MO14

Recommit to committee.

AMENDMENTS - Print in Journal

Senator Dubas filed the following amendment to LB114:

AM491

(Amendments to E & R amendments, ER25)

- 1 1. On page 1, strike beginning with "Such" in line
- 2 9 through the period in line 12 and insert "In promulgating a
- 3 standard for honey, the department may utilize as a guideline
- 4 available authoritative references to the composition and grades of
- 5 honey.".

Senator Gloor filed the following amendment to LB274:

AM472

- 1 1. On page 3, after line 24, insert the following new
- 2 subsection:
- 3 "(4) A drug manufacturer which exercises reasonable care
- 4 shall be immune from civil or criminal liability for any injury,
- 5 death, or loss to persons or property relating to the relabeling
- 6 and redispensing of drugs returned from a long-term care facility.
- 7 (5) Notwithstanding subsection (4) of this section, the
- 8 relabeling and redispensing of drugs returned from a long-term care

9 facility does not absolve a drug manufacturer of any criminal or
 10 civil liability that would have existed but for the relabeling and
 11 redispensing and such relabeling and redispensing does not increase
 12 the liability of such drug manufacturer that would have existed but
 13 for the relabeling and redispensing."; and in line 25 strike "(4)"
 14 and insert "(6)".

Senator Campbell filed the following amendment to LB225:
 AM495

- 1 1. On page 2, line 9, strike the new matter.

Senator Conrad filed the following amendments to LB51:
 AM440

(Amendments to Standing Committee amendments, AM79)

- 1 1. On page 1, line 1, after the first comma insert "line
 2 7, strike 'a health clinic' and insert 'each health clinic and
 3 adult day service'; in line 10 after 'clinic' insert 'or adult day
 4 service'; in"; and in line 3 before "clinical" insert "or adult day
 5 service".

AM441

(Amendments to Standing Committee amendments, AM79)

- 1 1. On page 1, line 1, after the first comma insert "line
 2 7, strike 'a health clinic' and insert 'each health clinic and
 3 ambulatory surgical center'; in line 10 after 'clinic' insert 'or
 4 ambulatory surgical center'; in"; and in line 3 before "clinical"
 5 insert "or ambulatory surgical center".

AM442

(Amendments to Standing Committee amendments, AM79)

- 1 1. On page 1, line 1, after the first comma insert "line
 2 7, strike 'a health clinic' and insert 'each health clinic and
 3 assisted-living facility'; in line 10 after 'clinic' insert 'or
 4 assisted-living facility'; in"; and in line 3 before "clinical"
 5 insert "or assisted-living facility".

AM443

(Amendments to Standing Committee amendments, AM79)

- 1 1. On page 1, line 1, after the first comma insert
 2 "line 7, strike 'a health clinic' and insert 'each health clinic
 3 and center or group home for the developmentally disabled'; in
 4 line 10 after 'clinic' insert 'or center or group home for the
 5 developmentally disabled'; in"; and in line 3 before "clinical"
 6 insert "or center or group home for the developmentally disabled".

AM445

(Amendments to Standing Committee amendments, AM79)

- 1 1. On page 1, line 1, after the first comma insert
 2 "line 7, strike 'a health clinic' and insert 'each health clinic

- 3 and general acute hospital'; in line 10 after 'clinic' insert
- 4 'or general acute hospital'; in"; and in line 3 before "clinical"
- 5 insert "or general acute hospital".

AM447

(Amendments to Standing Committee amendments, AM79)

- 1 1. On page 1, line 1, after the first comma insert
- 2 "line 7, strike 'a health clinic' and insert 'each health clinic
- 3 and health care practitioner facility'; in line 10 after 'clinic'
- 4 insert 'or health care practitioner facility'; in"; and in line 3
- 5 before "clinical" insert "or health care practitioner facility".

AM449

(Amendments to Standing Committee amendments, AM79)

- 1 1. On page 1, line 1, after the first comma insert "line
- 2 7, strike 'a health clinic' and insert 'each health clinic and home
- 3 health agency'; in line 10 after 'clinic' insert 'or home health
- 4 agency'; in"; and in line 3 before "clinical" insert "or home
- 5 health agency".

AM450

(Amendments to Standing Committee amendments, AM79)

- 1 1. On page 1, line 1, after the first comma insert "line
- 2 7, strike 'a health clinic' and insert 'each health clinic and
- 3 hospice service'; in line 10 after 'clinic' insert 'or hospice
- 4 service'; in"; and in line 3 before "clinical" insert "or hospice
- 5 service".

AM452

(Amendments to Standing Committee amendments, AM79)

- 1 1. On page 1, line 1, after the first comma insert "line
- 2 7, strike 'a health clinic' and insert 'each health clinic and
- 3 intermediate care facility'; in line 10 after 'clinic' insert 'or
- 4 intermediate care facility'; in"; and in line 3 before "clinical"
- 5 insert "or intermediate care facility".

AM453

(Amendments to Standing Committee amendments, AM79)

- 1 1. On page 1, line 1, after the first comma insert "line
- 2 7, strike 'a health clinic' and insert 'each health clinic and
- 3 intermediate care facility for the mentally retarded'; in line
- 4 10 after 'clinic' insert 'or intermediate care facility for the
- 5 mentally retarded'; in"; and in line 3 before "clinical" insert "or
- 6 intermediate care facility for the mentally retarded".

AM457

(Amendments to Standing Committee amendments, AM79)

- 1 1. On page 1, line 1, after the first comma insert "line
- 2 7, strike 'a health clinic' and insert 'each health clinic and

3 mental health center'; in line 10 after 'clinic' insert 'or mental
 4 health center'; in"; and in line 3 before "clinical" insert "or
 5 mental health center".

AM458

(Amendments to Standing Committee amendments, AM79)

1 1. On page 1, line 1, after the first comma insert "line
 2 7, strike 'a health clinic' and insert 'each health clinic and
 3 nursing facility'; in line 10 after 'clinic' insert 'or nursing
 4 facility'; in"; and in line 3 before "clinical" insert "or nursing
 5 facility".

AM460

(Amendments to Standing Committee amendments, AM79)

1 1. On page 1, line 1, after the first comma insert "line
 2 7, strike 'a health clinic' and insert 'each health clinic and
 3 psychiatric or mental hospital'; in line 10 after 'clinic' insert
 4 'or psychiatric or mental hospital'; in"; and in line 3 before
 5 "clinical" insert "or psychiatric or mental hospital".

AM461

(Amendments to Standing Committee amendments, AM79)

1 1. On page 1, line 1, after the first comma insert
 2 "line 7, strike 'a health clinic' and insert 'each health clinic
 3 or rehabilitation hospital'; in line 10 after 'clinic' insert 'or
 4 rehabilitation hospital'; in"; and in line 3 before "clinical"
 5 insert "or rehabilitation hospital".

AM462

(Amendments to Standing Committee amendments, AM79)

1 1. On page 1, line 1, after the first comma insert "line
 2 7, strike 'a health clinic' and insert 'each health clinic and
 3 respite care service'; in line 10 after 'clinic' insert 'or respite
 4 care service'; in"; and in line 3 before "clinical" insert "or
 5 respite care service".

AM463

(Amendments to Standing Committee amendments, AM79)

1 1. On page 1, line 1, after the first comma insert "line
 2 7, strike 'a health clinic' and insert 'each health clinic and
 3 skilled nursing facility'; in line 10 after 'clinic' insert 'or
 4 skilled nursing facility'; in"; and in line 3 before "clinical"
 5 insert "or skilled nursing facility".

AM464

(Amendments to Standing Committee amendments, AM79)

1 1. On page 1, line 1, after the first comma insert "line
 2 7, strike 'a health clinic' and insert 'each health clinic and
 3 substance abuse treatment center'; in line 10 after 'clinic' insert

- 4 'or substance abuse treatment center'; in"; and in line 3 before
 5 "clinical" insert "or substance abuse treatment center".

AM439

(Amendments to Standing Committee amendments, AM79)

- 1 1. On page 1, line 1, after the first comma insert "line
 2 7, after 'clinic' insert ', including a crisis pregnancy center,;
 3 in".

AM438

(Amendments to Standing Committee amendments, AM79)

- 1 1. On page 1, line 2, strike the second occurrence of
 2 "and"; and in line 3 after the last quotation mark insert "; and in
 3 line 24 after 'department' insert 'or any private, not-for-profit
 4 family planning clinic licensed as a health clinic'".

Senator Avery filed the following amendment to LB165:

AM485

(Amendments to Standing Committee amendments, AM316)

- 1 1. Strike section 3.
 2 2. On page 2, strike beginning with "from" in line 20
 3 through "77-2703.04" in line 21 and insert "that are subject to
 4 the state sales tax from the sale of services and equipment of any
 5 telecommunications company".

MOTION - Print in Journal

Senator K. Haar filed the following motion to LB581:

MO15

Withdraw bill.

UNANIMOUS CONSENT - Add Cointroducers

Senator Bloomfield asked unanimous consent to add his name as cointroducer to LB48. No objections. So ordered.

Senators Bloomfield, Larson, McCoy, and Price asked unanimous consent to add their names as cointroducers to LB51. No objections. So ordered.

VISITORS

Visitors to the Chamber were Karen, Brooke, and Kelsey Bredthauer and Kenna and Kylie Dean Ogle from Broken Bow; 43 twelfth-grade students and teachers from Syracuse; and members of the Nebraska Christian Home Education Association from across the state.

The Doctor of the Day was Dr. Theresa Hatcher from Bellevue.

ADJOURNMENT

At 12:09 p.m., on a motion by Senator Pahls, the Legislature adjourned until 9:00 a.m., Thursday, February 24, 2011.

Patrick J. O'Donnell
Clerk of the Legislature

