

**FORTY-NINTH DAY - MARCH 28, 2008**

**LEGISLATIVE JOURNAL**

**ONE HUNDREDTH LEGISLATURE  
SECOND SESSION**

**FORTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, March 28, 2008

**PRAYER**

The prayer was offered by Pastor Jim Miller, Grace United Methodist Church, Hastings.

**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 White who was excused; and Senators Ashford, Dierks, Dubas, Hansen, Hudkins, Karpisek, Loudon, and Synowiecki who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-eighth day was approved.

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of March 27, 2008, 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

Radcliffe, Walter H. of Radcliffe & Associates  
Liberty Healthcare Corporation

Vetter, Marilyn  
Takeda Pharmaceuticals America

Zalenski, Susan D.  
Johnson & Johnson

**COMMITTEE REPORT**  
Executive Board

**LEGISLATIVE RESOLUTION 283.** Reported to the Legislature for further consideration with the following amendment:

AM2582

1 1. Strike the original resolution and insert the  
2 following:  
3 The United States Department of Justice issued a report  
4 on March 7, 2008, to Governor Heineman detailing the findings  
5 from its 2007 investigation of the Beatrice State Developmental  
6 Center ("BSDC") pursuant to the Civil Rights of Institutionalized  
7 Persons Act, 42 U.S.C. 1997. The department concluded that numerous  
8 conditions and practices at BSDC violated the constitutional and  
9 federal statutory rights of its residents. In particular, the  
10 department found that BSDC failed to provide its residents with  
11 adequate: (1) Protection from harm; (2) training and associated  
12 behavioral and mental health services; (3) health care, including  
13 nutritional and physical management; and (4) discharge planning  
14 and placement in the most integrated setting. In its report, the  
15 department listed the minimum remedial measures required to protect  
16 the constitutional and statutory rights of the BSDC residents,  
17 including increasing the number of employees and ensuring that  
18 center residents can live and work in the most integrated  
19 setting possible. The report specifically expressed grave concerns  
20 regarding staffing difficulties at BSDC and the relationship  
21 of those staffing concerns to reports of abuse, neglect, and  
22 substandard care.

23 The Legislature recognizes that it is essential that  
1 citizens under the twenty-four-hour care and supervision of the  
2 State of Nebraska be provided with qualified care from trained  
3 employees. This care is jeopardized when employees are mandated to  
4 work overtime for unnecessarily long hours.

5 In addition to the United States Department of Justice  
6 investigation, BSDC has not complied with the care standards set by  
7 the federal Centers for Medicare and Medicaid Service for the past  
8 eighteen months. Federal funding of the BSDC has continued only  
9 because the state has filed an appeal of the federal government's  
10 plan to terminate the state's Medicare and Medicaid funding for  
11 the facility. The safety, quality of life, and rights of the BSDC  
12 residents are of the utmost concern to the State of Nebraska and it  
13 is clear the facility has reached a critical point in its ability  
14 to care for its residents.

15 **NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE**  
16 **HUNDREDTH LEGISLATURE OF NEBRASKA, SECOND SESSION:**

17 1. That the Legislature hereby calls for the Executive  
18 Board of the Legislative Council to meet forthwith and appoint  
19 a special committee of the Legislature to be known as the  
20 Developmental Disabilities Special Investigative Committee of the

21 Legislature. The committee shall consist of seven members of the  
22 Legislature appointed by the Executive Board. The committee shall  
23 elect a chairperson and vice-chairperson from the membership of  
24 the committee. The Executive Board is hereby authorized to provide  
25 the committee with a legal counsel, committee clerk, and other  
26 staff as required by the committee from existing legislative  
27 staff. The Executive Board is also authorized to hire outside  
1 legal counsel, consultants, and investigators as required by the  
2 committee. The committee shall be an investigative committee and is  
3 hereby authorized to hold hearings and issue subpoenas as is deemed  
4 necessary by the committee.

5 2. The Developmental Disabilities Special Investigative  
6 Committee of the Legislature is hereby authorized to study the  
7 quality of care and related staffing issues at the Beatrice State  
8 Developmental Center. The committee shall also investigate the  
9 placement and quality of care statewide for the developmentally  
10 disabled in Nebraska, including the determination of whether  
11 adequate funding and capacity exists for persons to be served  
12 in the community, options for service provisions for current  
13 residents of the Beatrice State Developmental Center at other  
14 twenty-four-hour care facilities in the state, and the staffing  
15 practices at twenty-four-hour care facilities and the relationship  
16 of those practices to the quality of care provided to the  
17 developmentally disabled. The committee shall also study the  
18 Department of Health and Human Services with respect to such  
19 facilities, including how and why services to the developmentally  
20 disabled were permitted to decline to the current level as  
21 documented by the United States Department of Justice report.  
22 The committee shall utilize existing studies and reports and  
23 legislation developed to address the current conditions. The  
24 committee shall not be limited to such studies, reports, or  
25 legislation. The committee shall issue a report with its findings  
26 and recommendations to the Legislature no later than December 15,  
27 2008.

(Signed) L. Patrick Engel, Chairperson

### **MOTIONS - Approve Appointments**

Senator Fischer moved the adoption of the Transportation and  
Telecommunications Committee report for the confirmation of the following  
appointment(s) found on page 1097:

Nebraska Railway Council  
Ralph Holzfaster

Voting in the affirmative, 30:

Adams	Cornett	Gay	Langemeier	Nelson
Aguilar	Engel	Harms	Lathrop	Pirsch
Avery	Erdman	Howard	Lautenbaugh	Raikes
Burling	Fischer	Janssen	McDonald	Stuthman
Carlson	Friend	Johnson	McGill	Wallman
Christensen	Fulton	Kruse	Nantkes	Wightman

Voting in the negative, 0.

Present and not voting, 10:

Chambers	Heidemann	Pahls	Pedersen	Rogert
Flood	Kopplin	Pankonin	Preister	Schimek

Excused and not voting, 9:

Ashford	Dubas	Hudkins	Louden	White
Dierks	Hansen	Karpisek	Synowiecki	

The appointment was confirmed with 30 ayes, 0 nays, 10 present and not voting, and 9 excused and not voting.

Senator Cornett moved the adoption of the Business and Labor Committee report for the confirmation of the following appointment(s) found on page 1119:

Commission of Industrial Relations  
Bernard J. McGinn

Voting in the affirmative, 31:

Adams	Engel	Hudkins	McGill	Stuthman
Aguilar	Erdman	Janssen	Nantkes	Wallman
Ashford	Friend	Johnson	Nelson	Wightman
Avery	Fulton	Karpisek	Pahls	
Carlson	Gay	Langemeier	Pedersen	
Chambers	Hansen	Lathrop	Pirsch	
Cornett	Harms	Lautenbaugh	Rogert	

Voting in the negative, 1:

Howard

Present and not voting, 12:

Burling	Flood	Kruse	Preister
Christensen	Heidemann	McDonald	Raikes
Fischer	Kopplin	Pankonin	Schimek

Excused and not voting, 5:

Dierks            Dubas            Louden            Synowiecki    White

The appointment was confirmed with 31 ayes, 1 nay, 12 present and not voting, and 5 excused and not voting.

**GENERAL FILE**

**LEGISLATIVE BILL 736A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 928A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 308A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 1055.** ER8183, found on page 875, was adopted.

Senator Cornett withdrew her amendment, AM2395, found on page 989.

Senator McDonald renewed her amendment, AM2396, found on page 1083.

The McDonald amendment was adopted with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

Senator Cornett renewed her amendment, AM2444, found on page 1140.

The Cornett amendment was adopted with 28 ayes, 2 nays, 18 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 1157.** Senator Dubas asked unanimous consent to withdraw her amendment, AM2363, found on page 979, and replace it with her substitute amendment, AM2591. No objections. So ordered.  
AM2591

(Amendments to Standing Committee amendments, AM2093)

- 1    1. On page 1, line 10, after "a" insert
- 2    "criterion-referenced".
- 3    2. On page 5, lines 8 and 9 and 18 and 19, strike "three"

- 4 through "school" and insert "selected by the state board".  
 5 3. On page 6, strike beginning with "The" in line 17  
 6 through line 19.

Senator Avery moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 6 nays, and 18 not voting.

Senator Dubas moved for a call of the house. The motion prevailed with 42 ayes, 1 nay, and 6 not voting.

Senator Dubas requested a roll call vote on her amendment.

Voting in the affirmative, 14:

Carlson	Fischer	Karpisek	Pedersen	Stuthman
Dierks	Gay	Louden	Preister	Wallman
Dubas	Hudkins	Pankonin	Rogert	

Voting in the negative, 29:

Adams	Cornett	Hansen	Langemeier	Pahls
Aguilar	Engel	Harms	Lathrop	Pirsch
Ashford	Erdman	Howard	Lautenbaugh	Raikes
Avery	Flood	Janssen	McDonald	Synowiecki
Burling	Friend	Johnson	McGill	Wightman
Chambers	Fulton	Kruse	Nantkes	

Present and not voting, 5:

Christensen	Heidemann	Kopplin	Nelson	Schimek
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Excused and not voting, 1:

White

The Dubas amendment lost with 14 ayes, 29 nays, 5 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Senator Dierks renewed his motion, MO144, found on page 979, to indefinitely postpone.

Senator Dierks withdrew his motion.

Senator Christensen offered the following amendment:

FA251

Amend AM2093

On page 8, after line 5, insert "(14) The state board shall appoint committees of teachers, from each appropriate subject area, and administrators to assist in the development of statewide assessment instruments required by the act."

Pending.

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 306.** Introduced by Janssen, 15.

**PURPOSE:** In recent years, latex allergy has become an emerging issue. As a result, many states have passed legislation that prohibits the use of latex in public places, such as hospitals, schools, and restaurants. The purpose of this resolution is to review the impact of such laws in other states, the prevalence of the use of latex in public places in Nebraska, and efforts made by groups or industries to restrict or eliminate the use of latex.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 307.** Introduced by Wightman, 36; Gay, 14; Harms, 48.

**PURPOSE:** The purpose of this interim study is to examine Nebraska's aid to dependent children program, and more specifically, how the state is meeting its federal work participation rate requirements and whether improvements might be made in the administration of the program so that recipients might be allowed to participate in postsecondary education as their core work activity beyond twelve months.

While it is state policy that higher education is one of the most effective means to help move families permanently out of poverty and participation in postsecondary education is one of the most effective parts of the aid to dependent children program, the Department of Health and Human Services has raised concerns about its ability to meet the federal Temporary Assistance for Needy Families work participation rate requirements if postsecondary education is defined as a bachelor's degree or an associate's degree.

In order to further this interim study, the Department of Health and Human Services shall provide the committees with the following information:

(1) The actual work participation rate for Nebraska's Temporary Assistance for Needy Families program for the previous calendar year and the estimated work participation rate for the current calendar year;

(2) An explanation and supporting documentation of how the department arrived at the work participation estimate;

(3) The number of work-eligible aid to dependent children program recipients who are not counted as meeting the federal work participation rate and the activities in which these persons are involved;

(4) The number of Nebraska's aid to dependent children program recipients who are engaged in a bachelor's degree program as a work activity;

(5) The number of Nebraska's aid to dependent children program recipients who are engaged in an associate's degree program as a work activity;

(6) The percentage of Nebraska's aid to dependent children program recipients, broken down by work activity, who obtained employment paying a wage equal to or exceeding one hundred percent of the federal poverty guideline, one hundred fifty percent of the federal poverty guideline, and two hundred percent of the federal poverty guideline; and

(7) The percentage of aid to dependent children program recipients, broken down by work activity, who remain employed after twelve months, twenty-four months, and thirty-six months after leaving Nebraska's aid to dependent children program.

Further, the interim study will:

(1) Examine whether the department should be statutorily required to track and report any of the aforementioned information, especially to the extent that such information is not currently tracked;

(2) Evaluate the impact on the work participation rate requirements of implementing work components that are inconsistent with federal definitions which cannot be counted toward the required performance requirements;

(3) Evaluate the implementation of the four-month transitional grant implemented in Laws 2006, LB 351, and its impact on meeting the work participation rate requirements;

(4) Evaluate how monitoring of private sector Temporary Assistance for Needy Families case management contracts impact meeting mandated federal performance requirements; and

(5) Evaluate how final federal Temporary Assistance for Needy Families regulations that go into effect October 1, 2009, will impact the work participation rate requirements.

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

1. That the Health and Human Services and the Appropriations Committees of the Legislature shall be designated to conduct a joint interim study to carry out the purposes of this resolution.

2. That the committees shall upon the conclusion of the study make a report of their findings, together with their recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 308.** Introduced by Nantkes, 46; Fulton, 29; Gay, 14.

**PURPOSE:** To conduct a comprehensive study that examines the costs associated with the learning community created pursuant to section 79-2102. The study shall include, but not be limited to:

(1) Identification of funds appropriated from the General Fund to aid in carrying out the provisions of Laws 2006, LB 1024, including the identification of the amount of such appropriation specific to the learning community;

(2) Identification of funds appropriated from the General Fund to aid in carrying out the provisions of Laws 2007, LB 641, including the identification of the amount of such appropriation specific to the learning community;

(3) Identification of changes in actual and estimated aid expenditures under the Tax Equity and Educational Opportunities Support Act in FY2006-07, FY2007-08, FY2008-09, FY2009-10, and FY2010-11 compared to FY2005-06 and the identification of which changes can be attributed to the enactment of Laws 2006, LB 1024, Laws 2007, LB 641, and LB 988, One Hundredth Legislature, Second Session, 2008; and

(4) Identification of the actual and estimated aid distributed pursuant to section 79-2103 to the learning community for FY2008-09 through FY2012-13.

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

1. That the Appropriations Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 309.** Introduced by Nantkes, 46.

**PURPOSE:** The purpose of this resolution is to study whether Nebraska should enact the Uniform Limited Partnership Act (2001) as approved and recommended to the states by the National Conference of Commissioners on Uniform State Laws. This act would replace the current Nebraska Uniform Limited Partnership Act, Neb. Rev. Stat. sections 67-233 to 67-296, which is based on the Revised Uniform Limited Partnership Act (1976) and

(1985). In order to carry out the purpose of this resolution, the committee should seek and consider the input of the Secretary of State, the practicing bar, and other interested persons as it deems necessary and beneficial.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 310.** Introduced by Karpisek, 32.

PURPOSE: The purpose of this study is to examine the mandatory retirement age and lack of purchase of service provisions in the Nebraska State Patrol Retirement System.

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

1. That the Nebraska Retirement Systems Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 311.** Introduced by Nebraska Retirement Systems Committee: Synowiecki, 7, Chairperson; Erdman, 47; Karpisek, 32; Loudon, 49.

PURPOSE: The purpose of this study is to examine the public employee retirement systems administered by the Public Employees Retirement Board, including the State Employees Retirement System, the County Employees Retirement System, the School Employees' Retirement System, the Nebraska State Patrol Retirement System, and the judges retirement system. The study may also examine the Class V School Employees Retirement System administered under the Class V School Employees Retirement Act.

The study will examine issues as they relate to the funding needs, benefits, contributions, and the administration of each retirement system.

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

1. That the Nebraska Retirement Systems Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 312.** Introduced by Pedersen, 39.

**PURPOSE:** The purpose of this resolution is to study whether the Legislature should adopt a statewide 24/7 sobriety program and the best means for doing so. Specifically, the committee should study the methods and costs of monitoring alcohol and drug use, including continuous alcohol monitoring devices. The study should include a review of issues raised during consideration of LB 1167 (2008), which is currently pending in the Judiciary Committee of the Legislature. In order to carry out the purpose of this resolution, the study committee should seek and consider the input of the Office of Probation Administration and interested persons as the committee deems necessary and beneficial.

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

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 313.** Introduced by Fischer, 43.

**PURPOSE:** The purpose of this interim study is to examine and determine the need in Nebraska for a uniform voluntary procedure of dispute resolution between railroads and entities desiring to enter into contractual agreements to construct facilities across railroad tracks for the provision of electric, telecommunications, advanced telecommunications, and cable services.

The study shall include an examination of existing statutory authority for resolving such disputes and consider whether further authority is needed to supplement the existing authority of the Public Service Commission to enable the commission to establish a voluntary uniform procedure to provide for the timely, fair, and efficient resolution of disputes relating to the terms and conditions of crossing agreements between crossing entities and railroads.

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

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

### SELECT FILE

**LEGISLATIVE BILL 1157.** The Christensen amendment, FA251, found in this day's Journal, was renewed.

### SENATOR AGUILAR PRESIDING

The Christensen amendment was adopted with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

Senator Dubas offered the following amendment:

AM2592

- 1 1. In the Standing Committee amendments, AM2093, on page
- 2 4, lines 6, 14, and 15, strike "Governor" and insert "state board".
- 3 2. In the Raikes amendment, AM2366, on page 1, line
- 4 5, strike "one teacher" and insert "two teachers" and strike "a
- 5 school" and insert "schools".

The Dubas amendment lost with 11 ayes, 17 nays, 20 present and not voting, and 1 excused and not voting.

Senator Karpisek offered the following motion:

MO158

Indefinitely postpone.

Senator Karpisek moved for a call of the house. The motion prevailed with 35 ayes, 1 nay, and 13 not voting.

Senator Karpisek requested a roll call vote, in reverse order, on his motion to indefinitely postpone.

Voting in the affirmative, 11:

Dierks	Gay	Louden	Stuthman
Dubas	Hudkins	Nelson	Wallman
Fischer	Karpisek	Pankonin	

Voting in the negative, 31:

Adams	Cornett	Howard	Lautenbaugh	Schimek
Aguilar	Engel	Janssen	McDonald	Synowiecki
Ashford	Flood	Johnson	McGill	Wightman
Avery	Friend	Kopplin	Nantkes	
Burling	Fulton	Kruse	Pahls	
Carlson	Hansen	Langemeier	Pirsch	
Chambers	Harms	Lathrop	Raikes	

Present and not voting, 6:

Christensen	Heidemann	Preister
Erdman	Pedersen	Rogert

Excused and not voting, 1:

White

The Karpisek motion to indefinitely postpone failed with 11 ayes, 31 nays, 6 present and not voting, and 1 excused and not voting.

Senator Fischer requested a machine vote on the advancement of the bill.

Advanced to Enrollment and Review for Engrossment with 31 ayes, 13 nays, 4 present and not voting, and 1 excused and not voting.

**SPEAKER FLOOD PRESIDING**

The Chair declared the call raised.

**LEGISLATIVE BILL 1157A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 889.** ER8189, found on page 955, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 958.** Senator Erdman requested a machine vote on the adoption of the Enrollment and Review amendment.

ER8191, found on page 965, was adopted with 28 ayes, 1 nay, 19 present and not voting, and 1 excused and not voting.

Senator Ashford moved for a call of the house. The motion prevailed with 45 ayes, 0 nays, and 4 not voting.

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

Voting in the affirmative, 20:

Aguilar	Chambers	Janssen	McDonald	Rogert
Ashford	Engel	Johnson	McGill	Schimek
Avery	Flood	Kruse	Nantkes	Synowiecki
Carlson	Howard	Lathrop	Raikes	Wallman

Voting in the negative, 20:

Adams	Friend	Harms	Lautenbaugh	Pankonin
Burling	Fulton	Karpisek	Louden	Pedersen
Dubas	Gay	Kopplin	Nelson	Pirsch
Erdman	Hansen	Langemeier	Pahls	Stuthman

Present and not voting, 8:

Christensen	Dierks	Heidemann	Preister
Cornett	Fischer	Hudkins	Wightman

Excused and not voting, 1:

White

Failed to advance to Enrollment and Review for Engrossment with 20 ayes, 20 nays, 8 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

### AMENDMENT - Print in Journal

Senator Erdman filed the following amendment to LB848:  
AM2421 is available in the Bill Room.

### COMMITTEE REPORTS

Enrollment and Review

**LEGISLATIVE BILL 1022.** Placed on Select File with amendment.  
ER8224 is available in the Bill Room.

**LEGISLATIVE BILL 830.** Placed on Select File with amendment.  
ER8221

- 1 1. In the Standing Committee amendments, AM2357:
- 2 a. Insert the following new section:
- 3 Sec. 10. Original section 68-901, Revised Statutes
- 4 Cumulative Supplement, 2006, is repealed.
- 5 b. On page 2, line 12, strike "38-2840" and insert
- 6 "38-2841".
- 7 2. On page 1, strike beginning with line 3 through

8 "Services" in line 5 and insert "the Medicaid Prescription Drug  
9 Act"; and in lines 6 and 7 strike "to provide severability";.

**LEGISLATIVE BILL 806.** Placed on Select File.

**LEGISLATIVE BILL 819.** Placed on Select File with amendment.  
ER8226 is available in the Bill Room.

**LEGISLATIVE BILL 953.** Placed on Select File with amendment.  
ER8222

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. For purposes of a bankruptcy plan under 11
- 4 U.S.C. chapter 13, a manufactured home or a mobile home shall be
- 5 deemed real property under subdivision (b)(2) of 11 U.S.C. 1322, as
- 6 such section existed on the effective date of this act.
- 7 Sec. 2. Section 60-137, Revised Statutes Supplement,
- 8 2007, is amended to read:
- 9 60-137 (1) The Motor Vehicle Certificate of Title Act
- 10 applies to all vehicles as defined in the act, except:
- 11 (a) Farm trailers;
- 12 (b) Low-speed vehicles;
- 13 (c) Well-boring apparatus, backhoes, bulldozers, and
- 14 front-end loaders; and
- 15 (d) Trucks and buses from other jurisdictions required
- 16 to pay registration fees under the Motor Vehicle Registration Act,
- 17 except a vehicle registered or eligible to be registered as part of
- 18 a fleet of apportionable vehicles under section 60-3,198.
- 19 (2) All new all-terrain vehicles and minibikes sold on or
- 20 after January 1, 2004, shall be required to have a certificate of
- 21 title. An owner of an all-terrain vehicle or minibike sold prior to
- 22 such date may apply for a certificate of title for such all-terrain
- 23 vehicle or minibike as provided in rules and regulations of the
- 1 department.
- 2 (3) An owner of a utility trailer may apply for a
- 3 certificate of title upon compliance with the Motor Vehicle
- 4 Certificate of Title Act.
- 5 (4)(a) Every owner of a manufactured home or mobile home
- 6 shall obtain a certificate of title for the manufactured home or
- 7 mobile home prior to affixing it to real estate.
- 8 (b) If a manufactured home or mobile home has been
- 9 affixed to real estate and a certificate of title was not issued
- 10 before it was so affixed, the owner of such manufactured home or
- 11 mobile home shall apply for and be issued a certificate of title
- 12 at any time for surrender and cancellation as provided in section
- 13 60-169.
- 14 Sec. 3. Section 60-164, Revised Statutes Supplement,
- 15 2007, is amended to read:
- 16 60-164 (1) Except as provided in section 60-165, the

17 provisions of article 9, Uniform Commercial Code, shall never be  
18 construed to apply to or to permit or require the deposit, filing,  
19 or other record whatsoever of a security agreement, conveyance  
20 intended to operate as a mortgage, trust receipt, conditional sales  
21 contract, or similar instrument or any copy of the same covering a  
22 vehicle. Any mortgage, conveyance intended to operate as a security  
23 agreement as provided by article 9, Uniform Commercial Code, trust  
24 receipt, conditional sales contract, or other similar instrument  
25 covering a vehicle, if such instrument is accompanied by delivery  
26 of such manufacturer's or importer's certificate and followed by  
27 actual and continued possession of the same by the holder of  
1 such instrument or, in the case of a certificate of title, if a  
2 notation of the same has been made by the county clerk, designated  
3 county official, or department on the face thereof, shall be  
4 valid as against the creditors of the debtor, whether armed with  
5 process or not, and subsequent purchasers, secured parties, and  
6 other lienholders or claimants but otherwise shall not be valid  
7 against them, except that during any period in which a vehicle is  
8 inventory, as defined in section 9-102, Uniform Commercial Code,  
9 held for sale by a person or corporation that is required to  
10 be licensed as provided in Chapter 60, article 14, and is in  
11 the business of selling such vehicles, the filing provisions of  
12 article 9, Uniform Commercial Code, as applied to inventory, shall  
13 apply to a security interest in such vehicle created by such  
14 person or corporation as debtor without the notation of lien on  
15 the instrument of title. A buyer of a vehicle at retail from a  
16 dealer required to be licensed as provided in Chapter 60, article  
17 14, shall take such vehicle free of any security interest. A  
18 purchase-money security interest, as defined in section 9-103,  
19 Uniform Commercial Code, in a vehicle is perfected against the  
20 rights of judicial lien creditors and execution creditors on and  
21 after the date the purchase-money security interest attaches.

22 (2) Subject to subsection (1) of this section, all liens,  
23 security agreements, and encumbrances noted upon a certificate of  
24 title shall take priority according to the order of time in which  
25 the same are noted thereon by the county clerk, designated county  
26 official, or department. Exposure for sale of any vehicle by the  
27 owner thereof with the knowledge or with the knowledge and consent  
1 of the holder of any lien, security agreement, or encumbrance on  
2 such vehicle shall not render the same void or ineffective as  
3 against the creditors of such owner or holder of subsequent liens,  
4 security agreements, or encumbrances upon such vehicle.

5 (3) The holder of a security agreement, trust  
6 receipt, conditional sales contract, or similar instrument,  
7 upon presentation of such instrument to the department, if the  
8 certificate of title was issued by the department, or to any county  
9 clerk or designated county official, together with the certificate  
10 of title and the fee prescribed for notation of lien, may have  
11 a notation of such lien made on the face of such certificate

12 of title. The county clerk or designated county official or the  
13 department shall enter the notation and the date thereof over the  
14 signature of such officer and the official seal. If noted by a  
15 county clerk or designated county official, he or she shall on that  
16 day notify the department which shall note the lien on its records.  
17 The county clerk or designated county official or the department  
18 shall also indicate by appropriate notation and on such instrument  
19 itself the fact that such lien has been noted on the certificate  
20 of title.

21 (4) A transaction does not create a sale or a security  
22 interest in a vehicle, other than an all-terrain vehicle or a  
23 minibike, merely because it provides that the rental price is  
24 permitted or required to be adjusted under the agreement either  
25 upward or downward by reference to the amount realized upon sale or  
26 other disposition of the vehicle.

27 (5) The county clerk or designated county official or  
1 the department, upon receipt of a lien instrument duly signed by  
2 the owner in the manner prescribed by law governing such lien  
3 instruments together with the fee prescribed for notation of lien,  
4 shall notify the first lienholder to deliver to the county clerk  
5 or designated county official or the department, within fifteen  
6 days after the date of notice, the certificate of title to permit  
7 notation of such other lien and, after notation of such other lien,  
8 the county clerk or designated county official or the department  
9 shall deliver the certificate of title to the first lienholder.  
10 The holder of a certificate of title who refuses to deliver a  
11 certificate of title to the county clerk or designated county  
12 official or the department for the purpose of showing such other  
13 lien on such certificate of title within fifteen days after the  
14 date of notice shall be liable for damages to such other lienholder  
15 for the amount of damages such other lienholder suffered by reason  
16 of the holder of the certificate of title refusing to permit the  
17 showing of such lien on the certificate of title.

18 (6) When a lien is discharged, the holder shall, within  
19 fifteen days after payment is received, note a cancellation of the  
20 lien on the certificate of title over his, her, or its signature  
21 and deliver the certificate of title to the county clerk or  
22 designated county official or the department, which shall note the  
23 cancellation of the lien on the face of the certificate of title  
24 and on the records of such office. If delivered to a county clerk  
25 or designated county official, he or she shall on that day notify  
26 the department which shall note the cancellation on its records.  
27 The county clerk or designated county official or the department  
1 shall then return the certificate of title to the owner or as  
2 otherwise directed by the owner. The cancellation of lien shall be  
3 noted on the certificate of title without charge. If the holder  
4 of the title cannot locate a lienholder, a lien may be discharged  
5 ten years after the date of filing by presenting proof that thirty  
6 days have passed since the mailing of a written notice by certified

7 mail, return receipt requested, to the last-known address of the  
 8 lienholder.  
 9 Sec. 4. Original sections 60-137 and 60-164, Revised  
 10 Statutes Supplement, 2007, are repealed.  
 11 2. On page 1, strike beginning with "liens" in line  
 12 1 through line 6 and insert "mobile homes and manufactured  
 13 homes; to amend sections 60-137 and 60-164, Revised Statutes  
 14 Supplement, 2007; to provide classification under bankruptcy plans,  
 15 certificate of title requirements, and security interest perfection  
 16 as prescribed; and to repeal the original sections."

**LEGISLATIVE BILL 995.** Placed on Select File with amendment.  
 ER8223

1 1. Strike the original sections and all amendments  
 2 thereto and insert the following new sections:  
 3 Section 1. Section 12-401, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 12-401 The mayor of any city having ~~less-fewer~~ than  
 6 twenty-five thousand inhabitants, by and with the consent of the  
 7 council or a majority thereof, and the ~~chairman~~ chairperson of  
 8 the board of trustees of any village, by and with the consent  
 9 of the village board or a majority thereof, may appoint a board  
 10 of not fewer than three nor more than six members, to be known  
 11 as the cemetery board, from among the citizens at large of such  
 12 city or village, who shall serve without pay and shall have entire  
 13 control and management of any cemetery belonging to such city or  
 14 village. Neither the mayor nor any member of the council; nor  
 15 the ~~chairman~~ chairperson nor any member of the village board of  
 16 trustees may be ~~members~~ a member of the cemetery board. At the  
 17 time of establishing ~~said~~ such cemetery board, ~~two~~ approximately  
 18 one-third of the members shall be appointed for a term of one year,  
 19 ~~two~~ one-third for a term of two years, and ~~two~~ one-third for a  
 20 term of three years, and thereafter ~~two~~ members shall be appointed  
 21 ~~each year for a term~~ for terms of three years. Vacancies in the  
 22 membership of the board other than through the expiration of a term  
 23 shall be filled ~~in like manner as regular members of the board are~~  
 1 appointed for the unexpired portion of the term.

2 Sec. 2. Section 12-402, Revised Statutes Cumulative  
 3 Supplement, 2006, is amended to read:  
 4 12-402 (1) The mayor and council or the board of  
 5 trustees, for the purpose of defraying the cost of the care,  
 6 management, improvement, beautifying, and welfare of such  
 7 cemeteries and the inhabitants thereof, may each year levy a tax  
 8 not exceeding five and two-tenths cents on each one hundred dollars  
 9 upon the taxable value of all the taxable property in such city  
 10 or village subject to taxation for general purposes. The tax shall  
 11 be collected and paid to the city or village as taxes for general  
 12 purposes are collected and paid to the city or village. All taxes  
 13 collected for this purpose shall constitute and be known as the

14 cemetery fund and shall be used for the general care, management,  
 15 improvement, beautifying, and welfare of such cemetery and the  
 16 inhabitants thereof. Warrants upon this fund shall be drawn by the  
 17 cemetery board and shall be paid by the city or village treasurer.  
 18 The city council or the board of trustees may issue a warrant from  
 19 the cemetery fund if a payment is due and the cemetery board is not  
 20 scheduled to meet prior to such due date to authorize the warrant.

21 (2) If the mayor and council or the board of trustees  
 22 sets aside the proceeds from the sale of lots as a perpetual fund,  
 23 the principal of the fund that is attributable to such proceeds, or  
 24 attributable to any money which has come to the fund by donation,  
 25 bequest, or otherwise that does not prohibit such use, may be used  
 26 for the purchase and development of additional land to be used  
 27 for cemetery purposes as long as no more than twenty-five percent  
 1 of such principal is so used in any fiscal year and no more than  
 2 thirty-five percent of such principal is so used in any period of  
 3 ten consecutive fiscal years.

4 (3) This section does not limit the use of any money that  
 5 comes to the city or village by donation, bequest, or otherwise  
 6 that is not designated to be credited to the perpetual fund or that  
 7 allows greater use for purchase or development of additional land  
 8 to be used for cemetery purposes.

9 Sec. 3. Section 12-805, Revised Statutes Cumulative  
 10 Supplement, 2006, is amended to read:

11 12-805 The county board ~~may~~ shall expend money from the  
 12 general fund of the county for the care and maintenance of each  
 13 abandoned ~~and or~~ neglected cemetery. Such amount shall not exceed  
 14 one thousand dollars per cemetery in a calendar year, and Indian  
 15 burial ground as follows: (1) Not to exceed five hundred dollars  
 16 in any one year when the cemetery is totally abandoned; or (2) not  
 17 to exceed four hundred dollars in any one year when the cemetery  
 18 is partially abandoned. Such care and maintenance may include the  
 19 repair or building of fences and annual spraying for the control of  
 20 weeds and brush.

21 Sec. 4. Section 12-806, Reissue Revised Statutes of  
 22 Nebraska, is amended to read:

23 12-806 The county board may include in the budget for the  
 24 next fiscal year an item for care of abandoned ~~and or~~ neglected  
 25 cemeteries as provided in section 12-805.

26 Sec. 5. Section 12-807, Reissue Revised Statutes of  
 27 Nebraska, is amended to read:

1 12-807 The county board shall expend money from the  
 2 general fund of the county for the continuous preservation and  
 3 maintenance, including mowing, of an abandoned and or neglected  
 4 pioneer cemetery when petitioned to do so by thirty-five adult  
 5 residents of the county. The county board shall publish notice of  
 6 such petition in one issue of the official newspaper published and  
 7 of general circulation in the county at least ten days prior to the  
 8 day when the matter will be heard by the county board.

9 Sec. 6. Section 12-808, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 12-808 For purposes of sections 12-807 to 12-810, an  
12 abandoned ~~and or~~ neglected pioneer cemetery shall be defined  
13 according to the following criteria:

14 (1) Such cemetery was founded; or the land upon which  
15 such cemetery is situated was given, granted, donated, sold, or  
16 deeded to the founders of the cemetery prior to January 1, 1900;

17 (2) Such cemetery contains the grave or graves of a  
18 person or persons who were homesteaders, immigrants from a foreign  
19 nation, prairie farmers, pioneers, sodbusters, first generation  
20 Nebraskans, or Civil War veterans; and

21 (3) Such cemetery has been generally abandoned ~~and or~~  
22 neglected for a period of at least ~~twenty-five consecutive~~ years.

23 Sec. 7. Section 12-810, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 12-810 Any county affected by sections 12-807 to 12-810  
26 shall provide for at least one mowing annually of such cemetery  
27 each year, and one of such mowings shall occur within a period  
1 of two weeks prior to Memorial Day. Additional mowings shall be  
2 at the discretion of the county board, and each additional mowing  
3 may be subject to a public hearing at which the need for the  
4 additional mowing shall be presented to the county board. Within  
5 five years after maintenance and preservation of such cemetery  
6 is commenced by such county, a historical marker giving the date  
7 of the establishment of the cemetery and a short history of the  
8 cemetery ~~shall may~~ be placed at the site of such cemetery. One  
9 directional marker showing the way to such cemetery may be placed  
10 on the nearest state highway to such cemetery.

11 Sec. 8. Section 12-1202, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 12-1202 The Legislature hereby finds and declares that:

14 (1) Human burial sites which do not presently resemble  
15 well-tended and well-marked cemeteries are subject to a higher  
16 degree of vandalism and inadvertent destruction than well-tended  
17 and well-marked cemeteries;

18 (2) Although existing law prohibits removal, concealment,  
19 or abandonment of any dead human body and provides for the care  
20 and maintenance of abandoned ~~and or~~ neglected ~~Indian~~ cemeteries  
21 ~~and burial grounds~~ and pioneer cemeteries, additional statutory  
22 guidelines and protections are in the public interest;

23 (3) Existing law on cemeteries reflects the value placed  
24 on preserving human burial sites but does not clearly provide equal  
25 and adequate protection or incentives to assure preservation of all  
26 human burial sites in this state;

27 (4) An unknown number of unmarked human burial sites  
1 containing the remains of pioneers, settlers, and Indians are  
2 scattered throughout the state;

3 (5) No adequate procedure regarding the treatment and

4 disposition of human skeletal remains from unmarked graves exists  
5 to protect the interests of relatives or other interested persons;  
6 and

7 (6) There are scientific, educational, religious, and  
8 cultural interests in the remains of our ancestors and those  
9 interests, whenever possible, should be served.

10 Sec. 9. Section 12-1204, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 12-1204 For purposes of the Unmarked Human Burial Sites  
13 and Skeletal Remains Protection Act:

14 (1) Burial goods shall mean any item or items reasonably  
15 believed to have been intentionally placed with the human skeletal  
16 remains of an individual at the time of burial and which can be  
17 traced with a reasonable degree of certainty to the specific human  
18 skeletal remains with which it or they were buried;

19 (2) Human burial site shall mean the specific place  
20 where any human skeletal remains are buried and the immediately  
21 surrounding area;

22 (3) Human skeletal remains shall mean the body or any  
23 part of the body of a deceased human in any stage of decomposition;

24 (4) Indian tribe shall mean any federally recognized or  
25 state-recognized Indian tribe, band, or community;

26 (5) Professional archaeologist shall mean a person having  
27 a postgraduate degree in archaeology, anthropology, history, or  
1 a related field with a specialization in archaeology and with  
2 demonstrated ability to design and execute an archaeological study  
3 and to present the written results and interpretations of such a  
4 study in a thorough, scientific, and timely manner;

5 (6) Reasonably identified and reasonably identifiable  
6 shall mean identifiable, by a preponderance of the evidence, as to  
7 familial or tribal origin based on any available archaeological,  
8 historical, ethnological, or other direct or circumstantial  
9 evidence or expert opinion;

10 (7) Society shall mean the Nebraska State Historical  
11 Society; and

12 (8) Unmarked human burial shall mean any interment by  
13 whatever means of human skeletal remains for which there exists  
14 no grave marker, including burials located in abandoned ~~and or~~  
15 neglected cemeteries.

16 Sec. 10. Section 12-1401, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 12-1401 (1) The Nebraska State Historical Society shall  
19 establish and maintain the Statewide Cemetery Registry. The  
20 registry shall be located in the office of the Nebraska State  
21 Historical Society and shall be made available to the public.  
22 The purpose of the registry is to provide a central data bank  
23 of accurate and current information regarding the location of  
24 cemeteries, burial grounds, mausoleums, and columbaria in the  
25 state.

26 (2)(a) Each city, village, township, county, church,  
 27 fraternal and benevolent society, cemetery district, cemetery  
 1 association, mausoleum association, and any other person owning,  
 2 operating, or maintaining a cemetery, pioneer cemetery, abandoned  
 3 ~~and or~~ neglected cemetery, ~~Indian burial ground~~, mausoleum, or  
 4 columbarium shall register with the Statewide Cemetery Registry.

5 (b) Except as provided in subdivision (c) of this  
 6 subsection, the registration shall include the following:

7 (i) The location or address of the cemetery, ~~burial~~  
 8 ~~ground~~, mausoleum, or columbarium;

9 (ii) A plat of the cemetery, ~~burial ground~~, mausoleum, or  
 10 columbarium grounds, including any lots, graves, niches, or crypts,  
 11 if available;

12 (iii) The name and address of the person or persons  
 13 representing the entity owning, operating, or maintaining the  
 14 cemetery, ~~burial ground~~, mausoleum, or columbarium;

15 (iv) The inception date of the cemetery, ~~burial ground~~,  
 16 mausoleum, or columbarium, if available; and

17 (v) If the cemetery, ~~burial ground~~, mausoleum, or  
 18 columbarium is abandoned, the abandonment date, if available.

19 (c) The information required in subdivision (b) of this  
 20 subsection regarding the operation and maintenance of a cemetery,  
 21 ~~burial ground~~, mausoleum, or columbarium prior to January 1, 2006,  
 22 shall be required only if such information is reasonably available  
 23 to the registering entity.

24 (d) The entity owning, operating, or maintaining the  
 25 cemetery, ~~burial ground~~, mausoleum, or columbarium may include  
 26 information regarding the history of the operation of the cemetery,  
 27 ~~burial ground~~, mausoleum, or columbarium.

1 (3) The entity owning, operating, or maintaining a  
 2 registered cemetery, ~~burial ground~~, mausoleum, or columbarium shall  
 3 update its entry in the registry every ten years following the  
 4 initial registration by the entity.

5 Sec. 11. Original sections 12-401, 12-806, 12-807,  
 6 12-808, 12-810, 12-1202, and 12-1204, Reissue Revised Statutes  
 7 of Nebraska, and sections 12-402, 12-805, and 12-1401, Revised  
 8 Statutes Cumulative Supplement, 2006, are repealed.

9 Sec. 12. The following section is outright repealed:  
 10 Section 12-806.01, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 745.** Placed on Select File.

**LEGISLATIVE BILL 907.** Placed on Select File with amendment.  
 ER8225

- 1 1. On page 1, strike beginning with the first "and"
- 2 in line 5 through "failures" in line 6 and insert "; to change
- 3 provisions relating to names and reinstatement of limited liability
- 4 companies".

**LEGISLATIVE BILL 308.** Placed on Select File with amendment.  
ER8227

- 1 1. On page 1, strike beginning with "section" in line
- 2 1 through line 8 and insert "sections 38-178, 38-2866, 71-448,
- 3 and 71-7454, Revised Statutes Supplement, 2007; to adopt the
- 4 Automated Medication Systems Act; to harmonize provisions; to
- 5 change and eliminate restrictions on drug vending machines; to
- 6 provide operative dates; to repeal the original sections; to
- 7 outright repeal section 71-1,147.15, Reissue Revised Statutes of
- 8 Nebraska, section 38-28,102, Revised Statutes Supplement, 2007, and
- 9 section 9 of this legislative bill; and to declare an emergency."

(Signed) Amanda McGill, Chairperson

### BILLS ON FINAL READING

#### Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB959 with 35 ayes, 3 nays, 10 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 959.** With Emergency.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2007, LB 319, section 9; Laws 2007, LB 320, sections 29, 30, and 49; and Laws 2007, LB 321, sections 23, 24, 32, 46, 48, 49, 50, 55, 69, 88, 107, 119, 120, 122, 123, 124, 177, 180, 182, 187, 215, 230, 236, 238, 239, 244, and 245; to define terms; to provide, change, and eliminate provisions relating to appropriations; to reduce an appropriation; to provide for a transfer of funds; to state intent; to require reports; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 39:

Adams	Cornett	Harms	Louden	Raikes
Aguilar	Dierks	Heidemann	McDonald	Rogert
Ashford	Dubas	Hudkins	Nantkes	Schimek
Avery	Engel	Janssen	Nelson	Stuthman
Burling	Fischer	Johnson	Pahls	Synowiecki
Carlson	Flood	Karpisek	Pankonin	Wallman
Chambers	Fulton	Kopplin	Pedersen	Wightman
Christensen	Hansen	Kruse	Preister	

Voting in the negative, 9:

Erdman	Gay	Langemeier	Lautenbaugh	Pirsch
Friend	Howard	Lathrop	McGill	

Excused and not voting, 1:

White

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB960 with 38 ayes, 4 nays, 6 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 960.** With Emergency.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2007, LB 321, sections 77, 78, 79, 82, 83, 84, 89, 92, 93, 115, 146, 163, 164, 188, 192, 195, 196, 199, 202, 204, 206, 207, 209, 222, 230, 236, 237, 238, 239, 249, 255, 256, and 275; to state intent; to define terms; to make appropriations for the cost of employee pay and benefits; to change appropriations; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 48:

Adams	Dubas	Heidemann	Lautenbaugh	Preister
Aguilar	Engel	Howard	Louden	Raikes
Ashford	Erdman	Hudkins	McDonald	Rogert
Avery	Fischer	Janssen	McGill	Schimek
Burling	Flood	Johnson	Nantkes	Stuthman
Carlson	Friend	Karpisek	Nelson	Synowiecki
Chambers	Fulton	Kopplin	Pahls	Wallman
Christensen	Gay	Kruse	Pankonin	Wightman
Cornett	Hansen	Langemeier	Pedersen	
Dierks	Harms	Lathrop	Pirsch	

Voting in the negative, 0.

Excused and not voting, 1:

White

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB961 with 36 ayes, 4 nays, 8 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 961.** With Emergency.

A BILL FOR AN ACT relating to state funds; to amend section 54-857, Reissue Revised Statutes of Nebraska, sections 2-958.01, 29-3921, and 84-510, Revised Statutes Cumulative Supplement, 2006, sections 71-7608 and 81-3119, Revised Statutes Supplement, 2007, Laws 2007, LB 321, section 281, and section 71-7611, Revised Statutes Supplement, 2007, as amended by section 2, Legislative Bill 480, One Hundredth Legislature, Second Session, 2008; to provide for and change amounts of transfers of funds; to provide for a study; to change authorized use of certain funds; to change allocation provisions for the Nebraska Tobacco Settlement Trust Fund; to prohibit the pledge of certain funds for bond repayment; to provide operative dates; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 48:

Adams	Dubas	Heidemann	Lautenbaugh	Preister
Aguilar	Engel	Howard	Louden	Raikes
Ashford	Erdman	Hudkins	McDonald	Rogert
Avery	Fischer	Janssen	McGill	Schimek
Burling	Flood	Johnson	Nantkes	Stuthman
Carlson	Friend	Karpisek	Nelson	Synowiecki
Chambers	Fulton	Kopplin	Pahls	Wallman
Christensen	Gay	Kruse	Pankonin	Wightman
Cornett	Hansen	Langemeier	Pedersen	
Dierks	Harms	Lathrop	Pirsch	

Voting in the negative, 0.

Excused and not voting, 1:

White

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 1019.** With Emergency.

A BILL FOR AN ACT relating to claims against the state; to appropriate funds for the payment of certain claims; to provide for payment of the claims; to authorize agencies to write off certain claims; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 46:

Adams	Engel	Howard	McDonald	Rogert
Aguilar	Erdman	Hudkins	McGill	Schimek
Ashford	Fischer	Janssen	Nantkes	Stuthman
Avery	Flood	Johnson	Nelson	Synowiecki
Burling	Friend	Karpisek	Pahls	Wallman
Carlson	Fulton	Kopplin	Pankonin	Wightman
Christensen	Gay	Kruse	Pedersen	
Cornett	Hansen	Langemeier	Pirsch	
Dierks	Harms	Lautenbaugh	Preister	
Dubas	Heidemann	Louden	Raikes	

Voting in the negative, 0.

Present and not voting, 2:

Chambers      Lathrop

Excused and not voting, 1:

White

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 959, 960, 961, and 1019.

**SELECT FILE**

**LEGISLATIVE BILL 973.** ER8182, found on page 871, was adopted.

Senator Raikes withdrew his amendment, AM2340, found on page 978.

Senator Raikes renewed his amendment, AM2388, found on page 986.

The Raikes amendment was adopted with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 1092.** Senator Harms renewed his motion, MO155, found on page 1117, to ask unanimous consent to bracket until April 5, 2008.

No objections. So ordered.

**LEGISLATIVE BILL 777.** ER8186, found on page 919, was adopted.

Senator Langemeier renewed his amendment, AM2587, found on page 1132.

Senator Hudkins moved for a call of the house. The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Senator Hudkins requested a roll call vote, in reverse order, on the Langemeier amendment.

Voting in the affirmative, 26:

Aguilar	Flood	Janssen	Louden	Stuthman
Ashford	Friend	Johnson	Nelson	Wallman
Avery	Fulton	Karpisek	Pirsch	
Carlson	Gay	Kruse	Preister	
Erdman	Hansen	Langemeier	Rogert	
Fischer	Hudkins	Lautenbaugh	Schimek	

Voting in the negative, 5:

Adams	Kopplin	Nantkes	Pedersen	Raikes
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Present and not voting, 12:

Burling	Engel	Lathrop	Pankonin
Chambers	Harms	McGill	Synowiecki
Dubas	Howard	Pahls	Wightman

Excused and not voting, 6:

Christensen	Dierks	McDonald
Cornett	Heidemann	White

The Langemeier amendment was adopted with 26 ayes, 5 nays, 12 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

The Chair declared the call raised.

**LEGISLATIVE BILL 952.** ER8173, found on page 746, was adopted.

Senator Lathrop offered the following amendment:  
AM2597

(Amendments to E & R amendments, ER8173)

- 1 1. Insert the following new section:
- 2 Sec. 2. Section 86-2,112, Revised Statutes Cumulative
- 3 Supplement, 2006, is amended to read:
- 4 86-2,112 The Attorney General or any county attorney may
- 5 administer oaths and affirmations, subpoena witnesses, and compel
- 6 their attendance, take evidence, and require the production of
- 7 records including books, papers, documents, and tangible things
- 8 which constitute or contain evidence relevant or material to the
- 9 investigation or enforcement of the laws of this state ~~pertaining~~
- 10 ~~to offenses enumerated in section 86-291~~ when it reasonably appears
- 11 that such action is necessary and proper. The attendance of
- 12 witnesses and the production of records shall be required from
- 13 any place within the State of Nebraska. Witnesses summoned by the
- 14 Attorney General or a county attorney shall be paid the same fees
- 15 that are paid witnesses in the courts of the State of Nebraska and
- 16 mileage at the rate provided in section 81-1176.
- 17 2. On page 2, line 2, strike "is" and insert "and section
- 18 86-2,112, Revised Statutes Cumulative Supplement, 2006, are".
- 19 3. Renumber the remaining section accordingly.

The Lathrop amendment was adopted with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 1049.** ER8179, found on page 828, was adopted.

Senator Erdman renewed his amendment, AM2296, found on page 905.

**SENATOR LANGEMEIER PRESIDING**

The Erdman amendment was adopted with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

Senator Erdman moved for a call of the house. The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

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

Voting in the affirmative, 32:

Adams	Fischer	Hudkins	McDonald	Raikes
Aguilar	Flood	Janssen	Nantkes	Rogert
Ashford	Friend	Kopplin	Nelson	Wallman
Burling	Fulton	Kruse	Pahls	Wightman
Carlson	Gay	Langemeier	Pedersen	
Chambers	Hansen	Lautenbaugh	Pirsch	
Erdman	Harms	Louden	Preister	

Voting in the negative, 1:

Engel

Present and not voting, 9:

Avery	Johnson	Lathrop	Pankonin	Stuthman
Howard	Karpisek	McGill	Schimek	

Excused and not voting, 7:

Christensen	Dierks	Heidemann	White
Cornett	Dubas	Synowiecki	

Advanced to Enrollment and Review for Engrossment with 32 ayes, 1 nay, 9 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

**LEGISLATIVE BILL 765.** Senator Erdman renewed his amendment, AM2526, found on page 1139.

The Erdman amendment was adopted with 27 ayes, 1 nay, 14 present and not voting, and 7 excused and not voting.

Senator Hudkins offered the following motion:

MO157

Indefinitely postpone.

The Hudkins motion to indefinitely postpone failed with 4 ayes, 26 nays, 11

present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**COMMITTEE REPORT**  
Nebraska Retirement Systems

**LEGISLATIVE BILL 365.** Placed on General File.

(Signed) John Synowiecki, Chairperson

**AMENDMENTS - Print in Journal**

Senator Stuthman filed the following amendment to LB1174:

FA252

Amend AM2319

On page 4 in lines 15 and 16 strike "the cultivation of land for".

Senator Stuthman filed the following amendment to LB1174:

FA253

Amend AM2319

On page 6 line 7 strike "raising" and replace it with "growing".

Senator Stuthman filed the following amendment to LB1174:

FA254

Amend AM2319

On page 6 line 26 strike "disposed of" and replace with "sold" and in line 27 strike "disposed of" and replace with "sold".

Senator Stuthman filed the following amendment to LB1174:

FA255

Amend AM2319

On page 7 lines 6-8 strike entire subsection (o).

Senator Kopplin filed the following amendment to LB986:

AM2536

(Amendments to Standing Committee amendments, AM1998)

- 1 1. On page 6, strike beginning with "carried" in line
- 2 11 through "year" in line 12 and insert "remitted to the General
- 3 Fund".

Senator Kopplin filed the following amendment to LB986:

AM2535

(Amendments to Standing Committee amendments, AM1998)

- 1 1. On page 6, line 5, after "terminate" insert "three
- 2 months after the date of adoption of the legislation creating the
- 3 federal program".

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on March 28, 2008, at 12:32 p.m. were the following: LBs 959e, 960e, 961e, and 1019e.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 314.** Introduced by Erdman, 47.

**PURPOSE:** The purpose of this study is to examine means to fully cash fund the duties carried out by the Department of Agriculture under the Noxious Weed Control Act. The study shall seek to identify significant emerging and recurring invasive and noxious vegetation management issues, identify beneficiaries of weed control programs, and identify sources of dissemination of invasive and noxious vegetation. The study shall also seek to identify possible efficiencies in the delivery and funding of weed control programs and services.

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

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 315.** Introduced by Erdman, 47.

**PURPOSE:** The purpose of this study is to review the statutory provisions for disease eradication programs authorized in Chapter 54, article 7, and administered by the Bureau of Animal Industry of the Department of Agriculture. It is a goal of this study to examine such statutes and the activities carried out to provide for consistency in statutory form, in the elements of eradication programs authorized, consistency and uniformity in defining duties and violations, and consistency and uniformity of penalties across eradication programs.

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

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 316.** Introduced by Erdman, 47.

**PURPOSE:** The purpose of this study is to continue the examination initiated by Legislative Resolution 140 (2007) and examine activities and staffing of the Department of Agriculture and the Bureau of Animal Industry funded wholly or in part through federal grant funds under homeland security, livestock disease emergency response, animal identification, or other initiatives of the federal government. It is a goal of this study to identify the need for and feasibility of continuing such activities and staffing if federal funding sources are not continued.

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

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 317.** Introduced by Kopplin, 3.

**PURPOSE:** The crime of stalking continues to be a serious and ongoing problem in Nebraska. Stalkers engage in behaviors intended to harass, terrify, and threaten their victims. Studies have demonstrated that stalking is a pattern of behavior linked to a higher risk of homicide and assault. Recent research showed that nine out of ten women killed by formerly intimate partners had been stalked during the previous year. One-third of women stalked by a current or former partner are sexually assaulted according to the National Institute of Justice. Advances in surveillance technology have made it much easier for stalkers to track their victims and monitor their every move. High-tech stalkers utilize global positioning systems, cellular telephone monitoring devices, and computer spyware. The purpose of this resolution is to study the use of electronic surveillance devices and software by an individual to illegally monitor, harass, threaten, or invade the privacy of another individual without their knowledge or consent and to recommend any statutory changes necessary to combat this insidious and dangerous conduct.

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

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 318.** Introduced by Kopplin, 3.

**PURPOSE:** The purpose of this study is to examine the participation rate of the food stamp program in Nebraska. Currently only sixty-one percent of eligible Nebraskans participate in the food stamp program. This means that as many as sixty thousand eligible Nebraskans may be struggling to feed themselves and their families. In addition, the state forgoes millions of federal dollars available through the food stamp program that could flow into Nebraska's local economies. It is the goal of this study to assess barriers to participation, including simplification of the food stamp application, and provide potential options for increased utilization of the food stamp program in the State of Nebraska.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 319.** Introduced by Hudkins, 21.

**PURPOSE:** To examine the statutes of the State of Nebraska governing the placement of electric transmission lines and determine whether the Public Service Commission should be statutorily required to provide oversight over the process.

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

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**VISITORS**

Visitors to the Chamber were Mark Hueftle from Holdrege; Kia, Jon, Miles, and Campbell Colborn from Lincoln; 32 fourth-grade students from North Bend; 33 fourth-grade students from Cedar Elementary, Beatrice; and 29 eighth-grade students, teachers, and sponsors from Dundy County-Stratton Schools, Benkelman.

The Doctor of the Day was Dr. Roger Park from Papillion.

**ADJOURNMENT**

At 1:59 p.m., on a motion by Senator Fulton, the Legislature adjourned until 9:00 a.m., Monday, March 31, 2008.

Patrick J. O'Donnell  
Clerk of the Legislature