

**TWELFTH DAY - JANUARY 25, 2008****LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE  
SECOND SESSION****TWELFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, January 25, 2008

**PRAYER**

The prayer was offered by Father Daniel Seiker, Cathedral of the Risen Christ, Lincoln.

**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 Fischer and Harms who were excused; and Senators Ashford, Cornett, Dubas, Johnson, Lautenbaugh, Schimek, and Synowiecki who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eleventh day was approved.

**REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB1091	Transportation and Telecommunications
LB1092	Transportation and Telecommunications
LB1093	Appropriations
LB1094	Natural Resources
LB1095	Urban Affairs
LB1096	Urban Affairs
LB1097	Judiciary
LB1098	Revenue
LB1099	Natural Resources
LB1100	Education
LB1101	Urban Affairs
LB1102	Urban Affairs
LB1103	General Affairs

LB1104	Health and Human Services
LB1105	Business and Labor
LB1106	Judiciary
LB1107	Judiciary
LB1108	Health and Human Services
LB1109	Appropriations
LB1111	Revenue
LB1112	Government, Military and Veterans Affairs
LB1113	Agriculture
LB1114	Agriculture
LB1115	Agriculture
LB1116	Agriculture
LB1117	Urban Affairs
LB1118	Revenue
LB1119	Appropriations
LB1120	Health and Human Services
LB1121	Health and Human Services
LB1122	Health and Human Services
LB1123	Health and Human Services
LB1124	Health and Human Services
LB1125	Education
LB1126	Revenue
LB1127	Natural Resources
LB1128	Judiciary
LB1129	Transportation and Telecommunications
LB1130	Judiciary
LB1131	Natural Resources
LB1132	Natural Resources
LB1133	Appropriations
LB1134	Revenue
LB1135	Education
LB1136	Government, Military and Veterans Affairs
LB1137	Revenue
LB1138	Natural Resources
LB1139	Appropriations
LB1140	Revenue
LB1141	Education
LB1142	Judiciary
LB1143	Nebraska Retirement Systems
LB1144	Banking, Commerce and Insurance
LB1145	Natural Resources
LB1146	Nebraska Retirement Systems
LB1147	Nebraska Retirement Systems
LB1148	Agriculture
LB1149	Revenue
LB1150	Appropriations
LB1151	Education
LB1152	Education
LB1153	Education

LB1154 Education  
 LB1155 Education  
 LB1156 Appropriations  
 LB1157 Education  
 LB1158 Education  
 LB1159 Judiciary  
 LB1160 Judiciary  
 LB1161 Appropriations  
 LB1162 Natural Resources  
 LB1163 Health and Human Services  
 LB1164 Natural Resources  
 LB1165 Appropriations  
 LB1166 Urban Affairs  
 LB1167 Judiciary  
 LB1168 Appropriations  
 LB1169 Health and Human Services  
 LB1170 Judiciary  
 LB1171 Agriculture  
 LB1172 Agriculture  
 LB1173 Health and Human Services  
 LB1174 Agriculture  
 LB1175 Revenue  
 LB1176 Health and Human Services  
 LR232 Transportation and Telecommunications  
 LR233CA Judiciary

(Signed) L. Patrick Engel, Chairperson  
 Legislative Council, Executive Board

### MESSAGE FROM THE GOVERNOR

January 17, 2008

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

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individuals are being appointed to the State Emergency Response Commission:

Mark Graf, 407 West Street, Arapahoe, NE 68922  
 Steven Virgil, 2123 S. 106th Street, Omaha, NE 68124  
 Gary Gandara, 9935 West "O" Street, Lincoln, NE 68528

Contingent upon your approval, the following individual is being reappointed to the State Emergency Response Commission:

Keith Deiml, 905 Crest Road, Papillion, NE 68046

The aforementioned appointees are respectfully submitted for your consideration. Copies of the appointment certificates and applications are attached for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

### **REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of January 24, 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

Bowling, Karen  
Family Council, Nebraska

Brashear, Kermit A.  
Brownell-Talbot School  
Cox Nebraska Telcom, LLC

Bromm, Curt  
Bellevue Medical Center

Campbell, Mary M./Campbell & Associates  
Nebraska Resources Company, LLC

Ellis, Karen M.  
Embarq Corp.

Hutchinson, M.C.  
Family Council, Nebraska (Withdrawn 01/24/2008)

Jensen, Ronald L./Jensen Associates, Inc.  
National Rifle Association Institute for Legislative Action

Kamm, Richard D.  
Adams Central Junior-Senior High

Langan, Mark  
Humane Society, Nebraska

Likes, Steven C., Esq.  
Investment Finance Authority, Nebraska

Mittenberger, Matt  
Republican Party, Nebraska

Nielsen, Coleen J.  
Consumer Health Alliance

Peters, William E.  
Golden Rule Insurance Company

Pieper, James S.  
Brownell-Talbot School  
Cox Nebraska Telcom, LLC

Radcliffe, Walter H. of Radcliffe & Associates  
Nebraska Expressways for Economic Development (NEED)

Reynolds, Simera  
Mothers Against Drunk Driving, Nebraska

Riskowski, Al  
Family Council, Nebraska

Wesely, Don  
Ayars & Ayars, Inc.

## REPORTS

The following reports were received by the Legislature:

**Correctional Services, Department of**

Work Ethic Camp Annual Report

**Railway Council, Nebraska**

2007 Annual Report

**Roads, Department of**

State Highway Commission Quarterly Report

## NOTICE OF COMMITTEE HEARING

Revenue

Room 1524

Friday, February 01, 2008 1:30 p.m.

LB778  
LB897

LB864  
LB989

Ruth A. Sorensen - Property Tax Administrator - Property Assessment and Taxation

Rob Hotz - Tax Equalization and Review Commission

Nancy J. Salmon - Tax Equalization and Review Commission

William R. Wickersham - Tax Equalization and Review Commission

(Signed) Ray Janssen, Chairperson

### SELECT FILE

**LEGISLATIVE BILL 706.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 707.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 269.** ER8128, found on page 273, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 575.** ER8138, found on page 345, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 205.** ER8129, found on page 298, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 210.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 312.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 379.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 380.** ER8130, found on page 308, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 383.** ER8134, found on page 310, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE RESOLUTION 5CA.** ER8133, found on page 312, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 690.** ER8132, found on page 312, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 92.** ER8135, found on page 314, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 467.** ER8136, found on page 343, was adopted.

Senator Flood renewed his amendment, AM1624, found on page 357.

The Flood amendment was adopted with 30 ayes, 1 nay, 11 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 467A.** ER8137, found on page 345, was adopted.

Senator Chambers renewed his amendment, AM650, found on page 315.

The Chambers amendment was adopted with 28 ayes, 0 nays, 14 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 202.** ER8139, found on page 348, was adopted.

Advanced to Enrollment and Review for Engrossment.

### GENERAL FILE

**LEGISLATIVE BILL 352.** Committee AM665, found on page 841, First Session, 2007, and considered on pages 355 and 357, was renewed.

Senator Chambers offered the following amendment to the committee amendment:

FA162

Amend AM665

Page 1 Strike lines 16-18.

The Chambers amendment was adopted with 26 ayes, 1 nay, 15 present and not voting, and 7 excused and not voting.

Senator Chambers offered the following amendment to the committee amendment:

FA163

Amend AM665

Page 1 Strike lines 19-23.

Pending.

### **MOTION - Print in Journal**

Senator Hudkins filed the following motion to LB1099:

MO112

Withdraw.

### **AMENDMENTS - Print in Journal**

Senator Cornett filed the following amendment to LB210:

AM1602

- 1 1. On page 2, line 8, strike the new matter; and in
- 2 line 15 strike "Representatives", show as stricken, and insert
- 3 "Members".
- 4 2. On page 3, line 19, after "(3)" insert "The two
- 5 members of the Legislature serving on the state board shall be
- 6 nonvoting, ex officio members. All other members shall be voting
- 7 members.".
- 8 3. On page 4, line 4, before "members" insert "voting".

Senator Louden filed the following amendment to LB801:

AM1629

- 1 1. Insert the following new sections:
- 2 Section 1. Section 46-701, Revised Statutes Cumulative
- 3 Supplement, 2006, is amended to read:
- 4 46-701 Sections 46-701 to 46-754 and sections 3 to 5 of
- 5 this act shall be known and may be cited as the Nebraska Ground
- 6 Water Management and Protection Act.
- 7 Sec. 2. Section 46-706, Revised Statutes Cumulative
- 8 Supplement, 2006, is amended to read:
- 9 46-706 For purposes of the Municipal and Rural Domestic
- 10 Ground Water Transfers Permit Act, the Nebraska Ground Water
- 11 Management and Protection Act, and sections 46-601 to 46-613.02,
- 12 46-636, 46-637, and 46-651 to 46-655, unless the context otherwise
- 13 requires:
- 14 (1) Person means a natural person, a partnership,
- 15 a limited liability company, an association, a corporation, a
- 16 municipality, an irrigation district, an agency or a political
- 17 subdivision of the state, or a department, an agency, or a bureau
- 18 of the United States;
- 19 (2) Ground water means that water which occurs in or

20 moves, seeps, filters, or percolates through ground under the  
21 surface of the land;

22 (3) Contamination or contamination of ground water means  
23 nitrate nitrogen or other material which enters the ground water  
1 due to action of any person and causes degradation of the quality  
2 of ground water sufficient to make such ground water unsuitable for  
3 present or reasonably foreseeable beneficial uses;

4 (4) District means a natural resources district operating  
5 pursuant to Chapter 2, article 32;

6 (5) Illegal water well means (a) any water well operated  
7 or constructed without or in violation of a permit required by  
8 the Nebraska Ground Water Management and Protection Act, (b) any  
9 water well not in compliance with rules and regulations adopted and  
10 promulgated pursuant to the act, (c) any water well not properly  
11 registered in accordance with sections 46-602 to 46-604, or (d)  
12 any water well not in compliance with any other applicable laws of  
13 the State of Nebraska or with rules and regulations adopted and  
14 promulgated pursuant to such laws;

15 (6) To commence construction of a water well means the  
16 beginning of the boring, drilling, jetting, digging, or excavating  
17 of the actual water well from which ground water is to be  
18 withdrawn;

19 (7) Management area means any area so designated by a  
20 district pursuant to section 46-712 or 46-718, by the Director  
21 of Environmental Quality pursuant to section 46-725, or by  
22 the Interrelated Water Review Board pursuant to section 46-719.  
23 Management area includes a control area or a special ground water  
24 quality protection area designated prior to July 19, 1996;

25 (8) Management plan means a ground water management plan  
26 developed by a district and submitted to the Director of Natural  
27 Resources for review pursuant to section 46-711;

1 (9) Ground water reservoir life goal means the finite or  
2 infinite period of time which a district establishes as its goal  
3 for maintenance of the supply and quality of water in a ground  
4 water reservoir at the time a ground water management plan is  
5 adopted;

6 (10) Board means the board of directors of a district;

7 (11) Acre-inch means the amount of water necessary to  
8 cover an acre of land one inch deep;

9 (12) Subirrigation or subirrigated land means the natural  
10 occurrence of a ground water table within the root zone of  
11 agricultural vegetation, not exceeding ten feet below the surface  
12 of the ground;

13 (13) Best management practices means schedules of  
14 activities, maintenance procedures, and other management practices  
15 utilized for purposes of irrigation efficiency, to conserve or  
16 effect a savings of ground water, or to prevent or reduce present  
17 and future contamination of ground water. Best management practices  
18 relating to contamination of ground water may include, but not

19 be limited to, irrigation scheduling, proper rate and timing  
20 of fertilizer application, and other fertilizer and pesticide  
21 management programs. In determining the rate of fertilizer  
22 application, the district shall consult with the University of  
23 Nebraska or a certified crop advisor certified by the American  
24 Society of Agronomy;

25 (14) Point source means any discernible, confined, and  
26 discrete conveyance, including, but not limited to, any pipe,  
27 channel, tunnel, conduit, well, discrete fissure, container,  
1 rolling stock, vessel, other floating craft, or other conveyance,  
2 over which the Department of Environmental Quality has regulatory  
3 authority and from which a substance which can cause or contribute  
4 to contamination of ground water is or may be discharged;

5 (15) Allocation, as it relates to water use for  
6 irrigation purposes, means the allotment of a specified total  
7 number of acre-inches of irrigation water per irrigated acre per  
8 year or an average number of acre-inches of irrigation water per  
9 irrigated acre over any reasonable period of time;

10 (16) Rotation means a recurring series of use and nonuse  
11 of irrigation wells on an hourly, daily, weekly, monthly, or yearly  
12 basis;

13 (17) Water well has the same meaning as in section  
14 46-601.01;

15 (18) Surface water project sponsor means an irrigation  
16 district created pursuant to Chapter 46, article 1, a reclamation  
17 district created pursuant to Chapter 46, article 5, or a public  
18 power and irrigation district created pursuant to Chapter 70,  
19 article 6;

20 (19) Beneficial use means that use by which water may be  
21 put to use to the benefit of humans or other species;

22 (20) Consumptive use means the amount of water that is  
23 consumed under appropriate and reasonably efficient practices to  
24 accomplish without waste the purposes for which the appropriation  
25 or other legally permitted use is lawfully made;

26 (21) Dewatering well means a well constructed and used  
27 solely for the purpose of lowering the ground water table  
1 elevation;

2 (22) Emergency situation means any set of circumstances  
3 that requires the use of water from any source that might  
4 otherwise be regulated or prohibited and the agency, district,  
5 or organization responsible for regulating water use from such  
6 source reasonably and in good faith believes that such use is  
7 necessary to protect the public health, safety, and welfare,  
8 including, if applicable, compliance with federal or state water  
9 quality standards;

10 (23) Good cause shown means a reasonable justification  
11 for granting a variance for a consumptive use of water that  
12 would otherwise be prohibited by rule or regulation and which the  
13 granting agency, district, or organization reasonably and in good

14 faith believes will provide an economic, environmental, social, or  
15 public health and safety benefit that is equal to or greater than  
16 the benefit resulting from the rule or regulation from which a  
17 variance is sought;

18 (24) Historic consumptive use means the amount of water  
19 that has previously been consumed under appropriate and reasonably  
20 efficient practices to accomplish without waste the purposes for  
21 which the appropriation or other legally permitted use was lawfully  
22 made;

23 (25) Monitoring well means a water well that is designed  
24 and constructed to provide ongoing hydrologic or water quality  
25 information and is not intended for consumptive use;

26 (26) Order, except as otherwise specifically provided,  
1 includes any order required by the Nebraska Ground Water Management  
2 and Protection Act, by rule or regulation, or by a decision adopted  
3 by a district by vote of the board of directors of the district  
4 taken at any regularly scheduled or specially scheduled meeting of  
5 the board;

6 (27) Overall difference between the current and fully  
7 appropriated levels of development means the extent to which  
8 existing uses of hydrologically connected surface water and ground  
9 water and conservation activities result in the water supply  
10 available for purposes identified in subsection (3) of section  
11 46-713 to be less than the water supply available if the  
12 river basin, subbasin, or reach had been determined to be fully  
13 appropriated in accordance with section 46-714;

14 (28) Test hole means a hole designed solely for the  
15 purposes of obtaining information on hydrologic or geologic  
16 conditions; ~~and~~

17 (29) Variance means (a) an approval to deviate from a  
18 restriction imposed under subsection (1), (2), (9), or (10) of  
19 section 46-714 or (b) the approval to act in a manner contrary to  
20 existing rules or regulations from a governing body whose rule or  
21 regulation is otherwise applicable; ~~and-~~

22 (30) Measuring device means a device approved by the  
23 department used to measure the total volume of water pumped or  
24 diverted annually. For surface water diversions, the device shall  
25 be approved by the department. For ground water wells, the device  
26 shall be approved by the district where the well is located.

27 Sec. 3. To properly identify the amount of water being  
1 pumped from certain water wells and from surface water diversion  
2 works located within the state for the preservation of the  
3 waters of the state for all beneficial uses, including domestic,  
4 agricultural, and manufacturing uses:

5 (1) Every district shall in either their integrated  
6 management plan, if one is required, or if an integrated management  
7 plan is not required, in their ground water management plan,  
8 include a provision requiring measuring devices to be installed  
on certain water wells within the district before June 30, 2012.

9 This section applies to water wells used for any purpose that are  
 10 capable of pumping fifty gallons per minute or more or are combined  
 11 with or used for the same project with other water wells that  
 12 together pump more than fifty gallons per minute; and

13 (2) The Department of Natural Resources shall require  
 14 appropriate measuring devices to be installed on surface water  
 15 diversion works before June 30, 2012.

16 Sec. 4. Beginning on June 30, 2012, every district shall  
 17 report at a minimum of once every two years to the Department  
 18 of Natural Resources, on a form prescribed by the department, the  
 19 amount of water pumped from water wells within the district that  
 20 are subject to section 3 of this act. The Director of Natural  
 21 Resources may require more frequent reporting. The report, at a  
 22 minimum, shall:

23 (1) Provide information on such water wells;

24 (2) Contain the amount of water pumped by each individual  
 25 water well;

26 (3) Provide aggregate information for each group of  
 27 water wells, including domestic wells, irrigation wells, industrial  
 1 wells, municipal wells, and municipal and industrial combined  
 2 wells;

3 (4) Provide any notation as to whether there were any  
 4 problems with the measuring device during the reporting period;

5 (5) Provide the registration number of the water well;  
 6 and

7 (6) Describe the location of each water well in the  
 8 manner determined by the department.

9 Sec. 5. Beginning on June 30, 2014, and, at a minimum,  
 10 once every two years, the Department of Natural Resources shall  
 11 report to the Legislature as to the total amount of water pumped by  
 12 water wells subject to section 3 of this act and from surface water  
 13 diversion works, identifying the amounts by river basin.

14 2. On page 9, line 11, after "Original" insert "sections  
 15 46-701 and 46-706, Revised Statutes Cumulative Supplement, 2006,  
 16 and".

17 3. Renumber the remaining sections accordingly.

### **MOTIONS - Print in Journal**

Senators Erdman and Langemeier filed the following motion to LB1148:  
 MO113  
 Indefinitely postpone.

Senator Schimek filed the following motion to LB1148:  
 MO114  
 Withdraw.

**AMENDMENTS - Print in Journal**

Senator Nantkes filed the following amendment to LB235A:  
AM1643

- 1 1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:  
3 Section 1. The State Treasurer shall transfer (1)  
4 \$5,000,000 from the General Fund to the Film Enhancement Rebate  
5 Program Fund within five days after the effective date of this  
6 act, or as soon thereafter as administratively possible, and (2)  
7 an amount specified by the Department of Economic Development not  
8 to exceed \$5,000,000 from the General Fund to the Film Enhancement  
9 Rebate Program Fund on July 6, 2009, or as soon thereafter as  
10 administratively possible.
- 11 Sec. 2. There is hereby appropriated (1) \$5,000,000  
12 from the Film Enhancement Rebate Program Fund for FY2008-09 and  
13 (2) \$5,000,000 from the Film Enhancement Rebate Program Fund for  
14 FY2009-10 to the Department of Economic Development, for Program  
15 603, to aid in carrying out the provisions of Legislative Bill 235,  
16 One Hundredth Legislature, Second Session, 2008.
- 17 There is included in the appropriation in this section  
18 for FY2008-09 \$4,885,000 for the payment of rebates, which  
19 shall only be used for such purpose. There is included in the  
20 appropriation in this section for FY2009-10 \$4,890,000 for the  
21 payment of rebates, which shall only be used for such purpose.
- 22 Total expenditures for permanent and temporary salaries  
23 and per diems from funds appropriated in this section shall not  
1 exceed \$76,000 in FY2008-09 and \$79,000 in FY2009-10.

Senator Nantkes filed the following amendment to LB235:  
AM1644

(Amendments to E & R amendments, ER8140)

- 1 1. On page 5, line 2, before "The" insert "(1)"; in  
2 line 3 strike "appropriations" and insert "transfers"; in line  
3 5 after the period insert "The fund shall be used by the  
4 Department of Economic Development for the payment of rebates  
5 and for administrative expenses directly related to the Nebraska  
6 Advantage Film Production Incentive Act."; and after line 8 insert  
7 the following new subsection:  
8 "(2) The initial transfer from the General Fund to the  
9 Film Enhancement Rebate Program Fund for fiscal year 2008-09 shall  
10 be five million dollars. In each fiscal year thereafter, the  
11 department shall, by June 30, determine the amount of unexpended  
12 and uncommitted funds remaining in the Film Enhancement Rebate  
13 Program Fund and the amount of General Funds required to bring the  
14 balance of the Film Enhancement Rebate Program Fund available for  
15 expenditure to five million dollars. The department shall, no later  
16 than July 5 each year, notify the State Treasurer of the amount  
17 of funding required to bring the available balance of the Film

18 Enhancement Rebate Program Fund to five million dollars. The State  
 19 Treasurer shall transfer the amount specified by the department,  
 20 not to exceed five million dollars, from the General Fund to the  
 21 Film Enhancement Rebate Program Fund.".

### NOTICE OF COMMITTEE HEARINGS

Natural Resources

Room 1525

Friday, February 01, 2008 1:30 p.m.

LB1065

LB1066

John Kinter - Environmental Quality Council

Leigh Hoyt - Environmental Quality Council

(Signed) LeRoy Louden, Chairperson

Business and Labor

Room 2102

Monday, February 04, 2008 1:30 p.m.

LB936

LB926

Sam Jensen - Commission of Industrial Relations

Monday, February 11, 2008 1:30 p.m.

LB1082

LB948

LB1016

Room 1524

Monday, February 25, 2008 1:30 p.m.

LB1019

LB1020

LB1086

LB1105

(Signed) Abbie Cornett, Chairperson

**COMMITTEE REPORTS**

## Natural Resources

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Tim Else - Nebraska Ethanol Board  
Steve Hanson - Nebraska Ethanol Board

Aye: 8 Senators Carlson, Christensen, Dubas, Fischer, Hudkins, Kopplin, Loudon, Wallman. Nay: 0. Absent: 0.

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

S. Michael "Mick" Jensen - Nebraska Game and Parks Commission

Aye: 8 Senators Carlson, Christensen, Dubas, Fischer, Hudkins, Kopplin, Loudon, Wallman. Nay: 0. Absent: 0.

(Signed) LeRoy Loudon, Chairperson

**MOTION - Escort Chief Justice**

Speaker Flood moved that a committee of eight be appointed to escort the Chief Justice of the Supreme Court to the Legislative Chamber for the purpose of delivering the State of the Judiciary Address.

The motion prevailed.

The Chair appointed Senators Ashford, Lathrop, Lautenbaugh, Nantkes, Nelson, Pirsch, White, and Wightman to serve on said committee.

The committee escorted Chief Justice Michael G. Heavican to the rostrum where he delivered the following message:

Mr. President, Mr. Speaker, esteemed members of the Legislature, my fellow justices of the Supreme Court, and guests. It is indeed a great honor for me to speak with you today.

I would like to thank all of you for inviting me. I must also give a special thanks to Speaker Flood for this opportunity to showcase the judiciary, the third -- and often least understood -- branch of government.

Let me begin by introducing the other members of the Supreme Court.

To my immediate right is Justice John Wright; to his right is Justice John Gerrard. To the right of Justice Gerrard is Justice Michael McCormack.

To my immediate left is Justice William Connolly. To Justice Connolly's left is Justice Kenneth Stephan. Justice Lindsey Miller-Lerman regrets that she cannot attend because of a prior commitment.

Each of you received a packet for this occasion. The packets have preliminary statistics and charts showing the number of cases filed, caseload distributions, flow charts, and other statistical information for the court system.

While you are certainly capable of reviewing these documents on your own, I want to bring a few of the more notable figures to your attention.

More than 41,000 cases were filed in our district courts in 2007, and a staggering 233,555 cases were filed in our county courts last year. Notably, that figure does not include the 162,855 filings related to routine traffic offenses.

The sheer number of cases our court system handles each year is astonishing considering the judicial branch is allocated just 2 percent of the state's entire budget. In fact, the judicial branch essentially pays for itself, as fees and fines collected by courts are distributed to local school systems, Nebraska Legal Services, the Law Enforcement Improvement Fund, the state's general fund, and other state and local services.

But rather than dwell on statistics, I would like to focus on some of the special initiatives of the court and the judicial branch.

### Through the Eyes of the Child

The first initiative involves abused and neglected children whose cases are in the juvenile court system. Many of these children are wards of the state and are in foster care.

As you are aware, Nebraska has an inordinate number of such children. Those children have been a special focus of the courts in 2007.

Former Chief Justice John Hendry convened the Supreme Court Commission on Children in the Courts in January 2005. Chief Justice Hendry's vision and leadership resulted in the first ever Nebraska Children's Summit in September 2006. Participants included most of the state's juvenile court judges, many child welfare workers from the Department of Health and Human Services, members of the Foster Care Review Board, prosecuting attorneys, defense attorneys, and other parties interested in Nebraska's juvenile court system.

I had the privilege of attending that summit after I was appointed Chief Justice, but before I was sworn in. The summit launched the "Through the Eyes of the Child Initiative." Summit participants voted to name the project "Through the Eyes of the Child" so that all participants in abuse-and-neglect cases would be mindful of the child's perspective throughout such proceedings.

The Through the Eyes of the Child Initiative established 25 community-based court teams around the State of Nebraska. Each team is led by a judge of either a county or juvenile court.

The goal of each team is to develop the best way to handle abuse and neglect cases -- including cases involving the termination of parental rights - - in their particular courts. All of the teams are working hard to place abused

and neglected children in permanent, safe, and stable homes as quickly as possible. At the same time, the teams strive to preserve fairness and the rights of all parties to these proceedings.

The Supreme Court Commission on Children in the Courts also drafted guidelines that were approved this year. These guidelines are for use by guardians ad litem in juvenile court proceedings and provide for training for guardians ad litem, judges, defense attorneys, prosecutors, and other participants in the juvenile court process.

The Supreme Court has placed an emphasis on meeting national and state guidelines for case progression. Almost all of the local committees have come to the conclusion that one of the most important ways to quickly address permanency in these cases is by front-loading the system.

By "front-loading the system," we mean making use of informal preconference hearings. Front-loading has given us the ability, early in the litigation process, to appoint counsel for all parties involved and to obtain assistance for parents suffering from mental health or substance abuse problems. This front-loading feature appears to be paying great dividends.

Dodge County provides a good illustration of the Initiative's effectiveness. Since the Initiative began, the number of children in foster care in Dodge County has dropped 50 percent. This drop is a direct result of collaboration by judges in Dodge County, workers from the Department of Health and Human Services, and members of the local bar.

I should also note the work of our Court of Appeals regarding abuse and neglect cases. By prioritizing cases involving the potential termination of parental rights, the Court of Appeals reduced the average length of time needed to process an appeal in such cases by 3 months. Although 3 months may not seem much to you and me, 3 months is a long time in the eyes of a child.

## Drug Courts

I would next like to speak to you about drug courts. Drug courts handle cases related to use or possession of narcotics, but do so in a somewhat unique manner.

Drug Courts are community based and therefore seek to treat and rehabilitate offenders in local communities rather than simply punish the offenders. Drug courts require an intensive use of judicial resources in the rehabilitative process.

Nonetheless, the strain on judicial resources results in economic savings. It is estimated that it costs \$31,000 to incarcerate an offender for 1 year, while it costs a mere \$3,500 to handle such a case through a drug court. Proponents also feel the recidivism rate for drug court participants will show a significant decline.

Presently, Nebraska has 20 drug courts, most designed to work with adult offenders. However, several drug courts are designed specifically for juveniles. Currently, drug courts are available in 10 of the 12 judicial districts in the State, with interest in establishing programs in the remaining two districts.

As part of our juvenile court system, family drug courts located in Omaha, Lincoln, Scottsbluff, and central Nebraska emphasize treatment for parents. The overarching goal of family drug courts is helping these parents keep their families together.

The judges who preside over Nebraska's drug courts volunteer for this tough assignment. Drug court cases are more time consuming than most conventional cases. They require a unique balance of perseverance and resolve. I want to personally thank those judges for their leadership and dedication.

Of the court system's 1,118 employees, 464 are probation officers or probation support staff. Probation officers are the backbone of our drug courts and other community corrections efforts. They deserve our appreciation as well.

### Minority Justice

I also want to discuss recent efforts by the Nebraska Minority Justice Committee. This committee strives to develop and implement sustainable policy reforms which will not only improve the system of justice, but will also strengthen public trust and confidence in our laws and the court system.

The group's newest project was just announced a few weeks ago. The committee received a grant to improve the justice system's capacity to serve non-English-speaking persons. To that end, the committee coordinated the translation of court forms into Spanish, Vietnamese, and Arabic, the three languages for which interpretive services are most commonly requested.

The practical importance of bilingual forms cannot be overstated: Noncompliance with court terms can result in detention, loss of child custody, or other consequences.

The judicial branch has identified particular forms that, once translated, will help non-English speakers understand both their rights and responsibilities under the law.

### Interpreters

Bilingual forms are part of a larger challenge currently facing our courts. That challenge is how to effectively work with non-English-speaking parties.

Although, as noted, the greatest number of such litigants is Spanish-, Vietnamese-, or Arabic-speaking, a variety of other languages require the use of interpreters in our courts. Last year, the use of interpretive assistance in the court system was required in 16 foreign languages, as well as American Sign Language.

Nebraska is one of 40 states working together in a consortium to provide uniform testing to ensure the quality of interpreters used in the courts. Certification, through the consortium and otherwise, is currently available in 13 foreign languages and American Sign Language. The demand for certified interpreters, however, continues to exceed the supply of certified interpreters.

The cost for the certification and utilization of interpreters has rapidly increased. These costs have begun to consume funds anticipated for other court projects.

### Pro Se Committee

Another major challenge confronting our courts is the growing number of self-represented litigants in civil cases.

Currently, 42 percent of civil litigants in district court, and over 50 percent of civil litigants in county court, appear without legal representation. These cases are time consuming and try the patience of judges and litigants alike. The Supreme Court Implementation Committee on Pro Se Litigation is working on solutions to this problem.

The programs I have discussed -- drug courts, interpretive services, and responses to pro se litigation -- strain already thin judicial resources. As a result, the Supreme Court will grapple, as will this body, with the efficient allocation of resources.

I would like to thank the Nebraska State Bar Association for its work in this area. Last year, the bar association's "Judicial Structure and Administration Task Force" worked to find solutions to allocation issues. The Supreme Court will continue to support ways to increase flexibility in the apportionment of those resources.

### Technology

I would like to spend the remainder of my time by discussing the future of the courts. It is a future that will present a number of challenges. Many of these challenges will be affected by technology.

Through technology, we can enhance citizen access to the courts while simultaneously increasing the efficiency of the court system itself. For example, the judicial branch recently launched an on-line payment program for traffic tickets in many counties.

This new e-payment system offers drivers a secure on-line way to pay traffic citations. This option will save time for motorists and relieve judges and court staff of the many administrative tasks involved in processing these citations.

There are presently 25 counties offering the option of e-payments for traffic tickets, with another 55 counties in the final stages of doing so. We anticipate all counties will have e-payment available by the end of the year.

You can learn more about these projects at the Supreme Court's Web site, [www.supremecourt.ne.gov](http://www.supremecourt.ne.gov).

### E-Filing

Another large-scale project undergoing expansion and development in the courts is electronic filing. While still in the developmental phase, more than 3,000 court documents have been electronically filed through two pilot projects.

E-filing will offer every court in every county the potential of 24-hour-a-day filing. Likewise, court filings, subject to court rules protecting individual privacy, will be available for on-line viewing by litigants and citizens 24 hours a day.

A special thanks goes to the Supreme Court Technology Committee. The committee has successfully moved the court system's technology projects forward.

### Cameras in the Court

I began this presentation by noting that the judiciary is often the least understood branch of government. The Supreme Court and Court of Appeals are participants in a proposal of the Nebraska Educational Telecommunications Commission to place permanent cameras in our two courtrooms. There is no better way to showcase the appellate process than by offering live coverage of our proceedings.

We very much appreciate this opportunity to work with NETV in allowing the public to see and hear our judicial system in action.

Several trial courts are also experimenting with increased media coverage. Courts in Beatrice, Tecumseh, and Falls City have some audio coverage in their district courts. Courts in Lancaster, Sarpy, and Douglas Counties are considering limited audio and visual coverage in their courtrooms as well.

We believe Nebraska's courts have a great story to tell. Audio and visual coverage of the courts enhance our ability to tell that story.

### Conclusion

Again, I thank you for the opportunity to present this State of the Judiciary address. My comments focused on the efforts of the judicial branch to improve the future for Nebraska's children, to address the unique problems of drug abuse, and to meet the challenges that our courts will face in the future.

I would like to close by commenting on the quality of people who comprise the judicial branch in this State. Since taking the oath as Chief Justice in October 2006, I have had many opportunities to meet with judges, court staff, and probation officers. From these visits, I can say with confidence that Nebraska has first-rate court officers and, consequently, a first-rate court system.

I want to express my appreciation for your support in our past endeavors and ask for your continued support of Nebraska's judicial branch.

Thank you.

The committee escorted the Chief Justice from the Chamber.

## COMMITTEE REPORTS

### Enrollment and Review

**LEGISLATIVE BILL 632.** Placed on Select File with amendment.  
ER8147

- 1 1. On page 1, lines 1 and 5, strike "sections" and insert  
2 "section"; and in line 2 strike "and 54-702.01".

**LEGISLATIVE BILL 621.** Placed on Select File with amendment.  
ER8150

- 1 1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:  
3 Section 1. Section 60-4,182, Revised Statutes Supplement,  
4 2007, is amended to read:  
5 60-4,182 In order to prevent and eliminate successive  
6 traffic violations, there is hereby provided a point system dealing  
7 with traffic violations as disclosed by the files of the director.  
8 The following point system shall be adopted:  
9 (1) Conviction of motor vehicle homicide - 12 points;  
10 (2) Third offense drunken driving in violation of any  
11 city or village ordinance or of section 60-6,196, as disclosed by  
12 the records of the director, regardless of whether the trial court  
13 found the same to be a third offense - 12 points;  
14 (3) Failure to stop and render aid as required under  
15 section 60-697 in the event of involvement in a motor vehicle  
16 accident resulting in the death or personal injury of another - 6  
17 points;  
18 (4) Failure to stop and report as required under section  
19 60-696 or any city or village ordinance in the event of a motor  
20 vehicle accident resulting in property damage - 6 points;  
21 (5) Driving a motor vehicle while under the influence  
22 of alcoholic liquor or any drug or when such person has a  
23 concentration of eight-hundredths of one gram or more by weight of  
1 alcohol per one hundred milliliters of his or her blood or per two  
2 hundred ten liters of his or her breath in violation of any city or  
3 village ordinance or of section 60-6,196 - 6 points;  
4 (6) Willful reckless driving in violation of any city or  
5 village ordinance or of section 60-6,214 or 60-6,217 - 6 points;  
6 (7) Careless driving in violation of any city or village  
7 ordinance or of section 60-6,212 - 4 points;  
8 (8) Negligent driving in violation of any city or village  
9 ordinance - 3 points;  
10 (9) Reckless driving in violation of any city or village  
11 ordinance or of section 60-6,213 - 5 points;  
12 (10) Speeding in violation of any city or village  
13 ordinance or any of sections 60-6,185 to 60-6,190 and 60-6,313:  
14 (a) Not more than five miles per hour over the speed  
15 limit - 1 point;  
16 (b) More than five miles per hour but not more than ten  
17 miles per hour over the speed limit - 2 points; ~~and~~  
18 (c) More than ten miles per hour but not more than  
19 thirty-five miles per hour over the speed limit - 3 points, except  
20 that one point shall be assessed upon conviction of exceeding by

21 not more than ten miles per hour, two points shall be assessed  
 22 upon conviction of exceeding by more than ten miles per hour but  
 23 not more than fifteen miles per hour, and three points shall be  
 24 assessed upon conviction of exceeding by more than fifteen miles  
 25 per hour but not more than thirty-five miles per hour the speed  
 26 limits provided for in subdivision (1)(e), (f), (g), or (h) of  
 27 section 60-6,186; and

1 (d) More than thirty-five miles per hour over the speed  
 2 limit - 4 points;

3 (11) Failure to yield to a pedestrian not resulting in  
 4 bodily injury to a pedestrian - 2 points;

5 (12) Failure to yield to a pedestrian resulting in bodily  
 6 injury to a pedestrian - 4 points; and

7 (13) All other traffic violations involving the operation  
 8 of motor vehicles by the operator for which reports to the  
 9 Department of Motor Vehicles are required under sections 60-497.01  
 10 and 60-497.02, not including violations involving an occupant  
 11 protection system pursuant to section 60-6,270, parking violations,  
 12 violations for operating a motor vehicle without a valid operator's  
 13 license in the operator's possession, muffler violations,  
 14 overwidth, overheight, or overlength violations, motorcycle or  
 15 moped protective helmet violations, or overloading of trucks - 1  
 16 point.

17 All such points shall be assessed against the driving  
 18 record of the operator as of the date of the violation for which  
 19 conviction was had. Points may be reduced by the department under  
 20 section 60-4,188.

21 In all cases, the forfeiture of bail not vacated shall be  
 22 regarded as equivalent to the conviction of the offense with which  
 23 the operator was charged.

24 The point system shall not apply to persons convicted  
 25 of traffic violations committed while operating a bicycle or an  
 26 electric personal assistive mobility device as defined in section  
 27 60-618.02.

1 Sec. 2. Section 60-682.01, Reissue Revised Statutes of  
 2 Nebraska, is amended to read:

3 60-682.01 (1) Any person who operates a vehicle in  
 4 violation of any maximum speed limit established for any highway or  
 5 freeway is guilty of a traffic infraction and upon conviction shall  
 6 be fined:

7 (a) Ten dollars for traveling one to five miles per hour  
 8 over the authorized speed limit;

9 (b) Twenty-five dollars for ~~six to~~ traveling over five  
 10 miles per hour but not over ten miles per hour over the authorized  
 11 speed limit;

12 (c) Seventy-five dollars for traveling ~~eleven to over~~  
 13 ten miles per hour but not over fifteen miles per hour over the  
 14 authorized speed limit;

15 (d) One hundred twenty-five dollars for traveling ~~sixteen~~

16 ~~to over fifteen miles per hour but not over~~ twenty miles per hour  
 17 over the authorized speed limit; ~~and~~

18 (e) Two hundred dollars for traveling ~~twenty-one over~~  
 19 twenty miles per hour but not over thirty-five miles per hour ~~or~~  
 20 ~~more~~ over the authorized speed limit; ~~and~~ -

21 (f) Three hundred dollars for traveling over thirty-five  
 22 miles per hour over the authorized speed limit.

23 (2) The fines prescribed in subsection (1) of this  
 24 section shall be doubled if the violation occurs within a  
 25 maintenance, repair, or construction zone established pursuant  
 26 to section 60-6,188. For purposes of this subsection, maintenance,  
 27 repair, or construction zone means (a) the portion of a highway  
 1 identified by posted or moving signs as being under maintenance,  
 2 repair, or construction or (b) the portion of a highway identified  
 3 by maintenance, repair, or construction zone speed limit signs  
 4 displayed pursuant to section 60-6,188. The maintenance, repair,  
 5 or construction zone starts at the location of the first sign  
 6 identifying the maintenance, repair, or construction zone and  
 7 continues until a posted or moving sign indicates that the  
 8 maintenance, repair, or construction zone has ended.

9 (3) The fines prescribed in subsection (1) of this  
 10 section shall be doubled if the violation occurs within a school  
 11 crossing zone as defined in section 60-658.01.

12 Sec. 3. Original section 60-682.01, Reissue Revised  
 13 Statutes of Nebraska, and section 60-4,182, Revised Statutes  
 14 Supplement, 2007, are repealed.

15 2. On page 1, line 3, strike "Cumulative" and strike  
 16 "2006" and insert "2007".

**LEGISLATIVE BILL 480.** Placed on Select File with amendment.  
 ER8149

1 1. In the Johnson amendment, AM 1534, on page 3, line  
 2 11, strike "71-7609, and 71-7614" and insert "and 71-7609"; and in  
 3 line 13 strike "section 71-7603" and insert "sections 71-7603 and  
 4 71-7614".

5 2. On page 1, line 3, strike "Cumulative" and strike  
 6 "2006" and insert "2007"; and strike beginning with "sections" in  
 7 line 9 through "2006" in line 12 and insert "sections 71-7601,  
 8 71-7602, 71-7604, and 71-7609, Reissue Revised Statutes of  
 9 Nebraska, section 71-7610, Revised Statutes Cumulative Supplement,  
 10 2006, and sections 71-7603 and 71-7614, Revised Statutes  
 11 Supplement, 2007".

**LEGISLATIVE BILL 386.** Placed on Select File with amendment.  
 ER8148

1 1. On page 1, line 1, strike "and".

2 2. On page 3, line 24, after "otherwise" insert an  
 3 underscored comma.

4 3. On page 4, line 21; and page 7, line 3, strike

- 5 "attorney" and insert "attorney's".  
 6 4. On page 5, line 10, after the second "and" insert  
 7 "include".  
 8 5. On page 6, line 23, strike "other" and insert  
 9 "otherwise".  
 10 6. On page 7, line 1, strike "this section" and insert  
 11 "the act".

(Signed) Amanda McGill, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 352.** The Chambers amendment, FA163, found in this day's Journal, was renewed.

Senator Langemeier offered the following motion:

MO116

Unanimous consent to bracket until February 15, 2008.

No objections. So ordered.

**LEGISLATIVE BILL 123.** Title read. Considered.

Committee AM626, found on page 852, First Session, 2007, was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 692.** Title read. Considered.

### SENATOR LANGEMEIER PRESIDING

Senator Hudkins moved for a call of the house. The motion prevailed with 30 ayes, 0 nays, and 19 not voting.

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

Voting in the affirmative, 23:

Adams	Hansen	Kruse	Pankonin	Stuthman
Aguilar	Howard	Lathrop	Preister	Synowiecki
Ashford	Hudkins	McGill	Raikes	Wallman
Avery	Janssen	Nantkes	Rogert	
Chambers	Karpisek	Pahls	Schimek	

Voting in the negative, 16:

Burling	Dubas	Heidemann	Louden
Carlson	Erdman	Kopplin	McDonald
Christensen	Flood	Langemeier	Nelson
Dierks	Gay	Lautenbaugh	Wightman

Present and not voting, 4:

Fulton	Pedersen	Pirsch	White
--------	----------	--------	-------

Excused and not voting, 6:

Cornett	Fischer	Harms
Engel	Friend	Johnson

Failed to advance to Enrollment and Review Initial with 23 ayes, 16 nays, 4 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

**LEGISLATIVE BILL 179.** Title read. Considered.

Committee AM583, found on page 866, First Session, 2007, was considered.

### **PRESIDENT SHEEHY PRESIDING**

The committee amendment was adopted with 30 ayes, 0 nays, 11 present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review Initial with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

**LEGISLATIVE BILL 179A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

### **RESOLUTION**

**LEGISLATIVE RESOLUTION 234.** Introduced by Chambers, 11.

WHEREAS, Congress, by the Act of August 15, 1953, codified at 18 U.S.C. 1162 and 28 U.S.C. 1360, generally known as Public Law 280, ceded federal jurisdiction to the State of Nebraska over offenses committed by or against Indians and civil causes of action between Indians or to which Indians are parties that arise in Indian country in Nebraska; and

WHEREAS, Congress subsequently enacted the Indian Civil Rights Act of 1968, which included a provision codified at 25 U.S.C. 1323 that

authorizes the federal government to accept a retrocession of criminal or civil jurisdiction from the states subject to Public Law 280; and

WHEREAS, the State of Nebraska has retroceded much of the jurisdiction it acquired over tribal lands under Public Law 280 back to the federal government, including all civil and criminal jurisdiction within the Santee Sioux Reservation, LR 17, Ninety-seventh Legislature, 2001; all criminal jurisdiction within the Winnebago Reservation, LR 57, Eighty-ninth Legislature, 1986; and criminal jurisdiction within that part of the Omaha Indian Reservation located in Thurston County, except for offenses involving the operation of motor vehicles on public roads or highways within the reservation, LR 37, Eightieth Legislature, 1969; and

WHEREAS, the partial retrocession of criminal jurisdiction over the Omaha Indian Reservation has created confusion for federal, state, and tribal law enforcement officers because the Omaha Indian Reservation overlaps with multiple counties, while LR 37 only offered a retrocession of criminal jurisdiction in Thurston County, and because the retrocession was limited to offenses not involving the operation of motor vehicles on public roads and highways; and

WHEREAS, the State of Nebraska did not include any similar limitations on the geographic reach or scope of its retrocession of criminal jurisdiction over offenses occurring within the Winnebago Reservation and Santee Sioux Reservation; and

WHEREAS, the Omaha Tribe has petitioned the State of Nebraska to effectuate a complete retrocession to the United States of its remaining criminal and civil jurisdiction within the Omaha Indian Reservation; and

WHEREAS, the Omaha Tribe has already demonstrated the capability to assume its portion of the associated responsibilities by previously establishing a tribal court system and a tribal code of laws, which incorporates Nebraska motor vehicle and related laws; and

WHEREAS, the Nebraska State Patrol and the Omaha Tribe have entered into a cross-deputation agreement that empowers officers of the Nebraska State Patrol to enforce tribal laws within the exterior boundaries of the Omaha Indian Reservation; and

WHEREAS, the Bureau of Indian Affairs and the Omaha Tribe have entered into a cross-deputation agreement that empowers officers of the Bureau of Indian Affairs to enforce tribal laws within the exterior boundaries of the Omaha Indian Reservation and empowers officers of the Omaha Tribe to enforce federal laws within the exterior boundaries of the Omaha Indian Reservation.

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

1. That the Legislature retrocedes to the United States the criminal and civil jurisdiction over the Omaha Indian Reservation acquired by the State of Nebraska pursuant to Public Law 280 of 1953.

2. That the retrocession of jurisdiction extends to the exterior boundaries of the Omaha Indian Reservation regardless of the county and shall include offenses involving the operation of motor vehicles on public roads or highways.

3. That the retrocession of jurisdiction shall be effective at 12:01 A.M., October 1, 2008.

4. That the State of Nebraska and its political subdivisions shall take all necessary action to put this resolution into effect, such action to include arrangements with the Department of Interior and the department's Bureau of Indian Affairs concerning the assumption of law enforcement responsibilities in the areas of Indian country covered by this resolution and cooperative agreements with the Omaha Tribe and affected counties and municipalities.

### SPEAKER'S ANNOUNCEMENT

Pursuant to Rule 4, Section 8, LR234 was referred to the Reference Committee.

### COMMITTEE REPORTS

#### Revenue

**LEGISLATIVE BILL 915.** Placed on General File with amendment.  
AM1622

1 1. Insert the following new section:  
2 Sec. 7. Section 77-5803, Revised Statutes Supplement,  
3 2007, is amended to read:  
4 77-5803 (1) Any business firm which makes expenditures  
5 in research and experimental activities as defined in section  
6 174 of the Internal Revenue Code of 1986, as amended, in this  
7 state shall be allowed a research tax credit as provided in the  
8 Nebraska Advantage Research and Development Act. The credit amount  
9 shall equal fifteen percent of the federal credit allowed under  
10 section 41 of the Internal Revenue Code of 1986, as amended, or as  
11 apportioned to this state under subsection (2) of this section. The  
12 credit shall be allowed for the first tax year it is claimed and  
13 for the four tax years immediately following.

14 (2) For any business firm doing business both within  
15 and without this state, the amount of the federal credit may  
16 be determined either by dividing the amount expended in research  
17 and experimental activities in this state in any tax year ~~may~~  
18 ~~be determined either by satisfactory proof of purchase by the~~  
19 total amount expended in research and experimental activities or  
20 by apportioning the amount of the credit on the federal income tax  
21 return to the state based on the average of the property factor  
22 as determined in section 77-2734.12 and the payroll factor as  
23 determined in section 77-2734.13.

1 2. On page 28, line 4, strike "and 8" and insert "7, and  
2 9"; in line 7 strike "7, and 9" and insert "8, and 10"; and in  
3 line 11 strike "section 77-2717" and insert "sections 77-2717 and  
4 77-5803".

5 3. Renumber the remaining sections accordingly.

**LEGISLATIVE BILL 985.** Indefinitely postponed.

(Signed) Ray Janssen, Chairperson

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 750.** Placed on General File.

**LEGISLATIVE BILL 752.** Placed on General File.

**LEGISLATIVE BILL 856.** Placed on General File.

**LEGISLATIVE BILL 857.** Placed on General File.

**LEGISLATIVE BILL 763.** Placed on General File with amendment.  
AM1625

- 1 1. On page 2, line 23, after the period insert "The
- 2 reimbursement shall be paid from appropriations to the Office of
- 3 the Nebraska Capitol Commission.".

(Signed) Ray Aguilar, Chairperson

### MESSAGE FROM THE GOVERNOR

January 18, 2008

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

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individual is being appointed to the State Foster Care Review Board:

Dave Schroeder, 1103 Arrowhead Ct., Lexington, NE 68850

The aforementioned appointee is respectfully submitted for your consideration. Copies of the appointment certificate and application are attached for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

### NOTICE OF COMMITTEE HEARINGS

Natural Resources

Room 1525

Friday, February 01, 2008 1:30 p.m.

LB1138

(Signed) LeRoy Louden, Chairperson

Judiciary

Room 1113

Friday, February 01, 2008 1:30 p.m.

LB839

LB1063

Esther Casmer - Nebraska Board of Parole

(Signed) Brad Ashford, Chairperson

Agriculture

Room 2102

Tuesday, February 05, 2008 1:30 p.m.

LB751

LB862

LB860

Room 1510

Tuesday, February 12, 2008 1:30 p.m.

LB1174

LB1113

Room 2102

Tuesday, February 19, 2008 1:30 p.m.

LB1172

LB999

LB1171

Room 1524

Tuesday, February 26, 2008 1:30 p.m.

LB861

LB1044

LB1116

LB1114  
LB1115

Tamas Allan - State Fair Board

(Signed) Philip Erdman, Chairperson

**MOTION - Print in Journal**

Senator White filed the following motion to LB495:

MO115

Recommit to the Business and Labor Committee.

**UNANIMOUS CONSENT - Add Cointroducer**

Senator Erdman asked unanimous consent to add his name as cointroducer to LB782. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Brittany Dostal from Howells and Liz Breunig from Wahoo; Trudy, Jace, and Kyle Henderson from rural Sioux County, Scottsbluff; and Senator Preister's cousin, Jim Miller, from Belden.

**ADJOURNMENT**

At 12:01 p.m., on a motion by Senator Karpisek, the Legislature adjourned until 10:00 a.m., Monday, January 28, 2008.

Patrick J. O'Donnell  
Clerk of the Legislature