

**TWENTY-SEVENTH DAY - FEBRUARY 20, 2008****LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE  
SECOND SESSION****TWENTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, February 20, 2008

**PRAYER**

The prayer was offered by Senator Carlson.

**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 Janssen and Synowiecki who were excused; and Senators Ashford, Engel, and Heidemann who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-sixth day was approved.

**COMMITTEE REPORT**

Enrollment and Review

**LEGISLATIVE BILL 395A.** Placed on Final Reading Second.

(Signed) Amanda McGill, Chairperson

**COMMITTEE REPORTS**

Revenue

**LEGISLATIVE BILL 846.** Placed on General File with amendment.  
AM1731

- 1 1. Insert the following new sections:
- 2 Sec. 20. Sections 5, 9, 15, and 21 of this act become
- 3 operative on January 1, 2009. The other sections of this act become
- 4 operative on their effective date.
- 5 Sec. 21. Original sections 66-4,105 and 66-6,107, Revised
- 6 Statutes Cumulative Supplement, 2006, and section 66-489, Revised
- 7 Statutes Supplement, 2007, are repealed.
- 8 2. On page 20, line 4; and page 23, line 2, strike "At"

- 9 and insert "Commencing January 1, 2009, at".  
 10 3. On page 27, line 15, before "sections" insert "and";  
 11 in line 16 strike "66-4,105,"; in line 17 strike "66-6,107,"; and  
 12 strike beginning with "and" in line 18 through the last comma in  
 13 line 19.  
 14 4. Renumber the remaining sections accordingly.

**LEGISLATIVE BILL 912.** Placed on General File with amendment.  
 AM1927

- 1 1. On page 3, line 3, strike "(5)", show as stricken, and  
 2 insert "(5)(a)" and in line 9 after the semicolon insert "and  
 3 (b) Beginning with applications for financial assistance  
 4 received on or after February 1, 2008, eligible facility does not  
 5 include any publicly or privately owned sports arena facility with  
 6 a seating capacity greater than sixteen thousand seats;".

**LEGISLATIVE BILL 732.** Indefinitely postponed.  
**LEGISLATIVE BILL 733.** Indefinitely postponed.  
**LEGISLATIVE BILL 737.** Indefinitely postponed.  
**LEGISLATIVE BILL 757.** Indefinitely postponed.  
**LEGISLATIVE BILL 881.** Indefinitely postponed.  
**LEGISLATIVE BILL 913.** Indefinitely postponed.  
**LEGISLATIVE BILL 946.** Indefinitely postponed.  
**LEGISLATIVE BILL 974.** Indefinitely postponed.  
**LEGISLATIVE BILL 1012.** Indefinitely postponed.  
**LEGISLATIVE BILL 1026.** Indefinitely postponed.  
**LEGISLATIVE BILL 1040.** Indefinitely postponed.

**LEGISLATIVE RESOLUTION 220CA.** Indefinitely postponed.  
**LEGISLATIVE RESOLUTION 230CA.** Indefinitely postponed.

(Signed) M. L. Dierks, Vice Chairperson

### SELECT FILE

**LEGISLATIVE BILL 268.** Advanced to Enrollment and Review for  
 Engrossment.

**LEGISLATIVE BILL 782.** ER8155, found on page 522, was adopted.

Senator Howard renewed her amendment, AM1847, found on page 579.

The Howard amendment was adopted with 26 ayes, 0 nays, 12 present and  
 not voting, and 11 excused and not voting.

Pending.

**RESOLUTION**

Pursuant to Rule 4, Sec. 5(b), LR239 was adopted.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LR239.

**SELECT FILE**

**LEGISLATIVE BILL 782.** Senator Chambers renewed his amendment, AM1878, found on page 589.

Senator Chambers withdrew his amendment.

Advanced to Enrollment and Review for Engrossment.

**COMMITTEE REPORTS**

Natural Resources

**LEGISLATIVE BILL 581.** Indefinitely postponed.

**LEGISLATIVE BILL 945.** Indefinitely postponed.

(Signed) LeRoy Louden, Chairperson

**MOTION - Print in Journal**

Senator Johnson filed the following motion to LB1149:

MO130

Withdraw.

**NOTICE OF COMMITTEE HEARING**

Revenue

Room 1524

Wednesday, February 27, 2008 1:30 p.m.

LB1149 (cancel)

(Signed) M. L. Dierks, Vice Chairperson

**AMENDMENTS - Print in Journal**

Senator Lautenbaugh filed the following amendment to LB725:

AM1710

- 1 1. On page 3, strike beginning with the second "of" in
- 2 line 11 through "population" in line 13 and insert "and villages".

Senator Heidemann filed the following amendment to LB756:  
AM1853

- 1 1. Insert the following new section:
- 2 Sec. 12. Section 60-6,310, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 60-6,310 No person shall operate a moped upon a highway
- 5 unless such person has ~~(1) a valid Class O operator's license, or~~
- 6 ~~(2) a valid school or learner's permit.~~
- 7 2. On page 17, line 18, strike "15" and insert "16";
- 8 and in line 20 after "Original" insert "section 60-6,310, Reissue
- 9 Revised Statutes of Nebraska, and".
- 10 3. Renumber the remaining sections accordingly.

### RESOLUTION

**LEGISLATIVE RESOLUTION 242.** Introduced by Aguilar, 35.

WHEREAS, Isaiah Aguilar is the winner of the 112-pound Class A 2008 State Championship in wrestling; and

WHEREAS, Isaiah, a senior at Grand Island Senior High School, defeated Patrick Rollins of Omaha Creighton Prep to win the championship, 6-4; and

WHEREAS, Isaiah's opponents in the semifinal and final rounds had previously defeated him a combined total of ten times; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

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

1. That Isaiah Aguilar be congratulated for his achievements at the Class A 2008 State Championship in wrestling.

2. That a copy of this resolution be sent to Isaiah Aguilar.

Laid over.

### SELECT FILE

**LEGISLATIVE BILL 624.** Senator Pirsch renewed his amendment, AM1842, found on page 580.

The Pirsch amendment was adopted with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

### GENERAL FILE

**LEGISLATIVE BILL 851.** Title read. Considered.

Committee AM1782, found on page 560, was adopted with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 755.** Title read. Considered.

Committee AM1707, found on page 463, was considered.

Senator Fischer renewed her amendment, AM1898, found on page 616, to the committee amendment.

The Fischer amendment was adopted with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

The committee amendment, as amended, was adopted with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

#### SELECT FILE

**LEGISLATIVE BILL 280.** ER8158, found on page 566, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 280A.** ER8157, found on page 566, was adopted.

Senator Stuthman renewed his motion, MO126, found on page 571, to indefinitely postpone.

The Stuthman motion to indefinitely postpone failed with 6 ayes, 16 nays, 24 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 500.** ER8156, found on page 566, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 623.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 609.** ER8159, found on page 567, was adopted.

Senator Carlson offered the following amendment:  
AM1960

- 1 1. Strike the original sections and all amendments  
 2 thereto and insert the following new sections:  
 3 Section 1. Section 81-12,126, Revised Statutes  
 4 Supplement, 2007, is amended to read:  
 5 81-12,126 The purpose of the Building Entrepreneurial  
 6 Communities Act is to support economically depressed rural areas  
 7 of Nebraska in building entrepreneurial communities through grants  
 8 that will create community capacity to build and sustain programs  
 9 to generate and retain wealth in the community and region.  
 10 Specifically, the act will:  
 11 (1) Provide education and technical assistance to  
 12 energize small business development and entrepreneurship;  
 13 (2) Provide technical assistance to facilitate small  
 14 business transfer;  
 15 (3) Build community business capacity and leadership  
 16 programs;  
 17 (4) Generate opportunities that will attract and retain  
 18 young people and families;  
 19 (5) Provide education about philanthropy and  
 20 intergenerational transfer of wealth;  
 21 (6) Build community endowments to support these  
 22 activities; ~~and~~  
 23 (7) Establish community initiatives to attract new  
 1 residents; ~~and-~~  
 2 (8) Provide marketing assistance to communities to  
 3 attract new residents from outside of the State of Nebraska.  
 4 Marketing assistance may include the creation of new web sites,  
 5 the improvement of existing web sites, creation and distribution  
 6 of printed or electronic marketing materials, and programs which  
 7 promote the community to new residents.  
 8 Sec. 2. Original section 81-12,126, Revised Statutes  
 9 Supplement, 2007, is repealed.

The Carlson amendment was adopted with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 609A.** ER8160, found on page 567, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 668.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 715.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 279.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 896.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 898.** Considered.

Speaker Flood requested to pass over LB898.

**LEGISLATIVE BILL 790.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 791.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 925.** ER8161, found on page 578, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 915.** ER8163, found on page 584, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 750.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 752.** ER8162, found on page 584, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 856.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 857.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 744.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 747.** Advanced to Enrollment and Review for Engrossment.

## **COMMITTEE REPORT**

Natural Resources

**LEGISLATIVE BILL 880.** Placed on General File with amendment.

AM1787

1 1. Insert the following new sections:  
 2 Sec. 5. Section 2-3234, Revised Statutes Cumulative  
 3 Supplement, 2006, is amended to read:  
 4 2-3234 ~~Each~~ Except as provided in section 2 of this  
 5 act, each district shall have the power and authority to exercise  
 6 the power of eminent domain when necessary to carry out its  
 7 authorized purposes within the limits of the district or outside  
 8 its boundaries. Exercise of eminent domain shall be governed by the  
 9 provisions of sections 76-704 to 76-724, except that whenever any  
 10 district seeks to acquire the right to interfere with the use of  
 11 any water being used for power purposes in accordance with sections  
 12 46-204, 70-668, 70-669, and 70-672 and is unable to agree with  
 13 the user of such water upon the compensation to be paid for such  
 14 interference, the procedure to condemn property shall be followed  
 15 in the manner set forth in sections 76-704 to 76-724 and no other  
 16 property shall be included in such condemnation. No district shall  
 17 contract for delivery of water to persons within the corporate  
 18 limits of any village, city, or metropolitan utilities district,  
 19 nor in competition therewith outside such corporate limits, except  
 20 by consent of and written agreement with the governing body of such  
 21 political subdivision. A village, city, or metropolitan utilities  
 22 district may negotiate and, if necessary, exercise the power of  
 23 eminent domain for the acquisition of water supply facilities of  
 1 the district which are within its boundaries.

2 Sec. 6. Section 2-3290.01, Revised Statutes Cumulative  
 3 Supplement, 2006, is amended to read:  
 4 2-3290.01 (1) A district shall permit public use of  
 5 those portions of a water project located on lands owned by  
 6 the district and on land over which the district has a lease  
 7 or an easement permitting use thereof for public recreational  
 8 purposes. All recreational users of such portions of a water  
 9 project shall abide by the applicable rules and regulations adopted  
 10 and promulgated by the board.

11 (2) The district shall provide public access for  
 12 recreational use at designated access points at any water  
 13 project. Recreational users, whether public or private, shall  
 14 abide by all applicable rules and regulations for use of the  
 15 water project adopted and promulgated by the district or the  
 16 political subdivision in which the water project is located. Public  
 17 recreational users may only access the water project through such  
 18 designated access points. Nothing in this subsection shall require  
 19 public access when the portion of the project cost paid by the  
 20 natural resources district with public funds does not exceed twenty  
 21 percent of the total cost of the project.

22 (3) For purposes of this section water project means  
 23 a project with cooperators or others, as authorized in section  
 24 2-3235, that results in construction of a reservoir or other body  
 25 of water having a permanent pool suitable for recreational purposes

26 greater than one hundred fifty surface acres, the construction  
 27 of which commenced after July 14, 2006. Water project shall  
 1 not mean soil conservation projects, wetlands projects, projects  
 2 described in section 2 of this act, or other district projects with  
 3 cooperators or others that do not have a recreational purpose.

4 Sec. 8. Original sections 2-3234 and 2-3290.01, Revised  
 5 Statutes Cumulative Supplement, 2006, are repealed.

6 2. On page 2, line 10, before "The" insert "(1)"; and in  
 7 line 15 after the period insert: "No such project shall include a  
 8 reservoir or water quality basin having a permanent pool greater  
 9 than five hundred surface acres. Any project having a permanent  
 10 pool greater than twenty surface acres shall provide for public  
 11 access.

12 (2) A district shall not acquire real property for a  
 13 project described in subsection (1) of this section by eminent  
 14 domain proceedings pursuant to sections 76-704 to 76-724 if the  
 15 real property is to be turned over to a nonpublic entity after such  
 16 acquisition."

17 3. Renumber the remaining section accordingly.

(Signed) LeRoy Loudon, Chairperson

**AMENDMENT - Print in Journal**

Senator Stuthman filed the following amendment to LB766:  
 AM1966

(Amendments to Standing Committee amendments, AM1865)

- 1 1. On page 3, line 4, after the semicolon insert "and";
- 2 strike lines 5 through 8; and in line 9 strike "(k)" and insert
- 3 "(j)".

**UNANIMOUS CONSENT - Add Cointroducers**

Senators Engel and Kruse asked unanimous consent to add their names as  
 cointroducers to LB786. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Senator Lautenbaugh's sons, Kyle and Nathan  
 Lautenbaugh; Jane Behrhorst from Axtell; Bonnie Reed and Cherie Brendel  
 from Holdrege, Sue Williams from Nora, and Ann Karthausser and Linda  
 Brown from Lincoln; members of Leadership Grand Island, Hastings, and  
 York; members of Youth Advisory Leadership Council and teacher from  
 Madison; and a group from Madison County.

The Doctor of the Day was Dr. Erin Cooper from Omaha.

**ADJOURNMENT**

At 11:54 a.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Thursday, February 21, 2008.

Patrick J. O'Donnell  
Clerk of the Legislature