

TWENTY-EIGHTH DAY - FEBRUARY 21, 2008**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
SECOND SESSION****TWENTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, February 21, 2008

PRAYER

The prayer was offered by Pastor Doyle Karst, St. John's Lutheran Church, Sterling.

ROLL CALL

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

The roll was called and all members were present except Senators Dierks, Dubas, and Johnson who were excused; and Senators Ashford, Erdman, Howard, Karpisek, Lautenbaugh, Loudon, Nantkes, Pedersen, Raikes, and Synowiecki who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-seventh day was approved.

ANNOUNCEMENTS

Senator Fulton designates LB765 as his priority bill.

Senator Ashford designates LB958 as his priority bill.

Senator Engel designates LB878 as his priority bill.

Senator Kruse designates LB810 as his priority bill.

MOTION - Withdraw LB1149

Senator Gay renewed the Johnson motion, MO130, found on page 629, to withdraw LB1149.

The Johnson motion to withdraw prevailed with 26 ayes, 0 nays, 10 present and not voting, and 13 excused and not voting.

ANNOUNCEMENT

The Chair announced today is Senator Hudkins' birthday.

GENERAL FILE

LEGISLATIVE BILL 766. Title read. Considered.

Committee AM1865, found on page 620, was considered.

Senator Stuthman renewed his amendment, AM1966, found on page 635, to the committee amendment.

SENATOR AGUILAR PRESIDING**SENATOR MCDONALD PRESIDING**

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

Senator Stuthman requested a roll call vote on his amendment.

Voting in the affirmative, 13:

Burling	Fischer	Harms	Nelson	Wightman
Christensen	Flood	Kopplin	Stuthman	
Erdman	Hansen	Louden	Wallman	

Voting in the negative, 27:

Adams	Engel	Lathrop	Pankonin	Schimek
Aguilar	Fulton	Lautenbaugh	Pedersen	Synowiecki
Ashford	Howard	McDonald	Pirsch	White
Avery	Hudkins	McGill	Preister	
Chambers	Karpisek	Nantkes	Raikes	
Cornett	Kruse	Pahls	Rogert	

Present and not voting, 4:

Carlson	Gay	Heidemann	Janssen
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Excused and not voting, 5:

Dierks	Dubas	Friend	Johnson	Langemeier
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The Stuthman amendment lost with 13 ayes, 27 nays, 4 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Pending.

ANNOUNCEMENTS

Senator Fischer designates LB846 as her priority bill.

Senator Janssen designates LB965 as his priority bill.

The Revenue Committee designates LB916 and LB964 as its priority bills.

Senator Nelson designates LB1165 as his priority bill.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 268. Placed on Final Reading.

LEGISLATIVE BILL 624. Placed on Final Reading.

ST9067

The following changes, required to be reported for publication in the Journal, have been made:

1. Original section 2 has been struck.

LEGISLATIVE BILL 782. Placed on Final Reading.

(Signed) Amanda McGill, Chairperson

COMMITTEE REPORTS

Natural Resources

LEGISLATIVE BILL 798. Placed on General File with amendment.

AM1894

- 1 1. Strike the original sections and insert the following
- 2 new sections:

- 3 Section 1. Section 46-283, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:

- 5 46-283 The Legislature hereby finds and declares that the
- 6 practice of reusing ground water from irrigation water reuse pits
- 7 on irrigated land contributes to the efficient use and conservation
- 8 of the state's water resources and that such reuse may be more
- 9 feasible when done from irrigation water reuse pits located within
- 10 ephemeral natural streams.

- 11 Sec. 2. Section 46-286, Revised Statutes Cumulative
- 12 Supplement, 2006, is amended to read:

- 13 46-286 ~~Headwater segment of a~~ An ephemeral natural stream
- 14 shall mean that portion of a natural stream in which water
- 15 flows only after a precipitation event or when augmented by
- 16 surface water runoff caused by the pumping of ground water for

17 irrigation. The ~~that~~ portion of a natural stream that is shown as
 18 an intermittent stream on the most ~~recently published~~ recent United
 19 States Geological Survey topographic quadrangle map ~~published prior~~
 20 to the effective date of this act shall be considered an ephemeral
 21 natural stream unless the Department of Natural Resources has
 22 investigated the stream and determined that the stream or a reach
 23 of the stream is perennial or intermittent and subject to Chapter
 1 46, article 2. The department's determination for the purposes
 2 of this section shall be adopted and promulgated in rule or
 3 regulation.

4 Sec. 3. Section 46-287, Reissue Revised Statutes of
 5 Nebraska, is amended to read:

6 46-287 Notwithstanding any other provision of law, any
 7 person intending to or in the process of reusing ground water from
 8 an irrigation water reuse pit located within ~~a headwater segment of~~
 9 ~~a~~ an ephemeral natural stream shall be exempt from the provisions
 10 of Chapter 46, article 2, which would otherwise apply to such pits,
 11 and from the provisions of section 46-637.

12 Sec. 4. Section 46-291, Revised Statutes Cumulative
 13 Supplement, 2006, is amended to read:

14 46-291 (1) Upon receipt of an application filed under
 15 section 46-290 for a transfer in the location of use of an
 16 appropriation, the Department of Natural Resources shall review
 17 it for compliance with this subsection. The Director of Natural
 18 Resources may approve the application without notice or hearing
 19 if he or she determines that: (a) The appropriation is used and
 20 will continue to be used exclusively for irrigation purposes; (b)
 21 the only lands involved in the proposed transfer are (i) lands
 22 within the quarter section of land to which the appropriation is
 23 appurtenant, (ii) lands within such quarter section of land and
 24 one or more quarter sections of land each of which is contiguous
 25 to the quarter section of land to which the appropriation is
 26 appurtenant, or (iii) lands within the boundaries or service
 27 area of and capable of service by the same irrigation district,
 1 reclamation district, public power and irrigation district, or
 2 mutual irrigation or canal company; (c) after the transfer, the
 3 total number of acres irrigated under the appropriation will be no
 4 greater than the number of acres that could legally be irrigated
 5 under the appropriation prior to the transfer; (d) all the land
 6 involved in the transfer is under the same ownership or is within
 7 the same irrigation district, reclamation district, public power
 8 and irrigation district, or mutual irrigation or canal company;
 9 (e) the transfer will not result in a change in the point of
 10 diversion or the point of diversion will be changed but the
 11 change meets the following requirements: (i) The new point of
 12 diversion is on the same named stream, the same tributary, or
 13 the same river or creek as the approved point of diversion; (ii)
 14 the proposed point of diversion will not move above or below an
 15 existing diversion point owned by another appropriator; and (iii)

16 the proposed point of diversion will not move above or below a
17 tributary stream or a constructed river return or a constructed
18 drain; and (f) the transfer will not diminish the water supply
19 available for or otherwise adversely affect any other surface
20 water appropriator. If transfer of an appropriation with associated
21 incidental underground water storage is approved in accordance
22 with this subsection, the associated incidental underground water
23 storage also may be transferred pursuant to this subsection as
24 long as such transfer would continue to be consistent with the
25 requirements of this subsection. If necessary, the boundaries of
26 the incidental underground water storage area may be modified to
27 reflect any change in the location of that storage consistent with
1 such a transfer. Transfers shall not be approved pursuant to this
2 subsection until the department has adopted and promulgated rules
3 and regulations establishing the criteria it will use to determine
4 whether proposed transfers are consistent with subdivision (1)(f)
5 of this section.

6 (2) If after reviewing an application filed under section
7 46-290 the director determines that it cannot be approved pursuant
8 to subsection (1) of this section, he or she shall cause a notice
9 of such application to be posted on the department's web site,
10 to be sent by certified mail to each holder of a mortgage or
11 deed of trust that is identified by the applicant pursuant to
12 subdivision (1)(b)(v) of section 46-290 and to any entity owning
13 facilities currently used or proposed to be used for purposes
14 of diversion or delivery of water under the appropriation, and
15 to be published at the applicant's expense at least once each
16 week for three consecutive weeks in at least one newspaper of
17 general circulation in each county containing lands to which the
18 appropriation is appurtenant and, if applicable, in at least one
19 newspaper of general circulation in each county containing lands to
20 which the appropriation is proposed to be transferred.

21 (3) The notice shall contain: (a) A description of the
22 appropriation; (b) the number assigned to such appropriation in
23 the records of the department; (c) the date of priority; (d) if
24 applicable, a description of the land or stream reach to which
25 such water appropriation is proposed to be transferred; (e) if
26 applicable, the type of appropriation to which the appropriation
27 is proposed to be changed; (f) if applicable, the proposed change
1 in the purpose of use; (g) whether the proposed transfer or change
2 is to be permanent or temporary and, if temporary, the duration
3 of the proposed transfer or change; and (h) any other information
4 the director deems relevant and essential to provide the interested
5 public with adequate notice of the proposed transfer or change.

6 (4) The notice shall state (a) that any interested person
7 may object to and request a hearing on the application by filing
8 such objections in writing specifically stating the grounds for
9 each objection and (b) that any such objection and request shall be
10 filed in the office of the department within two weeks after the

11 date of final publication of the notice.

12 (5) Within the time period allowed by this section for
 13 the filing of objections and requests for hearings, the county
 14 board of any county containing land to which the appropriation
 15 is appurtenant and, if applicable, the county board of any county
 16 containing land to which the appropriation is proposed to be
 17 transferred may provide the department with comments about the
 18 potential economic impacts of the proposed transfer or change in
 19 such county. The filing of any such comments by a county board
 20 shall not make the county a party in the application process, but
 21 such comments shall be considered by the director in determining
 22 pursuant to section 46-294 whether the proposed transfer or change
 23 is in the public interest.

24 Sec. 5. Section 46-299, Reissue Revised Statutes of
 25 Nebraska, is amended to read:

26 46-299 Any person who has obtained a permit for
 27 intentional underground water storage ~~associated with a project not~~
 1 ~~existing on August 26, 1983,~~ and recovery of such water, pursuant
 2 to section 46-233, 46-240, 46-241, 46-242, or 46-297 may, subject
 3 to section 46-2,101, levy a fee or assessment against any person
 4 for the right or probable right to withdraw or otherwise use such
 5 stored water. Such fee or assessment may be levied against any
 6 land in connection with which such underground water storage has
 7 occurred or probably will occur, and may be varied based on the
 8 degree to which underground water storage has occurred or will
 9 occur. No fee or assessment shall represent more than the fair
 10 market value of such recharge, except that a fee or assessment may
 11 include a sum sufficient to amortize the operation, maintenance,
 12 repair, and capital costs of the project, apportioned on the degree
 13 to which recharge has occurred or is likely to occur, and on the
 14 degree to which any surface water is delivered.

15 Sec. 6. Original sections 46-283, 46-287, and 46-299,
 16 Reissue Revised Statutes of Nebraska, and sections 46-286 and
 17 46-291, Revised Statutes Cumulative Supplement, 2006, are repealed.

LEGISLATIVE BILL 1131. Placed on General File with amendment.
 AM1895

1 1. Strike the original sections and insert the following
 2 new sections:

3 Section 1. Section 2-3226.05, Revised Statutes
 4 Supplement, 2007, is amended to read:

5 2-3226.05 (1) The district may levy an occupation tax
 6 upon the activity of irrigation of agricultural lands within
 7 such district on an annual basis, not to exceed ten dollars
 8 per irrigated acre, for the purpose of repaying principal and
 9 interest on any bonds or refunding bonds issued pursuant to section
 10 2-3226.01 for one or more projects under section 2-3226.04.

11 (2) Acres classified by the county assessor as irrigated
 12 shall be subject to such district's occupation tax unless, on or

13 before July 1, 2007, and on or before March 1 in each subsequent
 14 year, the record owner certifies to the district the nonirrigation
 15 status of such acres.

16 (3) Any such occupation tax shall remain in effect so
 17 long as the district has bonds outstanding which have been issued
 18 stating such occupation tax as an available source for payment.

19 (4) Such occupation taxes shall be certified to,
 20 collected by, and accounted for by the county treasurer at the
 21 same time and in the same manner as general real estate taxes,
 22 and such occupation taxes shall be and remain a perpetual lien
 23 against such real estate until paid. Such occupation taxes shall
 1 become delinquent at the same time and in the same manner as
 2 general real property taxes. The county treasurer shall publish and
 3 post a list of delinquent occupation taxes with the list of real
 4 property subject to sale for delinquent property taxes provided
 5 for in section 77-1804. In addition, the list shall be provided to
 6 natural resources districts which levied the delinquent occupation
 7 taxes. The list shall include the record owner's name, the parcel
 8 identification number, and the amount of delinquent occupation tax.
 9 For services rendered in the collection of the occupation tax, the
 10 county treasurer shall receive the fee provided for collection of
 11 general natural resources district money under section 33-114.

12 (5) Such lien shall be inferior only to general taxes
 13 levied by political subdivisions of the state. When such occupation
 14 taxes have become delinquent and the real property on which the
 15 irrigation took place has not been offered at any tax sale, the
 16 district may proceed in district court in the county in which the
 17 real estate is situated to foreclose in its own name the lien
 18 in the same manner and with like effect as a foreclosure of a
 19 real estate mortgage, except that sections 77-1903 to 77-1917 shall
 20 govern when applicable.

21 Sec. 2. Original section 2-3226.05, Revised Statutes
 22 Supplement, 2007, is repealed.

(Signed) LeRoy Louden, Chairperson

Urban Affairs

LEGISLATIVE BILL 1056. Placed on General File.

LEGISLATIVE BILL 1072. Placed on General File with amendment.
 AM1843

- 1 1. On page 7, line 4, strike "two hundred ten", show as
- 2 stricken, and insert "one hundred eighty"; and in line 11 strike
- 3 "two-hundred-ten-day" and show as stricken.

(Signed) Mike Friend, Chairperson

Judiciary

LEGISLATIVE BILL 764. Placed on General File with amendment.
AM1592

- 1 1. Insert the following new sections:
- 2 Sec. 6. The intentional tripping or causing to fall, or
- 3 lassoing or roping the legs of, any equine by any means for the
- 4 purpose of entertainment, sport, practice, or contest shall not be
- 5 considered a commonly accepted practice occurring in conjunction
- 6 with sanctioned rodeos, animal racing, or pulling contests.
- 7 Sec. 7. The intentional tripping, causing to fall, or
- 8 dragging of any bovine by its tail by any means for the
- 9 purpose of entertainment, sport, practice, or contest shall not
- 10 be considered a commonly accepted practice occurring in conjunction
- 11 with sanctioned rodeos, animal racing, or pulling contests.
- 12 2. On page 2, lines 3 and 9; page 4, line 8; page 5, line
- 13 19; and page 6, lines 2 and 6, strike "and 4" and insert ". 4, 6,
- 14 and 7".
- 15 3. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 844. Placed on General File with amendment.
AM1784

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 28-101, Revised Statutes Supplement,
- 4 2007, is amended to read:
- 5 28-101 Sections 28-101 to 28-1350 and sections 5 and 6 of
- 6 this act shall be known and may be cited as the Nebraska Criminal
- 7 Code.
- 8 Sec. 2. Section 28-416, Revised Statutes Cumulative
- 9 Supplement, 2006, is amended to read:
- 10 28-416 (1) Except as authorized by the Uniform Controlled
- 11 Substances Act, it shall be unlawful for any person knowingly or
- 12 intentionally: (a) To manufacture, distribute, deliver, dispense,
- 13 or possess with intent to manufacture, distribute, deliver, or
- 14 dispense a controlled substance; or (b) to create, distribute,
- 15 or possess with intent to distribute a counterfeit controlled
- 16 substance.
- 17 (2) Except as provided in subsections (4), (5), (7), (8),
- 18 (9), and (10) of this section, any person who violates subsection
- 19 (1) of this section with respect to: (a) A controlled substance
- 20 classified in Schedule I, II, or III of section 28-405 which is an
- 21 exceptionally hazardous drug shall be guilty of a Class II felony;
- 22 (b) any other controlled substance classified in Schedule I, II, or
- 23 III of section 28-405 shall be guilty of a Class III felony; or (c)
- 1 a controlled substance classified in Schedule IV or V of section
- 2 28-405 shall be guilty of a Class IIIA felony.
- 3 (3) A person knowingly or intentionally possessing a
- 4 controlled substance, except marijuana, unless such substance was

5 obtained directly or pursuant to a medical order issued by a
6 practitioner authorized to prescribe while acting in the course of
7 his or her professional practice, or except as otherwise authorized
8 by the act, shall be guilty of a Class IV felony.

9 (4)(a) Except as authorized by the Uniform Controlled
10 Substances Act, any person eighteen years of age or older who
11 knowingly or intentionally manufactures, distributes, delivers,
12 dispenses, or possesses with intent to manufacture, distribute,
13 deliver, or dispense a controlled substance or a counterfeit
14 controlled substance (i) to a person under the age of eighteen
15 years, (ii) in, on, or within one thousand feet of the real
16 property comprising a public or private elementary, vocational, or
17 secondary school, a community college, a public or private college,
18 junior college, or university, or a playground, or (iii) within one
19 hundred feet of a public or private youth center, public swimming
20 pool, or video arcade facility shall be punished by the next higher
21 penalty classification than the penalty prescribed in subsection
22 (2), (7), (8), (9), or (10) of this section, depending upon the
23 controlled substance involved, for the first violation and for a
24 second or subsequent violation shall be punished by the next higher
25 penalty classification than that prescribed for a first violation
26 of this subsection, but in no event shall such person be punished
by a penalty greater than a Class IB felony.

1 (b) For purposes of this subsection:

2 (i) Playground shall mean any outdoor facility, including
3 any parking lot appurtenant to the facility, intended for
4 recreation, open to the public, and with any portion containing
5 three or more apparatus intended for the recreation of children,
6 including sliding boards, swingsets, and teeterboards;

7 (ii) Video arcade facility shall mean any facility
8 legally accessible to persons under eighteen years of age, intended
9 primarily for the use of pinball and video machines for amusement,
10 and containing a minimum of ten pinball or video machines; and

11 (iii) Youth center shall mean any recreational facility
12 or gymnasium, including any parking lot appurtenant to the facility
13 or gymnasium, intended primarily for use by persons under eighteen
14 years of age which regularly provides athletic, civic, or cultural
15 activities.

16 (5)(a) Except as authorized by the Uniform Controlled
17 Substances Act, it shall be unlawful for any person eighteen
18 years of age or older to knowingly and intentionally employ, hire,
19 use, cause, persuade, coax, induce, entice, seduce, or coerce any
20 person under the age of eighteen years to manufacture, transport,
21 distribute, carry, deliver, dispense, prepare for delivery, offer
22 for delivery, or possess with intent to do the same a controlled
23 substance or a counterfeit controlled substance.

24 (b) Except as authorized by the Uniform Controlled
25 Substances Act, it shall be unlawful for any person eighteen years
26 of age or older to knowingly and intentionally employ, hire, use,

27 cause, persuade, coax, induce, entice, seduce, or coerce any person
1 under the age of eighteen years to aid and abet any person in
2 the manufacture, transportation, distribution, carrying, delivery,
3 dispensing, preparation for delivery, offering for delivery, or
4 possession with intent to do the same of a controlled substance or
5 a counterfeit controlled substance.

6 (c) Any person who violates subdivision (a) or (b) of
7 this subsection shall be punished by the next higher penalty
8 classification than the penalty prescribed in subsection (2), (7),
9 (8), (9), or (10) of this section, depending upon the controlled
10 substance involved, for the first violation and for a second or
11 subsequent violation shall be punished by the next higher penalty
12 classification than that prescribed for a first violation of this
13 subsection, but in no event shall such person be punished by a
14 penalty greater than a Class IB felony.

15 (6) It shall not be a defense to prosecution for
16 violation of subsection (4) or (5) of this section that the
17 defendant did not know the age of the person through whom the
18 defendant violated such subsection.

19 (7) Any person who violates subsection (1) of this
20 section with respect to cocaine or any mixture or substance
21 containing a detectable amount of cocaine in a quantity of:

22 (a) One hundred forty grams or more shall be guilty of a
23 Class IB felony;

24 (b) At least twenty-eight grams but less than one hundred
25 forty grams shall be guilty of a Class IC felony; or

26 (c) At least ten grams but less than twenty-eight grams
27 shall be guilty of a Class ID felony.

1 (8) Any person who violates subsection (1) of this
2 section with respect to base cocaine (crack) or any mixture or
3 substance containing a detectable amount of base cocaine in a
4 quantity of:

5 (a) One hundred forty grams or more shall be guilty of a
6 Class IB felony;

7 (b) At least twenty-eight grams but less than one hundred
8 forty grams shall be guilty of a Class IC felony; or

9 (c) At least ten grams but less than twenty-eight grams
10 shall be guilty of a Class ID felony.

11 (9) Any person who violates subsection (1) of this
12 section with respect to heroin or any mixture or substance
13 containing a detectable amount of heroin in a quantity of:

14 (a) One hundred forty grams or more shall be guilty of a
15 Class IB felony;

16 (b) At least twenty-eight grams but less than one hundred
17 forty grams shall be guilty of a Class IC felony; or

18 (c) At least ten grams but less than twenty-eight grams
19 shall be guilty of a Class ID felony.

20 (10) Any person who violates subsection (1) of this
21 section with respect to amphetamine, its salts, optical isomers,

22 and salts of its isomers, or with respect to methamphetamine, its
23 salts, optical isomers, and salts of its isomers, in a quantity of:

24 (a) One hundred forty grams or more shall be guilty of a
25 Class IB felony;

26 (b) At least twenty-eight grams but less than one hundred
27 forty grams shall be guilty of a Class IC felony; or

1 (c) At least ten grams but less than twenty-eight grams
2 shall be guilty of a Class ID felony.

3 (11) Any person knowingly or intentionally possessing
4 marijuana weighing more than one ounce but not more than one pound
5 shall be guilty of a Class ~~III~~III misdemeanor.

6 (12) Any person knowingly or intentionally possessing
7 marijuana weighing more than one pound shall be guilty of a Class
8 IV felony.

9 (13) Any person knowingly or intentionally possessing
10 marijuana weighing one ounce or less shall:

11 (a) For the first offense, be guilty of an infraction,
12 receive a citation, be fined ~~one~~three hundred dollars, and be
13 assigned to attend a course as prescribed in section 29-433; ~~if the~~
14 ~~judge determines that attending such course is in the best interest~~
15 ~~of the individual defendant;~~

16 (b) For the second offense, be guilty of a Class IV
17 misdemeanor, receive a citation, and be fined ~~two~~four hundred
18 dollars and may be imprisoned not to exceed five days; and

19 (c) For the third and all subsequent offenses, be guilty
20 of a Class IIIA misdemeanor, receive a citation, be fined ~~three~~
21 five hundred dollars, and be imprisoned not to exceed seven days.

22 (14) Any person convicted of violating this section,
23 if placed on probation, shall, as a condition of probation,
24 satisfactorily attend and complete appropriate treatment and
25 counseling on drug abuse provided by a program authorized under
26 the Nebraska Behavioral Health Services Act or other licensed drug
27 treatment facility.

1 (15) Any person convicted of violating this section, if
2 sentenced to the Department of Correctional Services, shall attend
3 appropriate treatment and counseling on drug abuse.

4 (16) Any person knowingly or intentionally possessing a
5 firearm while in violation of subsection (1) of this section shall
6 be punished by the next higher penalty classification than the
7 penalty prescribed in subsection (2), (7), (8), (9), or (10) of
8 this section, but in no event shall such person be punished by a
9 penalty greater than a Class IB felony.

10 (17) A person knowingly or intentionally in possession
11 of money used or intended to be used to facilitate a violation
12 of subsection (1) of this section shall be guilty of a Class IV
13 felony.

14 Sec. 3. Section 28-441, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 28-441 (1) It shall be unlawful for any person to use, or

17 to possess with intent to use, drug paraphernalia to manufacture,
 18 inject, ingest, inhale, or otherwise introduce into the human body
 19 a controlled substance in violation of sections ~~28-401~~, 28-431, and
 20 28-439 to 28-444.

21 (2) Any person who violates this section shall be guilty
 22 of an infraction and fined one hundred dollars.

23 Sec. 4. Section 29-431, Reissue Revised Statutes of
 24 Nebraska, is amended to read:

25 29-431 As used in sections ~~28-416~~, 29-422, 29-424,
 26 29-425, ~~and 29-431~~, and 29-432, ~~to 29-434~~, unless the context
 27 otherwise requires, infraction shall mean the violation of any law,
 1 ordinance, order, rule, or regulation, not including those related
 2 to traffic, which is not otherwise declared to be a misdemeanor or
 3 a felony. Infraction shall include violations of section 60-6,267.

4 Sec. 5. Section 29-433, Reissue Revised Statutes of
 5 Nebraska, is amended to read:

6 ~~29-433~~ A person cited for an infraction pursuant to
 7 section 28-416 or convicted of a misdemeanor pursuant to sections
 8 53-180.01 to 53-180.03 shall be assigned to attend a course of
 9 instruction relating to the effects of the misuse of drugs,
 10 including alcohol and controlled substances if a judge determines
 11 that attending such a course is in the best interest of the
 12 individual defendant. Such instruction shall include counseling on
 13 the legal, medical, psychological, and social effects of drug use
 14 and abuse. Such course shall consist of a minimum of five hours
 15 and a maximum of ten hours of instruction and counseling. Upon
 16 completion of the assigned course, the instructor shall notify the
 17 court in writing of such completion and the notification shall be
 18 made a part of the record of the citation. Any person failing to
 19 complete such course within thirty days after the assignment shall
 20 be guilty of an infraction.

21 Sec. 6. Section 29-434, Revised Statutes Cumulative
 22 Supplement, 2006, is amended to read:

23 ~~29-434~~ All drug treatment centers shall provide the
 24 necessary facilities and programs to carry out the provisions of
 25 section 29-433.

26 Sec. 7. Section 53-180.05, Reissue Revised Statutes of
 27 Nebraska, is amended to read:

1 53-180.05 (1) Any person violating section 53-180 shall
 2 be guilty of a Class I misdemeanor. Any person violating any of
 3 the provisions of sections 53-180.01 to 53-180.03 shall be guilty
 4 of a Class III misdemeanor and be assigned to attend a course as
 5 prescribed in section 29-433.

6 (2) Any person who knowingly manufactures, creates, or
 7 alters any form of identification for the purpose of sale or
 8 delivery of such form of identification to a person under the age
 9 of twenty-one years shall be guilty of a Class I misdemeanor. For
 10 purposes of this subsection, form of identification means any card,
 11 paper, or legal document that may be used to establish the age of

12 the person named thereon for the purpose of purchasing alcoholic
 13 liquor.

14 (3) When a minor is arrested for a violation of sections
 15 53-180 to 53-180.02 or subsection (2) of this section, the law
 16 enforcement agency employing the arresting peace officer shall make
 17 a reasonable attempt to notify such minor's parent or guardian of
 18 the arrest.

19 Sec. 8. Original sections 28-441, 29-431, 29-433, and
 20 53-180.05, Reissue Revised Statutes of Nebraska, sections 28-416
 21 and 29-434, Revised Statutes Cumulative Supplement, 2006, and
 22 section 28-101, Revised Statutes Supplement, 2007, are repealed.

LEGISLATIVE BILL 958. Placed on General File with amendment.
 AM1964

1 1. Strike the original sections and insert the following
 2 new section:

3 Section 1. (1) The Assault Weapons Commission is created.

4 The commission shall consist of the following members:

5 (a) The Chairperson of the Judiciary Committee of the
 6 Legislature or his or her designee;

7 (b) The Governor or his or her designee;

8 (c) The Attorney General or his or her designee;

9 (d) The Superintendent of Law Enforcement and Public
 10 Safety or his or her designee;

11 (e) A law enforcement officer of a city of the
 12 metropolitan class or his or her designee, appointed by the
 13 Governor;

14 (f) A law enforcement officer of a city other than a city
 15 of the metropolitan class or his or her designee, appointed by the
 16 Governor; and

17 (g) A retailer of firearms or his or her designee,
 18 appointed by the Governor.

19 (2) Members of the commission shall serve without
 20 compensation but shall be reimbursed for their actual and necessary
 21 expenses as provided in sections 81-1174 to 81-1177.

22 (3) The commission shall create a definition of assault
 23 weapons, using the general characteristics listed in subsection

1 (4) of this section, and compile a list of assault weapons which
 2 meet such general characteristics. The purpose of the list is to
 3 provide the Legislature with information regarding whether such
 4 assault weapons should be illegal in this state. The commission
 5 shall provide the list in a report to the Legislature. The
 6 commission shall also recommend appropriate enforcement penalties
 7 and procedures.

8 (4)(a) General characteristics of an assault weapon are
 9 as follows:

10 (i) A semiautomatic, centerfire rifle that has the
 11 capacity to accept a detachable magazine and any one of the
 12 following:

- 13 (A) A pistol grip that protrudes conspicuously beneath
 14 the action of the weapon;
 15 (B) A thumbhole stock;
 16 (C) A folding or telescoping stock;
 17 (D) A grenade launcher or flare launcher;
 18 (E) A flash suppressor; and
 19 (F) A forward pistol grip;
 20 (ii) A semiautomatic, centerfire rifle that has a fixed
 21 magazine with the capacity to accept more than ten rounds; and
 22 (iii) A semiautomatic, centerfire rifle that has an
 23 overall length of less than thirty inches.
 24 (b) An antique or collectible weapon that has its firing
 25 pin removed is not an assault weapon.
 26 (5) The commission may contact members of the general
 27 public whom any member of the commission believes can contribute
 1 needed or worthwhile information in order for the commission to
 2 carry out its purpose.
 3 (6) The commission shall deliver its report to the
 4 Legislature on or before February 1, 2009.
 5 (7) The commission shall update the list of assault
 6 weapons and provide such updated list to the Clerk of the
 7 Legislature and the Judiciary Committee by January 10 of every
 8 odd year. The commission may meet as necessary to accomplish the
 9 requirements set forth in this section.

(Signed) Brad Ashford, Chairperson

Agriculture

LEGISLATIVE BILL 789. Placed on General File with amendment.
 AM1928

- 1 1. Strike the original sections and insert the following
 2 sections:
 3 Section 1. Section 2-5420, Revised Statutes Cumulative
 4 Supplement, 2006, is amended to read:
 5 2-5420 (1) To be eligible for a grant under the
 6 Agricultural Opportunities and Value-Added Partnerships Act, an
 7 applicant shall:
 8 ~~(4)-(a)~~ Document a matching amount in money or in-kind
 9 contributions or a combination of both equal to twenty-five percent
 10 of the grant funds requested, except that if the grant funds will
 11 be used to acquire or lease a building or equipment to be used
 12 in a farming or ranching operation or in a private enterprise,
 13 an applicant shall provide a matching amount in money and in-kind
 14 contribution of no less than fifty percent of the grant funds
 15 requested of which the matching amount in money shall be no less
 16 than twenty-five percent of the grant funds requested;
 17 ~~(2)-(b)~~ Specify measurable goals and expected outcomes
 18 for the project for which the grant funds are requested; and

19 ~~(3)~~(c) Specify an evaluation and impact assessment
 20 process or procedure for the project for which the grant funds are
 21 requested.

22 (2) Priority for the awarding of grants may be given to
 23 applicants that provide a matching amount in money.

1 (3) Whenever grant funds are used to acquire or lease a
 2 building or equipment to be used in a farming or ranching operation
 3 or in a private enterprise, any removal from the state or resale
 4 of the building or equipment within three years after the date
 5 of award of the grant funds without the prior approval of the
 6 Department of Economic Development shall be deemed a utilization or
 7 diversion of grant funds to a purpose or expenditure not specified
 8 or contemplated in the application or terms of the award of the
 9 grant for purposes of section 2-5421.

10 Sec. 2. Original section 2-5420, Revised Statutes
 11 Cumulative Supplement, 2006, is repealed.

12 Sec. 3. Since an emergency exists, this act takes effect
 13 when passed and approved according to law.

(Signed) Philip Erdman, Chairperson

Natural Resources

LEGISLATIVE BILL 1049. Placed on General File.

(Signed) LeRoy Louden, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 243. Introduced by Fulton, 29.

WHEREAS, engineers plan, design, and implement engineering works that propel the nation's economy, enhance our quality of life, and safeguard America's infrastructure; and

WHEREAS, Nebraska will look, more than before, to the knowledge and skill of engineers to bridge the gap between science, theory, and practical application in creative and innovative ways to meet the challenges of the future; and

WHEREAS, National Engineers Week was founded in 1951 and is celebrated at the time of George Washington's birthday, who himself was a military engineer and land surveyor; and

WHEREAS, Engineers Week encourages young math and science students to realize the practical power of their knowledge; and

WHEREAS, Engineers Week raises public understanding and appreciation of engineers' contributions to society.

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

1. That the Legislature recognizes the contributions and achievements of Nebraska's engineers and that the week of February 17th through the 23rd, 2008, be recognized as Engineers Week in Nebraska.

2. That a copy of this resolution be delivered to the American Council of Engineering Companies/Nebraska.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 766. Senator Fulton offered the following amendment to the committee amendment:

FA178

Amend AM1865

On Pg. 4, line 5, following the period, insert: "The redemption check shall be issued only after seventy-two hours have elapsed from the time of the recorded transaction."

Senator Pedersen moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

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

Senator Fulton requested a roll call vote on his amendment.

Voting in the affirmative, 13:

Aguilar	Karpisek	Nantkes	Rogert	White
Fulton	Lathrop	Nelson	Schimek	
Heidemann	Lautenbaugh	Raikes	Synowiecki	

Voting in the negative, 20:

Adams	Christensen	Gay	Kopplin	Pirsch
Avery	Cornett	Hansen	Kruse	Preister
Burling	Engel	Harms	McDonald	Wallman
Carlson	Flood	Janssen	Pankonin	Wightman

Present and not voting, 10:

Chambers	Friend	Hudkins	McGill	Pedersen
Fischer	Howard	Langemeier	Pahls	Stuthman

Excused and not voting, 6:

Ashford	Dubas	Johnson
Dierks	Erdman	Louden

The Fulton amendment lost with 13 ayes, 20 nays, 10 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Langemeier offered the following amendment to the committee amendment:

FA177

Amend AM1865

On page 2, line 22, strike "date of birth."

The Langemeier amendment was adopted with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

The committee amendment, as amended, was adopted with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 31 ayes, 2 nays, 9 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 855. Title read. Considered.

SENATOR LANGEMEIER PRESIDING

Committee AM1832, found on page 570, was adopted with 27 ayes, 0 nays, 12 present and not voting, and 10 excused and not voting.

Advanced to Enrollment and Review Initial with 29 ayes, 0 nays, 10 present and not voting, and 10 excused and not voting.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 279. Placed on Final Reading.

LEGISLATIVE BILL 280. Placed on Final Reading.

LEGISLATIVE BILL 280A. Placed on Final Reading.

LEGISLATIVE BILL 500. Placed on Final Reading.

LEGISLATIVE BILL 609. Placed on Final Reading.

ST9068

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, the matter beginning with "political" in line 1 through line 2 has been struck and "the Building Entrepreneurial Communities Act; to amend section 81-12,126, Revised Statutes Supplement, 2007; to provide additional purposes for the act; and to repeal the original section." inserted.

LEGISLATIVE BILL 609A. Placed on Final Reading.

LEGISLATIVE BILL 623. Placed on Final Reading.

LEGISLATIVE BILL 668. Placed on Final Reading.

LEGISLATIVE BILL 715. Placed on Final Reading.

LEGISLATIVE BILL 790. Placed on Final Reading.

LEGISLATIVE BILL 896. Placed on Final Reading.

(Signed) Amanda McGill, Chairperson

COMMITTEE REPORTS

Judiciary

LEGISLATIVE BILL 606. Placed on General File with amendment.
AM1884

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Sections 1 to 6 of this act shall be known and
4 may be cited as the Stem Cell Research Act.

5 Sec. 2. For purposes of the Stem Cell Research Act:

6 (1) Committee means the Stem Cell Research Advisory
7 Committee;

8 (2) Human embryo means the developing human organism
9 from the time of fertilization until the end of the eighth week
10 of gestation and includes an embryo or developing human organism
11 created by somatic cell nuclear transfer; and

12 (3) Somatic cell nuclear transfer means a technique in
13 which the nucleus of an oocyte is replaced with the nucleus of a
14 somatic cell.

15 Sec. 3. (1) The Stem Cell Research Advisory Committee is
16 created. The committee shall consist of the dean of every medical
17 school in Nebraska that is accredited by the Liaison Committee on
18 Medical Education or his or her designee and additional members
19 appointed as follows: (a) The dean of every medical school in
20 Nebraska shall nominate three scientists from outside Nebraska
21 conducting human stem cell research with funding from the National
22 Institutes of Health of the United States Department of Health and
23 Human Services; and (b) the chief medical officer as designated
1 in section 81-3115 shall select two of such scientists from each
2 set of nominations to serve on the committee. Appointments by the
3 chief medical officer pursuant to this subsection shall be approved
4 by the Legislature. Members appointed by the chief medical officer
5 shall serve for staggered terms of three years each and until
6 their successors are appointed and qualified. Such members may be
7 reappointed for additional three-year terms.

8 (2) The committee shall meet not less than twice each
9 year.

10 (3) Members of the committee not employed by medical
11 schools in Nebraska shall receive a stipend per meeting to be
12 determined by the Division of Public Health of the Department of
13 Health and Human Services based on standard consultation fees,

14 and all members of the committee shall be reimbursed for their
15 actual and necessary expenses incurred in service on the committee
16 pursuant to sections 81-1174 to 81-1177.

17 Sec. 4. (1) The committee shall establish a grant
18 process to award grants to Nebraska institutions or researchers
19 for the purpose of conducting nonembryonic stem cell research.
20 The grant process shall include, but not be limited to, an
21 application identifying the institution or researcher applying for
22 the grant, the amount of funds to be received by the applicant from
23 sources other than state funds, the sources of such funds, and a
24 description of the goal of the research for which the funds will be
25 used and research methods to be used by the applicant.

26 (2) The committee shall annually report to the
27 Legislature the number of grants awarded, the amount of the grants,
1 and the researchers or institutions to which the grants were
2 awarded. No more than three years after the effective date of this
3 act, the committee shall report to the Legislature on the progress
4 of any projects that have been awarded grants under the Stem Cell
5 Research Act.

6 Sec. 5. (1) The Stem Cell Research Cash Fund is created.
7 Any money in the fund available for investment shall be invested
8 by the state investment officer pursuant to the Nebraska Capital
9 Expansion Act and the Nebraska State Funds Investment Act.

10 (2) Money credited to the Stem Cell Research Cash
11 Fund pursuant to section 71-7608 shall be used to provide a
12 dollar-for-dollar match, up to five hundred thousand dollars per
13 fiscal year, of funds received by institutions or researchers
14 from sources other than funds provided by the State of Nebraska
15 for nonembryonic stem cell research. Such matching funds shall be
16 awarded through the grant process established pursuant to section 4
17 of this act. No single institution or researcher shall receive more
18 than seventy percent of the funds available for distribution under
19 this section on an annual basis.

20 (3) Up to three percent of the funds credited to the
21 Stem Cell Research Cash Fund shall be available to the Division
22 of Public Health of the Department of Health and Human Services
23 for administrative costs, including stipends and reimbursements
24 pursuant to section 3 of this act.

25 Sec. 6. No state facilities, no state funds, fees, or
26 charges, and no investment income on state funds shall be used to
27 destroy human embryos for the purpose of research. In no case shall
1 state facilities, state funds, fees, or charges, or investment
2 income on state funds be used to create a human embryo by somatic
3 cell nuclear transfer for any purpose.

4 Sec. 7. Section 71-7608, Revised Statutes Supplement,
5 2007, is amended to read:

6 71-7608 The Nebraska Tobacco Settlement Trust Fund is
7 created. The fund shall include any settlement payments or other
8 revenue received by the State of Nebraska in connection with any

9 tobacco-related litigation to which the State of Nebraska is a
 10 party. The Department of Health and Human Services shall remit such
 11 revenue to the State Treasurer for credit to the fund, except that
 12 (1) of such revenue received on or after April 1, 2005, two million
 13 five hundred thousand dollars shall be credited annually to the
 14 Tobacco Prevention and Control Cash Fund and (2) within seven days
 15 after the effective date of this act, and on July 1 of each year
 16 thereafter five hundred thousand dollars shall be credited to the
 17 Stem Cell Research Cash Fund created under section 5 of this act.
 18 Subject to the terms and conditions of such litigation, money from
 19 the Nebraska Tobacco Settlement Trust Fund shall be transferred to
 20 the Nebraska Health Care Cash Fund as provided in section 71-7611.
 21 Any money in the Nebraska Tobacco Settlement Trust Fund available
 22 for investment shall be invested by the state investment officer
 23 pursuant to the Nebraska Capital Expansion Act and the Nebraska
 24 State Funds Investment Act.
 25 Sec. 8. Original section 71-7608, Revised Statutes
 26 Supplement, 2007, is repealed.
 27 Sec. 9. Since an emergency exists, this act takes effect
 1 when passed and approved according to law.

LEGISLATIVE BILL 700. Indefinitely postponed.

(Signed) Brad Ashford, Chairperson

Education

LEGISLATIVE BILL 977. Placed on General File with amendment.
 AM1830 is available in the Bill Room.

(Signed) Ron Raikes, Chairperson

ANNOUNCEMENTS

Senator Gay designates LB895 as his priority bill.

Senator Christensen designates LB1094 as his priority bill.

The Natural Resources Committee designates LB1065 as its priority bill.

The Agriculture Committee designates LB1116 and LB1027 as its priority bills.

Senator Langemeier designates LB606 as his priority bill.

AMENDMENT - Print in Journal

Senator Karpisek filed the following amendment to LB395:
AM1938

(Amendments to Second Final Reading copy)

- 1 1. Insert the following section:
- 2 Sec. 16. The proprietor of an establishment having a
- 3 license issued under the Nebraska Liquor Control Act may designate
- 4 smoking areas in such establishment and allow smoking in such
- 5 designated smoking areas during times when no prepared foods are
- 6 being served in the establishment. The duties and restrictions of
- 7 sections 71-5708 and 71-5709, as such sections existed prior to the
- 8 operative date of this act, shall apply to such proprietor.
- 9 2. On page 2, line 1, strike "19" and insert "20".
- 10 3. On page 4, line 11, strike "section 15" and insert
- 11 "sections 15 and 16".
- 12 4. Renumber the remaining sections accordingly.

NOTICE OF COMMITTEE HEARING

Education

Room 1525

Monday, March 10, 2008 8:30 a.m.

Report on Progress Toward Attainment of Higher Education Priorities

(Signed) Ron Raikes, Chairperson

UNANIMOUS CONSENT - Add Cointroducer

Senator Howard asked unanimous consent to add her name as cointroducer to LB606. No objections. So ordered.

VISITORS

Visitors to the Chamber were David Barmore from Lexington; and 50 fourth-grade students and teachers from Longfellow Elementary, Hastings.

The Doctor of the Day was Dr. Lane Handke from Lincoln.

ADJOURNMENT

At 12:01 p.m., on a motion by Senator McDonald, the Legislature adjourned until 9:00 a.m., Friday, February 22, 2008.

Patrick J. O'Donnell
Clerk of the Legislature