

FORTY-FIFTH DAY - MARCH 20, 2008**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
SECOND SESSION****FORTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, March 20, 2008

PRAYER

The prayer was offered by Senator Kruse.

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 Dubas and Gay who were excused; and Senators Ashford, Raikes, Synowiecki, Wallman, and White who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-fourth day was approved.

MESSAGE FROM THE GOVERNOR

March 18, 2008

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

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the State Racing Commission:

Helen Abbott Feller, 1121 18th Street, Wisner, NE 68791

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

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

NOTICE OF COMMITTEE HEARING
Transportation and Telecommunications

Room 1113

Tuesday, April 01, 2008 8:45 a.m.

Peterson, Trev - Nebraska Information Technology Commission
Park, Janie - Nebraska Information Technology Commission

(Signed) Deb Fischer, Chairperson

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of March 19, 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

Brashear, Kermit A.
City of Lincoln

Woythaler-Runestad, Carly
Hospital Association, Nebraska (Withdrawn 03/18/2008)

REPORT

The following report was received by the Legislature:

Roads, Department of

Board of Public Roads Classifications and Standards Minutes for March 2008

ANNOUNCEMENT

The Chair announced March 21 is Senator McGill's and Senator Schimek's birthdays.

SELECT FILE

LEGISLATIVE BILL 959. ER8207, found on page 1000, was adopted.

Senator Chambers renewed his amendment, FA220, found on page 989.

Senator Chambers moved for a call of the house. The motion prevailed with 22 ayes, 0 nays, and 27 not voting.

The Chambers amendment was adopted with 25 ayes, 12 nays, 8 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Erdman asked unanimous consent to withdraw his amendment, AM2171, found on page 999, and replace it with his substitute amendment, AM2434, found on page 1037. No objections. So ordered.

The Erdman amendment was adopted with 31 ayes, 2 nays, 14 present and not voting, and 2 excused and not voting.

Senator Erdman asked unanimous consent to withdraw his amendment, AM2401, found on page 1009, and replace it with his substitute amendment, FA234, found on page 1041. No objections. So ordered.

Senator Erdman offered the following motion:

MO149

Unanimous consent to adopt FA234.

Senator Heidemann objected.

Senator Erdman renewed his amendment, FA234, found on page 1041.

Senator Erdman offered the following motion:

MO150

Bracket until March 23, 2008.

Senator Erdman withdrew his motion.

The Erdman amendment, FA234, found on page 1041 and considered in this day's Journal, was renewed.

Senator Erdman moved for a call of the house. The motion prevailed with 32 ayes, 0 nays, and 17 not voting.

Senator Chambers requested a roll call vote on the Erdman amendment.

Voting in the affirmative, 22:

| | | | | |
|----------|------------|-------------|----------|----------|
| Adams | Erdman | Lathrop | Pedersen | Stuthman |
| Ashford | Friend | Lautenbaugh | Pirsch | White |
| Burling | Fulton | McGill | Preister | |
| Chambers | Howard | Pahls | Raikes | |
| Cornett | Langemeier | Pankonin | Rogert | |

Voting in the negative, 21:

| | | | | |
|---------|---------|----------|----------|----------|
| Aguilar | Flood | Johnson | McDonald | Wightman |
| Avery | Hansen | Karpisek | Nantkes | |
| Carlson | Harms | Kopplin | Nelson | |
| Engel | Hudkins | Kruse | Schimek | |
| Fischer | Janssen | Louden | Wallman | |

Present and not voting, 4:

| | | | |
|-------------|--------|-----------|------------|
| Christensen | Dierks | Heidemann | Synowiecki |
|-------------|--------|-----------|------------|

Excused and not voting, 2:

| | |
|-------|-----|
| Dubas | Gay |
|-------|-----|

The Erdman amendment lost with 22 ayes, 21 nays, 4 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Rogert asked unanimous consent to withdraw and refile his amendment, AM2361, found on page 1037, and replace it with his substitute amendment, AM2441, found on page 1038. No objections. So ordered.

SENATOR SCHIMEK PRESIDING

SENATOR LANGEMEIER PRESIDING

Pending.

AMENDMENT - Print in Journal

Senators Schimek and Kruse filed the following amendment to LB846: AM2324

(Amendments to Standing Committee amendments, AM1731)

- 1 1. Insert the following new sections:
- 2 Sec. 2. Section 60-6,268, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 60-6,268 ~~(1)~~A person violating any provision of
- 5 subsection (1) of section 60-6,267 shall be guilty of an infraction
- 6 as defined in section 29-431 and shall be fined twenty-five dollars
- 7 for each violation. The failure to provide a child restraint system

8 for more than one child in the same vehicle at the same time, as
 9 required in such subsection, shall not be treated as a separate
 10 offense.

11 ~~(2) Enforcement of subdivision (1)(b) and subsection (6)~~
 12 ~~of section 60-6,267 shall be accomplished only as a secondary~~
 13 ~~action when an operator of a motor vehicle has been cited or~~
 14 ~~charged with a violation or some other offense unless the violation~~
 15 ~~involves a person under the age of eighteen years riding in or on~~
 16 ~~any portion of the vehicle not designed or intended for the use of~~
 17 ~~passengers when the vehicle is in motion.~~

18 Sec. 3. All federal funds received by the state pursuant
 19 to 23 U.S.C. 406 shall be used only for purposes specified in 23
 20 U.S.C. 406(e).

21 Sec. 25. The following section is outright repealed:

22 Section 60-6,271, Reissue Revised Statutes of Nebraska.

1 2. Renumber the remaining sections and correct internal
 2 references, the operative date section, and the repealer so that
 3 the sections added by this amendment become operative on their
 4 effective date.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Feller, Helen Abbott - State Racing Commission - General Affairs

(Signed) Pat Engel, Chairperson
 Legislative Council, Executive Board

RESOLUTION

LEGISLATIVE RESOLUTION 283. Introduced by Flood, 19.

The United States Department of Justice issued a report on March 7, 2008, to Governor Heineman detailing the findings from its 2007 investigation of the Beatrice State Developmental Center ("BSDC") pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. 1997. The department concluded that numerous conditions and practices at BSDC violated the constitutional and federal statutory rights of its residents. In particular, the department found that BSDC failed to provide its residents with adequate: (1) Protection from harm; (2) training and associated behavioral and mental health services; (3) health care, including nutritional and physical management; and (4) discharge planning and placement in the most integrated setting. In its report, the department listed the minimum remedial measures required to protect the constitutional and statutory rights of the BSDC residents, including increasing the number of employees and ensuring that center residents can live and work in the most integrated setting possible. The report specifically expressed grave concerns regarding

staffing difficulties at BSDC and the relationship of those staffing concerns to reports of abuse, neglect, and substandard care.

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

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

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

1. That the Legislature hereby calls for the Executive Board of the Legislative Council to meet forthwith and appoint a special committee of the Legislature to be known as the Developmental Disabilities Special Investigative Committee of the Legislature. The committee shall consist of seven members of the Legislature appointed by the Executive Board. The committee shall elect a chairperson from the membership of the committee. The Executive Board is hereby authorized to provide the committee with a legal counsel, committee clerk, and other staff as required by the committee from existing legislative staff. The committee shall be an investigative committee and is hereby authorized to hold hearings and issue subpoenas as is deemed necessary by the committee.

2. The Developmental Disabilities Special Investigative Committee of the Legislature is hereby authorized to study the quality of care and related staffing issues at the Beatrice State Developmental Center. The committee shall also investigate the placement and quality of care statewide for the developmentally disabled in Nebraska, including the determination of whether adequate funding and capacity exists for persons to be served in the community, options for service provisions for current residents of the Beatrice State Developmental Center at other twenty-four-hour care facilities in the state, and the staffing practices at twenty-four-hour care facilities and the relationship of those practices to the quality of care provided to the developmentally disabled. The committee shall also study the Department of Health and Human Services with respect to such facilities. The committee shall issue a report with its findings and recommendations to the Legislature no later than December 31, 2008.

Laid over.

SPEAKER'S ANNOUNCEMENT

Pursuant to Rule 4, Section 8, LR283 was referred to the Reference Committee.

NOTICE OF COMMITTEE HEARING
Health and Human Services

Room 1510

Wednesday, April 02, 2008 1:15 p.m.

Burke, Mary Ann - Commission for the Deaf and Hard of Hearing
Delts, Dillard - Commission for the Deaf and Hard of Hearing
Rutledge, David - Commission for the Deaf and Hard of Hearing

LR238

(Signed) Joel Johnson, Chairperson

SELECT FILE

LEGISLATIVE BILL 959. The Rogert amendment, AM2441, found on page 1038 and considered in this day's Journal, was renewed.

Senator Rogert asked unanimous consent to withdraw his amendment, AM2441, found on page 1038, and replace it with his substitute amendment, AM2451. No objections. So ordered.

AM2451

(Amendments to Standing Committee amendments, AM2145)

| | | |
|----|--|------------|
| 1 | 1. Insert the following new section: | |
| 2 | Sec. 74. Laws 2007, LB 321, section 122, is amended to | |
| 3 | read: | |
| 4 | Sec. 122. AGENCY NO. 25 - DEPARTMENT OF HEALTH AND HUMAN | |
| 5 | SERVICES - DEVELOPMENTAL DISABILITIES | |
| 6 | Program No. 421 - Beatrice State Developmental Center | |
| 7 | FY2007-08 | FY2008-09 |
| 8 | GENERAL FUND | 17,496,784 |
| 9 | CASH FUND | 4,136,276 |
| 10 | FEDERAL FUND est. | 28,593,356 |
| 11 | FEDERAL FUND est. | 30,093,356 |
| 12 | PROGRAM TOTAL | 50,226,416 |
| 13 | PROGRAM TOTAL | 51,726,416 |
| 14 | SALARY LIMIT | 28,087,017 |
| 15 | There is included in the appropriation to this program | |
| 16 | for FY2007-08 \$1,500,000 Federal Funds estimate, which shall only | |
| 17 | be used for strategies, including bonuses, to retain and recruit | |
| 18 | quality staff and employees at the Beatrice State Developmental | |
| 19 | Center. | |

- 20 2. On page 2, line 15, strike "87" and insert "88".
21 3. On page 56, line 18, after "120," insert "122".
22 4. Renumber the remaining sections accordingly.

Pending.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

| LB/LR | Committee |
|--------------|------------------|
| LR283 | Executive Board |

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

UNANIMOUS CONSENT - Time Change

Senator Loudon asked unanimous consent that the Natural Resources Committee conduct its hearing on Monday, March 31, 2008, at 8:30 a.m. instead of 9:00 a.m. No objections. So ordered.

VISITORS

Visitors to the Chamber were members of Columbus Leadership from Columbus; Senator McGill's parents and grandparents, Dave and Sue and Dave and Bernie McGill, from Omaha; members of North Platte 4-H and Senator Hansen's daughter-in-law and granddaughters, Jill, Morgan, and Katie, from North Platte; Michael Vo from Lincoln; 75 fourth-grade students and teachers from Ashland-Greenwood Elementary, Ashland; Brian, Timara, Kyle, Aaron, and Karleigh Kennon from Washington, Missouri and Mitch Homolka from Kramer; 14 eleventh- and twelfth-grade students and sponsors from Southern Schools, Wymore; 50 fourth-grade students from Rose Hill Elementary, Omaha; Nicholas Protzman from Omaha; and members of Open World Leadership Center from Russia and the United States.

RECESS

At 11:55 a.m., on a motion by Speaker Flood, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Senator Langemeier presiding.

ROLL CALL

The roll was called and all members were present except Senators Dubas, Gay, McDonald, and Pedersen who were excused; and Senator Lautenbaugh who was excused until he arrives.

RESOLUTION

LEGISLATIVE RESOLUTION 284. Introduced by Pedersen, 39.

WHEREAS, slavery has been documented as a worldwide practice since antiquity, dating back to 3500 B.C. in ancient Mesopotamia; and

WHEREAS, during the existence of the Atlantic Slave Trade, millions of people from the continent of Africa became involuntary immigrants to the New World, and millions more died during passage across the waters of the Atlantic. The first African slaves in the North American colonies were brought to Jamestown in 1619; and

WHEREAS, the Atlantic Slave Trade was a lucrative enterprise, and African slaves, a prized commodity to support the economic base of plantations in the colonies, were traded for products and manufactured goods and other merchandise; and

WHEREAS, many African captives resisted enslavement by fleeing from slave forts on the west coast of Africa, and many mutinied aboard slave trading vessels, casting themselves into the waters of the ocean, or risked the cruel retaliation of their masters by running away to seek freedom; and

WHEREAS, although the United States outlawed the transatlantic slave trade in 1808, the domestic slave trade in the colonies and illegal importation continued for several decades; and

WHEREAS, slavery, or the "Peculiar Institution", in the United States resembled no other form of involuntary servitude, as Africans were captured and sold at auction as chattel, like inanimate property or animals; and

WHEREAS, to prime Africans for slavery, the fundamental values of the Africans were shattered; they were brutalized, humiliated, dehumanized, and subjected to the indignity of being stripped of their names and their heritage; women and girls were raped, and families were disassembled as husbands and wives, mothers and daughters, and fathers and sons were sold into slavery apart from one another; and

WHEREAS, despite a complex series of colonial laws being enacted to relegate the status of Africans and their descendants, these same Africans proved their loyalty, dedication, and service to the country, including heroic and distinguished service in the Revolutionary War, the Civil War, and all other conflicts and military actions involving the United States military; and

WHEREAS, on May 30, 1854, President Franklin Pierce signed into law the Kansas-Nebraska Act opening lands west of the Missouri to white

settlement, extinguishing the Indian titles to these lands, wherein settlers would have been trespassers; and

WHEREAS, this Kansas-Nebraska Act allowed settlers to decide for themselves whether or not slavery would be allowed to exist within their borders; and

WHEREAS, the discovery of gold in California brought thousands upon thousands of settlers to the New World from lands in Europe where they had been subjected to tyranny for hundreds of years, seeing in the opening of this new Kansas-Nebraska Territory a refuge and opportunity for new life; and

WHEREAS, river towns along the Missouri River became jumping-off places for the trek westward for these new immigrants as well as Americans who were just waiting for the land to open that they might take part in building of a new empire of settlement and commerce; and

WHEREAS, land speculators could stake out 320 acres, spread out to adjacent lots, and incorporate; and

WHEREAS, some land speculators brought an attitude of pro-slavery, and with them slaves; and

WHEREAS, Nebraska was a center of turmoil over the slavery issue, with Iowa being a "free" state, and Missouri being a "slave" state, and Kansas, where pro-slavery and anti-slavery feuds earned it the name "Bleeding/Bloody Kansas"; and

WHEREAS, in Nebraska male slaves were laborers, such as those working for the freighters, while female slaves were housekeepers, cooks, and washerwomen; and

WHEREAS, in the years prior to and during the civil war, the mere presence of slaves in Nebraska Territory fueled controversy and heated debate; and

WHEREAS, in 1860 the sheriff's sale of two slaves to settle a court financial judgment interrupted orderly legislative processes; and

WHEREAS, the first territorial legislature passed a resolution prohibiting the settlement of "negroes and mulattoes"; and

WHEREAS, the fifth territorial session referred a bill to abolish slavery to special committee; and

WHEREAS, William H. Taylor of Otoe County, chairman of the committee to which the bill was referred, when questioned as to whether slavery exists in Nebraska, cited several examples and concluded with "the fact is indisputable. African slavery does practically exist in Nebraska. Our eyes cannot deceive us, and if slavery is wrong, morally, politically, socially, it is wrong to hold one slave. There is no distinction in principle between holding one human being in bondage, and holding ten thousand"; and

WHEREAS, the system of slavery had become so entrenched in United States history and the social fabric, and the issue of enslaved Africans had to be addressed as a national issue, contributing to the Civil War from 1861 to 1865 and the passage of the 13th Amendment to the United States Constitution, which abolished slavery and involuntary servitude on December 18, 1865; and

WHEREAS, after emancipation from 246 years of slavery, African-Americans soon saw the political, social, and economic gains they made during Reconstruction dissipated by virulent and rabid racism, lynching, disenfranchisement of African-American voters, Black Codes designed to impose again the subordination of African-Americans, and Jim Crow laws that instituted a rigid system of state sanctioned segregation in all areas of life and lasted until the passage of the 1964 Civil Rights Act and the 1965 Voting Rights Act; and

WHEREAS, throughout their existence in America and even in the decades after the Civil Rights Movement, African-Americans have found the struggle to overcome the bitter legacy of slavery long and arduous, and for many African-Americans the scars left behind are unbearable, haunting their psyches and clouding their vision of the future and of America's many positive attributes; and

WHEREAS, our nation acknowledges the crimes and persecution visited upon other people during World War II lest the world forget, yet the very mention of the broken promise of "40 acres and a mule" to former slaves or of the existence of racism today evokes denial from many quarters of any responsibility for the centuries of legally sanctioned deprivation of African-Americans of their endowed rights or for contemporary policies that perpetuate the existing state of affairs; and

WHEREAS, in 2003, during a trip to Goree Island, Senegal, a former slave port, President George W. Bush stated, "At this place, liberty and life were stolen and sold. Human beings were delivered and sorted, and weighed, and branded with the marks of commercial enterprises, and loaded as cargo on a voyage without return. One of the largest migrations of history was also one of the greatest crimes of history....For 250 years the captives endured an assault on their culture and their dignity....Small men took on the powers and airs of tyrants and masters. Years of unpunished brutality and bullying and rape produced a dullness and hardness of conscience. Christian men and women became blind to the clearest commands of their faith and added hypocrisy to injustice....We can finally judge the past by the standards of President John Adams, who called slavery 'an evil of colossal magnitude'....My nation's journey toward justice has not been easy, and it is not over. The racial bigotry fed by slavery did not end with slavery or with segregation....and many of the issues that trouble America have roots in the bitter experience of other times"; and

WHEREAS, European and African nations have apologized for their roles in what history calls the worst holocaust of humankind, the Atlantic Slave Trade, and racial reconciliation is impossible without some acknowledgment of the moral and legal injustices perpetuated upon African-Americans; and

WHEREAS, an apology for centuries of brutal dehumanization and injustices cannot erase the past, but confessions of the wrongs can speed racial healing and reconciliation and help African-American and white citizens confront the ghosts of their collective pasts together; and

WHEREAS, acknowledging that there is a difference between wrong and right, and that slavery as an American "institution" was a wrong committed upon millions of African-Americans and that their descendants continue to suffer from the effects of Jim Crow laws, segregation, housing

discrimination, discrimination in education, and other ills inflicted upon African-Americans; and

WHEREAS, the State of Nebraska, the Legislature, and its citizens are conscious that the atrocity of slavery existed in what is now the State of Nebraska from the opening days of settlement.

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

1. That the Legislature expresses its profound regret for the state's role in slavery, especially during its Territorial period prior to statehood, and apologizes for wrongs inflicted by slavery and its after effects in Nebraska and in the United States.

2. That the Legislature expresses its deepest sympathies and solemn regrets to those who were enslaved and the descendants of those slaves, who were deprived of life, human dignity, and the constitutional protections accorded all citizens of the United States.

3. That the Legislature encourages all citizens to teach their children about the history of slavery and its effects, especially as concerns modern day slavery, to ensure that these tragedies will neither be forgotten nor repeated.

4. It is the intent of the Legislature that this resolution shall not be used in, or be the basis of, any type of litigation.

Laid over.

SELECT FILE

LEGISLATIVE BILL 959. The Rogert amendment, AM2451, found in this day's Journal, was renewed.

Pending.

NOTICE OF COMMITTEE HEARING

Executive Board

Room 1510

Thursday, March 27, 2008 12:00 p.m.

LR283

(Signed) L. Patrick Engel, Chairperson

SELECT FILE

LEGISLATIVE BILL 959. The Rogert amendment, AM2451, found in this day's Journal, was renewed.

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

Senator Rogert requested a record vote on his amendment.

Voting in the affirmative, 44:

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

Voting in the negative, 0.

Excused and not voting, 5:

| | | | | |
|---------|-------|-----|----------|----------|
| Ashford | Dubas | Gay | McDonald | Pedersen |
|---------|-------|-----|----------|----------|

The Rogert amendment was adopted with 44 ayes, 0 nays, and 5 excused and not voting.

The Chair declared the call raised.

Senator Heidemann renewed his amendment, AM2437, found on page 1037.

The Heidemann amendment was adopted with 37 ayes, 0 nays, 5 present and not voting, and 7 excused and not voting.

Senator Kruse renewed his amendment, AM2450, found on page 1038.

The Kruse amendment was adopted with 32 ayes, 0 nays, 10 present and not voting, and 7 excused and not voting.

Senator Rogert reoffered his amendment, AM2361, found on page 1037 and considered in this day's Journal.

SENATOR STUTHMAN PRESIDING

SENATOR LANGEMEIER PRESIDING

Senator Rogert moved for a call of the house. The motion prevailed with 32 ayes, 0 nays, and 17 not voting.

Senator Rogert requested a roll call vote on his amendment.

Voting in the affirmative, 25:

| | | | | |
|---------|----------|-------------|----------|------------|
| Aguilar | Flood | Kruse | McGill | Schimek |
| Avery | Howard | Langemeier | Pahls | Stuthman |
| Carlson | Janssen | Lathrop | Pirsch | Synowiecki |
| Cornett | Karpisek | Lautenbaugh | Preister | Wallman |
| Dierks | Kopplin | Louden | Rogert | White |

Voting in the negative, 5:

| | | | | |
|-------|--------|-----------|----------|--------|
| Adams | Hansen | Heidemann | Pankonin | Raikes |
|-------|--------|-----------|----------|--------|

Present and not voting, 10:

| | | | | |
|-------------|---------|---------|---------|----------|
| Christensen | Fischer | Harms | Johnson | Nelson |
| Engel | Fulton | Hudkins | Nantkes | Wightman |

Excused and not voting, 9:

| | | | | |
|---------|----------|--------|----------|----------|
| Ashford | Chambers | Erdman | Gay | Pedersen |
| Burling | Dubas | Friend | McDonald | |

The Rogert amendment was adopted with 25 ayes, 5 nays, 10 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

The Chair called for a machine vote on the advancement of the bill.

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

LEGISLATIVE BILL 1019. ER8208, found on page 1001, was adopted.

Advanced to Enrollment and Review for Engrossment.

RESOLUTION

LEGISLATIVE RESOLUTION 285. Introduced by Aguilar, 35.

PURPOSE: Since innovations in energy design principals, technologies, and operations are available to maximize the economic utility of building projects and reduce energy costs while achieving the best environmental performance and reducing adverse impacts on the environment, the purpose of this interim study is to examine whether state-funded building projects should be required to meet high performance green building standards for new construction and major renovation projects.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

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

Referred to the Executive Board.

COMMITTEE REPORT

Education

LEGISLATIVE BILL 1154. Placed on General File with amendment. AM2449 is available in the Bill Room.

(Signed) Ron Raikes, Chairperson

AMENDMENTS - Print in Journal

Senator Kopplin filed the following amendment to LB880:
AM2455

(Amendments to Standing Committee amendments, AM1787)

- 1 1. Strike amendments 1 and 2 and insert the following new
2 amendments:
3 "1. Insert the following new sections:
4 Sec. 5. Section 2-3234, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:
6 2-3234 ~~Each~~ Except as provided in section 2 of this
7 act, each district shall have the power and authority to exercise
8 the power of eminent domain when necessary to carry out its
9 authorized purposes within the limits of the district or outside
10 its boundaries. Exercise of eminent domain shall be governed by the
11 provisions of sections 76-704 to 76-724, except that whenever any
12 district seeks to acquire the right to interfere with the use of
13 any water being used for power purposes in accordance with sections
14 46-204, 70-668, 70-669, and 70-672 and is unable to agree with
15 the user of such water upon the compensation to be paid for such
16 interference, the procedure to condemn property shall be followed
17 in the manner set forth in sections 76-704 to 76-724 and no other
18 property shall be included in such condemnation. No district shall
19 contract for delivery of water to persons within the corporate
20 limits of any village, city, or metropolitan utilities district,
21 nor in competition therewith outside such corporate limits, except
22 by consent of and written agreement with the governing body of such
1 political subdivision. A village, city, or metropolitan utilities
2 district may negotiate and, if necessary, exercise the power of
3 eminent domain for the acquisition of water supply facilities of
4 the district which are within its boundaries.
5 Sec. 6. Section 2-3290.01, Revised Statutes Cumulative

6 Supplement, 2006, is amended to read:

7 2-3290.01 (1) A district shall permit public use of
8 those portions of a water project located on lands owned by
9 the district and on land over which the district has a lease
10 or an easement permitting use thereof for public recreational
11 purposes. All recreational users of such portions of a water
12 project shall abide by the applicable rules and regulations adopted
13 and promulgated by the board.

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

25 (3) For purposes of this section water project means
26 a project with cooperators or others, as authorized in section
27 2-3235, that results in construction of a reservoir or other body
1 of water having a permanent pool suitable for recreational purposes
2 greater than one hundred fifty surface acres, the construction
3 of which commenced after July 14, 2006. Water project shall
4 not mean soil conservation projects, wetlands projects, projects
5 described in section 2 of this act, or other district projects with
6 cooperators or others that do not have a recreational purpose.

7 (4) For projects funded under section 2 of this act that
8 result in a reservoir or other body of water having a permanent
9 pool suitable for recreational purposes greater than twenty surface
10 acres, the district shall provide public access for recreational
11 use at designated access points and shall include access to the
12 land area a minimum distance of one hundred feet from the permanent
13 pool. Recreational users, whether public or private, shall abide
14 by all applicable rules, regulations, ordinances, or resolutions
15 for use of the project adopted by the district or the political
16 subdivision in which the project is located. Public recreational
17 users may only access the project through such designated access
18 points.

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

21 2. On page 2, line 10, before "The" insert "(1)"; and in
22 line 15 after the period insert: "For purposes of this section,
23 flood control and water quality projects and practices include,
24 but are not limited to, low-impact development best management
25 measures, flood plain buyout, dams, reservoir basins, and levees.
26 No such project shall include a reservoir or water quality basin
27 having a permanent pool greater than four hundred surface acres.

1 Any project having a permanent pool greater than twenty surface
 2 acres shall provide for public access.

3 (2)(a) Bond proceeds shall not be expended for projects
 4 and practices unless the political subdivision exercising zoning
 5 jurisdiction over the area encompassing the project or practices
 6 has adopted into its comprehensive plan, zoning ordinances or
 7 resolutions, or stormwater management policies a requirement that
 8 low-impact development measures and techniques shall be employed to
 9 control at a minimum the first one-half inch of rainwater runoff
 10 from any new development; and

11 (b) Bond proceeds shall not be expended for projects and
 12 practices that are prohibited under the comprehensive plan, zoning
 13 ordinances or resolutions, or stormwater management policies of the
 14 political subdivision exercising zoning jurisdiction over the area
 15 encompassing such project or practices.

16 (3) A district shall not acquire real property for a
 17 project described in subsection (1) of this section by eminent
 18 domain proceedings pursuant to sections 76-704 to 76-724 if the
 19 real property is to be conveyed to a private entity or private
 20 enterprise after such acquisition."

21 3. Renumber the remaining section accordingly."

Senator Stuthman filed the following amendment to LB766:
 AM2453

(Amendments to Final Reading copy)

- 1 1. On page 5, strike beginning with "and" in line 1
- 2 through "seller" in line 2.

VISITORS

Visitors to the Chamber were 55 twelfth-grade students and teacher from Wilber-Clatonia, Wilber.

The Doctor of the Day was Dr. Brad Hupp from Albion.

ADJOURNMENT

At 3:24 p.m., on a motion by Senator Howard, the Legislature adjourned until 9:00 a.m., Tuesday, March 25, 2008.

Patrick J. O'Donnell
 Clerk of the Legislature

