

AMENDMENTS TO LR 283

Introduced by Executive Board of the Legislative Council.

1 1. Strike the original resolution and insert the
2 following:

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

23 The Legislature recognizes that it is essential that

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

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

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

17 1. That the Legislature hereby calls for the Executive
18 Board of the Legislative Council to meet forthwith and appoint
19 a special committee of the Legislature to be known as the
20 Developmental Disabilities Special Investigative Committee of the
21 Legislature. The committee shall consist of seven members of the
22 Legislature appointed by the Executive Board. The committee shall
23 elect a chairperson and vice-chairperson from the membership of
24 the committee. The Executive Board is hereby authorized to provide
25 the committee with a legal counsel, committee clerk, and other
26 staff as required by the committee from existing legislative
27 staff. The Executive Board is also authorized to hire outside

1 legal counsel, consultants, and investigators as required by the
2 committee. The committee shall be an investigative committee and is
3 hereby authorized to hold hearings and issue subpoenas as is deemed
4 necessary by the committee.

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