

FIFTY-FIFTH DAY - APRIL 8, 2008**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
SECOND SESSION****FIFTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, April 8, 2008

PRAYER

The prayer was offered by Senator Engel.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Flood presiding.

The roll was called and all members were present except Senators Ashford, Cornett, Lautenbaugh, Louden, Pankonin, Pedersen, and Synowiecki who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-fourth day was approved.

RESOLUTIONS

LEGISLATIVE RESOLUTION 385. Introduced by Government, Military and Veterans Affairs Committee: Aguilar, 35, Chairperson; Avery, 28; Friend, 10; Karpisek, 32; Rogert, 16.

PURPOSE: To investigate whether, with respect to government procurement in Nebraska, requiring a certain level of purchasing of goods and services produced in the State of Nebraska, or otherwise provided by Nebraska-based suppliers, would prove beneficial for the state.

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.

LEGISLATIVE RESOLUTION 386. Introduced by Howard, 9.

WHEREAS, the Reverend John P. Schlegel, S.J., initially joined the staff of Creighton University in the 1970's and returned to become the twenty-third president of Creighton University in 2000; and

WHEREAS, as an educator, administrator, and visionary leader, Creighton University President Reverend John P. Schlegel, S.J., has long been a champion for women's issues and encouraged women to seek positions of leadership; and

WHEREAS, since his appointment as President, he has named four women to vice-presidential positions and named a fifth woman as an interim vice president; and

WHEREAS, Father Schlegel has named six women to Creighton University's Board of Directors, setting a tone for Creighton University's leadership; and

WHEREAS, Father Schlegel held the first citywide Diversity Forum in 2001 and instituted an annual diversity breakfast and several other campus initiatives related to diversity; and

WHEREAS, Father Schlegel has been named ICAN's (Institute for Career Advancement Needs) 2008 Tim Rouse Advocate for Women in Leadership Award winner.

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

1. That the Legislature honors the Reverend John P. Schlegel, S.J., for his demonstrated commitment to diversity.

2. That a copy of this resolution be sent to Father Schlegel.

Laid over.

BILLS ON FINAL READING

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB736 with 35 ayes, 2 nays, 5 present and not voting, and 7 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 736.

A BILL FOR AN ACT relating to driving under the influence; to amend sections 60-498.02, 60-4,118.06, and 60-6,209, Reissue Revised Statutes of Nebraska, sections 60-480, 60-497.01, 60-4,115, 60-601, 60-6,197.01, 60-6,211.05, and 83-1,127.02, Revised Statutes Cumulative Supplement, 2006, and section 60-6,197.03, Revised Statutes Supplement, 2007; to

provide for an ignition interlock permit; to change penalty provisions; to change provisions relating to installation and use of an ignition interlock device; to provide fees; to create a fund; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 43:

Adams	Dubas	Harms	Langemeier	Raikes
Aguilar	Engel	Heidemann	Lathrop	Rogert
Ashford	Erdman	Howard	Lautenbaugh	Schimek
Avery	Fischer	Hudkins	McDonald	Stuthman
Burling	Flood	Janssen	Nantkes	Wallman
Carlson	Friend	Johnson	Nelson	White
Chambers	Fulton	Karpisek	Pahls	Wightman
Christensen	Gay	Kopplin	Pirsch	
Dierks	Hansen	Kruse	Preister	

Voting in the negative, 0.

Present and not voting, 1:

McGill

Excused and not voting, 5:

Cornett	Louden	Pankonin	Pedersen	Synowiecki
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bill was read and put upon final passage:

LEGISLATIVE BILL 736A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 736, One Hundredth Legislature, Second Session, 2008.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 43:

Adams	Dubas	Harms	Lathrop	Raikes
Aguilar	Engel	Howard	Lautenbaugh	Rogert
Ashford	Erdman	Hudkins	McDonald	Schimek
Avery	Fischer	Janssen	McGill	Stuthman
Burling	Flood	Johnson	Nantkes	Wallman
Carlson	Friend	Karpisek	Nelson	White
Chambers	Fulton	Kopplin	Pahls	Wightman
Christensen	Gay	Kruse	Pirsch	
Dierks	Hansen	Langemeier	Preister	

Voting in the negative, 0.

Present and not voting, 1:

Heidemann

Excused and not voting, 5:

Cornett Louden Pankonin Pedersen Synowiecki

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Return LB916 to Select File

Senator Rogert moved to return LB916 to Select File for the following specific amendment:

FA270

Strike the enacting clause.

Senator Rogert withdrew his motion to return.

BILLS ON FINAL READING

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB916 with 30 ayes, 9 nays, 5 present and not voting, and 5 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 916.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701.32, 77-2704.26, 77-2704.45, 77-2704.46, and 77-2705, Reissue Revised Statutes of Nebraska, section 77-2708, Revised Statutes Cumulative Supplement, 2006, and sections 70-1903, 70-1904, 70-1905, 70-1907, 77-2701, 77-2701.04, 77-2701.16, 77-2701.34, 77-2703, 77-2703.01,

77-2704.09, and 77-2704.57, Revised Statutes Supplement, 2007; to change provisions relating to sales and use tax treatment of community-based energy development projects; to define and redefine terms; to provide for and change provisions relating to sales and use tax exemptions; to change provisions relating to sales and use tax retailer registration and refund claims; to provide for sales tax treatment of digital works; to eliminate obsolete provisions; to harmonize provisions; to provide operative dates; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 34:

Adams	Dierks	Hansen	Karpisek	Preister
Aguilar	Dubas	Harms	Kopplin	Raikes
Ashford	Engel	Heidemann	Kruse	Stuthman
Avery	Erdman	Howard	Langemeier	Wallman
Burling	Fischer	Hudkins	Nantkes	White
Carlson	Flood	Janssen	Nelson	Wightman
Christensen	Gay	Johnson	Pahls	

Voting in the negative, 4:

Chambers	Friend	Pirsch	Rogert
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Present and not voting, 6:

Fulton	Lautenbaugh	McGill
Lathrop	McDonald	Schimek

Excused and not voting, 5:

Cornett	Louden	Pankonin	Pedersen	Synowiecki
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB965 with 33 ayes, 5 nays, 6 present and not voting, and 5 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 965. With Emergency.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections

77-115, 77-1201, 77-1202.01, 77-1210, 77-1214, 77-1219, 77-1230, 77-1233.02, 77-1233.03, and 77-1734.01, Reissue Revised Statutes of Nebraska, sections 77-1234, 77-1345.01, 77-1502, 77-1504.01, and 77-5019, Revised Statutes Cumulative Supplement, 2006, and sections 76-214, 77-1233.04, 77-1233.06, 77-1736.06, 77-4105, 77-5004, 77-5725, and 81-1316, Revised Statutes Supplement, 2007; to change provisions relating to real estate tax statements, county assessors, tangible personal property tax assessment, property tax protests and appeals, refunds, Tax Commissioner duties, and the Tax Equalization and Review Commission; to exempt personnel of the Tax Equalization and Review Commission from the State Personnel System; to eliminate a provision relating to a report; to provide operative dates; to repeal the original sections; to outright repeal section 77-202.13, Revised Statutes Supplement, 2007; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 43:

Adams	Dubas	Harms	Langemeier	Raikes
Aguilar	Engel	Heidemann	Lathrop	Rogert
Ashford	Erdman	Howard	Lautenbaugh	Schimek
Avery	Fischer	Hudkins	McDonald	Stuthman
Burling	Flood	Janssen	McGill	Wallman
Carlson	Friend	Johnson	Nantkes	White
Chambers	Fulton	Karpisek	Nelson	Wightman
Christensen	Gay	Kopplin	Pirsch	
Dierks	Hansen	Kruse	Preister	

Voting in the negative, 0.

Present and not voting, 1:

Pahls

Excused and not voting, 5:

Cornett	Louden	Pankonin	Pedersen	Synowiecki
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bills were read and put upon final passage:

LEGISLATIVE BILL 1058. With Emergency.

A BILL FOR AN ACT relating to gambling; to amend sections 71-816 and 71-817, Revised Statutes Cumulative Supplement, 2006; to state intent; to

rename and change powers and duties of the State Advisory Committee on Problem Gambling and Addiction Services; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 45:

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

Voting in the negative, 0.

Present and not voting, 1:

Nelson

Excused and not voting, 3:

Cornett Pankonin Pedersen

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 1068.

A BILL FOR AN ACT relating to transportation; to amend sections 39-1817, 39-1818, 39-2103, 39-2105, 39-2109, 39-2110, 39-2112, and 39-2113, Reissue Revised Statutes of Nebraska, and section 13-1210, Revised Statutes Cumulative Supplement, 2006; to require reports regarding the public transportation assistance program; to create the classification of remote residential road; to change and eliminate provisions relating to functional classification of roads; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 46:

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

Voting in the negative, 0.

Excused and not voting, 3:

Cornett Pankonin Pedersen

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB1154 with 33 ayes, 4 nays, 9 present and not voting, and 3 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 1154.

A BILL FOR AN ACT relating to education; to amend sections 79-234, 79-1202, 79-1210, 79-1225, 81-1203, and 81-1204, Reissue Revised Statutes of Nebraska, sections 13-508, 13-519, and 79-201, Revised Statutes Cumulative Supplement, 2006, sections 32-546.01, 32-604, 77-3442, 79-611, 79-769, 79-1073, 79-1241.03, 79-2102, 79-2102.01, 79-2104, 79-2107, 79-2110, 79-2111, 79-2113, 79-2115, 79-2117, and 79-2118, Revised Statutes Supplement, 2007, and section 46, Legislative Bill 988, One Hundredth Legislature, Second Session, 2008; to change provisions relating to learning community coordinating councils, educational service units, budgets, tax levies, diversity plans, open enrollment, state aid, and job training grants; to require reporting by school districts; to provide for nonvoting learning community coordinating council members; to provide for an advisory committee; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 30:

Adams	Chambers	Janssen	Nantkes	Rogert
Aguilar	Engel	Johnson	Nelson	Schimek
Ashford	Flood	Kruse	Pahls	Stuthman
Avery	Friend	Lathrop	Pirsch	Synowiecki
Burling	Harms	McDonald	Preister	White
Carlson	Howard	McGill	Raikes	Wightman

Voting in the negative, 15:

Christensen	Erdman	Gay	Karpisek	Lautenbaugh
Dierks	Fischer	Hansen	Kopplin	Louden
Dubas	Fulton	Hudkins	Langemeier	Wallman

Present and not voting, 1:

Heidemann

Excused and not voting, 3:

Cornett	Pankonin	Pedersen
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bill was read and put upon final passage:

LEGISLATIVE BILL 1154A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1154, One Hundredth Legislature, Second Session, 2008.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 32:

Adams	Engel	Hudkins	Nantkes	Schimek
Aguilar	Fischer	Janssen	Nelson	Stuthman
Ashford	Flood	Johnson	Pahls	Synowiecki
Avery	Friend	Kruse	Pirsch	White
Burling	Harms	Lathrop	Preister	
Carlson	Heidemann	Lautenbaugh	Raikes	
Chambers	Howard	McGill	Rogert	

Voting in the negative, 9:

Christensen Dubas	Erdman Fulton	Gay Hansen	Karpisek Langemeier	Wallman
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Present and not voting, 5:

Dierks	Kopplin	Louden	McDonald	Wightman
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Excused and not voting, 3:

Cornett	Pankonin	Pedersen
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Return LB1001 to Select File

Senator White moved to return LB1001 to Select File for the following specific amendment:

AM2715

(Amendments to Final Reading copy)

- 1 1. On page 4, line 2, strike "For" through "2007" and
- 2 insert "Commencing July 1, 2009"; strike beginning with line 4
- 3 through the comma in line 5; and in line 8 after the period insert
- 4 "The total amount designated in any calendar year shall not exceed
- 5 five percent of the total state sales tax collected in the prior
- 6 calendar year.".
- 7 2. On page 16, strike beginning with "Sections" in line 3
- 8 through "become" in line 5 and insert "This act becomes".

The White motion to return prevailed with 41 ayes, 0 nays, 5 present and not voting, and 3 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 1001. The White specific amendment, AM2715, found in this day's Journal, was adopted with 43 ayes, 0 nays, 3 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Reengrossment.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 736, 736A, 916, 965, 1058, 1068, 1154, and 1154A.

RESOLUTION

Pursuant to Rule 4, Sec. 5(b), LR351 was adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR351.

SENATOR LANGEMEIER PRESIDING**RESOLUTION**

LEGISLATIVE RESOLUTION 283. Read. Considered.

Committee AM2582, found on page 1146, was adopted with 42 ayes, 0 nays, 6 present and not voting, and 1 excused and not voting.

LR283, as amended, was adopted with 43 ayes, 0 nays, 5 present and not voting, and 1 excused and not voting.

GENERAL FILE

LEGISLATIVE RESOLUTION 229CA. Read. Considered.

SENATOR ERDMAN PRESIDING

Senator Chambers offered the following motion:

MO171

Indefinitely postpone.

Senator Chambers withdrew his motion.

Advanced to Enrollment and Review Initial with 30 ayes, 4 nays, 11 present and not voting, and 4 excused and not voting.

PRESENTED TO THE GOVERNOR

Presented to the Governor on April 8, 2008, at 10:14 a.m. were the following: LBs 736, 736A, 916, 965e, 1058e, 1068, 1154, and 1154A.

(Signed) Jamie Kruse
Clerk of the Legislature's Office

EXPLANATION OF VOTES

Had I been present, I would have voted "aye" on final passage of LBs 736, 736A, 1058e, 1154, and 1154A.

(Signed) Dwite Pedersen

VISITORS

Visitors to the Chamber were 75 fourth-grade students and teachers from St. Patrick's School, Elkhorn; 54 fourth-grade students from Hayward School, Nebraska City; and 38 fourth-grade students from Lincoln Elementary, Beatrice.

RECESS

At 11:54 a.m., on a motion by Senator Pirsch, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Ashford, Cornett, Engel, Heidemann, and McDonald who were excused until they arrive.

COMMITTEE REPORT**Enrollment and Review****Correctly Enrolled**

The following resolution was correctly enrolled: LR283.

(Signed) Amanda McGill, Chairperson

ENROLLED 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 and vice-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 Executive Board is also authorized to hire outside legal counsel, consultants, and investigators as required by the committee. 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, including how and why services to the developmentally disabled were permitted to decline to the current level as documented by the United States Department of Justice report. The committee shall utilize existing studies and reports and legislation developed to address the current conditions. The committee shall not be limited to such studies, reports, or

legislation. The committee shall issue a report with its findings and recommendations to the Legislature no later than December 15, 2008.

GENERAL FILE

LEGISLATIVE BILL 1172. Title read. Considered.

Committee AM2305, found on page 920, was adopted with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 1172A. Title read. Considered.

Advanced to Enrollment and Review Initial with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

SENATOR LANGEMEIER PRESIDING

LEGISLATIVE BILL 720. The second committee amendment, AM2714, found on page 1349, was renewed.

Senator Aguilar moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

The second committee amendment was adopted with 26 ayes, 1 nay, 18 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Nelson offered the following amendment:

AM2717

- 1 1. Insert the following new section:
- 2 Sec. 6. This act becomes operative on January 1, 2009.

The Nelson amendment was adopted with 25 ayes, 3 nays, 15 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 26 ayes, 1 nay, 16 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 810. Title read. Considered.

Committee AM2664, found on page 1331, was considered.

Senator Kruse offered the following amendment to the committee amendment:

AM2687

(Amendments to AM2664)

1 1. Strike section 3 and insert the following new section:

2 Sec. 3. Section 53-1,104, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 53-1,104 (1) Any licensee which sells or permits the
5 sale of any alcoholic liquor not authorized under the terms of
6 such license on the licensed premises or in connection with such
7 licensee's business or otherwise shall be subject to suspension,
8 cancellation, or revocation of such license by the commission.

9 ~~(2) When an order suspending a license to sell alcoholic~~
10 ~~liquor becomes final, the licensee may elect to pay a cash penalty~~
11 ~~to the commission in lieu of suspending sales of alcoholic liquor~~
12 ~~for the designated period if such election is not prohibited~~
13 ~~by order of the commission. Except as otherwise provided in~~
14 ~~subsection (3) of this section, for the first such suspension for~~
15 ~~any licensee, the penalty shall be fifty dollars per day, and for~~
16 ~~a second or any subsequent suspension, the penalty shall be one~~
17 ~~hundred dollars per day.~~

18 (2) For a first suspension for violation of section
19 53-180 or 53-180.02 or section 1 of this act, the commission shall
20 order that the licensee be required to suspend sales of alcoholic
21 liquor for a period of time not to exceed seven days.

22 (3)(a) For a second suspension for violation of section
1 53-180 or 53-180.02 or section 1 of this act occurring within four
2 years after the date of the first suspension, the commission, ~~in~~
3 ~~its discretion, may~~ shall order that the licensee be required to
4 suspend sales of alcoholic liquor for a period of time not to
5 exceed ~~forty eight hours and that the licensee may not elect to pay~~
6 ~~a cash penalty. The commission may use the required suspension of~~
7 ~~sales of alcoholic liquor penalty either alone or in conjunction~~
8 ~~with suspension periods for which the licensee may elect to pay~~
9 ~~a cash penalty. ten days.~~ For purposes of this subsection, second
10 suspension for violation of section 53-180 shall include suspension
11 for a violation of section 53-180.02 following suspension for a
12 violation of section 53-180 and second suspension for violation
13 of section 53-180.02 shall include suspension for a violation of
14 section 53-180 following suspension for a violation of section
15 53-180.02;

16 (b) For a third or subsequent suspension for violation
17 of section 53-180 or 53-180.02 or section 1 of this act occurring
18 within four years after the date of the first suspension, the
19 commission, ~~in its discretion, may~~ shall order that the licensee be
20 required to suspend sales of alcoholic liquor for a period of time
21 not to exceed fifteen days, ~~and that the licensee may not elect to~~
22 ~~pay a cash penalty. The commission may use the required suspension~~
23 ~~of sales of alcoholic liquor penalty either alone or in conjunction~~

24 ~~with suspension periods for which the licensee may elect to pay a~~
 25 ~~cash penalty.~~ For purposes of this subsection, third or subsequent
 26 suspension for violation of section 53-180 shall include suspension
 27 for a violation of section 53-180.02 following suspension for a
 1 violation of section 53-180 and third or subsequent suspension
 2 for violation of section 53-180.02 shall include suspension for a
 3 violation of section 53-180 following suspension for a violation of
 4 section 53-180.02; and

5 (c) For a first suspension based upon a finding that a
 6 licensee or an employee or agent of the licensee has been convicted
 7 of possession of a gambling device on a licensee's premises in
 8 violation of sections 28-1107 to 28-1111, the commission, in its
 9 discretion, may order that the licensee be required to suspend
 10 sales of alcoholic liquor for thirty days, ~~and that the licensee~~
 11 ~~may not elect to pay a cash penalty.~~ For a second or subsequent
 12 suspension for such a violation of sections 28-1107 to 28-1111
 13 occurring within four years after the date of the first suspension,
 14 the commission shall order that the license be canceled.

15 (4) For any licensee which has no violation for a period
 16 of four years consecutively, any suspension shall be treated as a
 17 new first suspension.

18 ~~(5) The election provided for in subsection (2) of~~
 19 ~~this section shall be filed with the commission in writing one~~
 20 ~~week before the suspension is ordered to commence and shall be~~
 21 ~~accompanied by payment in full of the sum required by this section.~~
 22 ~~If such election has not been received by the commission by the~~
 23 ~~close of business one week before the day such suspension is~~
 24 ~~ordered to commence, it shall be conclusively presumed that the~~
 25 ~~licensee has elected to close for the period of the suspension~~
 26 ~~and any election received later shall be absolutely void and the~~
 27 ~~payment made shall be returned to the licensee. The election shall~~
 1 ~~be made on a form prescribed by the commission. All funds received~~
 2 ~~under this section shall be remitted to the State Treasurer for~~
 3 ~~credit to the temporary school fund.~~

SENATOR CARLSON PRESIDING

Senator Kruse withdrew his amendment.

Senator Pedersen moved the previous question. The question is, "Shall the debate now close?"

Senator Pedersen moved for a call of the house. The motion prevailed with 25 ayes, 5 nays, and 19 not voting.

The motion to cease debate prevailed with 25 ayes, 1 nay, 15 present and not voting, and 8 excused and not voting.

Senator Kruse requested a roll call vote on the committee amendment.

Voting in the affirmative, 20:

Aguilar	Carlson	Johnson	McGill	Preister
Ashford	Chambers	Kopplin	Nelson	Raikes
Avery	Harms	Kruse	Pankonin	Schimek
Burling	Howard	Lathrop	Pirsch	Wightman

Voting in the negative, 21:

Adams	Fulton	Karpisek	Pedersen	White
Christensen	Gay	Langemeier	Rogert	
Dubas	Hansen	Louden	Stuthman	
Erdman	Hudkins	McDonald	Synowiecki	
Friend	Janssen	Pahls	Wallman	

Present and not voting, 1:

Nantkes

Excused and not voting, 7:

Cornett	Engel	Flood	Lautenbaugh
Dierks	Fischer	Heidemann	

The committee amendment lost with 20 ayes, 21 nays, 1 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

SENATOR LANGEMEIER PRESIDING

Senator Kruse offered the following motion:

MO176

Unanimous consent to pass over.

No objections. So ordered.

AMENDMENTS - Print in Journal

Senator White filed the following amendment to LB1001A:
AM2720

(Amendments to Final Reading copy)

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. There is hereby appropriated (1) \$201,800 from
- 4 the General Fund for FY2008-09 and (2) \$56,900 from the General
- 5 Fund for FY2009-10 to the Department of Revenue, for Program 102,
- 6 to aid in carrying out the provisions of Legislative Bill 1001, One

- 7 Hundredth Legislature, Second Session, 2008.
 8 Total expenditures for permanent and temporary salaries
 9 and per diems from funds appropriated in this section shall not
 10 exceed \$31,000 for FY2008-09 or \$42,900 for FY2009-10.
 11 Sec. 2. There is hereby appropriated \$8,547,200 from
 12 the Energy Conservation Improvement Fund for FY2009-10 to the
 13 Department of Revenue, for Program 110, to aid in carrying out
 14 the provisions of Legislative Bill 1001, One Hundredth Legislature,
 15 Second Session, 2008.
 16 No expenditures for permanent and temporary salaries and
 17 per diems for state employees shall be made from funds appropriated
 18 in this section.

Senator Schimek filed the following amendment to LB720:
 AM2716

(Amendments to AM2713)

- 1 1. On page 2, line 12, strike the second "or"; and
- 2 in line 13 after "schedules" insert ", or (d) a message from a
- 3 political subdivision to its residents or employees".

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 1082. Placed on Select File with amendment.
 ER8237

- 1 1. On page 1, strike lines 3 and 4 and insert
- 2 "Nebraska, and section 48-1,110, Revised Statutes Supplement,
- 3 2007; to describe covered personal injuries for first responders
- 4 as prescribed; to define and redefine terms; to provide for
- 5 applicability; to harmonize provisions; and to repeal the original
- 6 sections.".

LEGISLATIVE BILL 1027. Placed on Select File with amendment.
 ER8238

- 1 1. On page 1, strike beginning with "sections" in line
- 2 1 through line 4 and insert "section 77-5204, Reissue Revised
- 3 Statutes of Nebraska, and sections 77-202, 77-5201, 77-5203,
- 4 77-5208, 77-5209, 77-5211, and 77-5215, Revised Statutes Cumulative
- 5 Supplement, 2006; to exempt certain agricultural and horticultural
- 6 machinery and equipment from property taxation; to redefine a
- 7 term; to provide exemption procedures; to change provisions of the
- 8 Beginning Farmer Tax Credit Act; to provide for applicability; to
- 9 harmonize provisions;".

LEGISLATIVE BILL 1027A. Placed on Select File.

(Signed) Amanda McGill, Chairperson

MOTION - Print in Journal

Senator Fulton filed the following motion to LB736:

MO174

To direct the Clerk to request the Governor to return the bill to the Legislature for further consideration, in the nature of technical or clarifying amendment.

AMENDMENT - Print in Journal

Senator Fulton filed the following amendment to LB736:

AM2722

(Amendments to Final Reading copy)

- 1 1. On page 1, line 10, after "fees" insert "for permits".
- 2 2. On page 10, line 21, after "section" insert ".except
- 3 for the ignition interlock permit and associated fees as outlined
- 4 in subsection (4) of this section".
- 5 3. On page 11, lines 4 through 8, strike the new matter.
- 6 4. On page 13, strike line 18.
- 7 5. On page 15, after line 3, insert the following new
- 8 subsection:
- 9 "(4)(a) The fee for an ignition interlock permit shall be
- 10 forty-five dollars. Five dollars of the fee shall be remitted to
- 11 the State Treasurer for credit to the Department of Motor Vehicles
- 12 Cash Fund. Forty dollars of the fee shall be remitted to the State
- 13 Treasurer for credit to the Ignition Interlock Device Fund.
- 14 (b) The fee for a duplicate or replacement ignition
- 15 interlock permit shall be ten dollars. Twenty-five cents of the
- 16 fee shall be remitted to the county treasurer for credit to the
- 17 county general fund. Five dollars of the fee shall be remitted to
- 18 the State Treasurer for credit to the Department of Motor Vehicles
- 19 Cash Fund. Four dollars and seventy-five cents of the fee shall
- 20 be remitted to the State Treasurer for credit to the Ignition
- 21 Interlock Device Fund.
- 22 (c) The fee for adding, changing, or removing a class,
- 1 endorsement, or restriction on an ignition interlock permit shall
- 2 be five dollars. The fee shall be remitted to the State Treasurer
- 3 for credit to the Department of Motor Vehicles Cash Fund.".
- 4 6. On page 36, strike line 18 and insert "The Office
- 5 of Probation Administration shall use the money in the fund for
- 6 the costs of installing"; and in line 20 after the period insert
- 7 "The Office of Probation Administration shall use no more than five
- 8 percent of the fund revenue in each fiscal year for purposes of
- 9 administering the fund.".

MOTION - Print in Journal

Senator Fulton filed the following motion to LB736A:
MO175

To direct the Clerk to request the Governor to return the bill to the Legislature for further consideration, in the nature of technical or clarifying amendment.

AMENDMENT - Print in Journal

Senator Fulton filed the following amendment to LB736A:
AM2723

(Amendments to Final Reading copy)

- 1 1. Insert the following new section:
- 2 Sec. 2. There is hereby appropriated \$10,000 from the
- 3 Ignition Interlock Device Fund for FY2008-09 to the Supreme
- 4 Court, for Program 67, to aid in carrying out the provisions
- 5 of Legislative Bill 736, One Hundredth Legislature, Second Session,
- 6 2008.
- 7 No expenditures for permanent and temporary salaries and
- 8 per diems for state employees shall be made from funds appropriated
- 9 in this section.

COMMITTEE REPORT

Enrollment and Review

LEGISLATIVE BILL 1001. Placed on Final Reading Second.
ST9093

(Final Reading copy)

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

1. On page 1, line 7, "operative dates" has been struck and "an operative date" inserted.
2. On page 4, line 3, the comma has been struck.

(Signed) Amanda McGill, Chairperson

GENERAL FILE

LEGISLATIVE BILL 1130. Title read. Considered.

SENATOR NELSON PRESIDING

Committee AM2330, found on page 984, was considered.

Senator Ashford withdrew his amendment, AM2693, found on page 1350.

Senator Ashford offered the following amendment to the committee amendment:

AM2721

(Amendments to Standing Committee amendments, AM2330)

- 1 1. Strike amendment 1 and all amendments thereto and
- 2 insert the following new amendment:
- 3 "1. Strike the original sections and all amendments
- 4 thereto and insert the following new sections:
- 5 Section 1. Sections 1 to 11 of this act shall be known
- 6 and may be cited as the Probation and Parole Merger Act.
- 7 Sec. 2. For purposes of the Probation and Parole Merger
- 8 Act:
- 9 (1) Chief probation and parole officer means the
- 10 probation and parole officer in charge of a community corrections
- 11 district;
- 12 (2) Committed offender has the definition found in
- 13 section 83-170;
- 14 (3) Court means a district court, county court, or
- 15 juvenile court as defined in section 43-245;
- 16 (4) Court services officer includes a chief court
- 17 services officer, deputy court services officer, juvenile
- 18 court officer, juvenile intake officer, presentence officer, or
- 19 problem-solving court officer;
- 20 (5) Department means the Department of Correctional
- 21 Services;
- 22 (6) Director means the Director of Correctional Services;
- 1 (7) Division means the Division of Community Corrections
- 2 of the department;
- 3 (8) Juvenile probation means the release by a court,
- 4 subject to conditions imposed by the court and subject to
- 5 supervision, of a juvenile adjudicated delinquent or in need
- 6 of special supervision;
- 7 (9) Office means the Office of Court Services;
- 8 (10) Parole means release by decision of the Board of
- 9 Parole from incarceration in an adult correctional facility;
- 10 (11) Parolee means a person on parole;
- 11 (12) Probation has the definition found in section
- 12 29-2246;
- 13 (13) Probation administrator means the probation
- 14 administrator appointed pursuant to section 29-2251;
- 15 (14) Probation and parole officer means an employee of
- 16 the division who supervises probationers and parolees; and
- 17 (15) Probationer has the definition found in section
- 18 29-2246.
- 19 Sec. 3. The Legislature finds that:
- 20 (1) The separate and distinct supervision of adult
- 21 offenders in the community by the executive branch of government
- 22 and the judicial branch of government present significant barriers
- 23 to the efficient supervision of adult offenders in the community

24 and to statewide coordination of community-based programs promoting
25 the rehabilitation of offenders; and

26 (2) The interests of society and the protection of
27 the public are best served by placing the supervision of
1 adult offenders in the community under the executive branch of
2 government.

3 Sec. 4. (1) On or before September 15, 2008, the director
4 and the probation administrator shall submit a plan to the
5 chairperson of the Judiciary Committee of the Legislature, the
6 Governor, and the Chief Justice of the Supreme Court to implement
7 the provisions of the Probation and Parole Merger Act. The plan
8 shall include suggested legislation and a budget proposal that
9 address the division of personnel, the assignment of duties,
10 the allocation of fees, funds, furniture, equipment, books, and
11 files, and all other matters related to creation of the Division
12 of Community Corrections and the Office of Court Services. The
13 director and the probation administrator shall work cooperatively with
14 the Probation and Parole Advisory Board and all other interested
15 governmental entities in developing the plan.

16 (2) The chairperson of the Judiciary Committee of the
17 Legislature shall prepare and introduce legislation, based upon the
18 plan submitted by the director and the probation administrator,
19 during the One Hundred First Legislature, First Session.

20 Sec. 5. (1) On July 1, 2009 the Division of Community
21 Corrections is created within the department. Administrative
22 support for the division shall be provided by employees of the
23 department. On and after July 1, 2009, the division shall consist
24 of the community corrections administrator and the field community
25 corrections service described in section 7 of this act who are
26 responsible for adult parolees. Beginning July 1, 2009, the
27 division shall also consist of the personnel of the field community
1 corrections service who are responsible for the supervision of
2 adult probationers.

3 (2) Beginning July 1, 2009, the division shall
4 be responsible for supervision of adult parolees and adult
5 probationers.

6 Sec. 6. Beginning July 1, 2009, the chief administrative
7 officer of the division shall be known as the community corrections
8 administrator. The Governor shall appoint the community corrections
9 administrator, with the approval of a majority of the Legislature,
10 and set the salary of the administrator on the operative date
11 of this section. The community corrections administrator shall be
12 qualified for the position by appropriate training and experience
13 in the fields of probation, parole, criminal law, and criminal
14 justice. The community corrections administrator shall serve at the
15 pleasure of the Governor.

16 Sec. 7. Section 83-1,103, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 83-1,103 The field ~~parole~~ community corrections service,

19 consisting of ~~district parole~~ chief probation and parole officers
 20 and deputy ~~parole~~ probation and parole officers working under
 21 the direction of the ~~Parole Administrator or district judge,~~
 22 community corrections administrator shall be responsible for the
 23 investigation of parolees, and supervision, and assistance of adult
 24 parolees, adult probationers, or individuals subject to community
 25 supervision under section 83-174.03. The field ~~parole~~ community
 26 corrections service shall be sufficient in size to assure that
 27 no ~~district parole~~ probation and parole officer carries a case
 1 load-caseload larger than is compatible with adequate ~~parole~~
 2 investigation or supervision.

3 Sec. 8. (1) The Probation and Parole Advisory Board is
 4 created. The Chief Justice of the Supreme Court or his or her
 5 designee shall be the chairperson of the advisory board. The
 6 advisory board shall have the following members:

7 (a) One county court judge, appointed by the Chief
 8 Justice;

9 (b) One district court judge, appointed by the Chief
 10 Justice;

11 (c) On July 1, 2009, the court services administrator;

12 (d) The chairperson of the Board of Parole;

13 (e) Until July 1, 2009, the probation administrator, and
 14 on and after such date, the community corrections administrator;
 15 and

16 (f) The Director of Correctional Services.

17 (2) Until July 1, 2009, the advisory board shall meet
 18 monthly at the call of the Chief Justice. The advisory board
 19 shall work cooperatively with the director and the probation
 20 administrator in developing and implementing the plan described in
 21 section 4 of this act.

22 (3) On and after July 1, 2009:

23 (a) The advisory board shall meet at least twice each
 24 year and may meet more often on the call of the Chief Justice,
 25 except that the advisory board shall meet at least once each month
 26 prior to the appointment of the community corrections administrator
 27 under section 6 of this act. The advisory board shall monitor
 1 the operation, professionalism, and success of the division and
 2 its employees and ensure open lines of communication between the
 3 division and the judiciary;

4 (b) All decisions regarding the budget and allocation
 5 of resources of the division shall remain with the Director of
 6 Correctional Services; and

7 (c) The chairperson of the Judiciary Committee of the
 8 Legislature shall consult with the advisory board to determine
 9 if further legislation is necessary to provide for a seamless
 10 transition from the organization of probation and parole services
 11 existing on the effective date of this act to the provisions of
 12 the Probation and Parole Merger Act. If legislation is necessary,
 13 the chairperson of the Judiciary Committee shall prepare such

14 legislation for introduction in the One Hundred First Legislature.
 15 Sec. 9. On July 1, 2009, the Office of Court Services
 16 is created within the judicial branch of government and directly
 17 responsible to the Supreme Court. The office shall consist of the
 18 court services administrator, court services officers, and such
 19 other employees as may be necessary to carry out the functions of
 20 the office.

21 Sec. 10. The office shall be responsible for juvenile
 22 intake services, for adult presentence investigations, for
 23 juvenile predisposition investigations, for the direct supervision
 24 of juveniles placed on probation, and for adult and juvenile
 25 non-probation-based programs and services authorized by an
 26 interlocal agreement.

27 Sec. 11. On July 1, 2009, the Supreme Court shall
 1 appoint a court services administrator who shall be a person with
 2 appropriate experience and training in relevant disciplines at
 3 a recognized college or university and who shall serve at the
 4 pleasure of the Supreme Court.

5 Sec. 12. Original section 83-1,103, Revised Statutes
 6 Cumulative Supplement, 2006, is repealed.

SENATOR LANGEMEIER PRESIDING

Pending.

SELECT FILE

LEGISLATIVE BILL 844. ER8180, found on page 850, was adopted.

Senator McDonald renewed her amendment, AM2257, found on page 1190.

Senator McDonald withdrew her amendment.

Senator Karpisek offered the following amendment:

FA271

Amend ER8180

Page 7 lines 12-13 strike new language.

The Karpisek amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

COMMITTEE REPORT

Enrollment and Review

LEGISLATIVE RESOLUTION 229CA. Placed on Select File.

(Signed) Amanda McGill, Chairperson

AMENDMENTS - Print in Journal

Senator Schimek filed the following amendment to LB838:
FA272

Strike the enacting clause.

Senator Raikes filed the following amendment to LB1153:
AM2701

(Amendments to E & R amendments, ER8234)

1 1. Strike section 2 and insert the following new
2 sections:
3 Sec. 2. For school year 2008-09, any early childhood
4 education program as defined in section 79-1101 established by a
5 school board or an educational service unit that is not receiving a
6 grant pursuant to section 79-1103 or funding through the Tax Equity
7 and Educational Opportunities Support Act may enroll children who
8 meet the age requirements to be enrolled in kindergarten pursuant
9 to section 79-214, but who are not then enrolled in kindergarten
10 and who are not of mandatory attendance age pursuant to section
11 79-201.

12 Sec. 7. Section 13, Legislative Bill 988, One Hundredth
13 Legislature, Second Session, 2008, is amended to read:

14 (1) Except as otherwise provided in this section, for
15 school fiscal year 2008-09, each school district's formula need
16 shall equal the difference of the sum of the school district's
17 basic funding, poverty allowance, limited English proficiency
18 allowance, elementary class size allowance, focus school and
19 program allowance, summer school allowance, special receipts
20 allowance, transportation allowance, elementary site allowance,
21 distance education and telecommunications allowance, averaging
22 adjustment, and teacher education adjustment, minus the sum of the
1 limited English proficiency allowance correction, poverty allowance
2 correction, and local choice adjustment.

3 (2) Except as otherwise provided in this section, for
4 school fiscal years 2009-10 and 2010-11, each school district's
5 formula need shall equal the difference of the sum of the
6 school district's basic funding, poverty allowance, limited
7 English proficiency allowance, elementary class size allowance,
8 focus school and program allowance, summer school allowance,
9 special receipts allowance, transportation allowance, elementary
10 site allowance, instructional time allowance, distance education
11 and telecommunications allowance, averaging adjustment, teacher
12 education adjustment, new learning community transportation
13 adjustment, student growth adjustment, and new school adjustment,
14 minus the sum of the limited English proficiency allowance
15 correction, poverty allowance correction, and local choice
16 adjustment.

17 (3) Except as otherwise provided in this section, for

18 school fiscal years 2011-12 and 2012-13, each school district's
19 formula need shall equal the difference of the sum of the
20 school district's basic funding, poverty allowance, limited
21 English proficiency allowance, elementary class size allowance,
22 focus school and program allowance, summer school allowance,
23 special receipts allowance, transportation allowance, elementary
24 site allowance, instructional time allowance, distance education
25 and telecommunications allowance, averaging adjustment, teacher
26 education adjustment, new learning community transportation
27 adjustment, student growth adjustment, any positive student growth
1 adjustment correction, and new school adjustment, minus the sum
2 of the limited English proficiency allowance correction, poverty
3 allowance correction, any negative student growth adjustment
4 correction, and local choice adjustment.

5 (4) Except as otherwise provided in this section, for
6 school fiscal year 2013-14 and each school fiscal year thereafter,
7 each school district's formula need shall equal the difference of
8 the sum of the school district's basic funding, poverty allowance,
9 limited English proficiency allowance, focus school and program
10 allowance, summer school allowance, special receipts allowance,
11 transportation allowance, elementary site allowance, instructional
12 time allowance, distance education and telecommunications
13 allowance, averaging adjustment, teacher education adjustment,
14 new learning community transportation adjustment, student growth
15 adjustment, any positive student growth adjustment correction,
16 and new school adjustment, minus the sum of the limited English
17 proficiency allowance correction, poverty allowance correction, any
18 negative student growth adjustment correction, and local choice
19 adjustment.

20 (5) If the formula need calculated for a school district
21 pursuant to subsections (1) through (4) of this section is less
22 than one hundred percent of the formula need for such district
23 for the school fiscal year immediately preceding the school fiscal
24 year for which aid is being calculated, the formula need for such
25 district shall equal one hundred percent of the formula need for
26 such district for the school fiscal year immediately preceding
27 the school fiscal year for which aid is being calculated. If
1 the formula need calculated for a school district pursuant to
2 subsections (1) through (4) of this section is more than one
3 hundred twelve percent of the formula need for such district for
4 the school fiscal year immediately preceding the school fiscal
5 year for which aid is being calculated, the formula need for such
6 district shall equal one hundred twelve percent of the formula
7 need for such district for the school fiscal year immediately
8 preceding the school fiscal year for which aid is being calculated,
9 except that the formula need shall not be reduced pursuant to
10 this subsection for any district (a) receiving a student growth
11 adjustment for the school fiscal year for which aid is being
12 calculated or (b) for school fiscal year 2008-09, for which

13 the formula students for the certification of aid pursuant to
 14 section 79-1022 for school fiscal year 2008-09 minus the formula
 15 students for the certification of aid pursuant to section 79-1022
 16 for school fiscal year 2007-08 equals at least the greater of
 17 twenty-five students or one percent of the formula students for the
 18 certification of aid pursuant to section 79-1022 for school fiscal
 19 year 2007-08. For purposes of this subsection, the formula need
 20 for the school fiscal year immediately preceding the school fiscal
 21 year for which aid is being calculated shall be the formula need
 22 used in the final calculation of aid pursuant to section 79-1065
 23 and for districts that were affected by a reorganization with an
 24 effective date in the calendar year preceding the calendar year
 25 in which aid is certified for the school fiscal year for which
 26 aid is being calculated, the formula need for the school fiscal
 27 year immediately preceding the school fiscal year for which aid
 1 is being calculated shall be attributed to the affected school
 2 districts based on information provided to the department by the
 3 school districts or proportionally based on the adjusted valuation
 4 transferred if sufficient information has not been provided to the
 5 department.

6 Sec. 8. The Revisor of Statutes shall assign section 1 of
 7 this act within Chapter 79, article 7.

8 Sec. 9. Sections 7, 9, 11, and 12 of this act become
 9 operative on their effective date. The other sections of this act
 10 become operative three calendar months after the adjournment of
 11 this legislative session.

12 Sec. 11. Original section 13, Legislative Bill 988, One
 13 Hundredth Legislature, Second Session, 2008, is repealed.

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

GENERAL FILE

LEGISLATIVE BILL 837. Title read. Considered.

Committee AM1767, found on page 532, was considered.

SENATOR SCHIMEK PRESIDING

The committee amendment was adopted with 26 ayes, 0 nays, 13 present and not voting, and 10 excused and not voting.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 7 present and not voting, and 10 excused and not voting.

RESOLUTIONS**LEGISLATIVE RESOLUTION 387.** Introduced by Howard, 9.

WHEREAS, George and Sarah Joslyn earned their fortune in Omaha through their auxiliary printing company, the Western Newspaper Union; and

WHEREAS, George and Sarah Joslyn were noted for their philanthropy as they actively supported Omaha community projects toward which it is estimated they gave nearly eight million dollars; and

WHEREAS, Sarah's only child died in infancy and she and George raised their foster daughter, Violet Car, as their own; and

WHEREAS, Sarah Joslyn served on the executive board of several organizations, including the Child Saving Institute and the Humane Society; and

WHEREAS, Sarah Joslyn became the wealthiest individual in Omaha following her husband's death in 1916 and used her wealth and influence to continue to support a broad range of charities in the community; and

WHEREAS, when asked why she continued to give to the Omaha community instead of retiring to some sunny place, Sarah Joslyn said "The money was made in Omaha and it will be spent here"; and

WHEREAS, Sarah Joslyn continued to give generously to the Child Saving Institute, the Humane Society, the University of Omaha, and many other charities; and

WHEREAS, the Joslyn Art Museum was Sarah Joslyn's most generous gift to the people of Omaha in memory of her husband, George A. Joslyn.

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

1. That the Nebraska Legislature honors Sarah Joslyn (1851-1940) for her philanthropic work in the Omaha community.

Laid over.

LEGISLATIVE RESOLUTION 388. Introduced by Education Committee: Raikes, 25, Chairperson; Adams, 24; Avery, 28; Burling, 33; Johnson, 37; Kopplin, 3; Flood, 19; McDonald, 41.

PURPOSE: To review the constitutional references to and the statutory powers and duties of the State Board of Education and the Commissioner of Education.

The Education Committee of the Legislature shall study the powers and duties granted to the State Board of Education and the Commissioner of Education by the Constitution of Nebraska and Nebraska statute. The study may include, but need not be limited to, the following:

- (1) Qualifications for the Commissioner of Education;
- (2) Duties of the Commissioner of Education;
- (3) Qualifications for members of the State Board of Education;
- (4) Duties of the State Board of Education;

(5) Line of authority between the state board and the commissioner, to include powers and duties that are shared by, granted to, or constitutionally established for each;

(6) The statutory role of the commissioner as "secretary of the board";

(7) The ability of the state board to meet without the commissioner;

(8) The ability of the commissioner to act in his or her official capacity contrary to board policy;

(9) The rationale for the statutory power of the commissioner to "decide disputed points of school law" granted under section 79-305;

(10) Other powers and duties specifically described in statute or assumed as a matter of practice; and

(11) The role and relationship among the branches of government impacting education policy.

The Education Committee of the Legislature may confer with the State Board of Education, the State Department of Education, and other appropriate persons in the study of these issues.

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

1. That the Education 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.

GENERAL FILE

LEGISLATIVE BILL 734. Title read. Considered.

SENATOR ERDMAN PRESIDING

Committee AM1794, found on page 711, was considered.

Senator Pahls moved for a call of the house. The motion prevailed with 24 ayes, 0 nays, and 25 not voting.

The committee amendment was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 11 present and not voting, and 8 excused and not voting.

SPEAKER FLOOD PRESIDING

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR283.

AMENDMENT - Print in Journal

Senator Preister filed the following amendment to LB986:
AM2730 is available in the Bill Room.

VISITORS

Visitors to the Chamber were 46 fourth-grade students from Sandoz Elementary, Lexington.

The Doctor of the Day was Dr. Mike Myers from Lincoln.

ADJOURNMENT

At 6:45 p.m., on a motion by Senator Erdman, the Legislature adjourned until 9:00 a.m., Wednesday, April 9, 2008.

Patrick J. O'Donnell
Clerk of the Legislature