

FIFTY-NINTH DAY - APRIL 7, 2011**LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION****FIFTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, April 7, 2011

PRAYER

The prayer was offered by Pastor Don Nunnally, St. Paul United Methodist (retired), Lincoln.

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 Senator Wightman who was excused; and Senators Christensen, Coash, Conrad, Heidemann, Lautenbaugh, and Louden who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-eighth day was approved.

GENERAL FILE

LEGISLATIVE BILL 682. Committee AM626, found on page 860 and considered on pages 1062 and 1066, as amended, was renewed.

The committee amendment, as amended, was adopted with 34 ayes, 0 nays, 8 present and not voting, and 7 excused and not voting.

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

Senator Mello requested a roll call vote, in reverse order, on the advancement of the bill.

Voting in the affirmative, 25:

Ashford	Council	Krist	Nelson	Price
Avery	Dubas	Langemeier	Nordquist	Schumacher
Conrad	Haar, K.	Lathrop	Pahls	Smith
Cook	Harr, B.	McGill	Pankonin	Sullivan
Cornett	Howard	Mello	Pirsch	Wallman

Voting in the negative, 17:

Adams	Fischer	Hadley	Janssen	Utter
Brasch	Flood	Hansen	Larson	
Campbell	Fulton	Harms	McCoy	
Carlson	Gloor	Heidemann	Schilz	

Present and not voting, 3:

Bloomfield	Christensen	Karpisek
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Excused and not voting, 4:

Coash	Lautenbaugh	Louden	Wightman
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Advanced to Enrollment and Review Initial with 25 ayes, 17 nays, 3 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 177. Title read. Considered.

Committee AM713, found on page 886, was considered.

Senator Howard withdrew her amendment, AM848, found on page 915.

Senator Howard renewed her amendment, AM1110, found on page 1074, to the committee amendment.

SENATOR GLOOR PRESIDING

The Howard amendment was adopted with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

The committee amendment, as amended, was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 6 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 54. Title read. Considered.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 637. Title read. Considered.

Committee AM838, found on page 898, was considered.

Senator Adams renewed his amendment, AM1057, found on page 1055, to the committee amendment.

The Adams amendment was adopted with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

The committee amendment, as amended, was adopted with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

Senator Avery offered the following amendment:

AM883

- 1 1. Insert the following new sections:
- 2 Sec. 26. Section 9-812, Revised Statutes Cumulative
- 3 Supplement, 2010, as amended by section 1, Legislative Bill 333,
- 4 One Hundred Second Legislature, First Session, 2011, is amended to
- 5 read:
- 6 9-812 (1) All money received from the operation of
- 7 lottery games conducted pursuant to the State Lottery Act in
- 8 Nebraska shall be credited to the State Lottery Operation Trust
- 9 Fund, which fund is hereby created. All payments of the costs
- 10 of establishing and maintaining the lottery games shall be made
- 11 from the State Lottery Operation Cash Fund. In accordance with
- 12 legislative appropriations, money for payments for expenses of the
- 13 division shall be transferred from the State Lottery Operation
- 14 Trust Fund to the State Lottery Operation Cash Fund, which fund
- 15 is hereby created. All money necessary for the payment of lottery
- 16 prizes shall be transferred from the State Lottery Operation Trust
- 17 Fund to the State Lottery Prize Trust Fund, which fund is hereby
- 18 created. The amount used for the payment of lottery prizes shall
- 19 not be less than forty percent of the dollar amount of the lottery
- 20 tickets which have been sold.
- 21 (2) Beginning October 1, 2003, a portion of the dollar
- 22 amount of the lottery tickets which have been sold on an annualized
- 23 basis shall be transferred from the State Lottery Operation Trust
- 1 Fund to the Education Innovation Fund, the Nebraska Opportunity
- 2 Grant Fund, the Nebraska Environmental Trust Fund, the Nebraska
- 3 State Fair Board, and the Compulsive Gamblers Assistance Fund. The
- 4 dollar amount transferred pursuant to this subsection shall equal
- 5 the greater of (a) the dollar amount transferred to the funds
- 6 in fiscal year 2002-03 or (b) any amount which constitutes at

7 least twenty-two percent and no more than twenty-five percent of
8 the dollar amount of the lottery tickets which have been sold on
9 an annualized basis. To the extent that funds are available, the
10 Tax Commissioner and director may authorize a transfer exceeding
11 twenty-five percent of the dollar amount of the lottery tickets
12 sold on an annualized basis.

13 (3) Of the money available to be transferred to the
14 Education Innovation Fund, the Nebraska Opportunity Grant Fund, the
15 Nebraska Environmental Trust Fund, the Nebraska State Fair Board,
16 and the Compulsive Gamblers Assistance Fund:

17 (a) The first five hundred thousand dollars shall be
18 transferred to the Compulsive Gamblers Assistance Fund to be used
19 as provided in section 71-817;

20 (b) Nineteen and three-fourths percent of the money
21 remaining after the payment of prizes and operating expenses and
22 the initial transfer to the Compulsive Gamblers Assistance Fund
23 shall be transferred to the Education Innovation Fund;

24 (c) Twenty-four and three-fourths percent of the money
25 remaining after the payment of prizes and operating expenses and
26 the initial transfer to the Compulsive Gamblers Assistance Fund
27 shall be transferred to the Nebraska Opportunity Grant Fund;

1 (d) Forty-four and one-half percent of the money
2 remaining after the payment of prizes and operating expenses and
3 the initial transfer to the Compulsive Gamblers Assistance Fund
4 shall be transferred to the Nebraska Environmental Trust Fund to be
5 used as provided in the Nebraska Environmental Trust Act;

6 (e) Ten percent of the money remaining after the payment
7 of prizes and operating expenses and the initial transfer to
8 the Compulsive Gamblers Assistance Fund shall be transferred to
9 the Nebraska State Fair Board if the most populous city within
10 the county in which the fair is located provides matching funds
11 equivalent to ten percent of the funds available for transfer. Such
12 matching funds may be obtained from the city and any other private
13 or public entity, except that no portion of such matching funds
14 shall be provided by the state. If the Nebraska State Fair ceases
15 operations, ten percent of the money remaining after the payment
16 of prizes and operating expenses and the initial transfer to the
17 Compulsive Gamblers Assistance Fund shall be transferred to the
18 General Fund; and

19 (f) One percent of the money remaining after the payment
20 of prizes and operating expenses and the initial transfer to the
21 Compulsive Gamblers Assistance Fund shall be transferred to the
22 Compulsive Gamblers Assistance Fund to be used as provided in
23 section 71-817.

24 (4)(a) The Education Innovation Fund is created. At least
25 seventy-five percent of the lottery proceeds allocated to the
26 Education Innovation Fund shall be available for disbursement.

27 (b) For fiscal year 2010-11, the Education Innovation
1 Fund shall be allocated as follows: The first one million

2 dollars shall be transferred to the Excellence in Teaching Cash
3 Fund to fund the Excellence in Teaching Act, and the amount
4 remaining in the Education Innovation Fund shall be allocated,
5 after administrative expenses, for distance education equipment and
6 incentives pursuant to sections 79-1336 and 79-1337.

7 (c) For fiscal year 2011-12, the Education Innovation
8 Fund shall be allocated as follows: (i) The first two hundred
9 twenty-five thousand dollars shall be transferred to the Excellence
10 in Teaching Cash Fund to fund the Attracting Excellence to Teaching
11 Program; (ii) the next three million three hundred sixty-five
12 thousand nine hundred sixty-two dollars shall be distributed
13 to school districts as grants pursuant to the Early Childhood
14 Education Grant Program; (iii) the next two million one hundred
15 seventy-five thousand six hundred seventy-three dollars shall be
16 distributed to local systems as grants for approved accelerated
17 or differentiated curriculum programs for students identified as
18 learners with high ability pursuant to section 79-1108.02; (iv)
19 the next four hundred ninety-one thousand five hundred forty-one
20 dollars shall be used by the State Department of Education for
21 the development of an integrated early childhood, elementary,
22 secondary, and postsecondary student information system; (v) the
23 next four hundred fifty thousand dollars shall fund the Center
24 for Student Leadership and Extended Learning Act; (vi) the next
25 one hundred fourteen thousand six hundred twenty-nine dollars shall
26 fund the multicultural education program created under section
27 79-720; (vii) the next one hundred twenty-three thousand four
1 hundred sixty-eight dollars shall be used by the department to
2 employ persons to investigate and prosecute alleged violations as
3 provided in section 79-868; ~~and~~ (viii) up to the next one hundred
4 sixty thousand dollars shall be used by the department to implement
5 section 29 of this act; and (ix) the amount remaining shall be
6 allocated, after administrative expenses, for distance education
7 equipment and incentives pursuant to sections 79-1336 and 79-1337.

8 (d) For fiscal year 2012-13, the Education Innovation
9 Fund shall be allocated as follows: (i) The first forty-five
10 thousand dollars shall be transferred to the Excellence in Teaching
11 Cash Fund to fund the Attracting Excellence to Teaching Program;
12 (ii) the next three million three hundred sixty-five thousand
13 nine hundred sixty-two dollars shall be distributed to school
14 districts as grants pursuant to the Early Childhood Education
15 Grant Program; (iii) the next two million one hundred seventy-five
16 thousand six hundred seventy-three dollars shall be distributed to
17 local systems as grants for approved accelerated or differentiated
18 curriculum programs for students identified as learners with
19 high ability pursuant to section 79-1108.02; (iv) the next one
20 hundred eight thousand one hundred thirty-six dollars shall be
21 used by the department for the development of an integrated
22 early childhood, elementary, secondary, and postsecondary student
23 information system; (v) the next four hundred fifty thousand

24 dollars shall fund the Center for Student Leadership and Extended
 25 Learning Act; (vi) the next one hundred fourteen thousand six
 26 hundred twenty-nine dollars shall be used by the department to fund
 27 the multicultural education program created under section 79-720;
 1 (vii) the next one hundred twenty-three thousand four hundred
 2 sixty-eight dollars shall be used by the department to employ
 3 persons to investigate and prosecute alleged violations as provided
 4 in section 79-868; ~~and~~ (viii) up to the next one hundred sixty
 5 thousand dollars shall be used by the department to implement
 6 section 29 of this act; and (ix) the amount remaining shall be
 7 allocated, after administrative expenses, for distance education
 8 equipment and incentives pursuant to sections 79-1336 and 79-1337.

9 (e) For fiscal ~~years year 2013-14, through 2015-16,~~
 10 the Education Innovation Fund shall be allocated as follows:
 11 (i) The first one million dollars shall be transferred to the
 12 Excellence in Teaching Cash Fund to fund the Excellence in
 13 Teaching Act; (ii) the next allocation shall be distributed to
 14 local systems as grants for approved accelerated or differentiated
 15 curriculum programs for students identified as learners with high
 16 ability pursuant to section 79-1108.02 in an aggregated amount
 17 up to the amount distributed in the prior fiscal year for such
 18 purposes increased by the basic allowable growth rate pursuant to
 19 section 79-1025; (iii) the next allocation shall be used by the
 20 State Department of Education for the integrated early childhood,
 21 elementary, secondary, and postsecondary student information system
 22 in an aggregated amount up to the amount used in the prior fiscal
 23 year for such purposes increased by the basic allowable growth
 24 rate pursuant to section 79-1025; (iv) the next allocation shall
 25 fund the Center for Student Leadership and Extended Learning Act
 26 in an aggregated amount up to the amount used in the prior fiscal
 27 year for such purposes increased by the basic allowable growth
 1 rate pursuant to section 79-1025; (v) the next allocation shall be
 2 used by the department to fund the multicultural education program
 3 created under section 79-720 in an aggregated amount up to the
 4 amount used in the prior fiscal year for such purposes increased
 5 by the basic allowable growth rate pursuant to section 79-1025;
 6 (vi) the next allocation shall be used by the department to employ
 7 persons to investigate and prosecute alleged violations as provided
 8 in section 79-868 in an aggregated amount up to the amount used
 9 in the prior fiscal year for such purposes increased by the basic
 10 allowable growth rate pursuant to section 79-1025; ~~and~~ (vii) up
 11 to the next one hundred sixty thousand dollars shall be used by
 12 the department to implement section 29 of this act; and (viii)
 13 the amount remaining shall be allocated, after administrative
 14 expenses, for distance education equipment and incentives pursuant
 15 to sections 79-1336 and 79-1337.

16 (f) For fiscal years 2014-15 through 2015-16, the
 17 Education Innovation Fund shall be allocated as follows: (i) The
 18 first one million dollars shall be transferred to the Excellence in

19 Teaching Cash Fund to fund the Excellence in Teaching Act; (ii)
20 the next allocation shall be distributed to local systems as grants
21 for approved accelerated or differentiated curriculum programs
22 for students identified as learners with high ability pursuant
23 to section 79-1108.02 in an aggregated amount up to the amount
24 distributed in the prior fiscal year for such purposes increased
25 by the basic allowable growth rate pursuant to section 79-1025;
26 (iii) the next allocation shall be used by the State Department
27 of Education for the integrated early childhood, elementary,
1 secondary, and postsecondary student information system in an
2 aggregated amount up to the amount used in the prior fiscal year
3 for such purposes increased by the basic allowable growth rate
4 pursuant to section 79-1025; (iv) the next allocation shall fund
5 the Center for Student Leadership and Extended Learning Act in
6 an aggregated amount up to the amount used in the prior fiscal
7 year for such purposes increased by the basic allowable growth
8 rate pursuant to section 79-1025; (v) the next allocation shall
9 be used by the department to fund the multicultural education
10 program created under section 79-720 in an aggregated amount up
11 to the amount used in the prior fiscal year for such purposes
12 increased by the basic allowable growth rate pursuant to section
13 79-1025; (vi) the next allocation shall be used by the department
14 to employ persons to investigate and prosecute alleged violations
15 as provided in section 79-868 in an aggregated amount up to the
16 amount used in the prior fiscal year for such purposes increased by
17 the basic allowable growth rate pursuant to section 79-1025; and
18 (vii) the amount remaining shall be allocated, after administrative
19 expenses, for distance education equipment and incentives pursuant
20 to sections 79-1336 and 79-1337.

21 ~~(f)~~(g) For fiscal year 2016-17 and each fiscal year
22 thereafter, the Education Innovation Fund shall be allocated, after
23 administrative expenses, for education purposes as provided by the
24 Legislature.

25 (5) Any money in the State Lottery Operation Trust
26 Fund, the State Lottery Operation Cash Fund, the State Lottery
27 Prize Trust Fund, or the Education Innovation Fund available
1 for investment shall be invested by the state investment officer
2 pursuant to the Nebraska Capital Expansion Act and the Nebraska
3 State Funds Investment Act.

4 (6) Unclaimed prize money on a winning lottery ticket
5 shall be retained for a period of time prescribed by rules and
6 regulations. If no claim is made within such period, the prize
7 money shall be used at the discretion of the Tax Commissioner for
8 any of the purposes prescribed in this section.

9 Sec. 28. Section 79-757, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 79-757 Sections 79-757 to 79-762 and section 29 of this
12 act shall be known and may be cited as the Quality Education
13 Accountability Act.

14 Sec. 29. Beginning with the 2011-12 school year, the
 15 State Department of Education may implement a three-year pilot
 16 project for the districtwide administration of a standard college
 17 admission test, selected by the State Board of Education, to
 18 students in the eleventh grade attending a public school in a
 19 participating school district to determine if such test (1) would
 20 improve the college-going rate and career readiness of Nebraska
 21 students and (2) could be utilized as the assessment for the
 22 one grade in high school as required under section 79-760.03.
 23 Participation by school districts in the pilot project shall be
 24 voluntary and shall be subject to the approval of the board. On
 25 or before September 1, 2012, and on or before September 1 each
 26 year thereafter through 2014, the department shall report to the
 27 Governor, the Clerk of the Legislature, and the chairperson of the
 1 Education Committee of the Legislature on the pilot project. The
 2 project shall be paid for with funds from the Education Innovation
 3 Fund as provided in section 9-812.
 4 2. Renumber the remaining sections and correct the
 5 repealer accordingly.

SENATOR LANGEMEIER PRESIDING

SENATOR GLOOR PRESIDING

The Avery amendment was adopted with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 1 nay, 6 present and not voting, and 2 excused and not voting.

RESOLUTIONS

LEGISLATIVE RESOLUTION 155. Introduced by Pirsch, 4.

WHEREAS, each year, the Lupus Foundation of America designates May as National Lupus Awareness Month to show support for the estimated 1.5 million Americans who have lupus; and

WHEREAS, lupus is an acute and chronic autoimmune disease in which the immune system is unbalanced, causing inflammation and tissue damage to virtually every organ system in the body; and

WHEREAS, lupus can affect any part of the body, including the skin, lungs, heart, kidneys, and brain. No organ is spared. The disease can cause seizures, strokes, heart attacks, miscarriages, and organ failure; and

WHEREAS, while lupus strikes mostly women of childbearing age, no one is safe from lupus. African Americans, Hispanics, Latinos, Asians, and Native Americans are two to three times more likely to develop lupus - a disparity that remains unexplained; and

WHEREAS, lupus can be particularly difficult to diagnose because its symptoms are similar to those of many other illnesses, and major gaps exist

in understanding the causes and consequences of lupus. More than half of all people with lupus take four or more years and visit three or more doctors before obtaining a correct diagnosis; and

WHEREAS, there have been no new drugs approved by the United States Food and Drug Administration specifically for lupus in fifty-two years, and current treatments for the disease can have damaging side effects; and

WHEREAS, there are many Nebraskans who are affected by lupus.

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

1. That the Legislature designates the month of May 2011 as Lupus Awareness Month in the State of Nebraska.

2. That the Legislature urges Nebraskans to observe this month by educating themselves on the symptoms and impact of lupus and to join with the Lupus Foundation of America in supporting programs of research, education, and community service.

Laid over.

LEGISLATIVE RESOLUTION 156. Introduced by Ashford, 20; Cook, 13; Council, 11; B. Harr, 8; Howard, 9; Lathrop, 12; Lautenbaugh, 18; Mello, 5; Nordquist, 7; Pirsch, 4.

WHEREAS, on June 6, 2011, Jewish Family Service of Omaha will celebrate 100 years of meeting the emotional, physical, and economic needs of individuals and families in the Omaha community; and

WHEREAS, Jewish Family Service believes that every member of its community deserves to live in dignity and hope and that it is the moral responsibility and represents the highest ideas of an evolved society to make opportunities available for the fulfillment of dreams; and

WHEREAS, Jewish Family Service provides for emergency monetary assistance as well as budgetary counseling, grief counseling, marriage counseling, parental counseling, adoption home studies, and therapy to assist people in finding a place of well-being, balance, and harmony in their lives without regard to ability to pay; and

WHEREAS, Jewish Family Service believes that the measure of a community's strength and integrity is how it utilizes compassion to treat its members who are in pain and distress due to financial hardships, loss of employment, unexpected medical bills, loss of loved ones, or family crisis or who suffer from the ills of poverty; and

WHEREAS, Jewish Family Service's 100-year history exemplifies the goals of making individuals and families stronger, bolstering supportive marriages, teaching life and coping skills so people can be more self-reliant, and creating positive self-images; and

WHEREAS, all of Jewish Family Service's programs are done in a private and personal setting without the public's scrutiny or recognition of the provider; and

WHEREAS, Gloria Kaslow's vision and efforts ensured that this supportive social service delivery system was in place and could react swiftly when called upon; and

WHEREAS, Gloria was instrumental in the resettlement of dozens of Russian Jewish immigrants settling in the Omaha area who were seeking a new and better life, and by her dedication and personal actions she not only enriched the lives of these new Americans but also enriched the lives of all who would come in their contact; and

WHEREAS, Gloria's powerful leadership and allegiance to the mission of Jewish Family Service allowed for the creation of the Women's Symposium, the Men's Forum, and the Friends of Jewish Family Service Campaign; and

WHEREAS, Gloria's work in Holocaust education will help young and old remember what can happen if mankind forgets its responsibility to one another; and

WHEREAS, Gloria's lifelong but quiet involvement, her gentle nature, and her genuine commitment and compassion to those served by Jewish Family Service has allowed Gloria to become the face and representative of the hundreds of volunteers who support the work of Jewish Family Service, making Gloria deserving of the title of "Jewish Family Service Woman of the Century."

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

1. That the Legislature designates June 6, 2011, as Jewish Family Service Day in recognition of Jewish Family Service's 100 years of service to families and individuals and congratulates Gloria Kaslow on earning the title of "Jewish Family Service Woman of the Century."

2. That the Legislature expresses its deep and sincere appreciation for the work of Jewish Family Service and Gloria Kaslow in making families and individuals stronger and improving the lives of those they serve, thereby enhancing the lives of all Nebraska citizens.

3. That on June 6, 2011, individuals, organizations, and communities are encouraged to engage in discussions and activities that raise awareness about the plight of people in our own communities who are in need of physical, emotional, and financial healing.

4. That a copy of this resolution be sent to Jewish Family Service and Gloria Kaslow.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 463. Title read. Considered.

Committee AM754, found on page 857, was considered.

Pending.

CONFLICT OF INTEREST STATEMENT

Pursuant to Rule 1, Sec. 19, Senator B. Harr has filed a Potential Conflict of Interest Statement under the Nebraska Political Accountability and Disclosure Act. The statement is on file in the Clerk of the Legislature's Office.

RESOLUTIONS

LEGISLATIVE RESOLUTION 157. Introduced by Cook, 13; Ashford, 20; Nelson, 6; Sullivan, 41.

WHEREAS, Ann Kennedy Goldstein, a native Omahan who graduated from Central High School, was known for her long history of service to the community. After receiving an education degree from the University of Nebraska-Lincoln in 1968, Goldstein taught for five years at Edison Elementary School in Omaha; and

WHEREAS, Ann Goldstein went to work for the Greater Omaha Chamber of Commerce in the early 1990s. At the chamber, she directed leadership development initiatives, including Leadership Omaha, Youth Leadership Omaha, the Omaha Executive Institute, and Neighborhood Builders. The chamber established the Ann Goldstein Outstanding Young Leader Award as a tribute to her. In April of 1997, Goldstein was honored by the YWCA for career achievement, community service, and work against discrimination; and

WHEREAS, Ann Goldstein served as a regional president of the Anti-Defamation League and had a seat on the Community Relations Committee of the Jewish Federation of Omaha. Goldstein was also a past president of the Junior League of Omaha and one of the founders of the Omaha Children's Museum; and

WHEREAS, Ann Goldstein was the first recipient of the Jewish Federation of Omaha's Justin Greenberg Young Leadership Award, and she received the Omaha Children's Museum Founder's Award and the Omaha Education Association's Human Relations Award; and

WHEREAS, Ann Goldstein will always be remembered for her legendary radiant smile; and

WHEREAS, Ann was married for forty years to her husband, Donald. They had two daughters; and

WHEREAS, Ann Goldstein passed away on March 12, 2011, at the age of 64.

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

1. That the Legislature extends its condolences to the family of Ann Goldstein.

2. That a copy of the resolution be sent to the family of Ann Goldstein.

Laid over.

LEGISLATIVE RESOLUTION 158. Introduced by Pahls, 31.

WHEREAS, April is Community Banking Month; and

WHEREAS, Nebraska has two hundred sixteen community banks; and

WHEREAS, community banks are locally operated banking institutions; and

WHEREAS, community banks help grow our towns and cities by funding small businesses and using local dollars to help families purchase a home, finance college, and build financial security.

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

1. That the Legislature designates April 2011 as Community Banking Month in the State of Nebraska.

2. That a copy of this resolution be sent to the Nebraska Independent Community Bankers.

Laid over.

VISITORS

Visitors to the Chamber were Mark Krepel from Crofton; 60 fourth-grade students from West Dodge Station Elementary, Elkhorn; Shelby Andersen, Chelsey Rodriguez, Brittany Walker, Nikki Dunovsky, and Lori Walla from Alliance; 8 high school students, teacher, and sponsor from Hyannis; 39 fourth-grade students and teachers from Fort Calhoun; Jerry Weatherholt from Stanton and John Ross from Bancroft; and 60 fourth-grade students from Hawthorne Elementary, Hastings.

RECESS

At 11:58 a.m., on a motion by Senator Harms, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators B. Harr, McGill, and Wightman who were excused; and Senators Coash, Lathrop, and Lautenbaugh who were excused until they arrive.

COMMITTEE REPORTS
Health and Human Services

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Thomas Incontro - Foster Care Review Board

Aye: 5 Senators Bloomfield, Campbell, Gloor, Krist, Wallman. Nay: 2 Senators Cook, Howard. Absent: 0. Present and not voting: 0.

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Mark Zimmerer - Foster Care Review Board

Aye: 7 Senators Bloomfield, Campbell, Cook, Gloor, Howard, Krist, Wallman. Nay: 0. Absent: 0. Present and not voting: 0.

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Martha Parker - Nebraska Child Abuse Prevention Fund Board

Aye: 7 Senators Bloomfield, Campbell, Cook, Gloor, Howard, Krist, Wallman. Nay: 0. Absent: 0. Present and not voting: 0.

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Shawn Kralik - Nebraska Rural Health Advisory Commission

Aye: 7 Senators Bloomfield, Campbell, Cook, Gloor, Howard, Krist, Wallman. Nay: 0. Absent: 0. Present and not voting: 0.

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Debra Parsow - State Board of Health
Wayne Stuberg - State Board of Health
Daryl Wills - State Board of Health

Aye: 7 Senators Bloomfield, Campbell, Cook, Gloor, Howard, Krist, Wallman. Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Kathy Campbell, Chairperson

AMENDMENT - Print in Journal

Senator Langemeier filed the following amendment to LB229:
FA13
Strike the enacting clause.

GENERAL FILE

LEGISLATIVE BILL 617. Title read. Considered.

Committee AM906, found on page 938, was adopted with 33 ayes, 0 nays, 11 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 251. Title read. Considered.

Committee AM945, found on page 981, was considered.

Pending.

COMMITTEE REPORTS

Appropriations

LEGISLATIVE BILL 496. Indefinitely postponed.

(Signed) Lavon Heidemann, Chairperson

Revenue

LEGISLATIVE BILL 590. Placed on General File with amendment.
AM1072 is available in the Bill Room.

(Signed) Abbie Cornett, Chairperson

AMENDMENT - Print in Journal

Senator Karpisek filed the following amendment to LB204:
AM1071

(Amendments to E & R amendments, ER64)

- 1 1. Insert the following new section:
- 2 Sec. 7. Section 79-1601, Revised Statutes Cumulative
- 3 Supplement, 2010, is amended to read:
- 4 79-1601 (1) Except as provided in subsections (2) through
- 5 (6) of this section, all private, denominational, and parochial

6 schools in the State of Nebraska and all teachers employed or
7 giving instruction in such schools shall be subject to and governed
8 by the provisions of the general school laws of the state so far
9 as the same apply to grades, qualifications, and certification of
10 teachers and promotion of students. All private, denominational,
11 and parochial schools shall have adequate equipment and supplies,
12 shall be graded the same, and shall have courses of study for each
13 grade conducted in such schools substantially the same as those
14 given in the public schools which the students would attend in the
15 absence of such private, denominational, or parochial schools.

16 (2) All private, denominational, or parochial schools
17 shall either comply with the accreditation or approval requirements
18 prescribed in section 79-318 or, for those schools which elect not
19 to meet accreditation or approval requirements, the requirements
20 prescribed in section 79-318 and subsections (2) through (6)
21 of this section. Standards and procedures for approval and
22 accreditation shall be based upon the program of studies, guidance
1 services, the number and preparation of teachers in relation to the
2 curriculum and enrollment, instructional materials and equipment,
3 science facilities and equipment, library facilities and materials,
4 and health and safety factors in buildings and grounds. Rules
5 and regulations which govern standards and procedures for private,
6 denominational, and parochial schools which elect, pursuant to
7 the procedures prescribed in subsections (2) through (6) of this
8 section, not to meet state accreditation or approval requirements
9 shall be based upon evidence that such schools offer a program
10 of instruction leading to the acquisition of basic skills in
11 the language arts, mathematics, science, social studies, and
12 health. Such rules and regulations may include a provision for
13 the visitation of such schools and regular achievement testing
14 of students attending such schools in order to insure that such
15 schools are offering instruction in the basic skills listed in
16 this subsection. Any arrangements for visitation or testing shall
17 be made through a parent representative of each such school. The
18 results of such testing may be used as evidence that such schools
19 are offering instruction in such basic skills but shall not be used
20 to measure, compare, or evaluate the competency of students at such
21 schools.

22 (3) The provisions of subsections (3) through (6) of this
23 section shall apply to any private, denominational, or parochial
24 school in the State of Nebraska which elects not to meet state
25 accreditation or approval requirements. Elections pursuant to such
26 subsections shall be effective when a statement is received by
27 the Commissioner of Education signed by the parents or legal
1 guardians of all students attending such private, denominational,
2 or parochial school, stating that (a) either specifically (i) the
3 requirements for approval and accreditation required by law and
4 the rules and regulations adopted and promulgated by the State
5 Board of Education violate sincerely held religious beliefs of the

6 parents or legal guardians or (ii) the requirements for approval
7 and accreditation required by law and the rules and regulations
8 adopted and promulgated by the State Board of Education interfere
9 with the decisions of the parents or legal guardians in directing
10 the student's education, (b) an authorized representative of such
11 parents or legal guardians will at least annually submit to the
12 Commissioner of Education the information necessary to prove that
13 the requirements of subdivisions (4)(a) through (c) of this section
14 are satisfied, (c) the school offers the courses of instruction
15 required by subsections (2), (3), and (4) of this section, and
16 (d) the parents or legal guardians have satisfied themselves that
17 individuals monitoring instruction at such school are qualified to
18 monitor instruction in the basic skills as required by subsections
19 (2), (3), and (4) of this section and that such individuals have
20 demonstrated an alternative competency to monitor instruction or
21 supervise students pursuant to subsections (3) through (6) of this
22 section.

23 (4) Each such private, denominational, or parochial
24 school shall (a) meet minimum requirements relating to health,
25 fire, and safety standards prescribed by state law and the rules
26 and regulations of the State Fire Marshal, (b) report attendance
27 pursuant to section 79-201, (c) maintain a sequential program
1 of instruction designed to lead to basic skills in the language
2 arts, mathematics, science, social studies, and health, and (d)
3 comply with the immunization and blood lead testing requirements
4 in section 79-217 if the statement signed by the parents or legal
5 guardians indicate a nonreligious reason pursuant to subdivision
6 (3)(a)(ii) of this section for the student attending a private,
7 denominational, or parochial school which elects not to meet
8 state accreditation or approval requirements. The State Board of
9 Education shall establish procedures for receiving information and
10 reports required by subsections (3) through (6) of this section
11 from authorized parent representatives who may act as agents for
12 parents or legal guardians of students attending such school and
13 for individuals monitoring instruction in the basic skills required
14 by subsections (2), (3), and (4) of this section.

15 (5) Individuals employed or utilized by schools which
16 elect not to meet state accreditation or approval requirements
17 shall not be required to meet the certification requirements
18 prescribed in sections 79-801 to 79-815 but shall either (a) take
19 appropriate subject matter components of a nationally recognized
20 teacher competency examination designated by the State Board of
21 Education as (i) including the appropriate subject matter areas for
22 purposes of satisfying the requirements of subsections (3) and (4)
23 of this section and (ii) a nationally recognized examination or (b)
24 offer evidence of competence to provide instruction in the basic
25 skills required by subsections (3) and (4) of this section pursuant
26 to informal methods of evaluation which shall be developed by the
27 State Board of Education. Such evidence may include educational

1 transcripts, diplomas, and other information regarding the formal
 2 educational background of such individuals. Information concerning
 3 test results, transcripts, diplomas, and other evidence of formal
 4 education may be transmitted to the State Department of Education
 5 by authorized representatives of parents or legal guardians. The
 6 results of such testing or alternative evaluation of individuals
 7 who monitor the instruction of students attending such schools may
 8 be used as evidence of whether or not such schools are offering
 9 adequate instruction in the basic skills prescribed in subsections
 10 (2), (3), and (4) of this section but shall not be used to prohibit
 11 any such school from employing such individuals. Failure of a
 12 monitor, who is tested for the purpose of satisfying in whole or
 13 in part the requirements of subsections (3) through (6) of this
 14 section, to attain a score equal to or exceeding both the state
 15 or national average score or rating on appropriate subject matter
 16 components of recognized teacher competency examinations designated
 17 by the State Board of Education may be by itself sufficient proof
 18 that such school does not offer adequate instruction in the basic
 19 skills prescribed in subsections (3) and (4) of this section.

20 (6) The demonstration of competency to monitor
 21 instruction in a private, denominational, or parochial school
 22 which has elected not to meet state accreditation or approval
 23 requirements shall in no way constitute or be construed to grant a
 24 license, permit, or certificate to teach in the State of Nebraska.
 25 Any school which elects not to meet state accreditation or approval
 26 requirements and does not meet the requirements of subsections
 27 (2) through (6) of this section shall not be deemed a school for
 1 purposes of section 79-201, and the parents or legal guardians of
 2 any students attending such school shall be subject to prosecution
 3 pursuant to such section or any statutes relating to habitual
 4 truancy.

5 2. On page 4, line 6, after "district" insert "and the
 6 governing authority of each private, denominational, or parochial
 7 school".

8 3. On page 4, lines 11 and 15; and page 7, line 13,
 9 strike "district".

10 4. Amend the repealer and renumber the remaining sections
 11 accordingly.

COMMITTEE REPORT

Natural Resources

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Paul Dunn - Nebraska Environmental Trust Board
 Gloria Erickson - Nebraska Environmental Trust Board
 James Stuart Jr. - Nebraska Environmental Trust Board

Aye: 8 Senators Carlson, Christensen, Dubas, K. Haar, Langemeier, McCoy, Schilz, Smith. Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Chris Langemeier, Chairperson

GENERAL FILE

LEGISLATIVE BILL 251. Committee AM945, found on page 981 and considered in this day's Journal, was renewed.

SENATOR COASH PRESIDING

Senator Ashford moved for a call of the house. The motion prevailed with 31 ayes, 0 nays, and 18 not voting.

The committee amendment was adopted with 37 ayes, 0 nays, 5 present and not voting, 1 absent and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Council moved for a call of the house. The motion prevailed with 39 ayes, 0 nays, and 10 not voting.

Senator Council requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 18:

Ashford	Conrad	Haar, K.	Louden	Smith
Avery	Cook	Krist	Mello	Wallman
Campbell	Council	Lathrop	Nordquist	
Coash	Dubas	Lautenbaugh	Price	

Voting in the negative, 24:

Adams	Fischer	Harms	McCoy	Schilz
Bloomfield	Flood	Heidemann	Nelson	Schumacher
Brasch	Fulton	Howard	Pahls	Sullivan
Carlson	Hadley	Karpisek	Pankonin	Utter
Cornett	Hansen	Langemeier	Pirsch	

Excused and not voting, 7:

Christensen	Harr, B.	Larson	Wightman
Gloor	Janssen	McGill	

Failed to advance to Enrollment and Review Initial with 18 ayes, 24 nays, and 7 excused and not voting.

The Chair declared the call raised.

COMMITTEE REPORTS

Business and Labor

LEGISLATIVE BILL 397. Placed on General File with amendment. AM1116 is available in the Bill Room.

(Signed) Steve Lathrop, Chairperson

Nebraska Retirement Systems

LEGISLATIVE BILL 382. Placed on General File with amendment. AM1101 is available in the Bill Room.

(Signed) Jeremy Nordquist, Chairperson

AMENDMENT - Print in Journal

Senator Lathrop filed the following amendment to LB397:
AM1125

(Amendments to Standing Committee amendments, AM1116)

- 1 1. On page 16, line 12, after "retroactive" insert
- 2 "except as provided otherwise in the Industrial Relations Act"; and
- 3 in line 13 strike "Industrial Relations Act" and insert "act".

RESOLUTION

LEGISLATIVE RESOLUTION 159. Introduced by Campbell, 25.

WHEREAS, the Lincoln Christian Crusaders won the 2011 Class C-2 Boys' State Basketball Championship; and

WHEREAS, the Crusaders defeated Archbishop Bergan High School by a score of 46-43 in the championship game; and

WHEREAS, the Crusaders displayed great determination, teamwork, perseverance, and sportsmanship throughout the season; and

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

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

1. That the Legislature congratulates the Lincoln Christian Crusaders on winning the 2011 Class C-2 Boys' State Basketball Championship.

2. That a copy of this resolution be sent to the Lincoln Christian Crusaders and their coach, Monte Jones.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 384. Title read. Considered.

Committee AM944, found on page 975, was considered.

Senator Cornett offered the following amendment to the committee amendment:

AM1127

(Amendments to Standing Committee amendments, AM944)

- 1 1. On page 7, line 13, after the period insert "If the
- 2 real property owner does not notify the county assessor or the
- 3 county assessor's designated representative by February 1 of the
- 4 real property owner's intent to meet in person, the real property
- 5 owner waives the opportunity to meet in person with the county
- 6 assessor or the county assessor's designated representative.".

The Cornett amendment was adopted with 36 ayes, 0 nays, 4 present and not voting, and 9 excused and not voting.

The committee amendment, as amended, was adopted with 37 ayes, 1 nay, 2 present and not voting, and 9 excused and not voting.

Advanced to Enrollment and Review Initial with 36 ayes, 1 nay, 3 present and not voting, and 9 excused and not voting.

COMMITTEE REPORT

Appropriations

LEGISLATIVE BILL 464. Placed on General File with amendment.

AM1130

- 1 1. Strike original section 1 and insert the following new
- 2 section:
- 3 Section 1. Section 43-536, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 43-536 In determining the rate of reimbursement for child
- 6 care, the Department of Health and Human Services shall conduct a
- 7 market rate survey of the child care providers in the state. The
- 8 department shall adjust the reimbursement rate for child care every
- 9 odd-numbered year at a rate not less than the sixtieth percentile
- 10 and not to exceed the seventy-fifth percentile of the current
- 11 market rate survey, except that (1) nationally accredited child
- 12 care providers may be reimbursed at higher rates and (2) for the
- 13 two fiscal years beginning July 1, ~~2003, 2011~~, such rate may not
- 14 be less than the ~~sixtieth~~ fiftieth percentile ~~but shall not be less~~
- 15 ~~than or~~ the rate for the immediately preceding fiscal year.

(Signed) Lavon Heidemann, Chairperson

VISITORS

Visitors to the Chamber were 41 fourth-grade students and teachers from Stoddard Elementary, Beatrice; Wendi McNeil from Craig; 58 fourth-grade students and teachers from Wasmer Elementary, Grand Island; and 24 fifth-grade students, teacher, and sponsors from Heartland Elementary, Henderson.

ADJOURNMENT

At 4.55 p.m., on a motion by Senator Nordquist, the Legislature adjourned until 9:00 a.m., Friday, April 8, 2011.

Patrick J. O'Donnell
Clerk of the Legislature

