

FIFTY-THIRD DAY - APRIL 1, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION****FIFTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, April 1, 2009

PRAYER

The prayer was offered by Pastor J. O. Baumgartner, Bluffs Trinity Lutheran Church, Fremont.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Fulton and Howard who were excused; and Senators Cornett and Pankonin who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-second day was approved.

MOTIONS - Approve Appointments

Senator Adams moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 844:

Nebraska Educational Telecommunications Commission

Stan Carpenter

Kim Dinsdale

Clay Smith

Voting in the affirmative, 37:

Adams	Flood	Heidemann	Mello	Stuthman
Ashford	Friend	Janssen	Nantkes	Sullivan
Campbell	Giese	Karpisek	Nelson	Utter
Carlson	Gloor	Lathrop	Pahls	Wallman
Christensen	Haar	Lautenbaugh	Pirsch	White
Coash	Hadley	Louden	Price	
Cook	Hansen	McCoy	Rogert	
Fischer	Harms	McGill	Schilz	

Voting in the negative, 0.

Present and not voting, 8:

Avery	Dierks	Gay	Nordquist
Council	Dubas	Langemeier	Wightman

Excused and not voting, 4:

Cornett	Fulton	Howard	Pankonin
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The appointments were confirmed with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

Senator Adams moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 844:

Board of Trustees of the Nebraska State Colleges

William Roskens
Michelle Suarez

Voting in the affirmative, 39:

Adams	Dubas	Hansen	McCoy	Rogert
Avery	Fischer	Harms	McGill	Schilz
Campbell	Flood	Heidemann	Mello	Stuthman
Carlson	Friend	Janssen	Nantkes	Sullivan
Coash	Gay	Karpisek	Nelson	Utter
Cook	Giese	Lathrop	Pahls	Wallman
Council	Haar	Lautenbaugh	Pirsch	Wightman
Dierks	Hadley	Louden	Price	

Voting in the negative, 0.

Present and not voting, 6:

Ashford	Gloor	Nordquist
Christensen	Langemeier	White

Excused and not voting, 4:

Cornett	Fulton	Howard	Pankonin
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The appointments were confirmed with 39 ayes, 0 nays, 6 present and not voting, and 4 excused and not voting.

Senator Adams moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 844:

Coordinating Commission for Postsecondary Education
John Winkleblack

Voting in the affirmative, 41:

Adams	Fischer	Harms	Mello	Sullivan
Ashford	Flood	Heidemann	Nantkes	Utter
Avery	Friend	Janssen	Nelson	Wallman
Campbell	Gay	Karpisek	Pahls	White
Carlson	Giese	Langemeier	Pirsch	Wightman
Coash	Gloor	Lautenbaugh	Price	
Cook	Haar	Louden	Rogert	
Dierks	Hadley	McCoy	Schilz	
Dubas	Hansen	McGill	Stuthman	

Voting in the negative, 0.

Present and not voting, 4:

Christensen	Council	Lathrop	Nordquist
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Excused and not voting, 4:

Cornett	Fulton	Howard	Pankonin
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The appointment was confirmed with 41 ayes, 0 nays, 4 present and not voting, and 4 excused and not voting.

ANNOUNCEMENT

The Chair announced today is Senator Lathrop's birthday.

GENERAL FILE

LEGISLATIVE BILL 532. Title read. Considered.

Committee AM678, found on page 736, was considered.

Senator Friend renewed his amendment, AM898, found on page 866, to the committee amendment.

Senator Friend withdrew his amendment.

Senator Friend renewed his amendment, AM899, found on page 866, to the committee amendment.

Senator Friend offered the following motion:

MO27

Bracket until April 14, 2009.

Senator Friend withdrew his motion to bracket.

Senator Friend withdrew and refiled his amendment, AM899, found on page 866 and considered in this day's Journal, to the committee amendment.

The committee amendment was adopted with 30 ayes, 3 nays, 13 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 28 ayes, 8 nays, 10 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 511. Title read. Considered.

Committee AM414, found on page 554, was adopted with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 464. Title read. Considered.

Senator Gay renewed his amendment, AM901, found on page 866.

Pending.

AMENDMENT - Print in Journal

Senator Giese filed the following amendment to LB218:

AM802

- 1 1. Strike original sections 2 and 11.
- 2 2. On page 4, line 14, reinstate the stricken matter.
- 3 3. On page 9, line 12, strike ".0075" and insert ".0047".
- 4 4. On page 12, line 20, strike "47-120, "; and in line 21
- 5 strike "83-380, and 83-4,133" and insert "and 83-380".
- 6 5. On page 13, line 1, strike beginning with "47-119"
- 7 through the last comma and insert "77-27,137".
- 8 6. Renumber the remaining sections and correct internal
- 9 references accordingly.

MOTION - Print in Journal

Senator Friend filed the following motion to LB532:

MO28

Indefinitely postpone.

VISITORS

Visitors to the Chamber were Senator Coash's wife and parents, Rhonda Coash from Lincoln and Paige and Don Coash from Basset; Senator Wightman's wife and granddaughters, Jan Wightman from Lexington and Emalie and Meg Wightman from Omaha; 30 fourth-grade students from Cedar Elementary, Beatrice; and 90 fourth-grade students from Benson West Elementary, Omaha.

RECESS

At 11:57 a.m., on a motion by Senator Mello, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., President Sheehy presiding.

ROLL CALL

The roll was called and all members were present except Senators Fulton and Howard who were excused; and Senators Dubas, Harms, Heidemann, Nantkes, and Nelson who were excused until they arrive.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 477. Placed on Select File with amendment. ER8044 is available in the Bill Room.

LEGISLATIVE BILL 292A. Placed on Select File.

LEGISLATIVE BILL 555. Placed on Select File.

LEGISLATIVE BILL 396. Placed on Select File with amendment. ER8045

- 1 1. On page 1, line 3, after "Home" insert "Pilot
- 2 Program".

LEGISLATIVE BILL 449. Placed on Select File.

LEGISLATIVE BILL 340. Placed on Select File with amendment. ER8046

- 1 1. On page 1, line 4, strike "and" and after "section"
- 2 insert "; and to declare an emergency".

(Signed) Jeremy Nordquist, Chairperson

GENERAL FILE

LEGISLATIVE BILL 464. The Gay amendment, AM901, found on page 866 and considered in this day's Journal, was renewed.

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

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 7 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 464A. Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

RESOLUTIONS

LEGISLATIVE RESOLUTION 78. Introduced by McCoy, 39.

WHEREAS, Cody Gelvin, of Troop 549 in Omaha, Nebraska, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, Cody has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. Cody earned 36 merit badges and was also inducted into the Order of the Arrow. For his Eagle Scout community service project, Cody built a balance play area in the backyard of the Montessori Children's Village in Omaha; and

WHEREAS, only five percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Cody was awarded the rank of Eagle Scout on March 15, 2009, thereby joining other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientists, and athletes.

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

1. That the Legislature congratulates Cody Gelvin on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Cody Gelvin.

Laid over.

LEGISLATIVE RESOLUTION 79. Introduced by Karpisek, 32.

WHEREAS, the Fairbury Public Library is celebrating one hundred years of service to the Fairbury area; and

WHEREAS, the Fairbury Public Library, originally built with funds provided by Andrew Carnegie, opened its doors to the community on December 10, 1909, and has been in continuous use as a public library since that date; and

WHEREAS, the Fairbury Public Library is holding an open house on April 19, 2009, to celebrate its one hundredth birthday as part of the library's yearlong celebration.

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

1. That the Legislature congratulates the Fairbury Public Library on its one hundred years of service to the Fairbury area.

2. That a copy of this resolution be sent to the Fairbury Public Library.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 463. Title read. Considered.

Committee AM620, found on page 712, was adopted with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 551. Title read. Considered.

Senator White offered the following amendment:

AM927

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 44-710.01, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 44-710.01 No policy of sickness and accident insurance
- 6 shall be delivered or issued for delivery to any person in this
- 7 state unless (1) the entire money and other considerations therefor
- 8 are expressed therein, (2) the time at which the insurance takes
- 9 effect and terminates is expressed therein, (3) it purports to
- 10 insure only one person, except that a policy may insure, originally
- 11 or by subsequent amendment, upon the application of an adult
- 12 member of a family who shall be deemed the policyholder, any
- 13 two or more eligible members of that family, including husband,

14 wife, dependent children, any children enrolled on a full-time
15 basis in any college, university, or trade school, or any children
16 under a specified age which shall not exceed ~~twenty-three~~ thirty
17 years and any other person dependent upon the policyholder; any
18 individual policy hereinafter delivered or issued for delivery
19 in this state which provides that coverage of a dependent child
20 shall terminate upon the attainment of the limiting age for
21 dependent children specified in the policy shall also provide in
22 substance that attainment of such limiting age shall not operate
23 to terminate the coverage of such child during the continuance
1 of such policy and while the child is and continues to be both
2 (a) incapable of self-sustaining employment by reason of mental
3 retardation or physical handicap and (b) chiefly dependent upon
4 the policyholder for support and maintenance, if proof of such
5 incapacity and dependency is furnished to the insurer by the
6 policyholder within thirty-one days of the child's attainment of
7 the limiting age and subsequently as may be required by the
8 insurer but not more frequently than annually after the two-year
9 period following the child's attainment of the limiting age; such
10 insurer may charge an additional premium for and with respect
11 to any such continuation of coverage beyond the limiting age of
12 the policy with respect to such child, which premium shall be
13 determined by the insurer on the basis of the class of risks
14 applicable to such child, (4) it contains a title on the face of
15 the policy correctly describing the policy, (5) the exceptions and
16 reductions of indemnity are set forth in the policy and, except
17 those which are set forth in sections 44-710.03 and 44-710.04,
18 are printed, at the insurer's option, either included with the
19 benefit provision to which they apply or under an appropriate
20 caption such as EXCEPTIONS, or EXCEPTIONS AND REDUCTIONS; if an
21 exception or reduction specifically applies only to a particular
22 benefit of the policy, a statement of such exception or reduction
23 shall be included with the benefit provision to which it applies,
24 (6) each such form, including riders and endorsements, shall be
25 identified by a form number in the lower left-hand corner of the
26 first page thereof, (7) it contains no provision purporting to make
27 any portion of the charter, rules, constitution, or bylaws of the
1 insurer a part of the policy unless such portion is set forth in
2 full in the policy, except in the case of the incorporation of, or
3 reference to, a statement of rates or classification of risks, or
4 short-rate table filed with the Director of Insurance, and (8) on
5 or after January 1, 1999, any restrictive rider contains a notice
6 of the existence of the Comprehensive Health Insurance Pool if the
7 policy provides health insurance as defined in section 44-4209.

8 Sec. 2. Section 44-761, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 44-761 Each group policy of sickness and accident
11 insurance shall contain in substance the following provisions:

12 (1) A provision that the policy, the application of the

13 policyholder if such application or copy thereof is attached to
14 such policy, and the individual applications, if any, submitted
15 in connection with such policy by the employees or members, shall
16 constitute the entire contract between the parties, that all
17 statements, in the absence of fraud, made by any applicant or
18 applicants shall be deemed representations and not warranties, and
19 that no such statement shall avoid the insurance or reduce benefits
20 thereunder unless contained in a written application of which a
21 copy is attached to the policy;

22 (2) A provision that the insurer will furnish to the
23 policyholder, for delivery to each employee or member of the
24 insured group, an individual certificate setting forth in summary
25 form a statement of the essential features of the insurance
26 coverage of such employee or member and to whom benefits thereunder
27 are payable. If dependents are included in the coverage, only one
1 certificate need be issued for each family unit;

2 (3) A provision that to the group originally insured may
3 be added from time to time eligible new employees or members or
4 dependents, as the case may be, in accordance with the terms of the
5 policy; and

6 (4) A provision that the insurance coverage of the
7 employee or member may include, originally or by subsequent
8 amendment, upon the application of the employee or member, any
9 two or more eligible members of his or her family, including
10 husband, wife, dependent children, any children enrolled on a
11 full-time basis in any college, university, or trade school,
12 or any children under a specified age which shall not exceed
13 ~~twenty three~~ thirty years, and any other person dependent upon
14 the policyholder. Any policy which provides that coverage of an
15 unmarried dependent child shall terminate upon the attainment of
16 the limiting age for unmarried dependent children specified in the
17 policy shall also provide that attainment of such limiting age
18 shall not operate to terminate the coverage of such child during
19 the continuance of the insurance coverage of the employee or member
20 under such policy and while such child is and continues to be
21 (a) incapable of self-sustaining employment by reason of mental or
22 physical handicap and (b) chiefly dependent upon the policyholder
23 for support and maintenance, if proof of such incapacity and
24 dependency is furnished to the insurer by the policyholder within
25 thirty-one days of such child's attainment of the limiting age
26 and subsequently as may be required by the insurer but not more
27 frequently than annually after the two-year period following such
1 child's attainment of the limiting age. The insurer may charge an
2 additional premium for and with respect to any such continuation of
3 coverage beyond the limiting age of the policy, which premium shall
4 be determined by the insurer on the basis of the class of risks
5 applicable to such child. The provisions of this subdivision shall
6 be contained in all new policies of group sickness and accident
7 insurance delivered or issued for delivery to any person in this

8 state. No group policy of sickness and accident insurance shall
9 contain any provisions which are in conflict with sections 44-3,144
10 to 44-3,150.

11 Sec. 3. (1) For purposes of this section, health benefit
12 plan means any expense-incurred individual or group sickness
13 and accident insurance policy, health maintenance organization
14 contract, or subscriber contract, except for any policy or contract
15 that provides coverage only for excepted benefits as defined in
16 the federal Health Insurance Portability and Accountability Act of
17 1996, 29 U.S.C. 1191b, and regulations adopted pursuant to the act,
18 as such act and regulations existed on January 1, 2009, or any
19 policy or contract that provides coverage for a specified disease
20 or other limited-benefit coverage.

21 (2) Notwithstanding section 44-3,131, any health benefit
22 plan or self-funded employee benefit plan to the extent not
23 preempted by federal law that provides coverage for children shall
24 provide for continuing coverage for such children as follows:

25 (a) If coverage under the health benefit plan or
26 self-funded employee benefit plan would otherwise terminate because
27 a covered child ceases to be a dependent, ceases to be a full-time
1 student, or attains an age which exceeds the specified age at which
2 coverage ceases pursuant to the health benefit plan, the health
3 benefit plan or self-funded employee benefit plan shall provide the
4 option to the insured to continue coverage for such child for the
5 earlier of the following:

6 (i) Through the end of the month in which the child (A)
7 marries, (B) ceases to be a resident of the state, unless the
8 child is under nineteen years of age or is enrolled on a full-time
9 basis in any college, university, or trade school, (C) receives
10 coverage under another health benefit plan or self-funded employee
11 benefit plan except a plan that provides coverage only for excepted
12 benefits as defined in the federal Health Insurance Portability
13 and Accountability Act of 1996, 29 U.S.C. 1191b, and regulations
14 adopted pursuant to the act, as such act and regulations existed on
15 January 1, 2009, or (D) attains thirty years of age; or

16 (ii) Any applicable period set forth for such child under
17 federal extension requirements established by the Consolidated
18 Omnibus Budget Reconciliation Act of 1985, Public Law 99-272, as
19 such act existed on January 1, 2009; and

20 (b) The insurer or self-funded employee benefit plan may
21 require:

22 (i) A written election from the insured; and

23 (ii) An additional premium for the child. Such premium
24 shall not vary based upon the health status of the child and
25 shall not exceed the amount the insurer or self-funded employee
26 benefit plan would receive for an identical individual for a single
27 adult insured. No employer shall be required to contribute to any
1 additional premium under this subdivision.

2 Sec. 4. This act becomes operative on January 1, 2010.

- 3 Sec. 5. Original sections 44-710.01 and 44-761, Reissue
 4 Revised Statutes of Nebraska, are repealed.

The White amendment was adopted with 32 ayes, 0 nays, 8 present and not voting, and 9 excused and not voting.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 7 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 517. Title read. Considered.

Committee AM662, found on page 825, was adopted with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 10 present and not voting, and 6 excused and not voting.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 489A. Introduced by Sullivan, 41.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 489, One Hundred First Legislature, First Session, 2009.

AMENDMENT - Print in Journal

Senator Wightman filed the following amendment to LB121:
 AM928

(Amendments to E & R amendments, ER8032)

- 1 1. Strike section 10 and insert the following new
 2 section:
 3 Sec. 10. (1) Each employee of the Department of Revenue
 4 transferred to a county pursuant to section 77-1340 or section 8 of
 5 this act shall be paid for his or her accrued vacation leave hours
 6 based on his or her straight-time rate of pay and, notwithstanding
 7 section 81-1324, for twenty-five percent of the value of his or
 8 her accrued sick leave hours based on his or her straight-time
 9 rate of pay. For purposes of this subsection, straight-time rate
 10 of pay means the rate of pay in effect on June 30 of the year
 11 of transfer. The state shall reimburse employees on the date of
 12 employment transfer.
 13 (2) A transferred employee may credit years of service
 14 with both the county and state toward the accrual rate for sick
 15 leave and vacation leave plans. The transferred employee shall not
 16 receive any additional accrual rate value for county benefits until
 17 the employee meets the qualifications for the increased accrual

- 18 rates pursuant to the county's requirements.
 19 (3) The transferred employee may participate in and be
 20 covered by the county's insurance program. The waiting period
 21 for medical insurance coverage of a transferred employee shall
 22 be waived, and any preexisting condition clause in the county's
 1 insurance program shall be waived if the transferred employee has
 2 health insurance under the Nebraska State Insurance Program or
 3 comparable health insurance coverage immediately prior to the date
 4 of employment transfer.
 5 2. On page 11, line 27; and page 13, line 20, before
 6 the second "to" insert "and all furniture, computers, and other
 7 equipment and property used by the state to perform the county
 8 assessment function, other than motor vehicles.".
 9 3. On page 12, line 6; and page 13, line 13, after
 10 "employees" insert "by operation of law".

NOTICE OF COMMITTEE HEARING

Health and Human Services

Room 1510

Thursday, April 9, 2009 1:00 p.m.

Todd Reckling - Director, Department of Health and Human Services

(Signed) Tim Gay, Chairperson

GENERAL FILE

LEGISLATIVE BILL 430. Title read. Considered.

Committee AM835, found on page 840, was considered.

Senator Christensen offered the following amendment to the committee amendment:

AM929

(Amendments to Standing Committee amendments, AM835)

- 1 1. Strike section 5 and insert the following new section:
 2 Sec. 5. Cities and villages shall not have the power
 3 to regulate the ownership, possession, or transportation of a
 4 concealed handgun, as such ownership, possession, or transportation
 5 is authorized under the Concealed Handgun Permit Act, except as
 6 expressly provided by state law. Any existing city or village
 7 ordinance, permit, or regulation regulating the ownership,
 8 possession, or transportation of a concealed handgun, as such
 9 ownership, possession, or transportation is authorized under the
 10 act, is declared to be null and void as against any permitholder
 11 possessing a valid permit under the act.

The Christensen amendment was adopted with 27 ayes, 2 nays, 15 present and not voting, and 5 excused and not voting.

Pending.

AMENDMENTS - Print in Journal

Senator McCoy filed the following amendment to LB430:
AM936

(Amendments to Standing Committee amendments, AM835)

- 1 1. On page 21, after line 16 insert:
- 2 "(c) A place of worship may authorize its security
- 3 personnel to carry concealed handguns on its property so long
- 4 as each member of the security personnel, as authorized, is in
- 5 compliance with the Concealed Handgun Permit Act and possesses a
- 6 permit to carry a concealed handgun issued pursuant to the act and
- 7 written notice is given to the congregation and, if the property is
- 8 leased, the carrying of concealed handguns on the property does not
- 9 violate the terms of any real property lease agreement between the
- 10 place of worship and the lessor.".

Senator Price filed the following amendment to LB430:

FA24

Amend AM835

On page 20, in line 1, strike "for at least one" and in line 2 strike "hundred eighty days".

VISITORS

Visitors to the Chamber were 44 fourth-grade students from Louisville; and 44 fourth-grade students from Longfellow School, Hastings.

The Doctor of the Day was Dr. Michael Schooff from Papillion.

ADJOURNMENT

At 4:02 p.m., on a motion by Senator Stuthman, the Legislature adjourned until 9:00 a.m., Thursday, April 2, 2009.

Patrick J. O'Donnell
Clerk of the Legislature

