

SIXTY-FIRST DAY - APRIL 17, 2013
LEGISLATIVE JOURNAL
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
SIXTY-FIRST DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, April 17, 2013

PRAYER

The prayer was offered by Senator Harms.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Krist presiding.

The roll was called and all members were present except Senators Hansen, Karpisek, and Price who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the sixtieth day was approved.

GENERAL FILE

LEGISLATIVE BILL 577. Senator McCoy renewed his motion, MO44, found on page 1002, to reconsider the vote taken on AM1028.

Senator Howard moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 12 nays, and 12 not voting.

The McCoy motion to reconsider failed with 17 ayes, 26 nays, 4 present and not voting, and 2 excused and not voting.

The second Campbell amendment, AM1029, found on page 1001, was offered.

Senator Hadley offered the following amendment to the second Campbell amendment:

AM1045

(Amendments to AM1029)

- 1 1. On page 1, line 3, strike "June 30, 2020" and insert
- 2 "December 31, 2016".

SENATOR CARLSON PRESIDING

Pending.

RESOLUTION

LEGISLATIVE RESOLUTION 152. Introduced by Pirsch, 4; Adams, 24; Ashford, 20; Avery, 28; Bloomfield, 17; Bolz, 29; Brasch, 16; Campbell, 25; Carlson, 38; Christensen, 44; Coash, 27; Conrad, 46; Cook, 13; Crawford, 45; Davis, 43; Dubas, 34; Gloor, 35; K. Haar, 21; Hadley, 37; Hansen, 42; Harms, 48; B. Harr, 8; Howard, 9; Janssen, 15; Johnson, 23; Karpisek, 32; Kintner, 2; Kolowski, 31; Krist, 10; Larson, 40; Lathrop, 12; Lautenbaugh, 18; McCoy, 39; McGill, 26; Mello, 5; Murante, 49; Nelson, 6; Nordquist, 7; Price, 3; Scheer, 19; Schilz, 47; Schumacher, 22; Seiler, 33; Smith, 14; Sullivan, 41; Wallman, 30; Watermeier, 1; Wightman, 36.

WHEREAS, on April 15, 2013, two bombs exploded near the finish line of the Boston Marathon; and

WHEREAS, the bombs killed at least three people and wounded more than one hundred seventy people; and

WHEREAS, this tragic event has shocked and saddened people throughout the nation.

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

1. That the Legislature extends its deepest sympathy to the victims of the bombings at the Boston Marathon and their families.

2. That the Legislature expresses its support to both the city of Boston and the entire state of Massachusetts during this difficult time.

Laid over.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Dillon, Blake - Motor Vehicle Industry Licensing Board - Transportation and Telecommunications

Reeg, William - Motor Vehicle Industry Licensing Board - Transportation and Telecommunications

(Signed) John Wightman, Chairperson
Executive Board

GENERAL FILE

LEGISLATIVE BILL 577. The Hadley amendment, AM1045, found in this day's Journal, to the second Campbell amendment, was renewed.

Pending.

COMMITTEE REPORT

Education

LEGISLATIVE BILL 407. Placed on General File with amendment. AM1018

- 1 1. Insert the following new section:
- 2 Sec. 12. Section 79-1017.01, Revised Statutes Cumulative
- 3 Supplement, 2012, is amended to read:
- 4 79-1017.01 (1) For state aid calculated for school
- 5 fiscal years prior to school fiscal year 2012-13, local system
- 6 formula resources includes retirement aid determined under section
- 7 79-1028.03, allocated income tax funds determined for each such
- 8 district pursuant to the provisions of section 79-1005.01, and
- 9 adjustments pursuant to section 79-1008.02.
- 10 (2) For state aid calculated for school fiscal ~~years~~
- 11 ~~2012-13 and 2013-14, year 2012-13,~~ local system formula resources
- 12 includes retirement aid determined under section 79-1028.03,
- 13 allocated income tax funds determined for each district pursuant to
- 14 section 79-1005.01, and adjustments pursuant to section 79-1008.02,
- 15 and is reduced by amounts paid by the district in the most recently
- 16 available complete data year as property tax refunds pursuant to or
- 17 in the manner prescribed by section 77-1736.06.
- 18 (3) For state aid calculated for school fiscal year
- 19 2013-14, local system formula resources includes retirement
- 20 aid determined under section 79-1028.03, teacher education aid
- 21 determined for each district pursuant to subdivision (4) of section
- 22 79-1007.25, allocated income tax funds determined for each district
- 23 pursuant to section 79-1005.01, and adjustments pursuant to section
- 1 79-1008.02 and is reduced by amounts paid by the district in the
- 2 most recently available complete data year as property tax refunds
- 3 pursuant to or in the manner prescribed by section 77-1736.06.
- 4 (4) For state aid calculated for school fiscal year
- 5 2014-15, local system formula resources includes teacher education
- 6 aid determined for each district pursuant to subdivision (4) of
- 7 section 79-1007.25, allocated income tax funds determined for each
- 8 district pursuant to section 79-1005.01, and adjustments pursuant
- 9 to section 79-1008.02 and is reduced by amounts paid by the
- 10 district in the most recently available complete data year as
- 11 property tax refunds pursuant to or in the manner prescribed by
- 12 section 77-1736.06.
- 13 (5) For state aid calculated for school fiscal year
- 14 2014-15-2015-16 and each school fiscal year thereafter, local

15 system formula resources includes allocated income tax funds
 16 determined for each district pursuant to section 79-1005.01 and
 17 adjustments pursuant to section 79-1008.02 and is reduced by
 18 amounts paid by the district in the most recently available
 19 complete data year as property tax refunds pursuant to or in the
 20 manner prescribed by section 77-1736.06.

21 2. On page 3, strike line 8, show as stricken, and insert
 22 "allowance, (b) for school fiscal years 2013-14 and 2014-15, the
 23 difference of the general fund operating expenditures as calculated
 24 pursuant to subdivision (22) of this section increased by the
 25 cost growth factor calculated pursuant to section 79-1007.10,
 26 minus the transportation allowance, special receipts allowance,
 27 poverty allowance, limited English proficiency allowance, distance
 1 education and telecommunications allowance, elementary site
 2 allowance, summer school allowance, teacher education allowance,
 3 and focus school and program allowance, and (c) for school fiscal
 4 year 2015-16 and each school".

5 3. On page 7, line 19, strike the colon and show as
 6 stricken.

7 4. On page 9, line 8, strike the paragraphing and "(a)
 8 For", show the old matter as stricken, and insert "for" and after
 9 the stricken "years" insert "year"; and in line 9 strike the new
 10 matter and reinstate the stricken matter; in line 12 strike "(i)",
 11 show as stricken, and insert "(a)"; and in line 21 strike "(ii)",
 12 show as stricken, and insert "(b)".

13 5. On page 10, line 1, strike "(iii)", show as stricken,
 14 and insert "(c)"; in line 3 strike "(iv)", show as stricken, and
 15 insert "(d)"; in line 5 strike "(v)", show as stricken, and insert
 16 "(e)"; in line 8 strike the first "or" and show as stricken; in
 17 line 10 strike "(vi)(A)", show as stricken, and insert "or, to
 18 the extent that a district has demonstrated to the State Board of
 19 Education pursuant to section 79-1028.01 that the agreement will
 20 result in a net savings in salary and benefit costs to the school
 21 district over a five-year period, occurring on or after the first
 22 day of the 2013-14 school year, (f)(i)"; in lines 10, 11, 16,
 23 17, 24, and 25, strike the new matter and reinstate the stricken
 24 matter; in line 16 strike "(B)", show as stricken, and insert
 25 "(ii)"; and in line 23 strike "(vii)", show as stricken, and insert
 26 "(g)";.

27 6. On page 11, strike lines 1 through 25.

1 7. On page 12, strike lines 1 through 16.

2 8. On page 20, line 13, strike "and that are not included
 3 in other allowances" and in line 15 after "year" insert "and that
 4 are not included in other allowances".

5 9. On page 30, line 10, strike beginning with the first
 6 "year" through "thereafter", show as stricken, and insert "years
 7 2013-14 and 2014-15"; in line 16 reinstate the stricken "teacher
 8 education allowance,"; after line 22 insert the following new
 9 subsection:

10 "(3) Except as otherwise provided in this section, for
11 school fiscal year 2015-16 and each school fiscal year thereafter,
12 each school district's formula need shall equal the difference of
13 the sum of the school district's basic funding, poverty allowance,
14 limited English proficiency allowance, focus school and program
15 allowance, summer school allowance, special receipts allowance,
16 transportation allowance, elementary site allowance, distance
17 education and telecommunications allowance, new learning community
18 transportation adjustment, student growth adjustment, any positive
19 student growth adjustment correction, and new school adjustment,
20 minus the sum of the limited English proficiency allowance
21 correction, poverty allowance correction, and any negative student
22 growth adjustment correction."; in line 24, strike "(3)" and insert
23 "(4)"; and in line 25 reinstate the stricken matter.

24 10. On page 31, line 1, strike the new matter and
25 reinstate the stricken matter; in line 17, strike "(4)" and insert
26 "(5)"; and in lines 18 and 19 strike the new matter and reinstate
27 the stricken matter.

1 11. On page 32, line 17; and page 33, lines 6 and 9,
2 strike the new matter and reinstate the stricken matter.

3 12. On page 39, line 15, strike "2012-13" and insert
4 "2014-15".

5 13. On page 40, line 3, strike "A", show as stricken,
6 and insert "For school fiscal years prior to 2013-14, a"; in line
7 8 strike "and" and show as stricken; in line 9 strike "The", show
8 as stricken, and insert "For school fiscal years prior to 2013-14,
9 the"; and after line 15 after "zero" insert "; and

10 (4) For school fiscal years 2013-14 and 2014-15, the
11 teacher education allowance for each district shall equal the
12 product of thirty million dollars multiplied by the ratio of
13 teacher education points calculated for the district divided by the
14 aggregate teacher education points calculated for all districts.
15 Fifty percent of the teacher education allowance calculated
16 pursuant to this subsection for each school district shall be paid
17 to such school district as teacher education aid for the school
18 fiscal year for which aid is being calculated".

19 14. On page 44, line 8, strike the first "or" and show
20 as stricken; and in line 10, after "year" insert ", or, to the
21 extent that a district demonstrates to the State Board of Education
22 pursuant to subsection (3) of this section that the agreement will
23 result in a net savings in salary and benefit costs to the school
24 district over a five-year period, occurring on or after the first
25 day of the 2013-14 school year".

26 15. Amend the repealer and renumber the remaining
27 sections accordingly.

(Signed) Kate Sullivan, Chairperson

AMENDMENTS - Print in Journal

Senators Sullivan, Scheer, and Seiler filed the following amendment to LB407:

AM1044

(Amendments to Standing Committee amendments, AM1018)

- 1 1. Insert the following new amendments:
- 2 2. On page 2, lines 14 and 15, strike "one and one-half"
- 3 and insert "two".
- 4 15. On page 42, line 3, strike "years" through "2014-15"
- 5 and insert "year 2013-14"; and after line 17 insert the following
- 6 new subsection:
- 7 "(5) For school fiscal year 2014-15: (a) For state aid
- 8 certified pursuant to section 79-1022, the local effort rate shall
- 9 be the maximum levy, for the school fiscal year for which aid
- 10 is being certified, authorized pursuant to subdivision (2)(a)
- 11 of section 77-3442 less two and one-half cents; (b) for the
- 12 final calculation of state aid pursuant to section 79-1065, the
- 13 local effort rate shall be the rate which, when multiplied by
- 14 the total adjusted valuation of all taxable property in local
- 15 systems receiving equalization aid pursuant to the Tax Equity and
- 16 Educational Opportunities Support Act, will produce the amount
- 17 needed to support the total formula need of such local systems when
- 18 added to state aid appropriated by the Legislature and other actual
- 19 receipts of local systems described in section 79-1018.01; and (c)
- 20 the local effort rate yield for such school fiscal years shall
- 21 be determined by multiplying each local system's total adjusted
- 22 valuation by the local effort rate.".
- 1 2. On page 1, after line 1, insert the following new
- 2 section:
- 3 Sec. 11. Section 79-1009, Revised Statutes Cumulative
- 4 Supplement, 2012, is amended to read:
- 5 79-1009 (1)(a) A district shall receive net option
- 6 funding if option students as defined in section 79-233 (i)
- 7 were actually enrolled in the school year immediately preceding the
- 8 school year in which the aid is to be paid or (ii) will be enrolled
- 9 in the school year in which the aid is to be paid as converted
- 10 contract option students.
- 11 (b) The determination of the net number of option
- 12 students shall be based on (i) the number of students enrolled
- 13 in the district as option students and the number of students
- 14 residing in the district but enrolled in another district as option
- 15 students as of the day of the fall membership count pursuant to
- 16 section 79-528, for the school fiscal year immediately preceding
- 17 the school fiscal year in which aid is to be paid, and (ii) the
- 18 number of option students that will be enrolled in the district or
- 19 enrolled in another district as converted contract option students
- 20 for the fiscal year in which the aid is to be paid.
- 21 (c) Net number of option students means the difference of

22 the number of option students enrolled in the district minus the
 23 number of students residing in the district but enrolled in another
 24 district as option students.

25 (2) For purposes of this section: ~~net option funding~~
 26 ~~shall be the sum of~~

27 (a) For all school fiscal years except 2013-14, net
 1 option funding for each district shall equal the product of the net
 2 number of option students multiplied by the statewide average basic
 3 funding per formula student; and -

4 (b) For school fiscal year 2013-14, net option funding
 5 for each district shall equal the product of the net number of
 6 option students multiplied by the statewide average basic funding
 7 per formula student reduced proportionately such that the total
 8 aggregate net option funding to be paid to all districts is equal
 9 to \$58,985,386.46.

10 (3) A district's net option funding shall be zero if the
 11 calculation produces a negative result.

12 Payments made under this section shall be made from the
 13 funds to be disbursed under section 79-1005.01.

14 Such payments shall go directly to the option school
 15 district but shall count as a formula resource for the local
 16 system.

17 3. On page 5, line 18, after "calculated" insert ";".
 18 Teacher education aid payments made pursuant to this subsection
 19 shall be made from appropriations made by the Legislature to fund
 20 the Tax Equity and Educational Opportunities Support Act".

21 4. Renumber the amendments accordingly.

Senators Sullivan, Scheer, and Seiler filed the following amendment to
 LB407:

AM1047

(Amendments to Standing Committee amendments, AM1018)

1 1. Insert the following new amendments:

2 12. On page 36, line 9, strike "(2)"; in line 10 strike
 3 "(a)"; in line 13 strike "(b)"; in line 16, strike "(3)" and show
 4 as stricken; and in line 20, strike "(4)" and show as stricken.

5 13. On page 37, after line 15, insert the following new
 6 subsection:

7 "(2) For school fiscal year 2015-16 and each school
 8 fiscal year thereafter, the department shall calculate an averaging
 9 adjustment for districts if the basic funding per formula student
 10 is less than the averaging adjustment threshold and the general
 11 fund levy for the school fiscal year immediately preceding the
 12 school fiscal year for which aid is being calculated was at
 13 least one dollar per one hundred dollars of taxable valuation.
 14 For school districts that are members of a learning community,
 15 the general fund levy for purposes of this section includes both
 16 the common general fund levy and the school district general fund
 17 levy authorized pursuant to subdivisions (2)(b) and (2)(c) of

18 section 77-3442. The averaging adjustment shall equal the product
 19 of fifty percent of the difference between the averaging adjustment
 20 threshold minus such district's basic funding per formula student
 21 multiplied by the district's formula students. The averaging
 22 adjustment threshold shall equal the aggregate basic funding for
 1 all districts with nine hundred or more formula students divided by
 2 the aggregate formula students for all districts with nine hundred
 3 or more formula students for the school fiscal year for which aid
 4 is being calculated."

5 2. On page 4, line 18, after the first comma insert
 6 "averaging adjustment,".

7 3. On page 5, line 18, after "calculated" insert "Teacher education aid payments made pursuant to this subsection
 8 shall be made from appropriations made by the Legislature to fund
 9 the Tax Equity and Educational Opportunities Support Act".
 10

11 4. Renumber the remaining amendments accordingly.

UNANIMOUS CONSENT - Add Cointroducer

Senator Johnson asked unanimous consent to add his name as cointroducer to LR149 and LR150. No objections. So ordered.

VISITORS

Visitors to the Chamber were 27 fourth-grade students and teachers from Weeping Water; 12 twelfth-grade students and teacher from Lyons-Decatur Northeast High School, Lyons; 40 twelfth-grade students and teacher from Wilber-Clatonia High School, Wilber; and 60 fourth-grade students, teachers, and sponsors from Wahoo.

RECESS

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

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Adams presiding.

ROLL CALL

The roll was called and all members were present except Senator McCoy who was excused; and Senators Ashford and Lautenbaugh who were excused until they arrive.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 144, and 145 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 144, and 145.

GENERAL FILE

LEGISLATIVE BILL 577. The Hadley amendment, AM1045, found and considered in this day's Journal, to the second Campbell amendment, was renewed.

SENATOR COASH PRESIDING**SPEAKER ADAMS PRESIDING**

Pending.

CEREMONIES

The Speaker introduced a group from the Nebraska Association of Former State Legislators.

EASE

The Legislature was at ease from 3:57 p.m. until 4:19 p.m.

SENATOR KRIST PRESIDING**AMENDMENTS - Print in Journal**

Senator Watermeier filed the following amendment to LB577:
AM885

- 1 1. On page 6, line 6, strike "Patient Protection and
- 2 Affordable Care" and insert "Social Security".

Senator Hansen filed the following amendment to LB577:
AM982

- 1 1. On page 6, strike beginning with "habilitative" in
- 2 line 12 through line 15 and insert "habilitative services which
- 3 means medically necessary services provided in order for a person
- 4 to attain or maintain a skill or function never learned or acquired
- 5 due to a disabling condition:".

GENERAL FILE

LEGISLATIVE BILL 579. Senator Karpisek withdrew his amendment, AM997, found on page 969.

Senator Karpisek offered the following amendment:
AM1032

- 1 1. On page 3, lines 8 through 12, strike the new matter
- 2 and all amendments thereto and insert "The commission shall
- 3 enter into an agreement with the Nebraska State Patrol in which
- 4 the Nebraska State Patrol shall hire six new patrol officers and,
- 5 from the entire Nebraska State Patrol, shall designate a minimum
- 6 of six patrol officers who will spend a majority of their time in
- 7 administration and enforcement of the Nebraska Liquor Control Act".

The Karpisek amendment was adopted with 28 ayes, 0 nays, 12 present and not voting, and 9 excused and not voting.

Advanced to Enrollment and Review Initial with 26 ayes, 1 nay, 12 present and not voting, and 10 excused and not voting.

RESOLUTION

LEGISLATIVE RESOLUTION 153. Introduced by Crawford, 45; Ashford, 20; Cook, 13; B. Harr, 8; Lathrop, 12; McGill, 26; Mello, 5; Nordquist, 7.

WHEREAS, Johnny Torres, Assistant Coach of the Creighton University men's soccer team, was named the National Soccer Coaches Association of America's Assistant Men's Coach of the Year; and

WHEREAS, Johnny Torres received the Midwest Region Assistant Coach of the Year award for a second consecutive season; and

WHEREAS, the 2012 Creighton University men's soccer team reached the NCAA Men's College Cup for the fifth time in school history and in back-to-back seasons for the first time in program history; and

WHEREAS, the 2012 Creighton University men's soccer team, led by Assistant Coach Johnny Torres, performed over 330 hours of community service this academic year for the Omaha community.

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

1. That the Legislature congratulates Assistant Coach Johnny Torres for receiving national recognition for his work as a coach, mentor, and friend of the Creighton University and Omaha communities.

2. That a copy of this resolution be sent to Johnny Torres.

Laid over.

VISITORS

Visitors to the Chamber were 59 fourth-grade students, teachers, and sponsors from Longfellow Elementary, Hastings.

The Doctor of the Day was Dr. Ron Klutman from Columbus.

ADJOURNMENT

At 5:22 p.m., on a motion by Senator Nelson, the Legislature adjourned until 9:00 a.m., Thursday, April 18, 2013.

Patrick J. O'Donnell
Clerk of the Legislature

