

**FORTY-SIXTH DAY - MARCH 19, 2012****LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE  
SECOND SESSION****FORTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, March 19, 2012

**PRAYER**

The prayer was offered by Father Paul Rutten, Lincoln.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Christensen, Coash, Conrad, Flood, Fulton, B. Harr, and Lautenbaugh who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-fifth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 1104.** Placed on Select File with amendment.  
ER216

1 1. On page 1, strike beginning with "the" in line 1  
2 through line 8 and insert "postsecondary education; to amend  
3 sections 85-1806, 85-1809, 85-1810, 85-1812, and 85-1814, Reissue  
4 Revised Statutes of Nebraska, sections 85-1801, 85-1802, 85-1804,  
5 85-1807, and 85-1808, Revised Statutes Cumulative Supplement,  
6 2010, sections 85-2403, 85-2405, 85-2406, 85-2408, 85-2412,  
7 85-2413, 85-2414, 85-2415, 85-2416, and 85-2417, Revised Statutes  
8 Supplement, 2011, and sections 77-3442 and 85-1517, Revised  
9 Statutes Supplement, 2011, as amended by sections 10 and 18,  
10 respectively, Legislative Bill 946, One Hundred Second Legislature,  
11 Second Session, 2012; to change provisions relating to property tax  
12 levies for community college areas and the Nebraska educational  
13 savings plan program; to provide for recurrent authorization to  
14 operate under the Postsecondary Institution Act; to eliminate  
15 expired provisions; to harmonize provisions; to repeal the original

16 sections; and to outright repeal sections 85-2410 and 85-2411, 17 Revised Statutes Supplement, 2011.".

**LEGISLATIVE BILL 845.** Placed on Select File.

(Signed) Tyson Larson, Chairperson

**AMENDMENT - Print in Journal**

Senator Krist filed the following amendment to LB998: AM2522 is available in the Bill Room.

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 1128A.** Introduced by Schumacher, 22.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1128, One Hundred Second Legislature, Second Session, 2012.

**COMMITTEE REPORT**

Enrollment and Review

**LEGISLATIVE BILL 131.** Placed on Final Reading.

(Signed) Tyson Larson, Chairperson

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 489.** Introduced by Adams, 24.

**PURPOSE:** To study the provision of early childhood education programs in Nebraska. The study shall include a determination of the appropriate goals for the provision of publicly funded early childhood education programs and an examination of progress toward such goals. The study shall also include, as part of the examination of progress, an analysis of measurement instruments for assessing the skills of children who are entering kindergarten and who attended a publicly funded early childhood education program, who attended a privately funded early childhood education program, and who did not attend an early childhood education program.

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

1. That the Education Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 490.** Introduced by Adams, 24.

PURPOSE: To study the system for funding educational service units.

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

1. That the Education Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 491.** Introduced by Adams, 24.

PURPOSE: The purpose of this resolution is to study:

(1) The efficiency and effectiveness of the current systems for seeking medicaid reimbursements from the federal government for physical therapy, occupational therapy, speech therapy, and administrative claims; and

(2) The feasibility of expanding the special education services for which medicaid reimbursements from the federal government are sought.

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

1. That the Education Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 492.** Introduced by Adams, 24.

PURPOSE: To study the system of financing public education in Nebraska.

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

1. That the Education Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 493.** Introduced by Dubas, 34; Sullivan, 41.

**PURPOSE:** The purpose of this resolution is to examine the use of the Civic and Community Center Financing Fund and to make recommendations on future use. The Civic and Community Center Financing Fund is a cash fund in the Department of Economic Development that was established in 1999. The fund is intended to support the development of civic and community centers throughout Nebraska and to support projects that foster the maintenance and growth of communities. It is projected that the income received into the fund will increase in future fiscal years, so the opportunity now exists to examine the current use of the fund and to explore statutory revisions that will maximize the future use of the fund, especially to enhance the growth of communities in rural areas of Nebraska.

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

1. That the Appropriations Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 494.** Introduced by Dubas, 34.

**PURPOSE:** To study uninsured and unlicensed drivers and associated penalties and make recommendations on potential changes to Nebraska law.

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

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 458, 459, 460, and 461 were adopted.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 458, 459, 460, and 461.

**MOTION - Approve Appointment**

Senator Nordquist moved the adoption of the Nebraska Retirement Systems Committee report for the confirmation of the following appointment(s) found on page 903:

Public Employees Retirement Board  
Ron Ecklund

Voting in the affirmative, 37:

Adams	Council	Howard	McCoy	Seiler
Ashford	Dubas	Janssen	McGill	Smith
Avery	Fischer	Krist	Mello	Sullivan
Bloomfield	Gloor	Lambert	Nordquist	Wallman
Brasch	Haar, K.	Langemeier	Pirsch	Wightman
Campbell	Hadley	Larson	Price	
Carlson	Harms	Lathrop	Schilz	
Cook	Heidemann	Louden	Schumacher	

Voting in the negative, 0.

Present and not voting, 5:

Cornett	Hansen	Karpisek	Nelson	Pahls
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Excused and not voting, 7:

Christensen	Conrad	Fulton	Lautenbaugh
Coash	Flood	Harr, B.	

The appointment was confirmed with 37 ayes, 0 nays, 5 present and not voting, and 7 excused and not voting.

**GENERAL FILE**

**LEGISLATIVE BILL 541A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 5 present and not voting, and 7 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 985A.** ER189, found on page 675, was adopted.

Senator Harms renewed his amendment, AM2366, found on page 886.

The Harms amendment was adopted with 39 ayes, 0 nays, 3 present and not voting, and 7 excused and not voting.

Senator Ashford renewed his amendment, AM2371, found on page 898.

The Ashford amendment was adopted with 38 ayes, 0 nays, 4 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 473.** Read. Considered.

LR473 was adopted with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LR473.

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 495.** Introduced by Mello, 5.

**PURPOSE:** To study the flood control needs of Omaha and the greater Omaha metropolitan area and examine the resources that are available or that may be utilized to meet such needs, including compliance with various federal regulatory requirements. The study should examine the role that a natural resources district may play to meet such needs and accompanying federal regulatory requirements.

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

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 496.** Introduced by Mello, 5.

PURPOSE: The purpose of this interim study is to examine the issues surrounding the adoption and promulgation of rules and regulations. This study shall include, but not be limited to:

(1) A review of the current procedures for the adoption and promulgation of rules and regulations in the Administrative Procedure Act (APA);

(2) A review of policy changes that have been made by state agencies outside of the APA process;

(3) An examination of the enforcement of rules and regulations by state agencies, including whether agencies are enforcing rules and regulations prior to completion of the APA process;

(4) A review of possible statutory changes to the APA which would ensure that any policy changes made by state agencies occur within the rule and regulation adoption and promulgation process;

(5) An examination of administrative procedure policies at the federal and state levels, including methods used to monitor and prevent the enforcement of unpromulgated rules, regulations, policies, or directives, and whether such policies should be incorporated into the APA process; and

(6) An examination of regulatory flexibility policies at the federal and state levels and whether such policies should be incorporated into the APA process.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 497.** Introduced by Larson, 40.

WHEREAS, Joyce Stevens of Crofton is a dedicated mother of three and has been selected as the 2012 Nebraska Mother of the Year; and

WHEREAS, Mrs. Stevens was born one of eight children in a little house in rural Nebraska in 1955. She attended a country school until fourth grade, when her family enrolled her in St. Frances Catholic School in Randolph. In high school, Joyce met Doyle Stevens, who would later become her husband in September of 1974; and

WHEREAS, Joyce worked as a certified pharmacy technician, left her job to raise her three children, and later returned to the pharmacy to work at the management level. After twenty-seven years with the pharmacy, Joyce retired to assist her son and husband with the family business, as well as to spend quality time with her eight grandchildren; and

WHEREAS, during thirty-seven years as a wife and mother, Joyce was active in many organizations, including as a leader for a local 4-H club, an adviser for cheerleading, a church committee member, the director of a youth choir, a confirmation teacher, a member of Relay for Life, the president of the chamber/community club, and a participant in the community theater.

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

1. That the Legislature congratulates Joyce Stevens on her selection as the 2012 Nebraska Mother of the Year.

2. That a copy of this resolution be presented to Mrs. Stevens at the 2012 Nebraska Mother of the Year Recognition Ceremony on March 23, 2012, in the Warner Chamber of the State Capitol.

Laid over.

### GENERAL FILE

**LEGISLATIVE BILL 1097.** Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 867.** Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 858.** Title read. Considered.

Committee AM2117, found on page 666, was adopted with 37 ayes, 0 nays, 6 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

### UNANIMOUS CONSENT - Add Cointroducer

Senator Cornett asked unanimous consent to add her name as cointroducer to LB745. No objections. So ordered.

### VISITORS

Visitors to the Chamber were 19 twelfth-grade students and teacher from Wilcox-Hildreth, Wilcox; 18 National Honor Society students and teacher from Fremont; 21 fourth-grade students and teacher from St. Philip Neri School, Omaha; 25 members of the Boys and Girls Club from across the state; 32 fourth-grade students from Cody Elementary, Omaha; and 15



twelfth-grade students, teacher, and sponsor from Bertrand.

### RECESS

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

### AFTER RECESS

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

### ROLL CALL

The roll was called and all members were present except Senators Ashford, Avery, Council, and Lautenbaugh who were excused until they arrive.

### COMMITTEE REPORT

Enrollment and Review

**LEGISLATIVE BILL 541A.** Placed on Select File.

(Signed) Tyson Larson, Chairperson

### AMENDMENT - Print in Journal

Senator Wallman filed the following amendment to LB1090:  
AM2487

(Amendments to E & R amendments, ER205)

- 1 1. On page 1, line 6, strike "Service institution" and
- 2 insert "Sponsor"; and strike beginning with "develops" in line 10
- 3 through "providing" in line 11 and insert "provides".
- 4 2. On page 2, line 2, strike "schools" and insert
- 5 "sponsors"; strike beginning with "per" in line 4 through "site"
- 6 in line 5; in line 5 strike "service institutions" and insert
- 7 "sponsors"; in line 14 strike "schools" and insert "sites";
- 8 in lines 20 and 26 strike "Service institutions" and insert
- 9 "Sponsors"; and in line 26, strike "and" and insert "or".
- 10 3. On page 3, line 1, strike beginning with "Service"
- 11 through "currently" and insert "Sponsors that"; in line 2 after
- 12 "Program" insert "at the time of grant application"; in line
- 13 3 strike "Service institutions" and insert "Sponsors"; strike
- 14 beginning with the second "the" in line 10 through "Program" in
- 15 line 11 and insert "other child nutrition programs administered" in
- 16 by the department"; and in line 14 strike beginning with "sites"
- 17 through "institutions" and insert "sponsors, the number of sites
- 18 utilized by sponsors".

**NOTICE OF COMMITTEE HEARING**  
Health and Human Services

Room 1510

Tuesday, March 27, 2012 1:00 p.m.

Bradley Keller - Stem Cell Research Advisory Committee  
Rebecca Jane Morris - Stem Cell Research Advisory Committee  
Dennis Roop - Stem Cell Research Advisory Committee  
Gerald Spangrude - Stem Cell Research Advisory Committee

(Signed) Kathy Campbell, Chairperson

**SELECT FILE**

**LEGISLATIVE BILL 968.** The first Flood amendment, AM2504, found on page 969 and considered on page 971, was renewed.

Senator Flood moved for a call of the house. The motion prevailed with 41 ayes, 0 nays, and 8 not voting.

Senator Flood requested a roll call vote on his amendment.

Voting in the affirmative, 23:

Adams	Campbell	Hadley	Lautenbaugh	Seiler
Ashford	Carlson	Janssen	McCoy	Smith
Avery	Christensen	Krist	Pirsch	Sullivan
Bloomfield	Cornett	Lambert	Price	
Brasch	Fischer	Langemeier	Schilz	

Voting in the negative, 21:

Coash	Fulton	Howard	Mello	Wightman
Conrad	Haar, K.	Karpisek	Nelson	
Cook	Hansen	Lathrop	Nordquist	
Council	Harms	Louden	Schumacher	
Dubas	Heidemann	McGill	Wallman	

Present and not voting, 5:

Flood	Gloor	Harr, B.	Larson	Pahls
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The first Flood amendment lost with 23 ayes, 21 nays, and 5 present and not voting.

The Chair declared the call raised.

Senator Flood offered the following motion:

MO83

Reconsider the vote taken on AM2504.

**SENATOR CARLSON PRESIDING**

**PRESIDENT SHEEHY PRESIDING**

Senator Lautenbaugh moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 10 nays, and 11 not voting.

Senator Flood moved for a call of the house. The motion prevailed with 44 ayes, 0 nays, and 5 not voting.

Senator Flood requested a roll call vote on his motion to reconsider.

Voting in the affirmative, 29:

Adams	Carlson	Gloor	Larson	Schilz
Ashford	Christensen	Hadley	Lautenbaugh	Schumacher
Avery	Coash	Janssen	McCoy	Seiler
Bloomfield	Cornett	Krist	Pahls	Smith
Brasch	Fischer	Lambert	Pirsch	Sullivan
Campbell	Flood	Langemeier	Price	

Voting in the negative, 19:

Conrad	Fulton	Harr, B.	Lathrop	Nordquist
Cook	Haar, K.	Heidemann	Louden	Wallman
Council	Hansen	Howard	McGill	Wightman
Dubas	Harms	Karpisek	Nelson	

Excused and not voting, 1:

Mello

The Flood motion to reconsider prevailed with 29 ayes, 19 nays, and 1 excused and not voting.

The Chair declared the call raised.

The first Flood amendment, AM2504, found on page 969 and considered on page 971 and in this day's Journal, was reconsidered.

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

Senator Lautenbaugh moved for a call of the house. The motion prevailed

with 30 ayes, 1 nay, and 18 not voting.

The motion to cease debate prevailed with 25 ayes, 13 nays, and 11 not voting.

Senator Flood requested a roll call vote on his amendment.

Voting in the affirmative, 28:

Adams	Carlson	Hadley	Lautenbaugh	Schumacher
Ashford	Christensen	Janssen	McCoy	Seiler
Avery	Cornett	Krist	Pahls	Smith
Bloomfield	Fischer	Lambert	Pirsch	Sullivan
Brasch	Flood	Langemeier	Price	
Campbell	Gloor	Larson	Schilz	

Voting in the negative, 19:

Coash	Dubas	Harms	Lathrop	Nordquist
Conrad	Fulton	Heidemann	McGill	Wallman
Cook	Haar, K.	Howard	Mello	Wightman
Council	Hansen	Karpisek	Nelson	

Present and not voting, 2:

Harr, B.      Louden

The first Flood amendment was adopted with 28 ayes, 19 nays, and 2 present and not voting.

The Chair declared the call raised.

The second Flood amendment, AM2503, found on page 970, was renewed.

The second Flood amendment lost with 0 ayes, 34 nays, 14 present and not voting, and 1 excused and not voting.

Pending.

## RESOLUTION

**LEGISLATIVE RESOLUTION 498.** Introduced by Pahls, 31.

**PURPOSE:** The purpose of this resolution is to examine the processes, legislative and administrative, necessary for the establishment in Nebraska of a health insurance exchange in response to the federal Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Public Law 111-152.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

### **COMMITTEE REPORT**

Enrollment and Review

**LEGISLATIVE BILL 985A.** Placed on Final Reading.  
ST71

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

1. On page 1, line 4, "; to provide for a transfer of funds" has been inserted after "2012".

(Signed) Tyson Larson, Chairperson

### **COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 1097.** Placed on Select File with amendment.  
ER217

1. On page 1, line 3, strike "of" and insert "by".

**LEGISLATIVE BILL 867.** Placed on Select File with amendment.  
ER218

1. On page 1, line 4, after the first semicolon insert

2 "to change provisions relating to the population of affected

3 counties and reporting requirements;".

(Signed) Tyson Larson, Chairperson

### **BILL ON FIRST READING**

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

**LEGISLATIVE BILL 209A.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 209, One Hundred Second Legislature, Second Session, 2012.

**SELECT FILE**

**LEGISLATIVE BILL 968.** The third Flood amendment, AM2502, found on page 970, was renewed.

The third Flood amendment was adopted with 25 ayes, 1 nay, 22 present and not voting, and 1 excused and not voting.

Senator Ashford asked unanimous consent to withdraw his amendment, AM2476, found on page 949, and replace it with his substitute amendment, AM2498, found on page 972. No objections. So ordered.

**SENATOR GLOOR PRESIDING**

Senator Ashford moved for a call of the house. The motion prevailed with 32 ayes, 0 nays, and 17 not voting.

The Ashford amendment lost with 20 ayes, 20 nays, 8 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Senator Heidemann renewed his amendment, AM2449, found on page 950.

The Heidemann amendment was adopted with 43 ayes, 0 nays, 5 present and not voting, and 1 excused and not voting.

Senator Flood withdrew his amendment, AM2481, found on page 953.

Pending.

**COMMITTEE REPORT**

Urban Affairs

**LEGISLATIVE BILL 1001.** Placed on General File with amendment. AM2528

- 1 1. Strike original section 1 and renumber the remaining
- 2 sections accordingly.

(Signed) Amanda McGill, Chairperson

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 499.** Introduced by Krist, 10.

WHEREAS, tobacco cessation programs are available to persons desiring to quit smoking cigarettes. However, many persons addicted to cigarette smoking are unable to quit; and

WHEREAS, cigarette smoking is a leading cause of preventable deaths in the United States, but studies show that smokeless tobacco presents a fraction of the health risk of smoking cigarettes; and

WHEREAS, tobacco harm reduction strategies aim to enable smokers who won't quit smoking cigarettes to switch to smokeless tobacco products. Tobacco control policies that facilitate the migration of smokers to less risky smokeless products may be more effective at reducing the deaths, diseases, and expenses associated with smoking than policies that rely solely on the abstinence-only approach; and

WHEREAS, while tobacco harm reduction strategies are not widely used, a growing body of public health advocates, academics, and tobacco manufacturers recognize the potential societal benefits of such strategies; and

WHEREAS, several public health organizations have publicly acknowledged the substantial reductions in disease risks associated with smokeless tobacco use compared to the use of cigarettes, which is referred to as the risk continuum for tobacco products, and some such organizations have endorsed tobacco harm reduction strategies to encourage smokers to switch to smokeless tobacco.

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

1. That the Legislature recognizes the importance of tobacco harm reduction strategies as an additional policy choice to assist cigarette smokers in quitting.

Laid over.

**LEGISLATIVE RESOLUTION 500.** Introduced by Lautenbaugh, 18.

PURPOSE: To study purchasing policies and practices of school districts and educational service units.

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

1. That the Education Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

### **AMENDMENTS - Print in Journal**

Senator Krist filed the following amendment to LB1158:  
AM2521

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following sections:

3 Section 1. Section 68-908, Revised Statutes Cumulative  
4 Supplement, 2010, is amended to read:

5 68-908 (1) The department shall administer the medical  
6 assistance program.

7 (2) The department may (a) enter into contracts  
8 and interagency agreements, (b) adopt and promulgate rules  
9 and regulations, (c) adopt fee schedules, (d) apply for and  
10 implement waivers and managed care plans for services for eligible  
11 recipients, including services under the Nebraska Behavioral  
12 Health Services Act, and (e) perform such other activities as  
13 necessary and appropriate to carry out its duties under the  
14 Medical Assistance Act. A covered item or service as described  
15 in section 68-911 that is furnished through a school-based health  
16 center, furnished by a provider, and furnished under a managed  
17 care plan pursuant to a waiver does not require prior consultation  
18 or referral by a patient's primary care physician to be covered.  
19 Any federally qualified health center providing services as a  
20 sponsoring facility of a school-based health center shall be  
21 reimbursed for such services provided at a school-based health  
22 center at the federally qualified health center reimbursement rate.

23 (3) The department shall maintain the confidentiality  
1 of information regarding applicants for or recipients of medical  
2 assistance and such information shall only be used for purposes  
3 related to administration of the medical assistance program and the  
4 provision of such assistance or as otherwise permitted by federal  
5 law.

6 (4)(a) The department shall prepare an annual summary  
7 and analysis of the medical assistance program for legislative  
8 and public review, including, but not limited to, a description  
9 of eligible recipients, covered services, provider reimbursement,  
10 program trends and projections, program budget and expenditures,  
11 the status of implementation of the Medicaid Reform Plan, and  
12 recommendations for program changes.

13 (b) The department shall provide a draft report of such  
14 summary and analysis to the Medicaid Reform Council no later than  
15 September 15 of each year. The council shall conduct a public  
16 meeting no later than October 1 of each year to discuss and receive  
17 public comment regarding such report. The council shall provide  
18 any comments and recommendations regarding such report in writing  
19 to the department no later than November 1 of each year. The  
20 department shall submit a final report of such summary and analysis  
21 to the Governor, the Legislature, and the council no later than  
22 December 1 of each year. Such final report shall include a response  
23 to each written recommendation provided by the council.

24 Sec. 2. All contracts and agreements relating to the  
25 medical assistance program governing at-risk managed care service  
26 delivery for behavioral health services entered into by the  
27 department on or after July 1, 2012, shall:

1 (1) Provide a definition and cap on administrative



2 spending that (a) shall not exceed seven percent unless the  
3 implementing department includes detailed requirements for  
4 tracking administrative spending to ensure (i) that administrative  
5 expenditures do not include additional profit and (ii) that any  
6 administrative spending is necessary to improve the health status  
7 of the population to be served and (b) shall not under any  
8 circumstances exceed ten percent;

9 (2) Provide a definition of annual contractor profits and  
10 losses and restrict such profits and losses under the contract so  
11 that (a) profit shall not exceed three percent per year and (b)  
12 losses shall not exceed three percent per year, as a percentage of  
13 the aggregate of all income and revenue earned by the contractor  
14 and related parties, including parent and subsidiary companies and  
15 risk-bearing partners, under the contract;

16 (3) Provide for reinvestment of at least one and one-half  
17 percent of the aggregate of all income and revenue each year  
18 including (a) any profits in excess of the contracted amount,  
19 (b) performance contingencies imposed by the department, and (c)  
20 any unearned incentive funds, to fund additional behavioral health  
21 services for children, families, and adults according to a plan  
22 developed with stakeholder and regional behavioral health authority  
23 input and approved by the department. Such plan shall address the  
24 behavioral health needs of adults and children, including filling  
25 service gaps and providing system improvements;

26 (4) Provide for a minimum medical loss ratio of  
27 eighty-five percent of the aggregate of all income and revenue  
1 earned by the contractor and related parties under the contract;

2 (5) Provide that contractor incentives, in addition to  
3 potential profit, be at least one and one-half percent of the  
4 aggregate of all income and revenue earned by the contractor and  
5 related parties under the contract;

6 (6) Provide that a minimum of one-quarter percent of the  
7 aggregate of all income and revenue earned by the contractor and  
8 related parties under the contract be at risk as a penalty if the  
9 contractor fails to meet the minimum performance metrics defined in  
10 the contract, and such penalties, if charged, shall be accounted  
11 for in a manner that shall not reduce or diminish service delivery  
12 in any way; and

13 (7) Be reviewed and awarded competitively and in full  
14 compliance with the procurement requirements of the State of  
15 Nebraska.

16 Sec. 3. Section 71-801, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 71-801 Sections 71-801 to 71-830 and section 2 of this  
19 act shall be known and may be cited as the Nebraska Behavioral  
20 Health Services Act.

21 Sec. 4. Original sections 71-801, Reissue Revised  
22 Statutes of Nebraska, and section 68-908, Revised Statutes  
23 Cumulative Supplement, 2010, are repealed.

24 Sec. 5. Since an emergency exists, this act takes effect  
 25 when passed and approved according to law.

Senator Hadley filed the following amendment to LB1158:  
 AM2551

(Amendments to AM2521)

- 1 1. On page 3, strike beginning with "at" in line 16
- 2 through "including" in line 18.

### SELECT FILE

**LEGISLATIVE BILL 968.** Senator Howard renewed her amendment,  
 AM2491, found on page 972.

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

Senator Howard requested a roll call vote on her amendment.

Voting in the affirmative, 4:

Christensen	Howard	Janssen	Wallman
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Voting in the negative, 32:

Adams	Dubas	Harms	Lathrop	Schilz
Bloomfield	Flood	Harr, B.	Lautenbaugh	Schumacher
Brasch	Fulton	Heidemann	McCoy	Seiler
Carlson	Gloor	Karpisek	McGill	Wightman
Coash	Haar, K.	Krist	Nelson	
Conrad	Hadley	Lambert	Nordquist	
Cook	Hansen	Langemeier	Price	

Present and not voting, 11:

Ashford	Cornett	Louden	Smith
Avery	Council	Pahls	Sullivan
Campbell	Fischer	Pirsch	

Excused and not voting, 2:

Larson	Mello
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The Howard amendment lost with 4 ayes, 32 nays, 11 present and not  
 voting, and 2 excused and not voting.

The Chair declared the call raised.

Pending.

**RESOLUTIONS****LEGISLATIVE RESOLUTION 501.** Introduced by Mello, 5.

**PURPOSE:** The purpose of this interim study is to examine intergovernmental relations between municipal and state governments in Nebraska. This study shall include, but not be limited to:

(1) A review of incentives and disincentives to municipal economic development, including economic development tools made available to Nebraska municipalities;

(2) A review of past and present funding levels for federal and state aid to Nebraska municipalities;

(3) A review of possible strategies to address housing, mass transportation, infrastructure, environmental, and workforce challenges facing Nebraska municipalities;

(4) A review of services provided by Nebraska municipalities and possible strategies to consolidate, streamline, and otherwise achieve greater efficiencies; and

(5) An examination of strategies for collaboration and partnership between the state and its municipalities.

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

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 502.** Introduced by Mello, 5.

**PURPOSE:** The purpose of this interim study is to examine the issues surrounding government transparency. This study shall include, but not be limited to:

(1) An examination of the implementation and effectiveness of the Taxpayer Transparency Act in providing Nebraskans with information about state government spending;

(2) A review of transparency efforts at the local level in Nebraska, with an emphasis on city and county governments and public power districts; and

(3) An examination of whether local governments should be subjected to requirements similar to those in the Taxpayer Transparency Act.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

### AMENDMENTS - Print in Journal

Senator Mello filed the following amendment to LB357:  
AM2538

(Amendments to AM2447)

- 1 1. On page 3, after line 27, insert the following new  
2 subsection:  
3 "(4) No sales and use tax shall be imposed at a rate  
4 greater than one and one-half percent or increased to a rate  
5 greater than one and one-half percent in a city of the metropolitan  
6 class unless (a) the proceeds from the first three-tenths percent  
7 of such tax rate or tax rate increase that is in excess of one  
8 and one-half percent will be used for a municipal project to reduce  
9 overflows from a combined sewer system pursuant to a long-term  
10 control plan approved by the Department of Environmental Quality  
11 for a period of twenty-five years after imposition of the tax or  
12 increase, until the project is completed, or until termination of  
13 the tax, whichever is earlier, and (b) other funding sources for  
14 the project will be reduced by a similar amount for such period."  
15 2. On page 4, line 1, strike "(4)" and insert "(5)" and  
16 strike "and (3)" and insert "to (4)"; and in line 4 strike "(5)"  
17 and insert "(6)".

Senator Mello filed the following amendment to LB731:  
AM2534 is available in the Bill Room.

### SELECT FILE

**LEGISLATIVE BILL 968.** Senator Ashford renewed his amendment, AM2500, found on page 973.

### PRESIDENT SHEEHY PRESIDING

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

The Ashford amendment was adopted with 25 ayes, 11 nays, 11 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Lautenbaugh withdrew his amendment, AM2523, found on page 974.

Senator Langemeier withdrew his amendment, AM2527, found on page 975.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 969.** ER211, found on page 934, was adopted.

Senator Ashford renewed his amendment, AM2453, found on page 943.

The Ashford amendment was adopted with 27 ayes, 6 nays, 14 present and not voting, and 2 excused and not voting.

Senator Dubas renewed her amendment, AM2452, found on page 944.

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

Senator Dubas requested a roll call vote, in reverse order, on her amendment.

Voting in the affirmative, 20:

Ashford	Dubas	Janssen	Louden	Price
Campbell	Gloor	Karpisek	McGill	Schumacher
Coash	Haar, K.	Krist	Pahls	Sullivan
Cook	Howard	Lathrop	Pirsch	Wallman

Voting in the negative, 22:

Adams	Christensen	Hansen	Mello	Smith
Avery	Fischer	Harms	Nelson	Wightman
Bloomfield	Flood	Heidemann	Nordquist	
Brasch	Fulton	Langemeier	Schilz	
Carlson	Hadley	McCoy	Seiler	

Present and not voting, 3:

Cornett	Council	Harr, B.
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Excused and not voting, 4:

Conrad	Lambert	Larson	Lautenbaugh
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The Dubas amendment lost with 20 ayes, 22 nays, 3 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Flood renewed his amendment, AM2470, found on page 952.

The Flood amendment was adopted with 42 ayes, 0 nays, 3 present and not voting, and 4 excused and not voting.

Senator Lautenbaugh withdrew his amendment, AM2497, found on page 975.

Senator Dubas offered the following amendment:  
AM2542

(Amendments to Standing Committee amendments, AM2068)

- 1 1. On page 1, strike line 18.
- 2 2. On page 2, line 18, after the period insert "For
- 3 FY2012-13 and FY2013-14, the fund may only be used to fund projects
- 4 of municipalities."; and strike the new matter in lines 21 and 22.
- 5 3. On page 3, strike lines 1 through 7.

Senator Dubas moved for a call of the house. The motion prevailed with 36 ayes, 0 nays, and 13 not voting.

Senator Dubas requested a roll call vote on her amendment.

Voting in the affirmative, 19:

Adams	Cook	Haar, K.	Louden	Schumacher
Ashford	Cornett	Harr, B.	McGill	Sullivan
Campbell	Dubas	Karpisek	Pahls	Wallman
Coash	Gloor	Lathrop	Pirsch	

Voting in the negative, 22:

Avery	Fischer	Harms	Langemeier	Seiler
Bloomfield	Flood	Heidemann	McCoy	Wightman
Brasch	Fulton	Howard	Mello	
Carlson	Hadley	Janssen	Nelson	
Christensen	Hansen	Krist	Nordquist	

Present and not voting, 4:

Council	Price	Schilz	Smith
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Excused and not voting, 4:

Conrad	Lambert	Larson	Lautenbaugh
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The Dubas amendment lost with 19 ayes, 22 nays, 4 present and not voting,

and 4 excused and not voting.

The Chair declared the call raised.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 1072.** Advanced to Enrollment and Review for Engrossment.

### GENERAL FILE

**LEGISLATIVE BILL 959.** Title read. Considered.

### SENATOR COASH PRESIDING

Committee AM2010, found on page 797, was adopted with 33 ayes, 0 nays, 5 present and not voting, and 11 excused and not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 5 present and not voting, and 11 excused and not voting.

### AMENDMENTS - Print in Journal

Senator Krist filed the following amendment to LB1091:  
AM2559

- 1 1. Strike section 8 and insert the following new
- 2 sections:
- 3 Sec. 7. Section 86-435, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 86-435 (1) A governing body may incur any nonrecurring or
- 6 recurring charges for the installation, maintenance, and operation
- 7 of 911 service and shall pay such costs out of general funds which
- 8 may be supplemented by funds from the imposition of a service
- 9 surcharge. A governing body incurring costs for 911 service may
- 10 impose a uniform service surcharge of up to fifty cents per month
- 11 on each telephone number or functional equivalent of service users
- 12 whose primary place of use is within the governing body's 911
- 13 service area, except for those service users served by wireless
- 14 carriers as defined in section 86-456 and those service users who
- 15 have no access to 911 service. The initial service surcharge may be
- 16 imposed at any time subsequent to the execution of an agreement for
- 17 911 service with a service supplier.
- 18 (2) ~~Except in a county containing a city of the~~
- 19 ~~metropolitan class, such~~ The uniform service surcharge in
- 20 subsection (1) of this section may be increased by an additional
- 21 amount not to exceed fifty cents per month. Such additional
- 22 increase shall be made only after:
- 23 (a) Publication of notices for a public hearing. Such
- 1 notices shall:

2 (i) Be published at least once a week for three  
3 consecutive weeks in a legal newspaper published or of general  
4 circulation in the areas affected;

5 (ii) Set forth the time, place, and date of such public  
6 hearing; and

7 (iii) Set forth the purpose of the public hearing and the  
8 purpose of the increase; and

9 (b) A public hearing is held pursuant to such notices.

10 (3) If 911 service is to be provided for a territory  
11 which is included in whole or in part in the jurisdiction of  
12 two or more governing bodies, the agreement for such service  
13 shall be entered into by each such governing body unless any  
14 such governing body expressly excludes itself from the agreement.  
15 Such an agreement shall provide that each governing body which  
16 is a customer of 911 service will pay for its portion of the  
17 service. Nothing in this subsection shall be construed to prevent  
18 two or more governing bodies from entering into a contract which  
19 establishes a separate legal entity for the purpose of entering  
20 into such an agreement as the customer of the service supplier or  
21 any supplier of equipment for 911 service.

22 (4) If a governing body's 911 service area includes  
23 a local exchange area which intersects governmental boundary  
24 lines, the affected governmental units may cooperate to provide  
25 911 service through an agreement as provided in the Interlocal  
26 Cooperation Act or the Joint Public Agency Act. The agreement shall  
27 provide for the assessment of a uniform service surcharge within a  
1 governing body's 911 service area. The service surcharge on each  
2 telephone number or functional equivalent of service users whose  
3 primary place of use is within the governing body's 911 service  
4 area, except for those service users served by wireless carriers  
5 as defined in section 86-456 and those service users who have no  
6 access to 911 service, shall be the same as the amount allowed in  
7 subsections (1) and (2) of this section.

8 (5) Funds generated by the service surcharge  
9 shall be expended only for the purchase, installation,  
10 maintenance, and operation of telecommunications equipment and  
11 telecommunications-related services required for the provision of  
12 911 service.

13 Sec. 9. Section 86-457, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 86-457 (1) Each wireless carrier shall collect ~~(a) A a~~  
16 surcharge of up to seventy cents, ~~except as provided in subdivision~~  
17 ~~(1)(b) of this subsection and as otherwise provided in this~~  
18 ~~section with respect to prepaid wireless service,~~ on all active  
19 telephone numbers or functional equivalents every month from users  
20 of wireless service and shall remit the surcharge in accordance  
21 with section 86-459. ~~2~~

22 (b) A surcharge of up to fifty cents, ~~except as otherwise~~  
23 ~~provided in this section with respect to prepaid wireless service,~~



24 ~~on all active telephone numbers or functional equivalents every~~  
 25 ~~month from users of wireless service whose primary place of use is~~  
 26 ~~in a county containing a city of the metropolitan class and shall~~  
 27 ~~remit the surcharge in accordance with section 86-459.~~

1 The wireless carrier is not liable for any surcharge not  
 2 paid by a customer.

3 (2) Except as otherwise provided in this section, the  
 4 wireless carrier shall add the surcharge to each user's billing  
 5 statement. The surcharge shall appear as a separate line-item  
 6 charge on the user's billing statement and shall be labeled as  
 7 "Enhanced Wireless 911 Surcharge" or a reasonable abbreviation of  
 8 such phrase.

9 (3) If a wireless carrier, except as otherwise provided  
 10 in this section, resells its service through other entities, each  
 11 reseller shall collect the surcharge from its customers and shall  
 12 remit the surcharge in accordance with section 86-459.

13 ~~(4) It is the intent of the Legislature that, effective~~  
 14 ~~July 1, 2007, all users of prepaid wireless services pay an amount~~  
 15 ~~comparable to the amount paid by users of wireless services that~~  
 16 ~~are not prepaid in support of statewide wireless enhanced 911~~  
 17 ~~service. It is also the intent of the Legislature that whenever~~  
 18 ~~possible such amounts be collected from the users of such prepaid~~  
 19 ~~wireless services.~~

20 ~~(5) The commission shall establish surcharges comparable~~  
 21 ~~to the surcharge assessed on other users of wireless services~~  
 22 ~~and shall develop methods for collection and remittance of~~  
 23 ~~such surcharges from wireless carriers offering prepaid wireless~~  
 24 ~~services.~~

25 ~~(6) The duty to remit any surcharges established pursuant~~  
 26 ~~to subsection (5) of this section is the responsibility of the~~  
 27 ~~wireless carrier.~~

1 (4) The surcharge authorized by this section shall not  
 2 apply to prepaid wireless telecommunications service as defined in  
 3 section 2 of this act.

4 ~~(7)-(5)~~ This section shall not apply to users who have no  
 5 911 service.

6 2. On page 3, line 11, strike "subdivision (1)(b)" and  
 7 insert "subsection (1)".

8 3. Renumber the remaining sections and correct internal  
 9 references accordingly.

10 4. Correct the operative date and repealer sections so  
 11 that the sections added by this amendment become operative on  
 12 January 1, 2013.

Senator Cook filed the following amendment to LB1063:  
 AM2540

(Amendments to Standing Committee amendments, AM2044)

- 1 1. Strike amendment 1 and all amendments thereto and
- 2 insert the following new amendment:

3 1. Strike the original sections and all amendments  
4 thereto and insert the following new sections:  
5 Section 1. Sections 1 to 7 of this act shall be known and  
6 may be cited as the Children's Health and Treatment Act.  
7 Sec. 2. The purposes of the Children's Health and  
8 Treatment Act are to:  
9 (1) Clarify the meaning of the term medically necessary  
10 for purposes of the medical assistance program for children under  
11 nineteen years of age, to ensure children obtain needed services;  
12 (2) Prohibit certain diagnosis-based exclusions;  
13 (3) Preserve family unity by ensuring that children  
14 eligible for the medical assistance program receive necessary  
15 health care services and treatment; and.  
16 (4) Require that the guidelines and criteria that the  
17 Department of Health and Human Services utilizes to determine  
18 medical necessity for services under the medical assistance program  
19 be adopted and promulgated as rules and regulations pursuant to the  
20 Administrative Procedure Act which provides for notice and public  
21 comment.  
22 Sec. 3. For purposes of the Children's Health and  
1 Treatment Act:  
2 (1) Department means the Department of Health and Human  
3 Services;  
4 (2) Medical assistance program means the program  
5 established pursuant to section 68-903; and  
6 (3) Medically necessary means necessary for children  
7 under nineteen years of age to correct or ameliorate defects or  
8 physical or mental illnesses or conditions in accordance with 42  
9 U.S.C. 1396d(r)(5), as such section existed on January 1, 2012.  
10 Sec. 4. (1) In accordance with 42 U.S.C. 1396a(a)(43)  
11 and 42 U.S.C. 1396d(r), as such sections existed on January 1,  
12 2012, the department shall provide early and periodic screening,  
13 diagnostic, and treatment services to all children under nineteen  
14 years of age who are eligible for coverage under the medical  
15 assistance program.  
16 (2) In accordance with 42 U.S.C. 1396d(r)(5), as such  
17 section existed on January 1, 2012, for children under nineteen  
18 years of age, the department shall provide or arrange for  
19 the provision of necessary health care diagnostic and treatment  
20 screening and other measures described in 42 U.S.C. 1396d(a), as  
21 such section existed on January 1, 2012, to correct or ameliorate  
22 defects or physical or mental illnesses or conditions discovered  
23 by the screening process regardless of whether such health care  
24 diagnostic and treatment screening and other measures described in  
25 42 U.S.C. 1396d(a), as such section existed on January 1, 2012, are  
26 covered services under the medicaid state plan. All such services  
27 and other measures shall be provided or authorized when they are  
1 determined to be medically necessary. Medical necessity shall be  
2 determined on an individualized, case-by-case basis for each child.

3 Sec. 5. (1) The Children's Health and Treatment Act  
4 does not limit the authority of the department or a department  
5 contractor to (a) limit coverage of treatments or services that  
6 are unsafe, experimental, or not generally accepted as treatment  
7 within the medical community, (b) use utilization controls or prior  
8 authorization for services, or (c) perform utilization reviews.

9 (2) The department shall report to the Health and Human  
10 Services Committee of the Legislature on utilization controls,  
11 including, but not limited to, the rates of initial service  
12 authorizations, reauthorizations subsequent to initial service  
13 authorizations, and denials for behavioral health services for  
14 children. The first report shall be due on October 1, 2012,  
15 and shall contain such rates of initial service authorizations,  
16 reauthorizations subsequent to initial service authorizations, and  
17 denials for behavioral health services for children for the first  
18 three quarters of 2012. Thereafter, on January 1, April 1, and  
19 July 1 of each year, the department shall report such rates  
20 of initial service authorizations, reauthorizations subsequent to  
21 initial service authorizations, and denials for behavioral health  
22 services for children for the previous calendar quarter.

23 Sec. 6. Pursuant to 42 C.F.R. 440.230(c), the department  
24 may not arbitrarily deny or reduce the amount, duration, or scope  
25 of a required service to an otherwise eligible recipient solely  
26 because of the diagnosis, type of illness, or condition.

27 Sec. 7. (1) The department shall adopt and promulgate  
1 rules and regulations to carry out the Children's Health and  
2 Treatment Act. On and after January 1, 2013, the department  
3 shall not apply clinical criteria or guidelines, medical necessity  
4 criteria, or other similar criteria to determine medical necessity  
5 for children under nineteen years of age that have not been adopted  
6 and promulgated pursuant to the Administrative Procedure Act.

7 (2) The clinical criteria or guidelines, medical  
8 necessity criteria, or other similar criteria described in  
9 subsection (1) of this section shall be consistent with the  
10 requirements of the early and periodic screening, diagnostic,  
11 and treatment services under 42 U.S.C. 1396(a)(43) and 42 U.S.C.  
12 1396(r), as such sections existed on January 1, 2012.

13 Sec. 8. Section 68-901, Revised Statutes Supplement,  
14 2011, is amended to read:

15 68-901 Sections 68-901 to 68-971 and sections 1 to 7 of  
16 this act shall be known and may be cited as the Medical Assistance  
17 Act.

18 Sec. 9. Section 68-912, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 68-912 (1) Except as otherwise provided in the Children's  
21 Health and Treatment Act:

22 (a) The department may establish ~~(a)~~(i) premiums,  
23 copayments, and deductibles for goods and services provided under  
24 the medical assistance program, ~~(b)~~(ii) limits on the amount,

25 duration, and scope of goods and services that recipients may  
26 receive under the medical assistance program, and ~~(e)-(iii)~~  
27 requirements for recipients of medical assistance as a necessary  
1 condition for the continued receipt of such assistance, including,  
2 but not limited to, active participation in care coordination and  
3 appropriate disease management programs and activities;-  
4 ~~(2)-(b)~~ In establishing and limiting coverage for  
5 services under the medical assistance program, the department shall  
6 consider ~~(a)-(i)~~ the effect of such coverage and limitations  
7 on recipients of medical assistance and medical assistance  
8 expenditures, ~~(b)-(ii)~~ the public policy in section 68-905, ~~(e)~~  
9 ~~(iii)~~ the experience and outcomes of other states, ~~(d)-(iv)~~ the  
10 nature and scope of benchmark or benchmark-equivalent health  
11 insurance coverage as recognized under federal law, and ~~(e)-(v)~~  
12 other relevant factors as determined by the department; and-  
13 ~~(3)-(c)~~ Coverage for mandatory and optional services and  
14 limitations on covered services as established by the department  
15 prior to July 1, 2006, shall remain in effect until revised,  
16 amended, repealed, or nullified pursuant to law. Any proposed  
17 reduction or expansion of services or limitation of covered  
18 services by the department under this section shall be subject  
19 to the reporting and review requirements of section 68-909.  
20 ~~(4)-(2)~~ Except as otherwise provided in this subsection,  
21 proposed rules and regulations under this section relating to the  
22 establishment of premiums, copayments, or deductibles for eligible  
23 recipients or limits on the amount, duration, or scope of covered  
24 services for eligible recipients shall not become effective until  
25 the conclusion of the earliest regular session of the Legislature  
26 in which there has been a reasonable opportunity for legislative  
27 consideration of such rules and regulations. This subsection does  
1 not apply to rules and regulations that are (a) required by  
2 federal or state law, (b) related to a waiver in which recipient  
3 participation is voluntary, or (c) proposed due to a loss of  
4 federal matching funds relating to a particular covered service  
5 or eligibility category. Legislative consideration includes, but  
6 is not limited to, the introduction of a legislative bill, a  
7 legislative resolution, or an amendment to pending legislation  
8 relating to such rules and regulations.  
9 Sec. 10. If any section in this act or any part of any  
10 section is declared invalid or unconstitutional, the declaration  
11 shall not affect the validity or constitutionality of the remaining  
12 portions.  
13 Sec. 11. Original section 68-912, Reissue Revised  
14 Statutes of Nebraska, and section 68-901, Revised Statutes  
15 Supplement, 2011, are repealed.

**UNANIMOUS CONSENT - Add Cointroducer**

Senator Hadley asked unanimous consent to add his name as cointroducer to LB1091. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were 4 students and teacher from Boone Center, Albion.

The Doctor of the Day was Dr. Theresa Hatcher from Bellevue.

**ADJOURNMENT**

At 8:34 p.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Tuesday, March 20, 2012.

Patrick J. O'Donnell  
Clerk of the Legislature

