

**FORTY-NINTH DAY - MARCH 22, 2012****LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE  
SECOND SESSION****FORTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, March 22, 2012

**PRAYER**

The prayer was offered by Pastor Mary Ellen Gaither, First Presbyterian Church, Humboldt.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 8:00 a.m., Senator Langemeier presiding.

The roll was called and all members were present except Senators Mello, Nordquist, and Seiler who were excused; and Senators Coash, Conrad, Fulton, and B. Harr who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-eighth day was approved.

**AMENDMENT - Print in Journal**

Senator Loudon filed the following amendment to LB1053:  
AM2589

- 1 1. Insert the following new sections:
- 2 Sec. 29. This act becomes operative on July 1, 2012.
- 3 Sec. 31. Since an emergency exists, this act takes effect
- 4 when passed and approved according to law.
- 5 2. On page 4, line 14, after "Guide" insert "as the guide
- 6 existed on January 1, 2012".
- 7 3. On page 6, lines 11 and 25; and page 7, lines 3 and 9,
- 8 strike "effective date" and insert "operative date".
- 9 4. Renumber the remaining section accordingly.

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of March 21, 2012, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

Plucker, Julia  
Kelley and Jerram, P.C.

**GENERAL FILE**

**LEGISLATIVE BILL 721.** Title read. Considered.

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

**LEGISLATIVE BILL 766.** Title read. Considered.

Advanced to Enrollment and Review Initial with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

**LEGISLATIVE BILL 779.** Title read. Considered.

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

**LEGISLATIVE BILL 719.** Title read. Considered.

Committee AM1842, found on page 441, was adopted with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 729.** Title read. Considered.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 6 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 1035.** Title read. Considered.

Committee AM1900, found on page 470, was adopted with 38 ayes, 0 nays, 6 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 896.** Title read. Considered.

Senator Fischer offered the following amendment:

AM2602

- 1 1. Insert the following new section:
- 2 Sec. 3. Since an emergency exists, this act takes effect
- 3 when passed and approved according to law.

The Fischer amendment was adopted with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 898.** Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 9 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 772.** Title read. Considered.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

**SENATOR CARLSON PRESIDING**

**LEGISLATIVE BILL 823.** Title read. Considered.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 761.** Title read. Considered.

Committee AM1883, found on page 500, was adopted with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

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

**LEGISLATIVE BILL 743.** Title read. Considered.

Committee AM1825, found on page 520, was adopted with 39 ayes, 0 nays, 5 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 742.** Title read. Considered.

Committee AM1934, found on page 537, was adopted with 39 ayes, 0 nays, 6 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 4 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 1049.** Title read. Considered.

Senator Cornett renewed her amendment, AM1886, found on page 615.

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

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 398.** Title read. Considered.

Committee AM1789, found on page 572, was adopted with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 1101.** Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 1042.** Title read. Considered.

Advanced to Enrollment and Review Initial with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 788.** Title read. Considered.

Committee AM1839, found on page 593, 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 1062.** Title read. Considered.

Committee AM1956, found on page 595, was adopted with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

### ANNOUNCEMENT

The Chair announced March 21 was Senator McGill's birthday.

### GENERAL FILE

**LEGISLATIVE BILL 1030.** Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 795.** Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 880.** Title read. Considered.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 999.** Title read. Considered.

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

**LEGISLATIVE BILL 1116.** Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 1141.** Title read. Considered.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 819.** Title read. Considered.

Committee AM1999, found on page 663, was adopted with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 869.** Title read. Considered.

Committee AM2122, found on page 667, was adopted with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 1122.** Title read. Considered.

Advanced to Enrollment and Review Initial with 27 ayes, 1 nay, 16 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 1077.** Title read. Considered.

Committee AM1960, found on page 671, was adopted with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 1083.** Title read. Considered.

Committee AM1991, found on page 671, was adopted with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 734.** Title read. Considered.

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 737.** Title read. Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 768.** Title read. Considered.

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

**LEGISLATIVE BILL 805.** Title read. Considered.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 881.** Title read. Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 941.** Title read. Considered.

**SENATOR LANGEMEIER PRESIDING**

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 1148.** Title read. Considered.

Committee AM2119, found on page 735, was adopted with 34 ayes, 0 nays, 11 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 740.** Title read. Considered.

Committee AM2212, found on page 775, was adopted with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 851.** Title read. Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 1106.** Title read. Considered.

Committee AM2239, found on page 782, was adopted with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 1026.** Title read. Considered.

Advanced to Enrollment and Review Initial with 29 ayes, 0 nays, 16 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 1140.** Title read. Considered.

Advanced to Enrollment and Review Initial with 29 ayes, 0 nays, 16 present

and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 936.** Title read. Considered.

Committee AM2303, found on page 784, 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 897.** Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 822.** Title read. Considered.

Committee AM2313, found on page 787, was adopted with 29 ayes, 0 nays, 16 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 1038.** Title read. Considered.

Committee AM2256, found on page 795, was adopted with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

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

**LEGISLATIVE BILL 1005.** Title read. Considered.

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

**LEGISLATIVE BILL 997.** Title read. Considered.

Committee AM1885, found on page 798, was adopted with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

**LEGISLATIVE BILL 899.** Title read. Considered.

Senator Lathrop renewed his amendment, AM2393, found on page 1053.

The Lathrop amendment was adopted with 33 ayes, 0 nays, 9 present and



not voting, and 7 excused and not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

### **EASE**

The Legislature was at ease from 11:45 a.m. until 12:00 p.m.

### **GENERAL FILE**

**LEGISLATIVE BILL 722.** Title read. Considered.

Committee AM2327, found on page 815, was adopted with 29 ayes, 0 nays, 13 present and not voting, and 7 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 865.** Title read. Considered.

Committee AM2305, found on page 816, was adopted with 36 ayes, 0 nays, 5 present and not voting, and 8 excused and not voting.

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

**LEGISLATIVE BILL 1051.** Title read. Considered.

Committee AM2314, found on page 818, was adopted with 38 ayes, 0 nays, 3 present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 4 present and not voting, and 8 excused and not voting.

**LEGISLATIVE BILL 1121.** Title read. Considered.

Committee AM1872, found on page 839, was adopted with 37 ayes, 0 nays, 4 present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 5 present and not voting, and 8 excused and not voting.

**LEGISLATIVE BILL 1126.** Title read. Considered.

### **SENATOR CARLSON PRESIDING**

Committee AM1990, found on page 842, was adopted with 33 ayes, 0 nays, 8 present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 7 present and not voting, and 8 excused and not voting.

**LEGISLATIVE BILL 738.** Title read. Considered.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 7 present and not voting, and 9 excused and not voting.

**LEGISLATIVE BILL 1087.** Title read. Considered.

Committee AM2364, found on page 876, 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 30 ayes, 0 nays, 10 present and not voting, and 9 excused and not voting.

**LEGISLATIVE BILL 1054.** Title read. Considered.

Committee AM2369, found on page 891, 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 31 ayes, 0 nays, 9 present and not voting, and 9 excused and not voting.

## COMMITTEE REPORTS

### Health and Human Services

**LEGISLATIVE BILL 330.** Placed on General File with amendment.  
AM2479

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 38-1130, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 38-1130 (1) Except as otherwise provided in this section,
- 6 a licensed dental hygienist shall perform the dental hygiene
- 7 functions listed in section 38-1131 only when authorized to do so
- 8 by a licensed dentist who shall be responsible for the total oral
- 9 health care of the patient.
- 10 (2) The department may authorize a licensed dental
- 11 hygienist to perform the following functions in the conduct of
- 12 public health-related services in a public health setting or
- 13 in a health care or related facility: Preliminary charting and
- 14 screening examinations; oral health education, including workshops
- 15 and inservice training sessions on dental health; and all of the
- 16 duties that any dental assistant is authorized to perform.
- 17 (3)(a) The department may authorize a licensed dental
- 18 hygienist with ~~three thousand hours of clinical experience in~~
- 19 ~~at least four of the preceding five calendar years~~ to perform

20 the following functions in the conduct of public health-related  
21 services to children in a public health setting or in a health  
22 care or related facility: Oral prophylaxis to healthy children who  
23 do not require antibiotic premedication; pulp vitality testing;  
1 and preventive measures, including the application of fluorides,  
2 sealants, and other recognized topical agents for the prevention of  
3 oral disease.

4 (b) Authorization shall be granted by the department  
5 under this subsection upon (i) filing an application with the  
6 department; and (ii) providing evidence of current licensure and  
7 professional liability insurance coverage, ~~and (iii) providing~~  
8 ~~evidence of clinical experience as required under subdivision (a)~~  
9 ~~of this subsection.~~ Authorization may be limited by the department  
10 as necessary to protect the public health and safety upon good  
11 cause shown and may be renewed in connection with renewal of the  
12 dental hygienist's license.

13 (c) A licensed dental hygienist performing dental hygiene  
14 functions as authorized under this subsection shall (i) report  
15 authorized functions performed by him or her to the department on  
16 a form developed and provided by the department and (ii) advise  
17 the patient or recipient of services or his or her authorized  
18 representative that such services are preventive in nature and do  
19 not constitute a comprehensive dental diagnosis and care.

20 (4)(a) The department may authorize a licensed dental  
21 hygienist who has completed three thousand hours of clinical  
22 experience to perform the following functions in the conduct  
23 of public health-related services to adults in a public health  
24 setting or in a health care or related facility: Oral prophylaxis;  
25 pulp vitality testing; and preventive measures, including the  
26 application of fluorides, sealants, and other recognized topical  
27 agents for the prevention of oral disease.

1 (b) Authorization shall be granted by the department  
2 under this subsection upon (i) filing an application with the  
3 department, (ii) providing evidence of current licensure and  
4 professional liability insurance coverage, and (iii) providing  
5 evidence of three thousand hours of clinical experience.  
6 Authorization may be limited by the department as necessary to  
7 protect the public health and safety upon good cause shown and may  
8 be renewed in connection with renewal of the dental hygienist's  
9 license.

10 (c) A licensed dental hygienist performing dental hygiene  
11 functions as authorized under this subsection shall (i) report  
12 on a form developed and provided by the department authorized  
13 functions performed by him or her to the department and (ii) advise  
14 the patient or recipient of services or his or her authorized  
15 representative that such services are preventive in nature and do  
16 not constitute a comprehensive dental diagnosis and care.

17 (5) The department shall compile the data from the  
18 reports provided under subdivisions (3)(c)(i) and (4)(c)(i) of this

19 section and provide an annual report to the Board of Dentistry and  
 20 the State Board of Health.

21 ~~(4)~~(6) For purposes of this section:

22 (a) Health care or related facility means a hospital,  
 23 a nursing facility, an assisted-living facility, a correctional  
 24 facility, a tribal clinic, or a school-based preventive health  
 25 program; and

26 (b) Public health setting means a federal, state, or  
 27 local public health department or clinic, community health center,  
 1 rural health clinic, or other similar program or agency that serves  
 2 primarily public health care program recipients.

3 (7) Within five years after the effective date of this  
 4 act, the Health and Human Services Committee of the Legislature  
 5 shall evaluate the services provided by dental hygienists pursuant  
 6 to this section to ascertain the effectiveness of such services in  
 7 the delivery of oral health care and shall provide a report on such  
 8 evaluation to the Legislature.

9 Sec. 2. Original section 38-1130, Reissue Revised  
 10 Statutes of Nebraska, is repealed.

(Signed) Kathy Campbell, Chairperson

Judiciary

**LEGISLATIVE BILL 1113.** Placed on General File.

**LEGISLATIVE BILL 972.** Placed on General File with amendment.  
 AM2598

1 1. Strike the original sections and insert the following  
 2 new sections:

3 Section 1. Section 43-251.01, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:

5 43-251.01 All placements and commitments of juveniles for  
 6 evaluations or as temporary or final dispositions are subject to  
 7 the following:

8 (1) No juvenile shall be confined in an adult  
 9 correctional facility as a disposition of the court;

10 (2) A juvenile who is found to be a juvenile as described  
 11 in subdivision (3) of section 43-247 shall not be placed in an  
 12 adult correctional facility, the secure youth confinement facility  
 13 operated by the Department of Correctional Services, or a youth  
 14 rehabilitation and treatment center or committed to the Office of  
 15 Juvenile Services;

16 (3) A juvenile who is found to be a juvenile as described  
 17 in subdivision (1), (2), or (4) of section 43-247 shall not be  
 18 assigned or transferred to an adult correctional facility or the  
 19 secure youth confinement facility operated by the Department of  
 20 Correctional Services; and

21 (4) A juvenile under the age of ~~twelve~~ fourteen years

22 shall not be placed with or committed to a youth rehabilitation and  
23 treatment center except as provided in section 43-286.

1 Sec. 2. Section 43-276, Revised Statutes Cumulative  
2 Supplement, 2010, is amended to read:

3 43-276 In cases coming within subdivision (1) of section  
4 43-247, when there is concurrent jurisdiction, or subdivision  
5 (2) or (4) of section 43-247, when the juvenile is under the  
6 age of sixteen years, the county attorney shall, in making  
7 the determination whether to file a criminal charge, file a  
8 juvenile court petition, offer juvenile pretrial diversion, or  
9 offer mediation, consider: (1) The type of treatment such juvenile  
10 would most likely be amenable to; (2) whether there is evidence  
11 that the alleged offense included violence or was committed in  
12 an aggressive and premeditated manner; (3) the motivation for the  
13 commission of the offense; (4) the age of the juvenile and the ages  
14 and circumstances of any others involved in the offense; (5) the  
15 previous history of the juvenile, including whether he or she had  
16 been convicted of any previous offenses or adjudicated in juvenile  
17 court, and, if so, whether such offenses were crimes against the  
18 person or relating to property, and other previous history of  
19 antisocial behavior, if any, including any patterns of physical  
20 violence; (6) the sophistication and maturity of the juvenile as  
21 determined by consideration of his or her home, school activities,  
22 emotional attitude and desire to be treated as an adult, pattern  
23 of living, and whether he or she has had previous contact with law  
24 enforcement agencies and courts and the nature thereof; (7) whether  
25 there are facilities particularly available to the juvenile court  
26 for treatment and rehabilitation of the juvenile; (8) whether the  
27 best interests of the juvenile and the security of the public may  
1 require that the juvenile continue in secure detention or under  
2 supervision for a period extending beyond his or her minority and,  
3 if so, the available alternatives best suited to this purpose;  
4 (9) whether the victim agrees to participate in mediation; (10)  
5 whether there is a juvenile pretrial diversion program established  
6 pursuant to sections 43-260.02 to 43-260.07; (11) whether the  
7 juvenile has been convicted of or has acknowledged unauthorized use  
8 or possession of a firearm; (12) whether a juvenile court order  
9 has been issued for the juvenile pursuant to section 43-2,106.03;  
10 (13) whether the juvenile is a criminal street gang member; (14)  
11 whether the juvenile has been previously committed to a youth  
12 rehabilitation and treatment center; and ~~(14)-(15)~~ such other  
13 matters as the county attorney deems relevant to his or her  
14 decision.

15 Sec. 3. Section 43-286, Revised Statutes Supplement,  
16 2011, is amended to read:

17 43-286 (1) When any juvenile is adjudicated to be a  
18 juvenile described in subdivision (1), (2), or (4) of section  
19 43-247:

20 (a) The court may continue the dispositional portion of

21 the hearing, from time to time upon such terms and conditions as  
 22 the court may prescribe, including an order of restitution of any  
 23 property stolen or damaged or an order requiring the juvenile to  
 24 participate in community service programs, if such order is in  
 25 the interest of the juvenile's reformation or rehabilitation, and,  
 26 subject to the further order of the court, may:

27 (i) Place the juvenile on probation subject to the  
 1 supervision of a probation officer;

2 (ii) Permit the juvenile to remain in his or her own home  
 3 or be placed in a suitable family home, subject to the supervision  
 4 of the probation officer; or

5 (iii) Cause the juvenile to be placed in a suitable  
 6 family home or institution, subject to the supervision of the  
 7 probation officer. If the court has committed the juvenile to the  
 8 care and custody of the Department of Health and Human Services,  
 9 the department shall pay the costs of the suitable family home or  
 10 institution which are not otherwise paid by the juvenile's parents.

11 Under subdivision (1)(a) of this section, upon a  
 12 determination by the court that there are no parental, private, or  
 13 other public funds available for the care, custody, and maintenance  
 14 of a juvenile, the court may order a reasonable sum for the care,  
 15 custody, and maintenance of the juvenile to be paid out of a  
 16 fund which shall be appropriated annually by the county where the  
 17 petition is filed until a suitable provision may be made for the  
 18 juvenile without such payment; or

19 (b) The court may commit such juvenile to the Office  
 20 of Juvenile Services, but a juvenile under the age of ~~twelve~~  
 21 fourteen years shall not be placed at the Youth Rehabilitation and  
 22 Treatment Center-Geneva or the Youth Rehabilitation and Treatment  
 23 Center-Kearney unless he or she has violated the terms of probation  
 24 or has committed an additional offense and the court finds that the  
 25 interests of the juvenile and the welfare of the community demand  
 26 his or her commitment. This minimum age provision shall not apply  
 27 if the act in question is murder or manslaughter.

1 (2) When any juvenile is found by the court to be a  
 2 juvenile described in subdivision (3)(b) of section 43-247, the  
 3 court may enter such order as it is empowered to enter under  
 4 subdivision (1)(a) of this section or enter an order committing or  
 5 placing the juvenile to the care and custody of the Department of  
 6 Health and Human Services.

7 (3) When any juvenile is adjudicated to be a juvenile  
 8 described in subdivision (1), (2), (3)(b), or (4) of section 43-247  
 9 because of a nonviolent act or acts and the juvenile has not  
 10 previously been adjudicated to be such a juvenile because of a  
 11 violent act or acts, the court may, with the agreement of the  
 12 victim, order the juvenile to attend juvenile offender and victim  
 13 mediation with a mediator or at an approved center selected from  
 14 the roster made available pursuant to section 25-2908.

15 (4) When a juvenile is placed on probation and a

16 probation officer has reasonable cause to believe that such  
17 juvenile has committed or is about to commit a substance abuse  
18 violation, a noncriminal violation, or a violation of a condition  
19 of his or her probation, the probation officer shall take  
20 appropriate measures as provided in section 43-286.01.

21 (5)(a) When a juvenile is placed on probation or under  
22 the supervision of the court and it is alleged that the juvenile is  
23 again a juvenile described in subdivision (1), (2), (3)(b), or (4)  
24 of section 43-247, a petition may be filed and the same procedure  
25 followed and rights given at a hearing on the original petition. If  
26 an adjudication is made that the allegations of the petition are  
27 true, the court may make any disposition authorized by this section  
1 for such adjudications.

2 (b) When a juvenile is placed on probation or under  
3 the supervision of the court for conduct under subdivision (1),  
4 (2), (3)(b), or (4) of section 43-247 and it is alleged that the  
5 juvenile has violated a term of probation or supervision or that  
6 the juvenile has violated an order of the court, a motion to revoke  
7 probation or supervision or to change the disposition may be filed  
8 and proceedings held as follows:

9 (i) The motion shall set forth specific factual  
10 allegations of the alleged violations and a copy of such motion  
11 shall be served on all persons required to be served by sections  
12 43-262 to 43-267;

13 (ii) The juvenile shall be entitled to a hearing before  
14 the court to determine the validity of the allegations. At such  
15 hearing the juvenile shall be entitled to those rights relating  
16 to counsel provided by section 43-272 and those rights relating  
17 to detention provided by sections 43-254 to 43-256. The juvenile  
18 shall also be entitled to speak and present documents, witnesses,  
19 or other evidence on his or her own behalf. He or she may confront  
20 persons who have given adverse information concerning the alleged  
21 violations, may cross-examine such persons, and may show that he  
22 or she did not violate the conditions of his or her probation  
23 or supervision or an order of the court or, if he or she did,  
24 that mitigating circumstances suggest that the violation does not  
25 warrant revocation of probation or supervision or a change of  
26 disposition. The hearing shall be held within a reasonable time  
27 after the juvenile is taken into custody;

1 (iii) The hearing shall be conducted in an informal  
2 manner and shall be flexible enough to consider evidence, including  
3 letters, affidavits, and other material, that would not be  
4 admissible in an adversarial criminal trial;

5 (iv) The juvenile shall be given a preliminary hearing  
6 in all cases when the juvenile is confined, detained, or otherwise  
7 significantly deprived of his or her liberty as a result of his  
8 or her alleged violation of probation, supervision, or court order.  
9 Such preliminary hearing shall be held before an impartial person  
10 other than his or her probation officer or any person directly

11 involved with the case. If, as a result of such preliminary  
 12 hearing, probable cause is found to exist, the juvenile shall be  
 13 entitled to a hearing before the court in accordance with this  
 14 subsection;

15 (v) If the juvenile is found by the court to have  
 16 violated the terms of his or her probation or supervision or an  
 17 order of the court, the court may modify the terms and conditions  
 18 of the probation, supervision, or other court order, extend the  
 19 period of probation, supervision, or other court order, or enter  
 20 any order of disposition that could have been made at the time the  
 21 original order was entered; and

22 (vi) In cases when the court revokes probation,  
 23 supervision, or other court order, it shall enter a written  
 24 statement as to the evidence relied on and the reasons for  
 25 revocation.

26 Sec. 4. Section 43-401, Reissue Revised Statutes of  
 27 Nebraska, is amended to read:

1 43-401 Sections 43-401 to 43-423 and section 6 of this  
 2 act shall be known and may be cited as the Health and Human  
 3 Services, Office of Juvenile Services Act.

4 Sec. 5. Section 43-405, Reissue Revised Statutes of  
 5 Nebraska, is amended to read:

6 43-405 The administrative duties of the Office of  
 7 Juvenile Services are to:

8 (1) Manage, establish policies for, and administer the  
 9 office, including all facilities and programs operated by the  
 10 office or provided through the office by contract with a provider;

11 (2) Supervise employees of the office, including  
 12 employees of the facilities and programs operated by the office;

13 (3) Have separate budgeting procedures and develop and  
 14 report budget information separately from the Department of Health  
 15 and Human Services;

16 (4) Adopt and promulgate rules and regulations for  
 17 the levels of treatment and for management, control, screening,  
 18 evaluation, treatment, rehabilitation, parole, transfer, and  
 19 discharge of juveniles placed with or committed to the Office of  
 20 Juvenile Services;

21 (5) Ensure that statistical information concerning  
 22 juveniles placed with or committed to facilities or programs of  
 23 the office is collected, developed, and maintained for purposes of  
 24 research and the development of treatment programs;

25 (6) Monitor commitments, placements, and evaluations at  
 26 facilities and programs operated by the office or through contracts  
 27 with providers and report its findings annually to the Legislature.

1 The report shall include an assessment of the administrative costs  
 2 of operating the facilities, the cost of programming, ~~and~~ the  
 3 savings realized through reductions in commitments, placements, and  
 4 evaluations, and information regarding the collaboration required  
 5 by section 7 of this act;



6 (7) Coordinate the programs and services of the juvenile  
7 justice system with other governmental agencies and political  
8 subdivisions;

9 (8) Coordinate educational, vocational, and social  
10 counseling;

11 (9) Coordinate community-based services for juveniles and  
12 their families;

13 (10) Supervise and coordinate juvenile parole and  
14 aftercare services; and

15 (11) Exercise all powers and perform all duties necessary  
16 to carry out its responsibilities under the Health and Human  
17 Services, Office of Juvenile Services Act.

18 Sec. 6. If a juvenile assaults an employee of a youth  
19 rehabilitation and treatment center or another juvenile who has  
20 been committed to the youth rehabilitation and treatment center  
21 or escapes or attempts to escape from a youth rehabilitation  
22 and treatment center, the chief executive officer of the youth  
23 rehabilitation and treatment center shall document the assault,  
24 escape, or attempt to escape and send a copy of such documentation  
25 to the committing court and the county attorney of the county in  
26 which the committing court is located as soon as possible after the  
27 determination that such assault, escape, or attempt to escape has  
1 occurred. Such documentation may be offered as evidence presented  
2 at any hearing conducted pursuant to section 43-2,106.03.

3 Sec. 7. The Office of Juvenile Services shall collaborate  
4 with the Department of Correctional Services regarding the training  
5 of all employees and the safety and security of the youth  
6 rehabilitation and treatment centers. The office shall include  
7 information regarding such collaboration in the annual report  
8 required by subdivision (6) of section 43-405.

9 Sec. 8. The Revisor of Statutes shall assign section 7 of  
10 this act to Chapter 83, article 1.

11 Sec. 9. Original sections 43-251.01, 43-401, and 43-405,  
12 Reissue Revised Statutes of Nebraska, sections 29-1816 and 43-276,  
13 Revised Statutes Cumulative Supplement, 2010, and section 43-286,  
14 Revised Statutes Supplement, 2011, are repealed.

(Signed) Brad Ashford, Chairperson

### **BILL ON FIRST READING**

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

**LEGISLATIVE BILL 1053A.** Introduced by Loudon, 49.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2011, LB374, section 222; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1053, One Hundred Second Legislature, Second Session, 2012; and to repeal the original section.

**RESOLUTIONS****LEGISLATIVE RESOLUTION 522.** Introduced by Fischer, 43.

WHEREAS, Nathan Thomas Luchsinger, of Troop 288, Valentine, 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, Nathan 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. Nathan earned 36 merit badges, and for his community service project he completed a groundwork project at Our Savior Lutheran Church, Valentine, Nebraska, which included removing sod from the east side of the church, moving dirt, and shaping the ground to direct rain and irrigation water away from the building to prevent water seepage; and

WHEREAS, Nathan also served his troop in a variety of leadership roles, including senior patrol leader, patrol leader, and librarian; and

WHEREAS, only a small percentage of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Nathan, through his hard work and perseverance, has joined 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 SECOND LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature congratulates Nathan Thomas Luchsinger on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Nathan Thomas Luchsinger.

Laid over.

**LEGISLATIVE RESOLUTION 523.** Introduced by Fischer, 43.

WHEREAS, Caden Tim Billings, of Troop 288, Valentine, 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, Caden 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. Caden earned 34 merit badges, and for his community service project he improved the Cherry County Fairgrounds by staining and painting the front entry sign, repairing and painting the ticket office, and painting the south restrooms; and

WHEREAS, Caden also served his troop in a variety of leadership roles, including senior patrol leader and assistant patrol leader; and

WHEREAS, only a small percentage of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Caden, through his hard work and perseverance, has joined 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 SECOND LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature congratulates Caden Tim Billings on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Caden Tim Billings.

Laid over.

#### **LEGISLATIVE RESOLUTION 524.** Introduced by Fischer, 43.

WHEREAS, Ethan Aaron Osnes, of Troop 288, Valentine, 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, Ethan 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. Ethan earned 26 merit badges, and for his community service project he made improvements at the Valentine Dog Pound, which included cleaning the dog runs, painting the dog shelter and storage building, making repairs, and conducting maintenance of the facilities; and

WHEREAS, Ethan also served his troop in a variety of leadership roles, including patrol leader, assistant senior patrol leader, and instructor; and

WHEREAS, only a small percentage of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Ethan, through his hard work and perseverance, has joined 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 SECOND LEGISLATURE OF NEBRASKA, SECOND SESSION:

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

Laid over.

**LEGISLATIVE RESOLUTION 525.** Introduced by Coash, 27.

**PURPOSE:** The purpose of this resolution is to investigate how Nebraska's current system for screening, assessing, and investigating reports of child abuse and neglect contributes to Nebraska's rates of out-of-home care that are twice that of the national average and to study how a differential response system to reports of child abuse and neglect could be implemented in Nebraska to safely reduce the number of children in out-of-home care and fulfill the family policy objectives prescribed in sections 43-532 to 43-534. The study may include, but is not limited to, an examination of the following:

(1) The core elements essential to a successful differential response system, including the steps taken by other states to successfully implement differential response systems and barriers overcome by such states;

(2) How other states have identified and engaged necessary stakeholders, worked out timelines of implementation, used pilot projects, partnered with service providers and the larger community, and coordinated differential response systems with law enforcement and juvenile or family courts;

(3) The number and type of differential responses or tracks used and the services offered to families and children in each of the tracks in other states;

(4) Information on how other states have examined outcomes and outcome measures, continuously monitor quality of differential response system services, and conduct ongoing evaluation and oversight; and

(5) Nebraska's current model of child abuse and neglect reporting, screening, and investigation, including coordination with law enforcement and the use of structured decisionmaking, and data on how many reports are received, investigated, and assessed and the types of services offered to children and families and how the services are funded.

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

1. That the Judiciary and Health and Human Services Committees of the Legislature shall be designated to conduct a joint interim study to carry out the purposes of this resolution.

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

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 526.** Introduced by Howard, 9.

WHEREAS, in April of 2012, Dr. Ann Coyne will receive the National Association of Social Workers Lifetime Achievement Award; and

WHEREAS, Dr. Coyne has fostered an essential relationship between the University of Nebraska at Omaha Grace Abbott School of Social Work and the University of Nicaragua at Leon; and

WHEREAS, Dr. Coyne has worked tirelessly to improve the lives of individuals in Nicaragua, including by building houses for low income individuals, establishing a clinic for mothers and children, and establishing a school for deaf children; and

WHEREAS, Dr. Coyne has been essential to the sharing of knowledge, culture, and social work practices through student trips, faculty exchanges, donation of necessary supplies, and creation of educational programs; and

WHEREAS, Dr. Coyne has given countless hours to associations, task forces, and advisory committees for the betterment of child welfare in Nebraska; and

WHEREAS, this prestigious award recognizes Dr. Coyne's lifetime of selfless service.

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

1. That the Legislature congratulates Dr. Ann Coyne on her receipt of the National Association of Social Workers Lifetime Achievement Award and thanks her for her service to Nebraska.

2. That a copy of this resolution be sent to Dr. Coyne.

Laid over.

**AMENDMENTS - Print in Journal**

Senator Pirsch filed the following amendment to LB817:  
AM2603

- 1 1. Insert the following new section:
- 2 Section 1. Section 29-2264, Revised Statutes Cumulative
- 3 Supplement, 2010, is amended to read:
- 4 29-2264 (1) Whenever any person is placed on probation
- 5 by a court and satisfactorily completes the conditions of his or
- 6 her probation for the entire period or is discharged from probation
- 7 prior to the termination of the period of probation, the sentencing
- 8 court shall issue an order releasing the offender from probation.
- 9 Such order in all felony cases shall provide notice that the
- 10 person's voting rights are restored two years after completion of

11 probation. The order shall include information on restoring other  
12 civil rights through the pardon process, including application to  
13 and hearing by the Board of Pardons.

14 (2) Whenever any person is convicted of a misdemeanor or  
15 felony and is placed on probation by the court or is sentenced to  
16 a fine only, he or she may, after satisfactory fulfillment of the  
17 conditions of probation for the entire period or after discharge  
18 from probation prior to the termination of the period of probation  
19 and after payment of any fine, petition the sentencing court to set  
20 aside the conviction.

21 (3) In determining whether to set aside the conviction,  
22 the court shall consider:

23 (a) The behavior of the offender after sentencing;

1 (b) The likelihood that the offender will not engage in  
2 further criminal activity; and

3 (c) Any other information the court considers relevant.

4 (4) The court may grant the offender's petition and issue  
5 an order setting aside the conviction when in the opinion of the  
6 court the order will be in the best interest of the offender and  
7 consistent with the public welfare. The order shall:

8 (a) Nullify the conviction; and

9 (b) Remove all civil disabilities and disqualifications  
10 imposed as a result of the conviction.

11 (5) The setting aside of a conviction in accordance with  
12 the Nebraska Probation Administration Act shall not:

13 (a) Require the reinstatement of any office, employment,  
14 or position which was previously held and lost or forfeited as a  
15 result of the conviction;

16 (b) Preclude proof of a plea of guilty whenever such plea  
17 is relevant to the determination of an issue involving the rights  
18 or liabilities of someone other than the offender;

19 (c) Preclude proof of the conviction as evidence of the  
20 commission of the misdemeanor or felony whenever the fact of its  
21 commission is relevant for the purpose of impeaching the offender  
22 as a witness, except that the order setting aside the conviction  
23 may be introduced in evidence;

24 (d) Preclude use of the conviction for the purpose of  
25 determining sentence on any subsequent conviction of a criminal  
26 offense;

27 (e) Preclude the proof of the conviction as evidence  
1 of the commission of the misdemeanor or felony in the event an  
2 offender is charged with a subsequent offense and the penalty  
3 provided by law is increased if the prior conviction is proved;

4 (f) Preclude the proof of the conviction to determine  
5 whether an offender is eligible to have a subsequent conviction set  
6 aside in accordance with the Nebraska Probation Administration Act;

7 (g) Preclude use of the conviction as evidence of  
8 commission of the misdemeanor or felony for purposes of determining  
9 whether an application filed or a license issued under sections

10 71-1901 to 71-1906.01 or the Child Care Licensing Act or a  
 11 certificate issued under sections 79-806 to 79-815 should be  
 12 denied, suspended, or revoked;

13 (h) Preclude use of the conviction as evidence of  
 14 incompetence, neglect of duty, physical, mental, or emotional  
 15 incapacity, or final conviction of or pleading guilty or nolo  
 16 contendere to a felony for purposes of determining whether an  
 17 application filed or a certificate issued under sections 81-1401 to  
 18 81-1414 should be denied, suspended, or revoked;

19 ~~(h)~~(i) Preclude proof of the conviction as evidence  
 20 whenever the fact of the conviction is relevant to a determination  
 21 of the registration period under section 29-4005; or

22 ~~(i)~~(j) Relieve a person who is convicted of an  
 23 offense for which registration is required under the Sex Offender  
 24 Registration Act of the duty to register and to comply with the  
 25 terms of the act.

26 (6) Except as otherwise provided for the notice in  
 27 subsection (1) of this section, changes made to this section by  
 1 Laws 2005, LB 713, shall be retroactive in application and shall  
 2 apply to all persons, otherwise eligible in accordance with the  
 3 provisions of this section, whether convicted prior to, on, or  
 4 subsequent to September 4, 2005.

5 2. On page 6, line 9, after "Original" insert "section  
 6 29-2264, Revised Statutes Cumulative Supplement, 2010, and".

7 3. Renumber the remaining sections accordingly.

Senator Harms filed the following amendment to LB949A:  
 AM2608

1 1. On page 2, strike line 22 and insert "GENERAL FUND  
 2 239,522,936 87,406,459".

3 2. On page 3, line 4, strike "413,866,592" and insert  
 4 "386,570,950"; and in line 6 strike the new matter and reinstate  
 5 the stricken matter.

6 3. On page 4, line 8, after the fourth comma insert  
 7 "shall not be made in Program 347 but".

Senator Ashford filed the following amendment to LB727:  
 AM2612

(Amendments to E & R amendments, ER200)

1 1. Insert the following new sections:

2 Sec. 41. Section 77-2715.08, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:

4 77-2715.08 For purposes of this section and section  
 5 77-2715.09, unless the context otherwise requires:

6 (1) Capital stock means common or preferred stock, either  
 7 voting or nonvoting. Capital stock does not include stock rights,  
 8 stock warrants, stock options, or debt securities;

9 (2)(a) Corporation means any corporation which, at the  
 10 time of the first sale or exchange for which the election is made,

11 has been in existence and actively doing business in this state for  
12 at least three years.

13 (b) Corporation also includes:

14 (i) Any corporation which is a member of a unitary group  
15 of corporations, as defined in section 77-2734.04, which includes a  
16 corporation defined in subdivision (2)(a) of this section; and

17 (ii) Any predecessor or successor corporation of a  
18 corporation defined in subdivision (2)(a) of this section.

19 (c) All corporations issuing capital stock for which an  
20 election under section 77-2715.09 is made shall, at the time of the  
21 first sale or exchange for which the election is made, have (i)

22 at least five shareholders and (ii) at least two shareholders or  
1 groups of shareholders who are not related to each other and each  
2 of which owns at least ten percent of the capital stock.

3 For purposes of this subdivision, each participant in an  
4 employee stock ownership trust qualified under section 401(a) of  
5 the Internal Revenue Code of 1986 is a shareholder.

6 For purposes of this subdivision, two persons shall  
7 be considered to be related when, under section 318 of the  
8 Internal Revenue Code of 1986, one is a person who owns, directly  
9 or indirectly, capital stock that if directly owned would be  
10 attributed to the other person or is the brother, sister, aunt,  
11 uncle, cousin, niece, or nephew of the other person who owns  
12 capital stock either directly or indirectly;

13 (3) Extraordinary dividend means any dividend exceeding  
14 twenty percent of the fair market value of the stock on which it is  
15 paid as of the date the dividend is declared; and

16 (4) Predecessor or successor corporation means a  
17 corporation that was a party to a reorganization that was entirely  
18 or substantially tax free and that occurred during or after the  
19 employment of the individual making an election under section  
20 77-2715.09.

21 Sec. 59. Original section 77-2715.08, Reissue Revised  
22 Statutes of Nebraska, is repealed.

23 2. Renumber the remaining sections and correct internal  
24 references and the operative date section so that the sections  
25 added by this amendment become operative for all taxable years  
26 beginning or deemed to begin on or after January 1, 2012, under the  
27 Internal Revenue Code of 1986, as amended.

## VISITORS

Visitors to the Chamber were 41 fourth-grade students and teachers from Louisville; 14 fourth-grade students and teacher from Cornerstone Elementary, Bellevue; Amy Dummer, Brook Curtiss, Michael Holton, and Joe Grof from Plainview; and 15 members of Sarpy County Leadership Group.

The Doctor of the Day was Dr. Dorothy Zink from Omaha.



**ADJOURNMENT**

At 12:34 p.m., on a motion by Senator Heidemann, the Legislature adjourned until 10:00 a.m., Tuesday, March 27, 2012.

Patrick J. O'Donnell  
Clerk of the Legislature

