

THIRTY-FIRST DAY - FEBRUARY 22, 2012**LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE
SECOND SESSION****THIRTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, February 22, 2012

PRAYER

The prayer was offered by Senator Coash.

ROLL CALL

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

The roll was called and all members were present except Senators Conrad and Larson who were excused; and Senators Cook, Lautenbaugh, and Loudon who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirtieth day was approved.

COMMITTEE REPORTS

Health and Human Services

LEGISLATIVE BILL 949. Placed on General File.

LEGISLATIVE BILL 1042. Placed on General File.

LEGISLATIVE BILL 788. Placed on General File with amendment.
AM1839

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 38-3214, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 38-3214 Any health care facility or home care agency
- 6 providing inpatient or outpatient respiratory care service shall
- 7 designate a medical director, who shall be a licensed physician who
- 8 has special interest and knowledge in the diagnosis and treatment
- 9 of respiratory problems. Such physician shall (1) be an active
- 10 medical staff member of a licensed health care facility, (2)
- 11 whenever possible be qualified by special training or experience
- 12 in the management of acute and chronic respiratory disorders,

13 and (3) be competent to monitor and assess the quality, safety,
 14 and appropriateness of the respiratory care services which are
 15 being provided. The medical director shall be accessible to and
 16 assure the competency of respiratory care practitioners and shall
 17 require that respiratory care be ordered by a licensed physician,
 18 a licensed physician assistant, a nurse practitioner as defined
 19 in section 38-2312, or a certified registered nurse anesthetist as
 20 defined in section 38-704, who has medical responsibility for any
 21 patient that needs such care.

22 Sec. 2. Section 38-3215, Reissue Revised Statutes of
 23 Nebraska, is amended to read:

1 38-3215 The practice of respiratory care shall be
 2 performed only under the direction of a medical director and upon
 3 the order of a licensed physician, a licensed physician assistant,
 4 a nurse practitioner as defined in section 38-2312, or a certified
 5 registered nurse anesthetist as defined in section 38-704.

6 Sec. 3. Original sections 38-3214 and 38-3215, Reissue
 7 Revised Statutes of Nebraska, are repealed.

LEGISLATIVE BILL 842. Placed on General File with amendment.
 AM2036

1 1. Insert the following new sections:

2 Sec. 2. The Department of Health and Human Services shall
 3 collect the following data and information yearly:

4 (1) The total number of participants in the aid to
 5 dependent children program described in section 43-512 pursuing an
 6 associate degree;

7 (2) Graduation rates of such participants, the number
 8 of participants that are making satisfactory progress in their
 9 educational pursuits, and the length of time participants
 10 participate in education to fulfill their work requirement under
 11 the program;

12 (3) The monthly earnings, educational level attained, and
 13 employment status of such participants at six months and at twelve
 14 months after terminating participation in the aid to dependent
 15 children program; and

16 (4) A summary of activities performed by the department
 17 to promote postsecondary educational opportunities to participants
 18 in the aid to dependent children program.

19 Sec. 3. (1) The Department of Health and Human Services
 20 shall provide a report to the Governor and the Legislature no
 21 later than December 1 each year regarding the data and information
 22 collected pursuant to section 2 of this act, including a summary of
 23 such data and information.

1 (2) The data and information collected under such section
 2 shall be considered a public record under section 84-712.01.

3 2. Renumber the remaining section accordingly.

LEGISLATIVE BILL 891. Placed on General File with amendment.
AM1754

1 1. On page 4, after line 23, insert the following new
2 subdivision:
3 "(c) Beginning with FY2012-13, the department shall
4 utilize no more than one-half of the current General Fund
5 appropriation for AIDS drug assistance to implement the waiver
6 provided for in this subsection. The department may limit
7 participation in the medical assistance program pursuant to the
8 waiver provided under this subsection to meet budget neutrality
9 requirements of the waiver and to provide such coverage under
10 current General Fund appropriation but may cover no fewer than
11 eighty individuals and no more than one hundred fifty individuals
12 pursuant to the waiver.".

LEGISLATIVE BILL 995. Placed on General File with amendment.
AM1810

1 1. On page 12, line 19, after "trustees" insert ". Any
2 issuance of revenue bonds for which the revenue of the facility has
3 been pledged shall be subject to approval by the county board".
4 2. On page 14, line 15, after "facility" insert ". The
5 board of trustees shall file such bylaws, rules, and regulations
6 with the county board".

LEGISLATIVE BILL 1062. Placed on General File with amendment.
AM1956

1 1. On page 2, lines 2 and 3, strike "or the child
2 placement agency"; in line 6 after "assistance" insert "and
3 designating a guardian for the child in case of the death of
4 the adoptive parent or parents"; in line 8 strike "sections 43-117
5 to 43-117.02" and insert "section 43-117" and after "adoptive"
6 insert "parent or"; in lines 9 and 10 strike "the need for the
7 assistance continues and"; and in line 15 strike "such sections"
8 and insert "section 43-117".

(Signed) Kathy Campbell, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 403. Introduced by Fischer, 43.

WHEREAS, the Valentine Badgers won the 2012 Class C State Wrestling Championship; and

WHEREAS, the Badgers qualified nine wrestlers for state competition; and

WHEREAS, the Badgers' Bart Miller won the 113-pound division and Marcus Nelson won the 145-pound division; and

WHEREAS, the Badgers also had taken first place at the district finals; and

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

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

1. That the Legislature congratulates the Valentine Badgers on winning the 2012 Class C State Wrestling Championship.

2. That a copy of this resolution be sent to the Badgers and their coach, Shane Allison.

Laid over.

LEGISLATIVE RESOLUTION 404. Introduced by Fischer, 43.

WHEREAS, Marcus Nelson of Valentine won the 2012 Class C State Wrestling Championship in the 145-pound division; and

WHEREAS, Marcus finished the wrestling season with a record of 37-5; and

WHEREAS, Marcus's win gave him his second state wrestling title; and

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

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

1. That the Legislature congratulates Marcus Nelson on winning the 2012 Class C State Wrestling Championship in the 145-pound division.

2. That a copy of this resolution be sent to Marcus Nelson.

Laid over.

LEGISLATIVE RESOLUTION 405. Introduced by Fischer, 43.

WHEREAS, Bart Miller of Valentine won the 2012 Class C State Wrestling Championship in the 113-pound division; and

WHEREAS, Bart finished the wrestling season with a record of 33-1; and

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

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

1. That the Legislature congratulates Bart Miller on winning the 2012 Class C State Wrestling Championship in the 113-pound division.

2. That a copy of this resolution be sent to Bart Miller.

Laid over.

LEGISLATIVE RESOLUTION 406. Introduced by Fischer, 43.

WHEREAS, Tanner Johnson of Gordon-Rushville won the 2012 Class C State Wrestling Championship in the 220-pound division; and

WHEREAS, Tanner finished the wrestling season with a record of 36-4; and

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

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

1. That the Legislature congratulates Tanner Johnson on winning the 2012 Class C State Wrestling Championship in the 220-pound division.

2. That a copy of this resolution be sent to Tanner Johnson.

Laid over.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 397, 398, 399, and 400 were adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 397, 398, 399, and 400.

COMMITTEE REPORTS

Health and Human Services

LEGISLATIVE BILL 1063. Placed on General File with amendment. AM2044

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Sections 1 to 8 of this act shall be known and
- 4 may be cited as the Children's Health and Treatment Act.
- 5 Sec. 2. The purposes of the Children's Health and
- 6 Treatment Act are to:
- 7 (1) Clarify the meaning of the term medically necessary
- 8 for purposes of the medical assistance program for children under
- 9 nineteen years of age, to ensure children obtain needed services;
- 10 (2) Prohibit certain diagnosis-based exclusions; and
- 11 (3) Preserve family unity by ensuring that children
- 12 eligible for the medical assistance program receive necessary
- 13 health care services and treatment.
- 14 Sec. 3. For purposes of the Children's Health and
- 15 Treatment Act:
- 16 (1) Department means the Department of Health and Human
- 17 Services;

18 (2) Medical assistance program means the program
19 established pursuant to section 68-903; and

20 (3) Medically necessary means necessary to correct or
21 ameliorate defects or physical or mental illnesses or conditions.

22 Sec. 4. (1) In accordance with 42 U.S.C. 1396a(a)(43)
23 and 42 U.S.C. 1396d(r), as such sections existed on January 1,
1 2012, the department shall provide early and periodic screening,
2 diagnostic, and treatment services to all children under nineteen
3 years of age who are eligible for coverage under the medical
4 assistance program.

5 (2) For children under nineteen years of age, the
6 department shall provide or arrange for the provision of necessary
7 health care diagnostic and treatment screening and other measures
8 described in 42 U.S.C. 1396d(a), as such section existed on
9 January 1, 2012, to correct or ameliorate defects or physical or
10 mental illnesses or conditions discovered by the screening process
11 regardless of whether such health care diagnostic and treatment
12 screening and other measures described in 42 U.S.C. 1396d(a), as
13 such section existed on January 1, 2012, are covered services
14 under the medicaid state plan. All such services and other measures
15 shall be provided or authorized when they are determined to be
16 medically necessary. Medical necessity shall be determined on an
17 individualized, case-by-case basis for each child.

18 Sec. 5. The Children's Health and Treatment Act does
19 not limit the authority of the department or a department
20 contractor to (1) limit coverage of treatments or services that
21 are unsafe, experimental, or not generally accepted as treatment
22 within the medical community, (2) use utilization controls or prior
23 authorization for services, or (3) perform utilization reviews.

24 Sec. 6. (1) The department may not arbitrarily deny or
25 reduce the amount, duration, or scope of a required service to an
26 otherwise eligible recipient solely because of the diagnosis, type
27 of illness, or condition.

1 (2) The department shall not deny or reduce the amount,
2 duration, or scope of a required service to an otherwise eligible
3 recipient under nineteen years of age, based solely on the
4 recipient's age.

5 Sec. 7. The department shall adopt and promulgate rules
6 and regulations to carry out the Children's Health and Treatment
7 Act. On and after the effective date of this act, the department
8 shall not apply clinical criteria or guidelines, medical necessity
9 criteria, or other similar criteria to determine medical necessity
10 that are inconsistent with the Children's Health and Treatment Act
11 or that have not been adopted and promulgated pursuant to the
12 Administrative Procedure Act.

13 Sec. 8. The Children's Health and Treatment Act shall be
14 interpreted to be consistent with 42 U.S.C. 1396a(a)(43) and 42
15 U.S.C. 1396d(r), as such sections existed on January 1, 2012, and
16 shall be reasonably and broadly construed in favor of providing

17 treatment and services rather than excluding or denying treatment
18 or services.

19 Sec. 9. Section 68-901, Revised Statutes Supplement,
20 2011, is amended to read:

21 68-901 Sections 68-901 to 68-971 and sections 1 to 8 of
22 this act shall be known and may be cited as the Medical Assistance
23 Act.

24 Sec. 10. Section 68-912, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 68-912 (1) Except as otherwise provided in the Children's
27 Health and Treatment Act:

1 (a) The department may establish ~~(a)-(i)~~ premiums,
2 copayments, and deductibles for goods and services provided under
3 the medical assistance program, ~~(b)-(ii)~~ limits on the amount,
4 duration, and scope of goods and services that recipients may
5 receive under the medical assistance program, and ~~(c)-(iii)~~
6 requirements for recipients of medical assistance as a necessary
7 condition for the continued receipt of such assistance, including,
8 but not limited to, active participation in care coordination and
9 appropriate disease management programs and activities;:

10 ~~(2)-(b)~~ In establishing and limiting coverage for
11 services under the medical assistance program, the department shall
12 consider ~~(a)-(i)~~ the effect of such coverage and limitations
13 on recipients of medical assistance and medical assistance
14 expenditures, ~~(b)-(ii)~~ the public policy in section 68-905, ~~(c)~~
15 ~~(iii)~~ the experience and outcomes of other states, ~~(d)-(iv)~~ the
16 nature and scope of benchmark or benchmark-equivalent health
17 insurance coverage as recognized under federal law, and ~~(e)-(v)~~
18 other relevant factors as determined by the department; and:

19 ~~(3)-(c)~~ Coverage for mandatory and optional services and
20 limitations on covered services as established by the department
21 prior to July 1, 2006, shall remain in effect until revised,
22 amended, repealed, or nullified pursuant to law. Any proposed
23 reduction or expansion of services or limitation of covered
24 services by the department under this section shall be subject
25 to the reporting and review requirements of section 68-909.

26 ~~(4)-(2)~~ Except as otherwise provided in this subsection,
27 proposed rules and regulations under this section relating to the
1 establishment of premiums, copayments, or deductibles for eligible
2 recipients or limits on the amount, duration, or scope of covered
3 services for eligible recipients shall not become effective until
4 the conclusion of the earliest regular session of the Legislature
5 in which there has been a reasonable opportunity for legislative
6 consideration of such rules and regulations. This subsection does
7 not apply to rules and regulations that are (a) required by
8 federal or state law, (b) related to a waiver in which recipient
9 participation is voluntary, or (c) proposed due to a loss of
10 federal matching funds relating to a particular covered service
11 or eligibility category. Legislative consideration includes, but

12 is not limited to, the introduction of a legislative bill, a
 13 legislative resolution, or an amendment to pending legislation
 14 relating to such rules and regulations.

15 Sec. 11. If any section in this act or any part of any
 16 section is declared invalid or unconstitutional, the declaration
 17 shall not affect the validity or constitutionality of the remaining
 18 portions.

19 Sec. 12. Original section 68-912, Reissue Revised
 20 Statutes of Nebraska, and section 68-901, Revised Statutes
 21 Supplement, 2011, are repealed.

LEGISLATIVE BILL 1158. Placed on General File with amendment.
 AM1936

1 1. Insert the following section:

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

4 68-908 (1) The department shall administer the medical
 5 assistance program.

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

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

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

12 (b) The department shall provide a draft report of such
 13 summary and analysis to the Medicaid Reform Council no later than

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

23 2. On page 3, line 1, strike "1" and insert "2"; and in
 24 line 5 strike "is" and insert "and section 68-908, Revised Statutes
 25 Cumulative Supplement, 2010, are".

26 3. Renumber the remaining sections accordingly.

(Signed) Kathy Campbell, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 720. Placed on General File with amendment.
 AM1843

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

3 Section 1. Section 32-545, Reissue Revised Statutes of
 4 Nebraska, is amended to read:

5 32-545 (1) A member of the board of education of a Class
 6 V school district shall be elected from each district provided for
 7 in section 32-552. The members shall meet the qualifications found
 8 in ~~section~~ sections 79-543 and 79-552. ~~At each statewide general~~
 9 election, six

10 (2) The term of office of each member serving on the
 11 effective date of this act expires on the first Monday of January
 12 2013.

13 (3) Any eligible registered voter may file a candidate
 14 filing form on or before August 1, 2012, for placement of his
 15 or her name on the nonpartisan ballot for the statewide general
 16 election in November 2012 for the district in which he or she
 17 resides.

18 (4) At the statewide general election in November 2012,
 19 members representing odd-numbered districts shall be elected for
 20 four-year terms and members representing even-numbered districts
 21 shall be elected for two-year terms. Such terms begin on the first
 22 Monday of January 2013. Thereafter, members of the board shall be
 23 elected to serve for four years from and including the first Monday
 1 of the January following their election or until their successors
 2 are elected and qualified. ~~Candidates~~

3 (5) Beginning in 2014, candidates shall be nominated at
 4 the statewide primary election upon a nonpartisan ballot. ~~At the~~
 5 statewide general election in 1976 and each four years thereafter,
 6 one member shall be elected from each even numbered district.

7 ~~At the statewide general election in 1978 and each four years~~
 8 ~~thereafter, one member shall be elected from each odd numbered~~
 9 ~~district. The members shall meet the qualifications found in~~
 10 ~~section 79-543.~~

11 Sec. 2. Section 32-552, Reissue Revised Statutes of
 12 Nebraska, is amended to read:

13 32-552 (1) At least five months prior to an election,
 14 the governing board of any political subdivision requesting the
 15 adjustment of the boundaries of election districts shall provide
 16 written notification to the election commissioner or county clerk
 17 of the need and necessity of his or her office to perform such
 18 adjustments.

19 (2) After the next federal decennial census, the election
 20 commissioner of the county in which the greater part of a Class IV
 21 school district is situated shall, subject to review by the school
 22 board, divide the school district into seven numbered districts,
 23 substantially equal in population as determined by the most recent
 24 federal decennial census. The election commissioner shall consider
 25 the location of schools within the district and their boundaries.

26 The election commissioner shall adjust the boundaries of the
 27 election districts, subject to final review and adjustment by the
 1 school board, to conform to changes in the territory and population
 2 of the school district and also following each federal decennial
 3 census. Except when specific procedures are otherwise provided,
 4 section 32-553 shall apply to all Class IV school districts.

5 (3) The election commissioner of the county in which the
 6 greater part of a Class V school district is situated shall divide
 7 the school district into ~~twelve~~ seven numbered districts of compact
 8 and contiguous territory and of as nearly equal population as may
 9 be practical. The election commissioner shall adjust the boundaries
 10 of such districts, subject to final review and adjustment by the
 11 school board, to conform to changes in the territory of the school
 12 district and also following each federal decennial census. The
 13 twelve numbered districts in existence on the effective date of
 14 this act shall remain unchanged until January 7, 2013, for purposes
 15 of members whose terms expire in January 2013.

16 Sec. 3. Section 79-4,129, Reissue Revised Statutes of
 17 Nebraska, is amended to read:

18 79-4,129 (1) Within thirty days after the classification
 19 of the reorganized school districts by the county clerk under
 20 section 79-4,128, the state committee shall appoint from among the
 21 legal voters of each new school district created the number of
 22 members necessary to constitute a school board of the class in
 23 which the new school district has been classified. A reorganized
 24 school district shall be formed and organized and shall have a
 25 school board not later than April 1 following the last legal
 26 action, as prescribed in section 79-4,128, necessary to effect the
 27 changes in boundaries as set forth in the plan of reorganization,
 1 although the physical reorganization of such reorganized school

2 district shall take effect July 1 following the classification of
3 the reorganized school districts under section 79-4,128. The first
4 board shall be appointed on an at-large basis, and all boards
5 shall be elected at large until such time as election districts are
6 established as provided in section 32-554.

7 (2) In appointing the first school board of a Class
8 II school district, the members shall be appointed so that the
9 terms of three members expire on the date of the first regular
10 meeting of the board in January after the first even-numbered year
11 following their appointment and the terms of the three remaining
12 members expire on the date of the first regular meeting of the
13 board in January after the second even-numbered year following
14 their appointment. At the statewide general election in the first
15 even-numbered year after the reorganization, three board members
16 in each Class II school district shall be elected to terms of
17 four years. Thereafter all candidates shall be elected to terms
18 of four years. Each member's term shall begin on the date of the
19 first regular meeting of the board in January following his or her
20 election.

21 (3) In appointing the first school board of a Class
22 III school district with a six-member board serving terms of
23 four years, the terms of three members shall expire on the first
24 Thursday after the first Tuesday in January after the first
25 even-numbered year following their appointment and the terms of
26 the three remaining members shall expire on the first Thursday
27 after the first Tuesday in January after the second even-numbered
1 year following their appointment. Thereafter all Class III district
2 school boards with six-member boards shall be elected to terms of
3 four years.

4 (4) In appointing the first school board of a Class
5 III school district with a nine-member board serving terms of
6 four years, the terms of four members shall expire on the first
7 Thursday after the first Tuesday in January after the first
8 even-numbered year following their appointment and the terms of
9 five members shall expire on the first Thursday after the first
10 Tuesday in January after the second even-numbered year following
11 their appointment. Thereafter all Class III district school boards
12 with nine-member boards shall be elected to terms of four years.

13 (5) In appointing the first school board of a Class IV
14 school district, the members shall be appointed so that the terms
15 of three members shall expire on the third Monday in May of the
16 first odd-numbered year following their appointment and the terms
17 of four members shall expire on the third Monday in May of the
18 second odd-numbered year following their appointment. Thereafter
19 all Class IV district school boards shall be elected to terms of
20 four years.

21 (6) In appointing the first school board of a Class V
22 school district after a reorganization under this section with
23 a ~~twelve member~~ seven-member board serving terms of four years,

24 the terms of ~~six~~three members shall expire on the first Monday
 25 in January after the first even-numbered year following their
 26 appointment and the terms of ~~six~~four members shall expire on
 27 the first Monday in January after the second even-numbered year
 1 following their appointment. Thereafter all Class V district school
 2 boards shall be elected to terms of four years.

3 (7) The school boards appointed under this section shall
 4 proceed at once to organize in the manner prescribed by law.

5 Sec. 4. Section 79-552, Reissue Revised Statutes of
 6 Nebraska, is amended to read:

7 79-552 (1) The board of education of a Class V school
 8 district shall consist of twelve members, ~~one until the first~~
 9 Monday in January 2013 and shall consist of seven members beginning
 10 on such day. One member shall be elected from each district
 11 pursuant to section 32-545. Such board of education, ~~and also~~
 12 may also include a nonvoting student member or members selected
 13 pursuant to section 79-559. Each elected member shall be a resident
 14 of the district for at least six months prior to the election. Each
 15 candidate for election to and each member of the board of education
 16 shall be a taxpayer in and a resident of the district of such
 17 school district as designated pursuant to section 32-552.

18 (2) All persons elected as members of the board of
 19 education shall take and subscribe to the usual oath of office
 20 before the first Monday in January following their election, and
 21 the student member shall take and subscribe to the usual oath of
 22 office before the first Monday in January following his or her
 23 designation. In case any person so elected fails so to do, his or
 24 her election shall be void and the vacancy shall be filled by the
 25 board as provided in section 32-570.

26 Sec. 5. Original sections 32-545, 32-552, 79-4,129, and
 27 79-552, Reissue Revised Statutes of Nebraska, are repealed.

1 Sec. 6. Since an emergency exists, this act takes effect
 2 when passed and approved according to law.

(Signed) Bill Avery, Chairperson

MOTION - Approve Appointments

Senator Nordquist moved the adoption of the Nebraska Retirement Systems
 Committee report for the confirmation of the following appointment(s)
 found on page 558:

Nebraska Investment Council

Richard DeFusco

Public Employees Retirement Board

Stuart Simpson

Voting in the affirmative, 33:

Adams	Fischer	Heidemann	Mello	Schumacher
Ashford	Fulton	Howard	Nelson	Seiler
Bloomfield	Gloor	Karpisek	Nordquist	Smith
Brasch	Haar, K.	Lambert	Pahls	Sullivan
Coash	Hadley	Langemeier	Pirsch	Wightman
Cornett	Hansen	Lathrop	Price	
Council	Harms	McCoy	Schilz	

Voting in the negative, 0.

Present and not voting, 10:

Avery	Carlson	Dubas	Harr, B.	Krist
Campbell	Christensen	Flood	Janssen	McGill

Excused and not voting, 6:

Conrad	Larson	Louden
Cook	Lautenbaugh	Wallman

The appointments were confirmed with 33 ayes, 0 nays, 10 present and not voting, and 6 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 996. Considered.

SENATOR LANGEMEIER PRESIDING

SPEAKER FLOOD PRESIDING

SENATOR LANGEMEIER PRESIDING

Senator Mello moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 32 ayes, 2 nays, and 15 not voting.

Senator Wightman moved for a call of the house. The motion prevailed with 42 ayes, 0 nays, and 7 not voting.

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

Voting in the affirmative, 29:

Adams	Council	Harms	McGill	Schumacher
Ashford	Dubas	Harr, B.	Mello	Seiler
Avery	Flood	Howard	Nelson	Sullivan
Campbell	Gloor	Janssen	Nordquist	Wallman
Carlson	Haar, K.	Krist	Pahls	Wightman
Cook	Hadley	Lathrop	Pirsch	

Voting in the negative, 17:

Bloomfield	Cornett	Heidemann	Lautenbaugh	Schilz
Brasch	Fischer	Karpisek	Louden	
Christensen	Fulton	Lambert	McCoy	
Coash	Hansen	Langemeier	Price	

Present and not voting, 1:

Smith

Excused and not voting, 2:

Conrad Larson

Advanced to Enrollment and Review Initial with 29 ayes, 17 nays, 1 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE RESOLUTION 358CA. Read. Considered.

Senator Council offered the following amendment:

AM2100

- 1 1. Strike original sections 1 and 2 and insert the
- 2 following new sections:
- 3 Section 1. At the general election in November 2012 the
- 4 following proposed amendment to the Constitution of Nebraska shall
- 5 be submitted to the electors of the State of Nebraska for approval
- 6 or rejection:
- 7 Article III, section 12, of the Constitution of Nebraska
- 8 is repealed.
- 9 Sec. 2. The proposed amendment shall be submitted to the
- 10 electors in the manner prescribed by the Constitution of Nebraska,
- 11 Article XVI, section 1, with the following ballot language:
- 12 A constitutional amendment to eliminate the limits on
- 13 legislative terms.
- 14 For
- 15 Against.

Pending.

COMMITTEE REPORT
Revenue

LEGISLATIVE BILL 983. Placed on General File with amendment.
AM2096

- 1 1. Strike the original sections and insert the following
2 new sections:
3 Section 1. Section 77-5803, Reissue Revised Statutes of
4 Nebraska, is amended to read:
5 77-5803 (1)(a) Except as provided in subdivision (1)(b)
6 of this section, any business firm which makes expenditures in
7 research and experimental activities as defined in section 174
8 of the Internal Revenue Code of 1986, as amended, in this state
9 shall be allowed a research tax credit as provided in the Nebraska
10 Advantage Research and Development Act. The credit amount under
11 this subdivision shall equal fifteen percent of the federal credit
12 allowed under section 41 of the Internal Revenue Code of 1986, as
13 amended, or as apportioned to this state under subsection (2) of
14 this section. The credit shall be allowed for the first tax year it
15 is claimed and for the ~~four~~twenty tax years immediately following.
16 (b) Any business firm which makes expenditures in
17 research and experimental activities as defined in section 174 of
18 the Internal Revenue Code of 1986, as amended, on the campus of a
19 college or university in this state or at a facility owned by a
20 college or university in this state shall be allowed a research
21 tax credit as provided in the Nebraska Advantage Research and
22 Development Act. The credit amount under this subdivision shall
23 equal thirty-five percent of the federal credit allowed under
1 section 41 of the Internal Revenue Code of 1986, as amended, or as
2 apportioned to this state under subsection (2) of this section. The
3 credit shall be allowed for the first tax year it is claimed and
4 for the ~~four~~twenty tax years immediately following.
5 (2) For any business firm doing business both within
6 and without this state, the amount of the federal credit may
7 be determined either by dividing the amount expended in research
8 and experimental activities in this state in any tax year by the
9 total amount expended in research and experimental activities or
10 by apportioning the amount of the credit on the federal income tax
11 return to the state based on the average of the property factor
12 as determined in section 77-2734.12 and the payroll factor as
13 determined in section 77-2734.13.
14 Sec. 2. This act becomes operative for all taxable years
15 beginning or deemed to begin on or after January 1, 2012, under the
16 Internal Revenue Code of 1986, as amended.
17 Sec. 3. Original section 77-5803, Reissue Revised
18 Statutes of Nebraska, is repealed.

(Signed) Abbie Cornett, Chairperson

RESOLUTION**LEGISLATIVE RESOLUTION 407.** Introduced by Avery, 28.

WHEREAS, the Nebraska National Guard has played a major role in support of Operation Noble Eagle, the protection of the United States; Operation Enduring Freedom in Afghanistan; Operation Iraqi Freedom and Operation New Dawn in Iraq and Kuwait; and Operation Unified Protector in Libya; and

WHEREAS, Nebraska Army National Guard missions have included security, force protection, transportation, logistic support, quick reaction force, forward area support, rear area support, medical support, aviation maintenance, aviation support, medical evacuation, both air and ground, reconnaissance and surveillance, law and order, including police investigation, direct support maintenance, and agricultural development; and

WHEREAS, Nebraska Air National Guard missions have included aerial refueling, aerial medical evacuation, maintenance, engineering, supply mobility support, financial management, and security; and

WHEREAS, Nebraska National Guard personnel have completed over 10,000 individual deployments to more than twenty foreign countries since September 11, 2001; and

WHEREAS, Sergeant Patrick Douglas Hamburger gave his last full measure of devotion, sacrificing his life for our state and nation; and

WHEREAS, the Silver Star, the third highest award exclusively for combat valor, was presented to Second Lieutenant Bradley Duane Larson; and

WHEREAS, the Soldier's Medal, awarded for heroism in noncombat circumstances, was presented to Staff Sergeant Justin Dean McCoy and Staff Sergeant Eric Lee Schnell; and

WHEREAS, the Bronze Star Medal with Valor, awarded for heroic or meritorious achievement or service, was presented to Specialist Eric Ryan Blackburn; and

WHEREAS, the Purple Heart, awarded to members of the United States Armed Forces who were wounded or killed as a direct result of enemy actions, was presented to Second Lieutenant Bradley Duane Larson, Sergeant First Class Daniel Robert Malizzi, Staff Sergeant Seth Daniel Wecker, Staff Sergeant Brian Wayne Anderson, Staff Sergeant Michael George Cordes, Staff Sergeant James Matthew Dubbs, Sergeant Patrick Douglas Hamburger, Sergeant David Jerome Suing, Specialist Eric Ryan Blackburn, and Specialist Alex Benjamin Young; and

WHEREAS, the Army Commendation Medal with Valor, awarded for heroism, meritorious achievement, or meritorious service, was presented to Specialist Alex Benjamin Young and Staff Sergeant Timothy Daniel Hartmann.

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

1. That the Legislature extends its thanks to and honors the honorees named in this resolution for their sacrifice and service to the State of Nebraska and the United States of America.

2. That a copy of this resolution be sent to all the honorees named in this resolution.

Laid over.

AMENDMENTS - Print in Journal

Senator Council filed the following amendment to LB993:
AM2110

- 1 1. On page 2, line 16, after "medical" insert "and
- 2 psychological".

Senator Council filed the following amendment to LB993:
AM2113

- 1 1. On page 6, line 9, after "plans" insert "and
- 2 structured decisionmaking assessments.".

Senator Langemeier filed the following amendment to LB1043:
AM2104

- 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.

Senator Council filed the following amendment to LR358CA:
AM2101

- 1 1. On page 1, line 11, strike "2001", show as stricken,
- 2 and insert "2005".

Senator Council filed the following amendment to LR358CA:
AM2103

- 1 1. On page 1, line 10, strike "regardless of the district
- 2 represented", show as stricken, and insert "representing the same
- 3 district".

Senator Council filed the following amendment to LR358CA:
AM2102

- 1 1. On page 1, line 11, strike "2001", show as stricken,
- 2 and insert "2009".

UNANIMOUS CONSENT - Add Cointroducers

Senator K. Haar asked unanimous consent to add his name as cointroducer to LB976. No objections. So ordered.

Senator Janssen asked unanimous consent to add his name as cointroducer to LB209. No objections. So ordered.

VISITORS

Visitors to the Chamber were Senator Schilz's wife, Deb, from Ogallala; members of Keith County and Cheyenne County Leadership; members of Bellevue Chamber of Commerce Leadership; members of Beatrice Chamber Leadership; 18 students, teacher, and sponsor from Madison High School Youth Leadership Council; a group from Battle Creek, Madison, Enola, Meadow Grove, Newman Grove, Norfolk, Tilden, and Woodland Park; and 10 seventh- and eighth-grade students and teacher from Schickley.

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

ADJOURNMENT

At 11:59 a.m., on a motion by Senator Hansen, the Legislature adjourned until 9:00 a.m., Thursday, February 23, 2012.

Patrick J. O'Donnell
Clerk of the Legislature