

## Legislature adjourns sine die

The first session of the 106th Legislature adjourned sine die May 31, the 84th day of the scheduled 90-day session.

Speaker Jim Scheer of Norfolk said among the accomplishments this session, senators passed a strategic and balanced budget and enacted legislation to assist active duty and retired military families, increase government

transparency, spur economic development and address ongoing problems with the state's corrections system.

"Thanks for all your hard work, your dedication to this session," he said. "It will pay off. The citizens of Nebraska were well served and they will be better off than when we started."

The speaker congratulated senators on collaborating with other branches of government, most notably on a package of bills developed with the state treasurer to expand access to and strengthen the state's college savings plan.

"Because of the multi-branch collaboration, Nebraska children will now have a 529 account opened for each one of them at birth ... to help kickstart their own college savings plan," he said.

Despite passing 294 of the 739 bills introduced in an "ambitious" session,



Speaker Jim Scheer told fellow senators that many of the measures approved this session will make a meaningful difference in the lives of individual Nebraskans.

however, Scheer noted that several major issues were left on the table.

"It certainly was not all blue skies," he said.

Two of the most contentious proposals were not brought to final votes this year. LB183, a property tax relief proposal, and LB720, which would create a new business tax incentive program, were subjected to filibusters. Bill sponsors were unable to garner the 33 votes necessary to cease debate on either bill.

"Instead of working together to ensure that both sides could achieve a victory, when one bill failed the other quickly followed," Scheer said. "In the end, we all walked away empty-handed again."

He encouraged senators to spend time learning to trust one another

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## Senators override veto; regional public transit approved

Lawmakers successfully overrode a veto May 31 of a bill that adopts the Regional Metropolitan Transit Authority Act.

Under LB492, introduced by Sen. Justin Wayne of Omaha, an existing transit authority that serves one or more municipalities located within the same metropolitan sta-



Sen. Justin Wayne

tistical area or combined statistical area can convert to a RMTA. Omaha has the only transit authority created under existing state law that falls under the bill's provisions.

An ordinance to create, join or leave a RMTA will require a two-thirds vote of the governing authority of each municipality involved. If a RMTA is created, it will be governed by a seven-person board and have the power to issue revenue bonds.

LB492 passed final reading 32-11 on May 24.

In his veto message, Gov. Pete Ricketts said the bill creates a new political subdivision with broader taxing authority.

"LB492 amounts to an incredible \$17 million property tax increase for all residents of Omaha and Douglas County because it moves the transit authority's property tax levy authority outside of the city and county tax lids and authorizes the new authority to double its existing property tax levy

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## Legislature adjourns sine die

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before the Legislature convenes next January so that they are able to tackle tough issues during the 2020 session.

“I ask all of you to take a step back over the interim and get to know each other again,” he said.

Gov. Pete Ricketts, in his address to the Legislature, thanked senators for taking time away from their families to serve their fellow citizens. He also applauded their efforts to help Nebraskans recover from the year’s historic floods.

Ricketts thanked senators for passing a bill to provide property tax relief for victims of natural disasters and providing a total of \$11 million in aid to the governor’s disaster program.

“Because of [those] efforts, we will rebuild bigger, better and stronger than ever before,” he said. “I know that when you go home, you’ll continue to work to help the people of your districts [to] recover.”

Senators voted 37-9 to adjourn sine die. The second session of the 106th Legislature is scheduled to convene Jan. 8, 2020. ■

## Senators override veto; regional public transit approved

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amount.”

He added that residents in neighboring Sarpy County could see their property taxes increased if a RMTA were created.

Wayne filed a motion to override the veto, saying public transportation is essential to economic growth. Property taxes would not increase, he said, because a RMTA’s taxing authority would be subject to an elected oversight board.

“In order for Omaha to move forward, we need this,” Wayne said. “Public transit is the lifeline of every community.”

Sen. Tony Vargas of Omaha supported the veto override motion. He said that residents in his South Omaha district have lower labor participation rates because they do not have access to reliable transportation.

“I need people in my community to get back to work and have opportunities,” Vargas said. “If you don’t think regional transit and public transit aids with that, then I implore you to come down to my district.”

Also supporting the override mo-

tion was Norfolk Sen. Jim Scheer. He said city leaders in the Omaha metro area should be allowed to determine whether joining a RMTA would benefit their communities.

“This bill is permissive,” Scheer said. “It’s not a tax increase. We’re allowing local entities to determine if they want to participate.”

Sen. Mike Groene of North Platte opposed the motion to override. Omaha needs expanded mass transit, he said, but he could not support creating another entity with the power to raise taxes.

“We have too many elected boards in this state,” Groene said. “This is a huge, huge increase in government.”

Also opposing the motion was Sen. Tom Briese of Albion. He said local political subdivisions in Nebraska are too dependent upon property taxes to fund programs and projects.

“Find me a different funding solution for what we’re trying to do here and I’m all in,” Briese said.

Senators voted 33-16 to override the governor’s veto. Thirty votes were needed. ■

## UNICAMERAL UPDATE

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## AGRICULTURE



### Hemp industry framework authorized

Nebraskans may grow, process and handle hemp and hemp products in the state under a bill passed by the Legislature May 24.

Congress legalized the cultivation and sale of hemp with the 2018 Farm Bill by removing it from the federal Controlled Substances Act. States that wish to regulate hemp production first must submit a plan to the U.S. Department of Agriculture for approval.

LB657, sponsored by Omaha Sen. Justin Wayne, requires the state Department of Agriculture to establish, operate and administer a program to license and regulate those who cultivate, process, handle or broker hemp, defined as cannabis with no more than 0.3 percent delta-9 tetrahydrocannabinol (THC), the plant's main psychoactive compound.

Among other requirements, license holders must be at least 18; not have had a cultivator, processor-handler or broker license revoked in the five years preceding the application; and not have been convicted of a felony related to a controlled substance within the preceding 10 years.

License holders must consent to background checks; entry onto and inspection of all sites where hemp will be cultivated or processed; testing of hemp samples; destruction of hemp found to have THC concentration greater than that allowed by the act; and annual inspections by the department to verify that hemp is being

grown in accordance with the law.

The bill requires the department's director to submit a state regulatory plan to the U.S. Secretary of Agriculture no later than Dec. 31, 2019.

The plan will describe practices to maintain information regarding land where hemp is cultivated, handled or processed; procedures governing the sampling and testing of hemp; procedures for destroying hemp plants or products that violate the act; procedures for implementing the act's enforcement provisions; and a procedure for conducting annual inspections of a random sample of hemp cultivators.

Prior to the state plan's approval, a person with a valid licensing agreement with the state Department of Agriculture may cultivate, handle or process hemp as part of the department's agricultural pilot program, which federal law authorized in 2014.

Finally, the bill creates a commission that periodically will report to the governor and the Legislature on policies and practices that result in the legal growth, management, marketing and use of the state's hemp industry. A fee on hemp seed and hemp fiber sold or delivered in Nebraska will fund the commission.

Senators voted May 22 to return the bill to select file to consider an amendment offered by Wayne, which he said resulted from negotiations related to interstate commerce with the attorney general's office and the Nebraska County Attorneys Association.

The amendment requires any person other than a hemp cultivator or processor-handler who is transporting hemp to carry a bill of lading indicating the hemp's owner, its point of origin and its destination, as well as documentation affirming that it was produced in compliance with federal law.

It authorizes a peace officer to detain anyone carrying or transporting hemp in Nebraska if the person does not

provide the required documentation. Failure to produce documentation will constitute probable cause to believe that the hemp may be marijuana or any other controlled substance, which could result in arrest of the individual and seizure of the substance.

Any person intentionally violating the law will be guilty of a class IV misdemeanor and fined not more than \$1,000.

The amendment also authorizes the department to use two existing cash funds to defray the act's implementation costs.

After voting 44-2 to adopt Wayne's amendment, senators advanced the bill to final reading by voice vote.

LB657 passed 43-4 and takes effect immediately.

## APPROPRIATIONS



### Budget bills approved

Lawmakers gave final approval May 21 to the state's \$9.3 billion, two-year budget package.

Among the measures passed was LB294, the mainline budget bill, which funds state government for the next two fiscal years. The bill was introduced by Speaker Jim Scheer of Norfolk at the request of the governor and includes:

- LB174, sponsored by Lincoln Sen. Kate Bolz, which increases general funds to the state Office of Violence Prevention by \$300,000 per year in the next two fiscal years;
- LB327, also sponsored by Bolz, which increases behavioral health provider rates by \$1.5 million in FY2019-20 and \$3.6 million in FY2020-21; and
- LB403, sponsored by Gering Sen. John Stinner, which chang-



Sen. Justin Wayne

es the Medicaid rate calculation for nursing facilities.

Bayard Sen. Steve Erdman offered a motion to return LB294 to select file to consider an amendment that would reduce the appropriation to the University of Nebraska by \$7.3 million. The motion failed 13-34. Twenty-five votes were needed.

After an hour of discussion, Appropriations Committee chairperson Stinner offered a motion to invoke cloture or cease debate and vote on the bill. The motion was adopted 39-8 and LB294 passed on a vote of 35-12.

Additional budget measures approved were:

- LB293, which adjusts appropriations for the current fiscal year, passed 45-2;
- LB295, which provides for the \$12,000 annual salaries of Nebraska’s 49 state senators, passed 43-4;
- LB296, which funds salaries and benefits for judges and constitutional officers, passed 47-0;
- LB297, which appropriates funds for reaffirmed and new capital construction projects, passed 38-9;
- LB298, which repeals and creates funds and makes certain fund transfers, passed 46-2;
- LB299, which makes a \$54.7 million transfer to cover costs for two additional high security housing units for the Department of Correctional Services, passed 43-4; and
- LB464, which provides for payment of claims against the state, passed 46-1.

**Bill to end tax credit amended, approved**

After amending it to provide aid to Nebraskans affected by recent flood-

ing, lawmakers passed a bill May 24 intended to increase financial assistance to startup companies.

LB334, sponsored by Gering Sen. John Stinner, eliminates the Angel Investment Tax Credit, which is scheduled to terminate in 2022. As introduced, the bill would appropriate the \$4 million cost savings to the state Department of Economic Development to fund programs under the Business Innovation Act.



Sen. John Stinner

Elkhorn Sen. Lou Ann Linehan offered an amendment during select file debate, adopted 37-0, that instead directs the \$4 million to the state Military Department—in fiscal year 2020-21 only—for the governor’s emergency program.

“This amendment is brought to provide additional, faster relief due to flooding this spring,” Linehan said.

Funds will be directed to the Business Innovation Act beginning in FY2021-22.

The bill also requires DED and the Appropriations Committee to assess and evaluate the financial status and economic impact of programs funded under the Business Innovation Act going forward.

LB334 includes provisions of LB452, sponsored by Elmwood Sen. Robert Clements, which transfer Cass County from its current planning and development region to Region 8. The provisions also place a moratorium on future boundary changes until July 1, 2020.



Sen. Robert Clements

Following adoption of the Linehan amendment May 21, lawmakers

advanced the bill to final reading by voice vote. LB334 passed May 24 on a 47-0 vote.

**Brain injury bill passed**

Lawmakers passed a bill May 24 that establishes a trust fund for brain injury research and advocacy in Nebraska.

LB481, as originally introduced by Lincoln Sen. Kate Bolz, would have stated intent regarding how the state Department of Health and Human Services administers the federal Title X Program.



Sen. Kate Bolz

An Appropriations Committee amendment, adopted 26-7 during general file debate May 21, stripped those provisions from the bill. The amendment instead incorporated LB642, introduced by Omaha Sen. Mike McDonnell.



Sen. Mike McDonnell

The bill now creates the Brain Injury Trust Fund, which will consist of grants, general fund appropriations and transfers authorized by the Legislature and any contributions designated for the purpose of the fund.

The bill transfers \$500,000 annually to the Brain Injury Trust Fund from the Nebraska Health Care Cash Fund, beginning in fiscal year 2020-21.

McDonnell said that more than 36,000 Nebraskans are living with a brain injury, and that his proposal will provide a wide range of support to victims and families. Individuals who have sustained a traumatic brain injury often encounter problems with medical care and employment, he



said, as well as financial burdens and emotional distress.

“Brain injury can happen to anyone, anywhere at any time,” McDonnell said. “It is not an occurrence that anyone plans for and, far too often, the extent of the injury can go undiagnosed for days, months and even years.”

Omaha Sen. Sara Howard opposed the amendment, saying the Nebraska Health Care Cash Fund, which was created with tobacco settlement funds, pays for a wide variety of health programs for the state and must be protected. She said a 2018 report by the state’s chief investment officer indicated that the fund’s sustainability is at risk at current expenditure levels.

“We are fiscal stewards in this state,” Howard said. “We have got to stop taking money out of the Health Care Cash Fund.”

Bolz supported the amendment, saying the Health Care Cash Fund is in good fiscal shape and can afford to provide the \$500,000 annually to the Brain Injury Trust Fund. She said the Appropriations Committee has studied the fund sufficiently and that the bill will be a good investment for the state.

“While the caution is appropriate regarding the use of the Health Care Cash Fund, people with traumatic brain injuries—if they have escalating needs—are at risk of reaching an institutional level of care that can be more expensive,” she said.

The Brain Injury Trust Fund will be administered through a contract with the University of Nebraska Medical Center for administration, accounting and budgeting purposes and used to pay contracts for assistance to individuals with brain injuries. No more than 10 percent of the fund may be used for administration.

The bill also creates a 12-member

Brain Injury Oversight Committee that will:

- develop criteria for expenditures from the trust fund;
- provide financial oversight and direction to UNMC in management of the trust fund; and
- represent the interests of individuals with a brain injury and their families through advocacy, education, training, rehabilitation, research and prevention.

The committee amendment originally fell two votes short of adoption, but Sen. Matt Hansen of Lincoln filed a successful motion to reconsider that vote. Following adoption of the amendment May 21 on the second attempt, LB481 advanced to select file 32-1.

Senators passed the bill May 24 on a vote of 41-1.



**Hearing aid coverage for children approved**

Lawmakers gave final approval May 23 to a bill that requires most health insurance plans to pay for hearing aids for young Nebraskans.

LB15, introduced by Bellevue Sen. Carol Blood, adopts the Children of Nebraska Hearing Aid Act. The bill requires most health plans to cover expenses associated with hearing aids for Nebraskans younger than 19, including evaluation, fitting, programming, repairs and auditory rehabilitation and training.

A hearing impairment is defined as



Sen. Carol Blood

an impairment diagnosed by an otolaryngologist with an auditory assessment completed by a licensed audiologist. A hearing aid must be purchased from a licensed audiologist with medical clearance from an otolaryngologist in order to be covered.

Small business group health plans are exempt from the bill’s provisions. Insurance companies that can show that expenses associated with hearing aids would exceed 1 percent of premium dollars collected per year will be exempt for one plan year.

LB15 caps covered expenses at \$3,000 over four years and will take effect Jan. 1, 2020.

Lawmakers passed the bill on a 48-0 vote.



**Bill to authorize restraint, removal of students pulled from committee**

A bill that would give teachers legal protection for defending themselves and others against violent students was advanced to general file May 21 after a successful procedural motion.

As introduced by North Platte Sen. Mike Groene, LB147 would authorize a teacher or administrator to “use the necessary physical contact or physical restraint” to control a student who becomes physically violent and authorize a teacher to have a disruptive student removed from the classroom under certain circumstances.

A teacher or administrator would not be subject to legal action or administrative discipline if he or she



Sen. Mike Groene

was acting in a “reasonable manner.”

Groene filed a motion to place the bill on general file, even though the Education Committee has not voted to advance it. Senators voted 25-14 to adopt the motion, which requires a majority vote of the Legislature.

Groene said the motion was appropriate because the committee is split 4-4 on whether to advance LB147 to the full Legislature.

“At the end of the day, we came to an impasse along political [and] ideological lines,” he said. “This situation, I believe, is why the pull motion is in our rules.”

Sen. Lou Ann Linehan of Elkhorn supported the motion. She said advancing the bill to general file would pressure the state teachers’ union and an organization representing school administrators to reach a compromise.

Linehan said she successfully used the motion in a previous session to free a reading proficiency bill that was stuck in the Education Committee. After the bill reached the floor, she said, stakeholders worked harder to reach a compromise, which passed the following year.

“I think this is the same process,” Linehan said. “It focuses everybody—they will have to sit down at a table and figure out what we’re going to do.”

Glenvil Sen. Dave Murman also supported the motion, saying LB147 is important enough to warrant pulling it from committee.

“I think it’s time that we have this broader discussion on the floor,” he said.

Sen. Sara Howard of Omaha opposed the motion, saying it would undermine the Legislature’s committee process. Howard, chairperson of the Health and Human Services Committee, said senators are subject matter experts on the issues that come before their committees and that the rest of the Legislature relies on them to vet bills.

“I think it’s concerning to see another

leader in this body try to subvert the work of his own committee,” she said.

Fremont Sen. Lynne Walz also opposed the motion. She said the Education Committee discussed fewer than half the bills referred to it this session and that the committee spent more time on LB147, which was designated a committee priority, than any other proposal.

“I find it very disheartening—out of all the issues facing the education system in Nebraska—that this is the one we have prioritized, while at the same time we have so many other good bills to discuss sitting in committee,” Walz said.

Sen. Patty Pansing Brooks of Lincoln said she would not support Groene’s motion because stakeholders did not have enough time to reach a compromise. She said she was, however, willing to work with Groene on a proposed interim study on school safety.

“I thought we were going to get there this year on LB147, but we need more time,” Pansing Brooks said. “Important policies cannot be made without deliberation.”

LB147 was not scheduled for general file debate this session.



### Continuing legislative oversight authorized for care facilities

The Legislature voted May 30 to reauthorize a special legislative committee to examine certain state-licensed care facilities.

LR104, sponsored by Fremont Sen. Lynne Walz, reauthorizes a legislative committee that was approved in 2018 to study assisted living facilities where many



Sen. Lynne Walz

of the residents are diagnosed with a mental illness.

Walz said the State Licensed Care Oversight Committee, which issued a report to the Legislature in December of 2018, should be continued. The committee arose from concerns that many facilities across Nebraska that are licensed by the state Department of Health and Human Services are not meeting residents’ basic needs, she said.

Concerns remain, Walz said, including a lack of adequate oversight staffing at DHHS and unsanitary and unsafe living conditions.

“We must do everything possible to ensure assisted living facilities are clean, safe and healthy places where residents are treated with respect and provided the necessary care and supports that will allow them to live the most dignified life possible,” she said.

The committee is tasked with examining the lack of adequate conditions at state-licensed care facilities, the treatment of individuals residing in such facilities, the effectiveness of DHHS regulation and licensure and how the department implements and administers its behavioral health services through the behavioral health regions.

An Executive Board amendment, adopted 45-0, changed the proposed committee from an investigative to an oversight body.

Sen. Mike Hilgers of Lincoln, chairperson of the Executive Board, said the amendment also changed the resolution to mirror that of the previous committee by removing references to hiring outside legal counsel, consultants and investigators and eliminating the committee’s ability to issue subpoenas.

The seven members of the State-Licensed Care Facilities Oversight Committee will be appointed by the

Executive Board. The committee will issue a report to the Legislature by Dec. 15, 2019.

The resolution was adopted on a 42-0 vote.

## GENERAL AFFAIRS

### Vaping, smoking ages raised

A bill intended to reduce the use of vaping products by minors passed May 24.

LB149, introduced by Grand Island Sen. Dan Quick, raises the legal age from 18 to 19 for purchasing and possessing electronic nicotine delivery systems, flavored liquids containing nicotine and tobacco products.



Sen. Dan Quick

Individuals younger than 19 who purchase or use tobacco, electronic nicotine delivery systems or flavored liquids containing nicotine will be guilty of a Class V misdemeanor, and an individual selling or providing such products to those under 19 will be guilty of a Class III misdemeanor.

The bill does not apply to alternative nicotine products or devices that are not sold in combination with a substance containing nicotine, tobacco or tobacco derivatives.

LB149 was approved on a vote of 45-0.

### Mechanical amusement regulations approved

The Nebraska Department of Revenue will determine in advance of distribution whether certain mechanical amusement devices are games of skill or chance under a bill passed May 23.

LB538, introduced by Omaha Sen. Steve Lathrop, adds electronic video games of skill to the definition of a mechanical amusement device and requires the department to determine if such devices are games of skill or chance.



Sen. Steve Lathrop

Device distributors will pay a \$500 application fee, submit a sample game to the Nebraska Department of Revenue, provide evidence that the device is a game of skill and provide an affidavit to the tax commissioner that no functional changes will be made to the device's hardware or software without the commissioner's approval after the license is granted.

LB538 also requires game owners to pay an annual \$250 licensure fee per device and sets a maximum of four devices for establishments up to 4,000 square feet in size. Larger establishments are allowed one additional device per 1,000 square feet up to a maximum of 15.

Possession of an illegal device will be a Class II misdemeanor. Mechanical amusement device owners are allowed to continue operating existing devices while the department conducts its review.

The bill establishes 19 as the legal age to play such devices and bars use of credit or debit cards for payment.

LB538 was approved on a 44-0 vote.

### Farm winery definition changed

Nebraska farm wineries were redefined under a bill passed May 24.

LB592, as originally introduced by Sen. Tom Briese of Albion, would have addressed the state Liquor Con-



Sen. Tom Briese

trol Commission's ability to close establishments due to violations of the Liquor Control Act.

Those provisions were removed and replaced with portions of LB584, introduced by Sen. Mike Hilgers of Lincoln, which reduce from 75 to 60 the percentage of fruit or other suitable agricultural product grown in Nebraska required to meet the definition of a farm winery.



Sen. Mike Hilgers

The bill also increases from one to four the number of branch outlets that allow sampling and sale of a farm winery's product.

LB592 passed on a vote of 47-0.

## GOVERNMENT, MILITARY & VETERANS AFFAIRS

### Census committee bill narrowed, approved

A bill intended to increase Nebraska's participation in the 2020 U.S. census passed May 31.

LB436, as introduced by Sen. Matt Hansen of Lincoln, would create the Complete Count Commission consisting of Nebraska's speaker of the Legislature, governor, secretary of state and other leaders from around the state.

The 17-member commission would create an outreach strategy involving state agencies, schools, nonprofits and other organizations to encourage Nebraskans to provide accurate information to census workers. It would be



Sen. Matt Hansen

required to submit an interim report to the Legislature by Dec. 1, 2019, and a final report by Dec. 31, 2020.

A Government, Military and Veterans Affairs Committee amendment, adopted 39-2 on May 24, replaced the bill. As amended, LB436 instead simply grants the Nebraska State Data Center program the authority to form a commission that may solicit private funds to carry out its duties. That authority will terminate on Jan. 1, 2021.

During select file debate, Hansen said each missed Nebraskan would cost the state millions in funding before the next census, adding that 46 other states have formed similar commissions.

“It does one thing—it makes sure we have an officially designated complete count,” Hansen said. “This is something the United States Census Bureau recommends each state does.”

Sen. Tom Brewer of Gordon, chairperson of the committee, said an accurate census count would help Nebraska maintain its representation in Congress.

Also in support was Omaha Sen. Tony Vargas. He said about 1 percent of Nebraska’s population was omitted from the 2010 census, costing the state an estimated \$20 million in federal dollars. Vargas added that Nebraska receives nearly \$4 billion a year from the federal government to fund Medicaid, Pell Grants, road construction and other programs.

“It is essential, not only for the work of the [Legislature’s] Planning Committee, but more importantly for the future of our state to ensure that everyone living in Nebraska is counted,” Vargas said. “If not everyone living in our state is counted in the 2020 census it could have drastic implications for years to come.”

Sen. Steve Erdman of Bayard spoke against the bill, saying it was unneces-

sary because the governor could, by executive action, create such a commission. Erdman assured the Legislature that Gov. Pete Ricketts would do so.

“This is irrelevant,” Erdman said. “[LB436] should have never seen the light of day.”

The bill advanced to select file on a 39-2 vote May 24 and passed final reading May 31 on a vote of 38-4.

**State employee volunteerism bill narrowed, approved**

State employee work schedules may be adjusted to allow participation in approved youth mentoring programs under a bill passed May 24.

Under LB511, introduced by Gordon Sen. Tom Brewer, a manager may allow up to one hour per week for a state employee to participate in an approved program. Paid leave for this purpose is not authorized under the bill.



Sen. Tom Brewer

The state director of personnel is required to develop a process and criteria to approve programs based on nationally recognized standards for quality youth mentoring.

The bill was narrowed during select file debate May 21 when lawmakers accepted an amendment offered by Blair Sen. Ben Hansen. The amendment, adopted 35-1, removed provisions of his LB381, which were incorporated into the bill on general file and would have changed the travel reimbursement method for state employees.



Sen. Ben Hansen

Hansen said his decision was based on concerns that the provisions would not be cost neutral.

“I would like a little more time over the interim to make sure that we are introducing a sound, fiscally responsible bill and I do not want this to impede the progress of the underlying bill,” he said.

Following adoption of the amendment, senators advanced LB511 to final reading by voice vote. The bill then passed on a 48-0 vote May 24.

**Alternative construction method approved**

Nebraska’s largest counties and cities are allowed to use an alternative design method for transportation projects under a bill passed May 24.

LB583, introduced by Lincoln Sen. Mike Hilgers, allows counties of 150,000 or more residents and metropolitan and primary class cities to use a design-build method for projects that fall under the Transportation Innovation Act.



Sen. Mike Hilgers

Currently, Douglas, Lancaster and Sarpy counties meet that threshold.

The bill was approved on a 47-0 vote.



**Mobile massage therapy approved**

Mobile massage therapy establishments are allowed to operate in Nebraska under a bill passed May 23.

LB244, sponsored by Bayard Sen. Steve Erdman, authorizes such mobile units to be operated by individuals licensed under the Massage Therapy Practice Act.



Among other requirements, services may be performed only while a mobile massage therapy unit is legally parked and a unit cannot conduct business within 300 feet of a brick and mortar licensed massage therapy establishment.



Sen. Steve Erdman

LB244 passed on a 45-0 vote.

**Residential child care background checks approved**

Residential child care workers must submit to a new federally mandated background check under a bill approved May 24.

LB460, sponsored by the Health and Human Services Committee, mandates that any adult employed at a residential child-caring agency pay for fingerprinting and a national criminal history record information check at least once every five years. An employee also will be checked against state sex offender, criminal and child abuse and neglect registries.

The bill requires all prospective child care staff members to submit to a criminal history record check prior to employment, beginning Sept. 1, 2019. Child care staff currently employed will have until Sept. 1, 2021.

The bill includes provisions of LB341 introduced by La Vista Sen. John Arch, which allow families to continue to receive transitional child care if their income is below 185 percent of the federal poverty level as long as the family's income does not exceed 85 percent of the Nebraska median income for a family of the same size.



Sen. John Arch

Currently, Nebraskans who qualify for child care subsidies become eligible for transitional child care assistance if their income exceeds 130 percent of the federal poverty level. The bill also eliminates the program's 24-month eligibility limit.

LB460 was approved on a vote of 48-0 and takes effect immediately.

**Medicaid managed care bill amended, approved**

The transition of long-term care facilities to the state's Medicaid managed care program will be delayed under a bill passed May 24.

LB468, introduced by Fremont Sen. Lynne Walz, prohibits long-term care and supports—including skilled nursing facilities, nursing facilities, assisted living facilities and home and community-based services—from being added to the state's Medicaid managed care program before July 1, 2021.



Sen. Lynne Walz

During select file debate, Sen. Sue Crawford of Bellevue offered an amendment to include provisions of her LB566, which was adopted 31-0. The provisions require notification and a hearing of the Banking, Commerce and Insurance Committee if the state Department of Insurance submits an innovation waiver to the federal government under section 1332 of the Affordable Care Act.



Sen. Sue Crawford

Notification and a public hearing of the Health and Human Services Committee during the public comment period also are required for a waiver submitted under section 1115

of the federal Social Security Act.

Lincoln Sen. Kate Bolz offered an amendment, adopted 35-0, to remove provisions of her LB328 that were added to the bill on general file.



Sen. Kate Bolz

Bolz said concerns were raised by the state Department of Health and Human Services between the two rounds of debate and that she would like to study the issue more before next session.

"This [amendment] is trying to support the Walz bill and to work in good faith with the Department of Health and Human Services," she said.

Following adoption of the Crawford and Bolz amendments, senators advanced LB468 to final reading May 21 by voice vote. The bill passed May 24 on a vote of 43-1.

**Anatomical board provisions updated**

Senators gave final approval May 23 to a bill that updates state law to incorporate provisions of the Revised Uniform Anatomical Gift Act.

LB559, sponsored by La Vista Sen. John Arch, makes a number of changes to laws related to the State Anatomical Board. Among other provisions, the bill details who may receive an anatomical gift under a variety of circumstances and names the board as an approved recipient of an anatomical gift.

The bill also removes a requirement that the board must hold any dead human body that it receives for 30 days from the date of delivery and repeals a requirement that public entities must immediately notify the board of any dead human body that has not been claimed within a certain time frame.

LB559 passed on a vote of 43-0.

**Public counsel authority, children’s commission extended**

Senators passed a bill May 23 that extends a time frame for the authority of the deputy public counsel for institutions.

The public counsel—also known as the state Ombudsman’s Office—is an independent office that handles citizen complaints regarding the actions of administrative agencies of Nebraska state government.

Currently, the authority of the deputy public counsel for institutions extends to individuals who have been patients at a state-owned or state-operated regional center within the prior 12 months. LB600, introduced by Fremont Sen. Lynne Walz, extends that time frame to 24 months.



Sen. Lynne Walz

The bill includes provisions of Lincoln Sen. Kate Bolz’s LB330 that eliminate the July 2019 termination date for the Nebraska Children’s Commission.



Sen. Kate Bolz

The commission will become a permanent forum for collaboration among state, local, community, public and private stakeholders in child welfare and juvenile justice programs and services. The commission’s administration will be shifted to the Legislature.

Also included are provisions of Bolz’s LB332, which revise the Youth Bridge to Independence Program—a system of supports for older teenagers and young adults who are at or near the end of their time in foster care.

The bill expands the program to include young adults who age out of the state’s juvenile justice system. It also limits participation in the

program to Nebraska residents and eliminates benefits to recipients who already are receiving residential funding through the home and community-based waiver program.

LB600 passed 39-0 and takes effect immediately.

**JUDICIARY**



**Medication abortion bill amended, approved after cloture**

Senators passed a bill May 30 that requires medical professionals to provide additional information to women seeking medication abortions.

LB209, introduced by Thurston Sen. Joni Albrecht, requires medical providers to inform a woman seeking an abortion that the first of two drugs administered during a medical abortion—mifepristone—is not always effective in ending a pregnancy.



Sen. Joni Albrecht

In addition to other information already required under existing law, the bill requires a provider to inform a woman that if she changes her mind and wants to continue a pregnancy after taking mifepristone, she may consult the state Department of Health and Human Services’ website.

The bill directs DHHS to publish information on the agency’s website about the effectiveness of mifepristone in ending pregnancy as well as contact information for medical assistance.

DHHS will collect data from medical providers every time a woman attempts to continue a pregnancy after taking an initial dose of mifepristone. The data collected will include the woman’s age, facility location, name of

the attending physician, any complications experienced and other relevant medical information.

The information will be included in the annual DHHS report on abortion in Nebraska.

Bellevue Sen. Carol Blood offered an amendment May 23 during select file debate, adopted 43-3, which exempts breastfeeding from the state’s public indecency statutes. Following adoption of the amendment, the bill advanced to final reading on a 36-9 vote.

After more than an hour of final round debate May 30, Albrecht filed a motion to invoke cloture, or cease debate and vote on the bill. The motion prevailed 36-12. Senators then passed LB209 on a 36-12 vote.

**Salary increases approved for state judges**

Senators gave final approval May 21 for judicial pay raises.

LB300, sponsored by Omaha Sen. Steve Lathrop, increases Nebraska Supreme Court judges’ salaries for fiscal year 2019-20 and FY2020-21. The current salary is \$173,693.



Sen. Steve Lathrop

District, county, juvenile, appellate and workers’ compensation court judges’ salaries statutorily are based on a percentage of the Supreme Court judges’ salaries and will be adjusted accordingly.

Salaries will increase by 3 percent each fiscal year, totaling \$181,588 in FY2019-20 and \$187,036 in FY2020-21.

The bill was passed on a 43-0 vote.

**Additional district court judge approved**

Lawmakers passed a bill May 23 that increases the number of district

court judges in Douglas County.

LB309, introduced by Omaha Sen. Steve Lathrop, adds one district court judge, increasing the number in Douglas County to 17.

The bill passed on a 46-0 vote.

**Landlord requirements amended, updated**

A bill requiring landlords to return security deposits more quickly passed May 24.

LB433, sponsored by Lincoln Sen. Matt Hansen, requires landlords automatically to provide the balance due on a security deposit to a tenant within 14 days of termination of a rental agreement.



Sen. Matt Hansen

If a landlord fails to return the security deposit within 14 days, the tenant could recover any property or money due to him or her, as well as liquidated damages equal to one month's rent plus costs and reasonable attorney's fees.

If a government entity deems a residence to be uninhabitable due to negligence, the tenant could not be held liable for any damage as a direct result of forcible removal.

The bill includes provisions of Hansen's LB434, which extend the period of time for payment of rent after a notice of intent to terminate from three to seven days.

Hansen introduced an amendment on select file, adopted 43-1, that allows a tenant to recover liquidated damages equal to one month's rent or twice the amount of the security deposit—which ever is less—if the landlord's failure to return the security deposit was willful and in bad faith.

It also directs landlords to remit any unclaimed security deposit to the state treasurer for disposition under

the Uniform Disposition of Unclaimed Property Act if returned undeliverable or if the deposit remains outstanding 30 days after the initial mailing.

Following adoption of the Hansen amendment May 21, the bill advanced to final reading by voice vote. LB433 passed May 24 on a 39-1 vote.

**Human trafficking, sexual abuse bill passed**

Senators passed a bill May 24 to extend and eliminate certain statutes of limitation for labor and sex trafficking.

LB519, introduced by Peru Sen. Julie Slama, eliminates a statute of limitation for creation of child pornography or labor or sex trafficking of a minor.



Sen. Julie Slama

The bill increases the statute of limitations from three years to seven for labor or sex trafficking of an adult. It extends the statute of limitations for possession of child pornography to seven years, or seven years beyond a victim's 18th birthday.

It also allows law enforcement to apply for wiretap authorization to intercept electronic communications relating to labor or sex trafficking of adults and minors.

The measure includes provisions of four additional bills.

LB517, originally introduced by Lincoln Sen. Patty Pansing Brooks, allows a trafficking victim to recover damages for physical and mental pain and suffering, and the reasonable value of



Sen. Patty Pansing Brooks

medical care and supplies, transportation, housing, child care, lost wages

and potential relocation costs.

Pansing Brooks also introduced LB516, which requires the state Department of Health and Human Services to collect and report information on the trafficking of minor children.

Provisions of LB458, introduced by Omaha Sen. Steve Lathrop, expand the definition of child abuse to include placing a child in a situation to be sexually abused or exploited. It also expands the definition of out-of-home child abuse to include cases where the perpetrator of such abuse is not a member of the victim's household, no longer has access to the victim or is unknown or cannot be identified.

Finally, portions of LB479, introduced by Lincoln Sen. Anna Wishart, prohibit a law enforcement officer from using consent as a defense for sexual contact with a person who is detained or in custody. The provisions also codify that any person detained by law enforcement is not able to consent to sexual contact.



Sen. Anna Wishart

Sexual penetration of a detainee will be considered first-degree sexual abuse, which is a Class IIA felony. Conviction could result in up to 20 years imprisonment. Sexual contact with a detainee will be classified as second-degree sexual abuse, which is a Class IIIA felony. It carries a penalty of up to three years in prison with 18 months of post-release supervision, a \$10,000 fine or both.

Anyone convicted under these provisions will be required to register as a sex offender.

LB519 passed on a 46-0 vote.

**Bill to clarify protection order process passed**

Lawmakers passed a bill May 24



that updates application procedures for harassment, sexual assault and domestic abuse protection orders.

LB532, introduced by Omaha Sen. Machaela Cavanaugh, harmonizes the application procedures for the three types of



Sen. Machaela Cavanaugh

protection orders authorized under state law: harassment, sexual assault and domestic abuse.

If an application for a temporary protection order is dismissed, it will be dismissed without prejudice. This allows the petitioner for the protection order to correct any missing information and resubmit the application for consideration.

The petition for a protection order must include the events and dates, or approximate dates, of the alleged assault or abuse, including the most recent and most severe incidents.

The court where the petition is filed can decide to issue a temporary protection order “ex parte,” or without giving notice to the respondent, if the petitioner believes the respondent poses an immediate and significant safety risk.

If the court rejects an application for a sexual assault or domestic abuse protection order, LB532 requires that an evidentiary hearing be held within 14 days. The court will be required to admit the original petition and affidavit into evidence.

Finally, the petitioner for a protection order cannot be found to be in violation of his or her protection order.

The bill passed on a 47-0 vote.

**Criminal penalties for ‘revenge porn’ amended, approved**

Lawmakers passed a bill May 24 that prohibits the intentional or threatening

distribution of intimate images.

LB630, sponsored by Lincoln Sen. Adam Morfeld, creates the offense of distributing a private image of another person’s intimate area or of a person engaged in sexually explicit conduct.



Sen. Adam Morfeld

A person who violates this provision will be charged with a Class I misdemeanor for a first offense, punishable by up to one year in prison, a \$1,000 fine or both. Second and subsequent offenses are a Class IV felony, punishable by up to two years in prison with 12 months post-release supervision, a \$10,000 fine or both.

The bill creates the offense of threatening to distribute intimate images with the intent to intimidate, threaten or harass a person. Violation of this provision is a Class I misdemeanor.

LB630 also provides an affirmative defense for juveniles who possess a visual depiction that was knowingly and voluntarily provided by another juvenile who is within four years of age of the defendant.

The committee amendment adopted on general file incorporated provisions of LB510, originally sponsored by Omaha Sen. John McCollister.

Under the provisions, a person required to register as a sex offender in another state as the result of a juvenile adjudication would have been



Sen. John McCollister

required to register in Nebraska only if the crime also requires registration under Nebraska law.

Lincoln Sen. Mike Hilgers offered an amendment on select file, adopted

26-14, to remove the provisions of LB510 from the underlying bill. He said the provisions would create a disparate level of treatment depending on where a crime was committed.

Objecting to the amendment was Omaha Sen. Steve Lathrop. He said Nebraska should use its own legal standard when determining registry requirements.

Following adoption of the Hilgers amendment May 22, the bill advanced to final reading by voice vote. Lawmakers passed LB630 on a 47-0 vote May 24.

**Monetary damages approved for victims of ‘revenge porn’**

A victim of the intentional or threatening distribution of intimate images could seek damages under a bill passed May 24.

LB680, sponsored by Bennington Sen. Wendy DeBoer, allows a prevailing plaintiff to



Sen. Wendy DeBoer

recover economic and noneconomic damages proximately caused by a defendant, including damages equal to any monetary gain made by the defendant and for emotional distress.

If actual damages cannot be quantified, the court can award reasonable presumed damages—not to exceed \$10,000—against each defendant.

LB680 also holds internet service providers liable only if actively involved in the creation or distribution of the prohibited material.

The bill passed on a 47-0 vote.

**Omnibus criminal justice reform bill approved**

The Legislature approved a bill May



24 that makes several changes to current criminal justice statutes.

LB686, as introduced by Omaha Sen. Steve Lathrop, would have imposed new requirements on the Nebraska Department of Correctional Services for declaring a prison overcrowding emergency. The bill was replaced with provisions of several additional bills.



Sen. Steve Lathrop

Among these is LB91, sponsored by Omaha Sen. Justin Wayne, which allows a court to enter a deferred judgement for a person found guilty of committing a crime. Persons granted a deferred judgment instead can be placed on probation. After successful completion of the terms of probation, he or she will have their charge dismissed without the entry of judgment.



Sen. Justin Wayne

A defendant will not be eligible for deferred judgement if he or she has a previous felony conviction, has received two or more deferred judgments, has received a deferred judgment in the past five years or is ineligible for probation.

Provisions of Wayne's LB233 also are included in the bill. These prohibit a person from bringing an electronic communication device into a correctional facility or providing it to an inmate. Violation of this provision will be a Class I misdemeanor, punishable by up to one year in prison, a \$1,000 fine or both.

Attorneys, public counsel employees, law enforcement and first responders are exempt from the prohibition. The NDCS director also

can exempt certain staff members as necessary. Seizure of an electronic communication device is authorized.

The measure also includes provisions of LB739, sponsored by Omaha Sen. Tony Vargas, which prohibit NDCS, after March 1, 2020, from placing a member of a vulnerable population in restrictive housing. Vulnerable populations include inmates



Sen. Tony Vargas

who are younger than 18, pregnant or diagnosed with serious mental illness, developmental disabilities or traumatic brain injury.

The bill does not prevent NDCS from establishing secure mental health housing or placing vulnerable inmates in temporary segregation pending classification.

Finally, LB686 incorporates provisions of four additional bills, including:

- LB90, sponsored by Wayne, which removes a requirement for post-release supervision for Class IV felonies;
- LB240, sponsored by Lincoln Sen. Matt Hansen, which allows a private contract facility to provide treatment to criminal defendants found to be mentally incompetent to stand trial;
- LB262, sponsored by Bennington Sen. Wendy DeBoer, which requires the NDCS director to share the annual restrictive housing report with members of the long-term restrictive housing work group prior to release of the report; and



Sen. Matt Hansen

- LB684, sponsored by Lathrop, which allows judges to sentence a person found to have violated terms of post-release supervision to a period of incarceration equal to the length of his or her original term of post-release supervision.

The bill was passed on a 46-0 vote.

**Prohibition on restraints for pregnant prisoners, detainees approved**

Pregnant incarcerated women are afforded additional protections under a bill passed May 24.

LB690, introduced by Omaha Sen. Machaela Cavanaugh, prohibits the use of restraints on a pregnant prisoner or detainee unless she poses an extraordinary flight or security risk.

Under the bill, if restraints are used on a pregnant prisoner or detainee, it must be in the least restrictive manner necessary. The administrator of the detention facility must notify relevant medical staff of the risks and dangers of removing the restraints from the specific prisoner or detainee.

A detention center administrator must document the extraordinary circumstances that necessitated the use of restraints within 10 days of an incident.

Restraints are to be removed immediately if a health care professional treating a pregnant woman requests it, and restraints are prohibited without exception during active labor or childbirth.

LB690 also allows a prisoner or detainee who is improperly restrained to bring a civil action under the Political Subdivisions Tort Claims Act or the State Tort Claims Act.

The bill passed on a 41-0 vote.

# REVENUE

## Housing assistance priority for extremely blighted areas approved

Affordable housing projects in extremely blighted areas will receive first priority for state assistance under a bill passed by the Legislature May 24.

Introduced by Omaha Sen. Justin Wayne, LB86 requires the state Department of Economic Development to give first priority to projects located in an area that has been declared extremely blighted when selecting projects for Affordable Housing Trust Fund assistance.



Sen. Justin Wayne

The fund is used to increase the supply and improve the quality of the state's affordable housing stock.

The bill requires the governing body of a city that intends to build workforce housing in an extremely blighted area under the state's Community Development Law—or intends to declare an area as extremely blighted for purposes of funding decisions under the Affordable Housing Trust Fund—first to adopt a resolution that the area is extremely blighted after a public hearing.

State law defines an extremely blighted area as a census tract with an average unemployment rate that is at least 200 percent of the average state unemployment rate and an average poverty rate of more than 20 percent according to the most recent federal decennial census.

The bill includes provisions of Wayne's LB88 that will provide a \$5,000 nonrefundable income tax credit to any individual who purchases a residence

located in an extremely blighted area if it is his or her primary residence and was not purchased from a family member.

The credit is subject to recapture by the state Department of Revenue if the individual claiming the credit sells the residence or stops using it as his or her primary residence within five years.

LB86 also includes provisions of LB694 and LB737, both introduced by Sen. Tony Vargas of Omaha.



Sen. Tony Vargas

Under those provisions, only for-profit entities are required to provide matching funds to receive assistance from the Affordable Housing Trust Fund. Political subdivisions, local housing authorities and nonprofit organizations are not required to provide matching funds.

The bill also requires the state Department of Economic Development to include more information in its annual status report on the Affordable Housing Trust Fund. The report is required to include the total amount of funds for which applications were received, the year-end fund balance and an explanation of why any remaining funds have not been committed.

LB86 passed on a vote of 47-0.

## Final push for property tax relief stalls

A scaled-down property tax relief proposal stalled in the Legislature May 22 after a failed cloture vote.

As introduced by Albion Sen. Tom Briese, LB183 would reduce the valuation of farm and ranch land for



Sen. Tom Briese

the purpose of school bond issues.

Briese introduced an amendment on select file that would replace the bill. He said the amendment is a simplified version of LB289, introduced by Elkhorn Sen. Lou Ann Linehan. That bill, which stalled on general file, is meant to reduce property taxes by raising the state sales tax rate and directing the additional revenue to Nebraska's public schools.



Sen. Lou Ann Linehan

Briese said his amendment would provide property tax relief for all Nebraskans and help modernize the state's sales tax code while avoiding contentious debate about school funding reform.

"Most importantly," he said, "it will give us an opportunity to show Nebraskans that we care about their plight, that we hear their concerns and that we're going to do something about the property tax crisis in Nebraska."

The amendment would include several measures also included in LB289. It would repeal a personal property tax exemption and impose sales tax on bottled water, candy, soft drinks and ice.

It also would impose state sales tax on approximately 20 services, including motor vehicle maintenance and repair; maintenance, painting and repair of single-family homes; commercial lawn care; dry cleaning; beauty and personal care services; wedding planning; personal training; and storage, moving, plumbing, HVAC and certain veterinary services.

The amendment would increase a state refundable income tax credit based on the federal earned income tax credit, which is intended to benefit working people with low to moderate incomes. The state credit would in-

crease from 10 percent to 13 percent of the federal credit.

The proposal would direct the state treasurer to credit sales and use tax revenue generated by the bill's changes to the state's Property Tax Credit Cash Fund. It also would set the amount of credits granted by the fund to at least \$275 million per year beginning in tax year 2019.

Briese said the changes would generate approximately \$100 million in additional revenue each year.

Linehan supported the amendment, saying the major changes in her LB289 proved "too heavy a lift" to accomplish all at once. Briese's amendment would be a smaller step toward addressing high property taxes and school funding, she said.

"It's a step in the right direction—not as big a step as I would like—but at least it's a step," Linehan said.

Lincoln Sen. Kate Bolz said she was hesitant to support the amendment because the proposed increase in the state credit based on the EITC would not offset the regressive effects of removing sales tax exemptions.

Only working individuals with families qualify for the credit, she said, meaning some low- and moderate-income Nebraskans could end up paying more in taxes under the proposal.

Sen. Mike Groene of North Platte opposed Briese's amendment, saying the Property Tax Credit Cash Fund is unfair because it distributes credits based on valuations, not taxes paid. He said he supported the proposed tax increases in LB289 because the bill also would more fairly distribute state aid to schools.

"I will vote for a tax increase if it is based on good, sound policy," Groene said. "As a fiscal conservative, I will not vote [for] anything that throws money at something—this throws money at a problem."

Bayard Sen. Steve Erdman said he was concerned that passing Briese's proposal would lead some senators to claim that the Legislature has solved the property tax problem when it has not. He said the amendment lacks spending controls and would provide too little property tax relief.

"This is not a significant amount to anybody, anytime, anyplace," he said. "We are at the end ... of the session, and we're now grasping at straws trying to figure out how to get property tax relief."

After three hours of select file debate, Briese filed a motion to invoke cloture, or cease debate and vote on any pending amendments and the bill. The motion failed 23-7. Thirty-three votes were needed. LB183 remains on select file.

### **Certain public power equipment exempted from sales tax**

Streetlights and power poles owned by a city are exempt from state sales and use tax under a bill passed by lawmakers May 23.

LB218, introduced by Omaha Sen. Brett Lindstrom, adds electric generation, transmission, distribution and street lighting structures or facilities owned by a political subdivision to the definition of real property, thereby making those items exempt from state sales and use tax.

It also excludes from the definition of "gross receipts" the gross income received by political subdivisions for the lease or use of those structures or facilities, making that income exempt from state sales and use tax.

LB218 passed on a vote of 48-0 and takes effect immediately.

### **College savings proposal, military housing tax exemption approved**

A bill that exempts military housing units from property taxation and allows an income tax deduction against employer contributions to state college savings accounts received final approval in the Legislature May 30.

As introduced by Gretna Sen. Andrew La Grone, LB470 would have allowed individuals to claim a state income tax deduction on contributions they make to any Nebraska educational savings plan trust account.



Sen. Andrew La Grone

The plan provides tax-advantaged 529 accounts meant to encourage saving for postsecondary education costs. Contributions grow tax-deferred, and withdrawals are exempt from state and federal taxes as long as they are used for a beneficiary's qualified higher education expenses.

Currently, individuals other than a NEST account's participant, or registered owner, are ineligible for the state income tax deduction on contributions they make to the account and must open a separate account in order to receive the deduction.

During select file debate May 21, La Grone introduced an amendment, adopted 40-0, that removed his proposal from the bill. He said the state could not afford its implementation cost this year.

As amended on general file, LB470 includes provisions of two other bills: LB444, sponsored by Omaha Sen. Mike McDonnell, and LB545, introduced by Sen. Justin Wayne, also of Omaha.

McDonnell's proposal exempts military dwelling complexes from prop-



Sen. Brett Lindstrom

erty taxation but requires the owners of those dwelling complexes to make payments in lieu of taxes to local school districts, the county in which the complex is located and an infrastructure maintenance trust fund used for capital repairs, maintenance and improvement of the complex.



Sen. Mike McDonnell

Under Wayne's measure, an individual's federal adjusted gross income is reduced by the amount contributed to the individual's NEST account by his or her employer, not to exceed \$5,000 per married filing separate return or \$10,000 for any other return.



Sen. Justin Wayne

It also prohibits a government program administered by any state agency that provides benefits or aid to individuals based on financial need from taking employer contributions into account when determining a person's income.

La Grone's amendment also authorizes a cash transfer from the state treasurer to the state Department of Revenue to pay an expense related to Wayne's proposal.

After adopting the amendment, senators advanced LB470 to final reading May 21 by voice vote.

The bill passed May 30 on a vote of 43-2 and takes effect immediately.

**Valuation adjustment for destroyed property approved**

Lawmakers passed a bill May 24 intended to provide tax relief to those whose property has been destroyed by a natural disaster.

Sponsored by Elkhorn Sen. Lou Ann Linehan, LB512 makes several technical changes to state tax law requested by the state Department of Revenue.



Sen. Lou Ann Linehan

The bill was amended on general file to include a proposal by Sen. Steve Erdman of Bayard that would have required a county assessor to report to the county board of equalization all real property that is destroyed by fire or other natural disaster between Jan. 1 and Oct. 1 of any year.

The county board then would have adjusted the value of the destroyed property based in part on the portion of the year during which the property was intact.

During select file debate, Erdman filed an amendment, adopted 34-0, that he said will address problems identified in an attorney general's opinion regarding the bill's constitutionality.

The amendment instead requires the owner of destroyed real property to file a report with the county assessor and county clerk before July 15 of the current assessment year.

The county board of equalization then will adjust the assessed value of the property to its assessed value on the date it suffered significant damage and the county assessor will correct the current year's assessment roll. Any change in the assessed value of destroyed real property is for the current assessment year only.

It also requires the board of equalization to give notice of the destroyed real property's assessed value to the record owner or agent at his or her last known address.

The bill defines destroyed real property as real property that suffers significant property damage as a result of a calamity—a fire, earthquake, flood, tornado or other natural event—that oc-

curs on or after Jan. 1, 2019, and before July 1 of the current assessment year.

It defines significant property damage as damage exceeding 20 percent of a property's assessed value in the current tax year if the property is located in a disaster area and has been deemed uninhabitable.

Following adoption of the Erdman amendment May 21, LB512 was advanced to final reading by voice vote. The bill passed May 24 on a 45-0 vote and takes effect immediately.

**College savings proposals approved**

A bill creating three new state college savings programs received final approval in the Legislature May 24.

LB610, introduced by Omaha Sen. Brett Lindstrom, creates a cash fund administered by the state treasurer to provide incentive payments to employers that make matching contributions to employees' college savings accounts established under the Nebraska educational savings plan trust.



Sen. Brett Lindstrom

The trust provides tax-advantaged 529 accounts meant to encourage saving for postsecondary education costs. Contributions grow tax-deferred, and withdrawals are exempt from state and federal taxes as long as they are used for a beneficiary's qualified higher education expenses such as tuition, books, supplies and room and board.

Beginning in 2022, an employer may apply to the state treasurer to receive the incentive payments. An employer whose application is approved will receive an incentive payment equal to 25 percent of the matching contributions made during the preceding year,



up to \$2,000 per employee per year.

The state treasurer may approve up to \$250,000 in incentive payments each year.

The bill includes provisions of LB547, introduced by Sen. Anna Wishart of Lincoln, under which the state will match contributions to NEST accounts made on behalf of beneficiaries who meet certain income requirements.



Sen. Anna Wishart

Participants are eligible for the program if the beneficiary for whom contributions are made is part of a family whose household income is not more than 250 percent of the federal poverty level.

The state will match the participant's contribution if the beneficiary's household income is between 200 and 250 percent of the federal poverty level. The match will equal 200 percent of the participant's contribution if the beneficiary's household income is not more than 200 percent of the federal poverty level. Matches are limited to \$1,000 per beneficiary per year.

The treasurer may approve up to \$250,000 in matching scholarships each year.

During select file debate May 21, Wishart introduced an amendment, adopted 45-0, to include provisions of LB544, sponsored by Elkhorn Sen. Lou Ann Linehan, that create a program under which each enrolled child will have a NEST account opened for him or her.

Under the program, the treasurer will send a notification explaining the program to the parent or legal guardian of each Nebraska resident born on or after Jan. 1, 2020. The parent or legal guardian may exclude his or her child from the program. Any child not excluded will be deemed enrolled.

Each year the treasurer will distribute the previous year's investment income from an associated trust fund to the accounts opened during the previous year. The fund will consist of private contributions and any funds transferred or appropriated by the Legislature. The bill prohibits the transfer of state general funds to the trust fund.

If funds from an account opened under the program are not disbursed before the qualified individual reaches age 30, they will be transferred to the trust fund. Disbursed funds may be used only to pay the qualified higher education expenses associated with attending a college or university in Nebraska.

The bill also adds to an existing definition of nonqualified withdrawals the distribution from a NEST account to pay the costs of attending kindergarten through grade 12.

Sen. Patty Pansing Brooks of Lincoln supported the amendment, saying it includes additional changes meant to ensure that the new programs could not be used to pay private K-12 education expenses.

She said a recent federal change allows 529 distributions to be used to pay expenses associated with attending a private elementary or secondary school, which current state law does not allow. The amendment will ensure that a future Legislature could not make a simple change to match the federal statute, Pansing Brooks said.

Linehan supported Wishart's amendment, saying 529 accounts are in wide use among the wealthy but not among low-income Nebraskans. She said her proposal will give more Nebraska children hope for their future.

After adopting the Wishart amendment May 21, senators advanced LB610 to final reading by voice vote. Senators passed the bill May 24 on a 48-0 vote.

## Business tax incentives stall on second round

An effort to create a new business tax incentive program to replace the Nebraska Advantage Act stalled on select file May 24 after a failed cloture vote.

Sen. Mark Kolterman of Seward, sponsor of LB720, said the new program, called the ImagiNE Nebraska Act, would be simpler and more



Sen. Mark Kolterman

transparent than the Nebraska Advantage Act, focus on high-wage jobs and improve the state's ability to attract new business investment.

"The overall tax burden in Nebraska is too high for citizens, and the need to grow our state has never been more important," he said. "In order to find resources to provide this tax relief, we need a competitive business climate that helps grow and strengthen Nebraska's economy with new jobs and new investment."

A Revenue Committee amendment, adopted 34-7 during general file debate May 22, would replace the bill. Under the new program, qualifying businesses would receive a varying combination of incentives—wage credits, income tax credits, sales and use tax refunds and exemptions and personal property tax exemptions—based on their level of capital investment and the number of employees they hire at a minimum qualifying wage.

The amendment also includes provisions of LB605, introduced by Omaha Sen. Brett Lindstrom, which would create a tax credit for companies that produce sustainable materials and renewable chemicals using agricultural products.

Kolterman said the ImagiNE Ne-

braska Act would reduce state revenue by an average of approximately \$106 million per year over 10 years.

Senators adopted two additional amendments on general file. The first, adopted 28-10, was offered by Lincoln Sen. Kate Bolz to add provisions of her LB527, which would create a program to provide job training grants to employers.



Sen. Kate Bolz

Sen. Anna Wishart, also of Lincoln, offered the second, adopted 30-13, which would require that new employees be full-time as defined in the Affordable Care Act in order for their hours to count toward the proposed wage credits.

A qualifying company also would be required to provide sufficient benefits—such as medical insurance, profit sharing plans and child care services—for employees, she said.

After six hours of general file debate over two days, Kolterman filed a motion May 22 to invoke cloture, or cease debate and vote on the bill. The motion succeeded 37-8. Thirty-three votes were needed.

Senators then voted 29-5 to advance LB720 to the second round of debate.

During select file debate May 24, Gering Sen. John Stinner introduced an amendment, adopted 32-12, that he said was meant to address senators' concerns that the bill would not cap the amount of tax incentives approved each year.

The amendment would require the director of the state Department of Economic Development to submit to the Legislature an estimate of the amount of sales and use tax refunds to be paid and tax credits to be used under the act for each of the next three

calendar years.

If the estimate exceeds a “base authority” of \$125 million for any calendar year from 2020 to 2023, the DED director could not approve any additional applications unless the Legislature’s Executive Board approves the director’s request for additional authority.

Stinner, who supported LB720, said the changes would make it easier for the Legislature to budget for the forgone tax revenue. He said business tax incentives are a long-term investment that benefit the state by spurring growth and investment that lead to new property, income and sales tax revenue.

Also in support of the bill was Gothenburg Sen. Matt Williams, who said he has seen firsthand how Nebraska’s current business tax incentives have helped communities across the state. Allowing the Nebraska Advantage Act to sunset without replacing it with a new program would deter business investment because companies plan years in advance for major projects, he said.

Sen. John McCollister of Omaha also supported LB720, saying it would be a vast improvement on the Nebraska Advantage Act. He said it is a “sad fact of life” that Nebraska needs tax incentive programs to compete with other states when trying to attract new businesses.

“All of us want to keep Nebraska ... economically healthy,” McCollister said. “LB720 heads us in that direction.”

Plymouth Sen. Tom Brandt opposed the bill, calling it a “corporate welfare program” that would reduce total state revenue by 3 percent each year. He said the incentives would not help farmers or small businesses in a meaningful way and are focused on business recruitment at a time when

existing businesses are asking instead for workforce development.

“We as a Legislature only get a chance to review these programs every five or 10 years,” Brandt said, “so let us get it right.”

Albion Sen. Tom Briese also opposed the bill, saying it would be an “irresponsible reversal of priorities” for the Legislature to advance business tax incentives without also providing property tax relief.

Briese said he changed his mind and voted to advance LB720 from general file with the understanding that senators also would advance his LB183, a property tax relief proposal. With LB183 stalled, he said, LB720 should go no further.

North Platte Sen. Mike Groene said that by abating taxes on certain businesses, LB720 would raise the burden on other taxpayers to fund government services. Groene opposed the bill, saying the proposed incentives mostly would benefit existing businesses and regular business activity.

“Any economic development program that uses any of our limited tax dollars ... must assure the public that every dollar used is maximized for new economic growth, not squandered on the normal growth of existing industries,” he said.

Groene said business tax incentives need to be part of a comprehensive package that includes the provisions of Sen. Lou Ann Linehan’s LB289, which was designed to provide property tax relief through increased state aid to public schools.

After three hours of select file debate May 24, Kolterman filed a motion to invoke cloture in an effort to move the bill to the final round of debate. The motion failed 30-18. Thirty-three votes were needed.

LB720 remains on select file.

# TRANSPORTATION & TELECOMMUNICATIONS

## Changes to one-call system approved

A bill that makes changes to the One-Call Notification System Act was passed May 24.

Great Plains One-Call Service is a system used by excavators to identify and locate underground facilities prior to excavation to protect the facilities from damage. A notice to the service center is required prior to performing an excavation.

LB462, introduced by Henderson Sen. Curt Friesen, allows the board of directors to review locator training materials and propose best practices.

The board is required to assess the



Sen. Curt Friesen

effectiveness of enforcement programs and actions, as well as the board's damage prevention and public awareness programs. A report of its findings will be submitted to the governor and Legislature no later than Dec. 1, 2021, and biennially after that.

LB462 also requires the state attorney general to submit a report annually to the Legislature, state fire marshal and board of directors detailing the number of complaints filed and prosecuted each year under the One-Call Notification System Act.

The bill passed on a 46-0 vote.

## Grant funds approved for 211 service

Lawmakers approved a bill May 23 that provides grant funding to a statewide health and human services referral program.

LB641, introduced by Omaha Sen. Mike McDonnell, transfers \$300,000 annually from the Nebraska Health Care Cash fund for the next two

years to the 211 Information and Referral Network.

The grant will be used to create a website to educate users about and connect them



Sen. Mike McDonnell

with available services. The grant also can be used to provide 24/7 service through telephone and online access.

The Nebraska Public Service Commission will accept applications from potential providers each year and approve a program administrator based on its ability to update the information and referral services annually, geographically index such services by county and meet all accreditation standards set by the Alliance of Information and Referral Systems.

LB641 also expands the reach of 211 services to include disaster and emergency response.

The bill passed on a 41-0 vote. ■



**This is the final weekly issue of the Unicameral Update for 2019.**

**Look for our session review issue next month.**

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