

UNICAMERAL UPDATE

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Legislature adjourns sine die, six senators depart

The second session of the 106th Legislature adjourned sine die Aug. 13, the 60th legislative day of a session interrupted by the coronavirus pandemic.

In his remarks, Gov. Pete Ricketts congratulated lawmakers on passing tax legislation that he called “generational in its scope” and thanked them for remaining focused on legislative priorities during the “most trying and difficult of circumstances.”

Speaker Jim Scheer of Norfolk suspended the session in mid-March in response to growing safety concerns regarding the coronavirus pandemic. After calling senators back into session for three days in late March for the limited purpose of ap-



Speaker Jim Scheer, one of six-term limited senators leaving the Legislature, addresses lawmakers on the final day of session.

proving emergency funding to combat the pandemic, he again suspended the session.

Senators reconvened July 20 and finished the final 17 days of session in a changed physical environment in which plastic barriers and physical distancing guidelines limited contact between senators, staff members, the media and the lobby.

Scheer said the completion of the session illustrates Nebraskans’—and the Unicameral’s—ability to weather adversity.

He congratulated lawmakers on passing

285 bills this session, including measures to expand access to broadband Internet in rural areas, improve oversight of the state’s Youth Rehabilitation and Treatment Centers and provide a tax exclusion for military retirement benefit pay.

“We have accomplished a lot in this session whether we realize it or not,” Scheer said.

Scheer also thanked senators for electing him speaker four years ago, saying that he had done his best to uphold his pledge to be fair and consistent.

“It has been my honor to serve you and my constituents in this body and to serve as your speaker,” he said.

Scheer is among six senators who are leaving the Legislature due to term limits. The others are Lincoln Sen.



Gov. Pete Ricketts thanked senators for their service to the state.

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Legislature adjourns sine die, six senators depart

(continued from front page)

Kate Bolz, Omaha Sen. Ernie Chambers, Bellevue Sen. Sue Crawford, Omaha Sen. Sara Howard and Omaha Sen. Rick Kolowski.

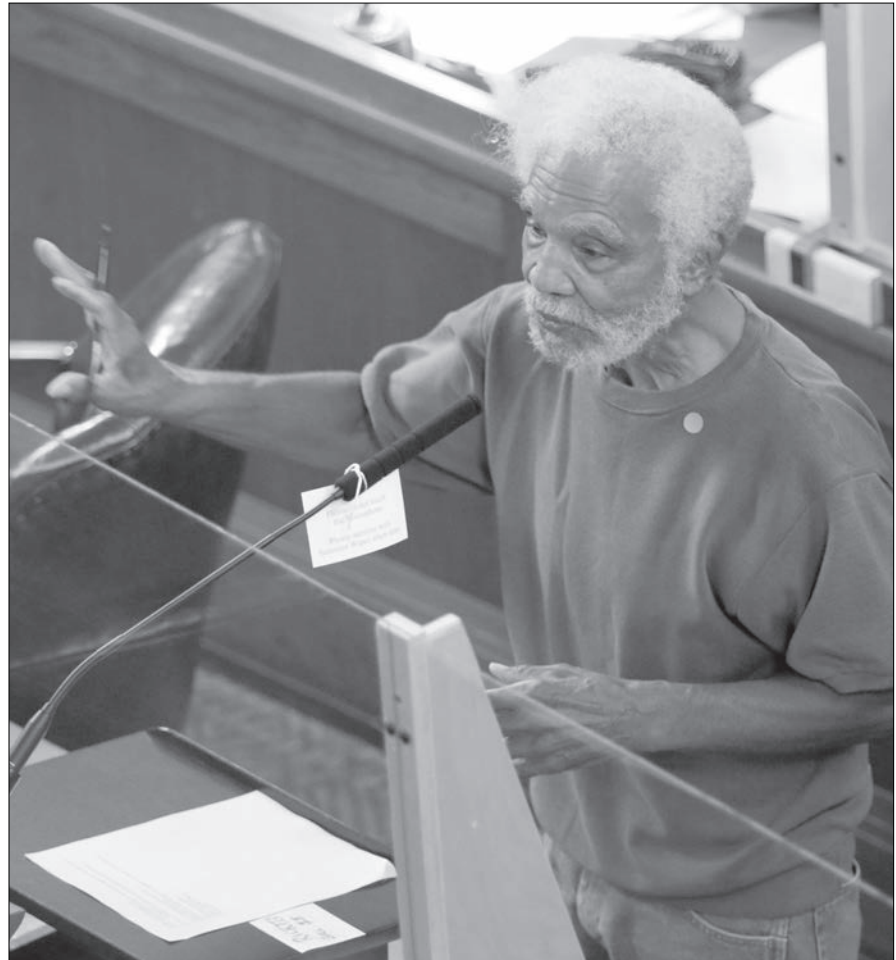
Chambers, whose legislative career will stand as the longest in state history, was first elected to the Legislature in 1970. He left office in 2008 due to term limits but returned in 2012.

His many legislative achievements include twice gaining passage of bills to repeal the state's death penalty and securing district elections for the Omaha City Council, Douglas County Board and Omaha school board to encourage minority representation.

In a farewell tribute Aug. 12, Lincoln Sen. Patty Pansing Brooks called him "a giant among us."

"His entire 46-year mission has been for the least, the last and the lost," she said. "He was always concerned about—and is always concerned about—those who cannot speak for themselves."

The first session of the 107th Legislature is scheduled to convene Jan. 6, 2021. ■



Sen. Ernie Chambers, who chose not to deliver a farewell address, leaves the Legislature after 46 years of service.

UNICAMERAL UPDATE

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“I implore you to serve something bigger than your political party or your own point of view. Serve justice; serve fairness; serve compassion; serve your neighbor. Whatever it is, make it your north star.”

— SEN. KATE BOLZ



“Remember the awesome privilege and responsibility that you have to serve the state.”

— SEN. SUE CRAWFORD



“Every time that I thought my experience here broke me, it always turned out to have made me stronger, more thoughtful and more effective.”

— SEN. SARA HOWARD



“Quality education is my major goal ... thank you for the education you have given me.”

— SEN. RICK KOLOWSKI



“We have to learn that we respect each other, we [can] work with each other and that we have the ability—together—to do marvelous, marvelous things.”

— SEN. JIM SCHEER



BANKING, COMMERCE & INSURANCE



Omnibus banking bill passed

Senators passed a bill Aug. 11 that makes a number of changes to state banking laws.

LB808, introduced by Sen. Andrew La Grone of Gretna, enacts new sections in the Nebraska Model Business Corporation Act related to defective corporate actions.



Sen. Andrew La Grone

The measure contains provisions of six additional bills:

- LB775, introduced by Sen. Matt Williams of Gothenburg, which make several technical changes to the Nebraska Real Property Appraiser Act;



Sen. Matt Williams

- LB782, introduced by Gering Sen. John Stinner, which allow students within 120 days of completing an accounting degree to take test sections of the certified public accountant exam;



Sen. John Stinner

- LB767, introduced by Omaha Sen. Brett Lindstrom, which change laws



Sen. Brett Lindstrom

governing condominium associations, including reducing the time allowed to recover damages from alleged deficiency in the design or construction of a condominium;

- LB902, introduced by Sen. Patty Pansing Brooks of Lincoln, which modernize and reform the terms of an irrevocable trust;



Sen. Patty Pansing Brooks

- LB929, introduced by Lindstrom, which exempt from the Nebraska Real Estate License Act an unlicensed person who provides a list of potential purchases to a broker or real estate salesperson; and

- LB1123, also introduced by Lindstrom, which expand the definition of security to include student loans under the Public Funds Deposit Security Act.

LB808 passed on a 47-0 vote and takes effect immediately.

BUSINESS & LABOR



Resilience training; PTSD injury claims approved for first responders

Senators passed a bill Aug. 11 to address the mental health strain experienced by emergency first responders.

LB963, sponsored by Gordon Sen. Tom Brewer, provides first re-



Sen. Tom Brewer

sponders with opportunities to receive resilience training to help prevent or mitigate the effects of post-traumatic stress disorder.

The bill allows first responders to establish a presumptive case of PTSD from cumulative injury or stress caused by conditions of employment as a personal injury for workers' compensation purposes.

To establish such a case, the first responder must show that he or she underwent a mental health examination before the onset of the mental injury or illness, obtained testimony from a qualifying mental health professional attesting that he or she suffers from a mental injury or illness and participated in resilience training prior to the onset of the mental injury or illness and annually thereafter.

The state Department of Health and Human Services will reimburse first responders for resilience training if their employers do not.

Under the bill, only state-licensed, independent practicing physicians, psychologists and mental health practitioners are qualified to render an official PTSD diagnosis.

The opportunities provided by LB963 will end on Jan. 1, 2028.

Provisions of LB448, originally introduced by Omaha Sen. Mike McDonnell, increase burial benefits for work-related injuries or illnesses to \$11,000. Beginning in 2023, the cap will be adjusted by a maximum of 2.75 percent per year.



Sen. Mike McDonnell

The bill passed on a 45-0 vote.

Hair discrimination ban approved

A bill that extends employment discrimination protections was passed

by the Legislature Aug. 11.

LB1060, introduced by Omaha Sen. Machaela Cavanaugh, clarifies that existing protections against racially based employment discrimination include hair texture and protective hairstyles, including braids, locks and twists.



Sen. Machaela Cavanaugh

Senators passed the bill on a 27-12 vote. Twenty-five votes were needed.

EDUCATION

Student Discipline Act updated

Lawmakers passed a bill Aug. 13 that makes several changes to provisions in the Student Discipline Act related to suspension, expulsion and mandatory reassignment.

LB515, introduced by Omaha Sen. Tony Vargas, requires that a student be given an opportunity to complete any classwork and homework missed during a suspension, including examinations. It requires school districts to develop and adopt guidelines for doing so.



Sen. Tony Vargas

The bill clarifies the time frame during which a principal must send a written statement to a suspended student—and his or her parent or guardian—describing the student’s conduct, misconduct or violation of the rule or standard and the reasons for the action taken.

It also requires school districts to reinstate a student when their expulsion has ended and accept non-duplicative,

grade-appropriate credits earned by the student during the expulsion from certain accredited institutions.

Among other changes, the bill also creates and modifies several procedures for student discipline hearings.

Under LB515, a student or the student’s parent or guardian may request the designation of a hearing examiner other than the hearing examiner recommended by the superintendent. The bill requires school boards to pay the expenses and fees of any hearing examiner.

The bill passed on a vote of 26-7. Twenty-five votes were necessary.

Campus sexual harassment reporting required

Public colleges and universities in Nebraska must submit a biennial report on sexual harassment and Title IX compliance to the Legislature under a bill passed by lawmakers Aug. 12.

Under LB534, introduced by Omaha Sen. Machaela Cavanaugh, each Nebraska public postsecondary educational institution must submit the report to the Clerk of the Legislature and the Education Committee on or before Sept. 15 of odd-numbered years, beginning in 2021.

Among other information, the report will include the results of any campus climate survey related to sexual harassment, sexual harassment training provided to Title IX personnel and information on where students and employees may receive emergency assistance to address instances of sexual harassment.

The bill also requires the committee to hold a public hearing to review each report, beginning on or before Dec. 15, 2021.

Senators voted 41-1 to pass LB534.

Language assessment program for deaf children approved

Senators approved a bill Aug. 11 that requires special language assessments for children who are deaf or hard of hearing.

LB965, introduced by Omaha Sen. Mike McDonnell, requires the state Department of Education, in collaboration with the Nebraska Commission for the Deaf and Hard of Hearing, to establish and coordinate a language assessment program for children who are deaf or hard of hearing.

The program will assess, monitor and track the language developmental milestones of those children from birth through age five.

Under the proposal, language assessments will be given as needed to each child under 6 who is deaf or hard of hearing in compliance with the state Special Education Act and the federal Individuals with Disabilities Education Act.

The bill requires the department and the commission to publish a joint annual report specific to language and literacy developmental milestones of children who are deaf or hard of hearing relative to their peers who are not deaf or hard of hearing. The department and commission will publish the report on their respective websites and submit it to the Legislature.

The commission will appoint a 14-member committee to advise it on all aspects of the language assessment program. On or before July 1, 2022, the committee will develop specific action plans and make recommendations necessary to implement the program.

The bill includes provisions of LB839, sponsored by Lincoln Sen. Anna Wishart. Under those



Sen. Anna Wishart

provisions, the Legislature declares that Nebraska recognizes American Sign Language as a separate and distinct language.

They also allow the department to provide for the teaching of ASL in schools. If a school offers a course in ASL, it must be offered to all students and may be used for world language credits.

Similarly, any postsecondary institution may offer an elective course in ASL, and any credits earned may be used for world language credits if recognized as such by the institution.

LB965 passed on a vote of 48-0.

FAFSA requirement approved

Nebraska students must submit a federal college financial aid application before they graduate from high school under a bill passed by lawmakers Aug. 13.

Introduced by Omaha Sen. Tony Vargas, LB1089 requires each public high school student to complete and submit a Free Application for Federal Student Aid before graduating, beginning with the 2021-22 school year.



Sen. Tony Vargas

A student's parent or legal guardian, or the person standing in loco parentis to the student, may submit a signed form indicating that they authorize the student to decline to complete and submit a FAFSA. A student who is 19 or older or is an emancipated minor may sign and submit the waiver.

A principal or the principal's designee also may authorize a student to decline for good cause.

LB1089 requires the principal or a designee to provide the number of

students who completed a FAFSA or submitted the required waiver to the school district or governing authority for the high school and to the state Department of Education.

The bill requires the commissioner to submit a report with that information to the Legislature, beginning Dec. 31, 2022. It also requires the commissioner to create and adopt the waiver form to be used by each public high school.

LB1089 passed on a vote of 29-12.

GENERAL AFFAIRS

Bill to reduce special designated licenses passed

Certain alcohol vendors may expand their operations temporarily without obtaining a special designated license under a bill passed Aug. 11.

LB1056, introduced by Kearney Sen. John Lowe, allows farm wineries, craft breweries, micro-distilleries, bottle clubs or entities with a retail liquor license to expand their li-



Sen. John Lowe

icensed premises temporarily to a street, parking lot or alley that is immediately adjacent to their licensed location upon approval by the appropriate local governing body.

A temporary area must be enclosed by a fence or other means, have easily identifiable entrances and exits and meet all sanitation requirements for a premises with a liquor license. Authorized temporary expansions cannot exceed 50 days in 2020 and 15 days per year starting in 2021.

The bill also contains provisions of

LB980, introduced by Plymouth Sen.

Tom Brandt, that extend a special permit to conduct a lottery or raffle under the Nebraska Lottery and Raffle Act from three months to one year. The provisions also allow raffle tickets to be sold online and to be purchased with a debit card.



Sen. Tom Brandt

LB1056 passed 47-0 and takes effect immediately.

Smoking age raised

Lawmakers raised Nebraska's smoking age Aug. 11.

LB1064, introduced by Sen. Tom Briese of Albion, raises the legal age to use and purchase tobacco, cigarettes, cigars, electronic nicotine delivery systems or alternative nicotine products from 19 to 21.



Sen. Tom Briese

The bill also raises the minimum age to enter a tobacco specialty store from 19 to 21, but allows employees who are 19 or 20 to work in tobacco specialty shops until Jan. 1, 2022.

In addition, provisions of Bellevue Sen. Sue Crawford's LB322 that were amended into LB1064 allow individuals between ages 15 and 20 to assist law enforcement in compliance checks of tobacco vendors with written consent of a parent or legal guardian.



Sen. Sue Crawford

LB1064 passed 48-0 and takes effect immediately.

GOVERNMENT, MILITARY & VETERANS AFFAIRS

New combined state holiday established

The second Monday in October will be celebrated as Indigenous Peoples' Day and Columbus Day in Nebraska under a bill passed Aug. 11.

LB848, introduced by Lincoln Sen. Patty Pansing Brooks, adds Indigenous Peoples' Day to the established Columbus Day holiday.



Sen. Patty Pansing Brooks

The bill includes provisions of Pansing Brooks' LB849, which extend eligibility for the Bridge to Independence Program to Native American youth who have reached the age of majority under tribal law.

LB848 also includes provisions of Gordon Sen. Tom Brewer's LB937. The provisions require the display of flags of Nebraska's four federally recognized Native American tribes—the Omaha, Ponca, Santee Sioux and Winnebago—in the ceremonial Warner Chamber of the State Capitol.



Sen. Tom Brewer

Flags of any tribe with historic and regional connections to Nebraska will be displayed in the Memorial Chamber on the Capitol's 14th floor.

Lawmakers passed LB848 on a 35-10 vote.

African American commission created

Lawmakers passed a bill Aug. 11 that creates a state Commission on African American Affairs.

Under LB918, introduced by Omaha Sen. Justin Wayne, the commission will promote state and federal legislation beneficial to African Americans in Nebraska, work with similar commissions from other states and coordinate housing, education, welfare, medical and dental care, employment and other programs affecting African Americans in Nebraska.



Sen. Justin Wayne

The 14 commissioners, who must be of African ancestry, will be appointed by the governor and serve four-year terms.

LB918 passed on a 39-2 vote.

HEALTH & HUMAN SERVICES

Dental hygienist changes approved

A bill to address the shortage of dental providers in rural Nebraska passed Aug. 12.

LB312, introduced by Blair Sen. Ben Hansen, authorizes licensed dental hygienists to perform all authorized functions within their scope of practice in a public health setting except periodontal scaling, root planing and administering anesthesia



Sen. Ben Hansen

or nitrous oxide.

The bill also allows the state Department of Health and Human Services to authorize licensed hygienists to prescribe mouth rinses and fluoride products to decrease tooth decay and make minor denture adjustments, upon completion of education and testing.

DHHS is required to evaluate annually the delivery of dental hygiene services in Nebraska and report to the Legislature beginning in 2021.

Senators passed LB312 on a 47-0 vote.

Medicaid buy-in program changes approved

Lawmakers passed a bill Aug. 12 that makes changes to a program meant to help individuals with disabilities maintain employment while retaining Medicaid coverage.

LB323, introduced last session by Bellevue Sen. Sue Crawford, updates eligibility standards for Nebraska's Medicaid Insurance for Workers with Disabilities program—commonly referred to as the Medicaid buy-in program—from federal Balanced Budget Act standards to more recent federal Ticket to Work and Work Incentives Improvement Act standards.

The bill also lowers the premium cap from 10 to 7.5 percent.

LB323 passed on a 46-0 vote.

Human trafficking bill approved

Lawmakers passed a bill Aug. 12 intended to assist victims of human trafficking.

LB518, as originally introduced by Elkhorn Sen. Lou Ann Linehan, would have adopted the Support for Trafficking Survivors Act. Those provisions were re-



Sen. Lou Ann Linehan

moved, leaving provisions of Bellevue Sen. Carol Blood's LB745, which outline procedures for certification of immigration visas by local law enforcement in Nebraska.



Sen. Carol Blood

The bill requires Nebraska law enforcement agencies to certify a form—within 90 days of when it is requested—for two types of immigration visas that are set aside for victims of certain crimes.

A "T" visa is for victims of human trafficking and a "U" visa is for victims of specific crimes who have suffered abuse and who are helpful to law enforcement in the investigation and prosecution of criminal activity.

LB518 passed on a 47-0 vote.

Body art, nail technology changes adopted

Several changes to state law regulating nail technology and tattoo artists were approved Aug. 13.

LB607, introduced by Sen. Mark Kolterman of Seward:



Sen. Mark Kolterman

- creates a three-day license for a "guest body artist" enabling him or her to work at a licensed tattoo establishment or under a licensed body artist;
- creates the position of nail technology apprentice and allows an apprentice to work under a licensed nail technologist;
- updates the definition of cosmetic tattooing;
- adds "natural nail" treatment—work done on a person's nails

without adding to the nail—to the definition of manicuring; and

- allows the Board of Cosmetology, Electrology, Esthetics, Nail Technology and Body Art to administer licensing exams in multiple languages.

The bill passed on a 31-10 vote.

Omnibus health licensure bill passed

A bill that makes numerous changes to state health licensure requirements passed Aug. 11.

LB755, introduced by Sen. Carol Blood of Bellevue, requires barbers who work at a client's home to obtain a permit from the state Board of Barber Examiners. The bill also allows nail technicians to offer in-home services.

The bill includes provisions of Blood's LB752 that require the state Department of Health and Human Services and the Nebraska Department of Veterans Affairs to encourage their service providers and state and local agencies to ask applicants if they or their family members have served in the military.

LB755 also includes provisions of the following bills:

- LB37, introduced by Sen. Robert Hilkemann of Omaha, which amend the Podiatry Practice Act to allow a physician's assistant to perform services that are delegated by and provided under the supervision of a podiatrist and are within the podiatrist's scope of practice;



Sen. Robert Hilkemann

- LB772, introduced by Sen. Matt Williams of Gothenburg, which remove restrictions on physician assistants regarding the details of their collaborative agreement and their ability to work in a hospital and prescribe medication, including allowing a physician assistant to serve under several specialists who may work at the same practice rather than solely under a single physician;



Sen. Matt Williams

LB811, introduced by Sen. John McCollister of Omaha, which amend the Parkinson's Disease Registry Act and require that a patient's date of birth rather than



Sen. John McCollister

- LB825, introduced by Hilke-mann, which add Spinal Muscular Atrophy to the list of 32 required screenings for all infants born in Nebraska; and
- LB834, introduced by La Vista Sen. John Arch, which allow architecture candidates to begin taking their professional licensure exam as they are complet-



Sen. John Arch

ing their education and experience requirements, and allow engineers to take one of their

two exams prior to completing four years of post-accredited degree experience.

Lawmakers passed LB755 on a 47-0 vote.

EMS changes approved

Lawmakers passed a bill Aug. 11 that makes changes to emergency medical service provision in Nebraska.

LB1002, sponsored by Brainard Sen. Bruce Bostelman, allows the restocking of prescription drugs by a hospital for an emergency medical service if EMS transports a patient to the hospital and the drugs were used for the patient prior to or during transportation.



Sen. Bruce Bostelman

The measure includes provisions from three additional bills:

- LB893, also introduced by Bostelman, which add community care paramedic and critical care paramedic practices as EMS providers and direct the state Board of Emergency Services to provide education and licensure requirements for the classifications;

- LB1044, originally introduced by Blair Sen.

Ben Hansen, which clarify that only consultation with—and not the approval of—a licensed physician is required for a licensed medical nutritionist to order patient diets under the Medical Nutrition Therapy Practice Act; and



Sen. Ben Hansen

- LB1184, originally introduced

by La Vista Sen. John Arch, which require the state Department of Health and Human Services to set standards for juvenile inpatient psychiatric units and psychiatric residential treatment facilities. Staff must be at least 20 years old, or at least two years older than the oldest resident in the facility or unit, have a high school diploma or equivalent and be trained appropriately.

Finally, under the bill, licensed practical nurses are no longer exempt from Emergency Medical Services Practice Act licensing requirements.

LB1002 passed on a 47-0 vote and takes effect immediately.

Medicaid rate methodology clarified

A bill that requires the state Department of Health and Human Services to keep its Medicaid reimbursement rate methodology within its existing rules and regulations process passed Aug. 11.

LB1053, introduced by the Health and Human Services Committee, clarifies that any change to the methodology is considered substantive and requires rule and regulation-making proceedings under the Administrative Procedure Act.

LB1053 includes provisions of two additional bills. LB833, introduced by Sen. Sue Crawford of Bellevue, allows Programs of All-Inclusive Care for the Elderly (PACE) facilities that meet DHHS licensure requirements to operate multiple centers under one license.



Sen. Sue Crawford

Provisions of LB1043, sponsored

by Blair Sen. Ben Hansen, make several changes to state law governing receiverships of health care facilities, including reducing from 12 months to six the time allowed to terminate a receivership and requiring the closure or sale of a health care facility within 60 days of a court order.

Senators passed LB1053 on a 48-0 vote.

JUDICIARY

Increased transparency for death penalty process amended, approved

Lawmakers passed a bill Aug. 13 to increase transparency in the state's execution protocol.

LB238, introduced by Lincoln Sen. Patty Pansing Brooks, requires the state Department of Correctional Services to allow all execution witnesses to view the process continually from the moment the inmate enters the execution chamber until the moment he or she is pronounced dead, without any impediment to their line of sight.



Sen. Patty Pansing Brooks

Additionally, it allows any person performing an execution to wear a mask or otherwise conceal their personal identity.

During select file debate Aug. 11, Pansing Brooks offered an amendment, adopted 36-0, that removed a requirement in the original bill that two members of the Legislature be present at each execution.

The bill passed on a 27-10 vote.

Abortion procedure banned after cloture vote

Lawmakers passed a bill Aug. 13 that bans a specific abortion method in Nebraska.

LB814, introduced by Lincoln Sen. Suzanne Geist, bans “dismemberment” abortion—known medically as dilation and evacuation—except in emergency situations.



Sen. Suzanne Geist

The bill defines a dismemberment abortion as a procedure in which a person purposely dismembers and extracts a living fetus from the uterus using clamps, forceps or similar instruments. It does not apply to an abortion in which suction is used to dismember a fetus, or removal of a fetus that already is dead.

LB814 also allows for professional injunctions and civil action against any abortion provider found to be in violation of the bill’s provisions.

The intentional and knowing performance of the procedure—unless performed due to a medical emergency—is a Class IV felony, punishable by up to two years imprisonment with 12 months post-release supervision, a \$10,000 fine or both.

Omaha Sen. Megan Hunt offered a motion on final reading to bracket the bill. After approximately an hour of discussion, Geist offered a motion to invoke cloture, which ends debate. Lawmakers voted 33-8 to invoke cloture. Thirty-three votes were needed.

Senators then rejected the bracket motion 8-29 and passed LB814 on a 33-8 vote.

Earlier parole eligibility approved

A bill to address the overcrowding crisis in Nebraska’s correctional sys-

tem was passed by lawmakers Aug. 13.

Under LB1004, sponsored by Omaha Sen. Steve Lathrop, a committed offender automatically is eligible for parole within two years of their mandatory discharge date, unless they are eligible for parole at an earlier date.



Sen. Steve Lathrop

The director of the division of parole supervision will establish caseload standards for parole service and provide annual caseload reports to the Legislature beginning in January 2021.

The parole provisions contained within LB1004 will not apply retroactively.

The bill includes provisions of LB1036, originally introduced by Lincoln Sen. Adam Morfeld, that change the age of consent for health care decisions from 19 to 18. It also allows a person under 19 who is in the custody of the correctional system to consent to medical and mental health care decisions.



Sen. Adam Morfeld

Lawmakers passed LB1004 on a 29-11 vote.



Early deer hunting permits approved

Certain landowners may apply for a permit to hunt deer before the regular firearm deer hunting season under a bill passed by senators Aug. 12.

LB126, introduced last session by

Venango Sen. Dan Hughes, requires the state Game and Parks Commission to issue up to four limited permits to hunt deer during the Saturday through Monday preceding the opening day of firearm deer hunting season to qualifying landowners and their designated immediate family members.



Sen. Dan Hughes

The \$5 permits will be in addition to any limited permit to hunt deer issued to a qualifying landowner. Of the four permits that may be issued, no more than two may be issued to individuals younger than 19, and no more than two may be issued to those who are 19 or older.

For a Nebraska resident landowner, the number of permits issued may not exceed the total acreage of the farm or ranch divided by 80. For a nonresident landowner, the number of permits issued may not exceed the total acreage of the farm or ranch divided by 320.

LB126 passed on a vote of 30-7.

Natural resources omnibus bill approved

Senators passed a bill Aug. 13 that contains provisions of several proposals related to natural resources.

LB632, introduced by Sen. Dan Hughes of Venango, includes the provisions of four bills heard by the Natural Resources Committee this session.

The provisions of LB769, introduced by Creighton Sen. Tim Gragert, require that each member of the Nebraska Natural Resources



Sen. Tim Gragert

Commission be a Nebraska resident.

The provisions of LB861, introduced by Hughes, prohibit a county, municipality or agency from adopting, enforcing or administering an ordinance or resolution that prohibits the use of or sets standards, fees, prohibitions or requirements regarding the sale, use or marketing of containers.

It defines a container as a single-use, recyclable or reusable bag, cup, can, pouch, package, container, bottle or other packaging made of cloth, paper, plastic, cardboard, aluminum, glass or certain other materials and that is “designed for consuming, protecting or transporting merchandise, food or beverages from or at a food service or retail facility.”

The prohibition does not apply to county, municipality or agency recycling or solid waste collection programs so long as those programs do not “prohibit or have the effect of prohibiting the sale, use or marketing of any containers.”

The amended provisions of LB933, introduced by Sen. Sue Crawford of Bellevue, prohibit a public or private utility company from charging a fee for the discontinuance or reconnection of service that exceeds the reasonable costs of providing such service.



Sen. Sue Crawford

Crawford’s proposal also makes several changes to current law prohibiting most public and private utilities from discontinuing service to subscribers for nonpayment unless it first notifies them.

The provisions of LB1201, introduced by Sen. Bruce Bostelman of Brainard, require the state Department of Natural Resources



Sen. Bruce Bostelman

to create a statewide flood mitigation plan that will be included in the state hazard mitigation plan maintained by the Nebraska Emergency Management Agency.

The proposal requires the department to convene a plan development group and work with federal, state and local agency and community stakeholders to develop the plan.

Among other tasks, the department will identify opportunities to implement flood hazard mitigation strategies, identify potential funding sources that can be used for flood mitigation and post-flood disaster recovery and compile a list of critical infrastructure and state-owned facilities and identify those with the highest risk of flooding.

Senators voted 46-0 to pass LB632.

REVENUE

Tax exclusion for military retirement income approved

Individuals may exclude half of their military retirement benefit pay from state income tax under a bill passed by lawmakers Aug. 12.

Previously, individuals could, within two years after their retirement from the military, choose from two options to exclude military retirement benefit pay from state income tax.

LB153, introduced last session by Gordon Sen. Tom Brewer on behalf of Gov. Pete Ricketts, repeals those options and instead allows individuals to exclude 50 percent of their military retirement benefit income to



Sen. Tom Brewer

the extent included in federal adjusted gross income.

The exclusion is for taxable years beginning or deemed to begin on or after Jan. 1, 2022.

The state Department of Revenue estimates that the bill will reduce state tax revenue by \$5.4 million in fiscal year 2021-22 and an additional \$13.3 million in FY2022-23.

LB153 passed on a vote of 46-0.

Child care tax credit expanded

Self-employed child care providers may apply for a state income tax credit under a bill approved by lawmakers Aug. 12.

Under the 2016 School Readiness Tax Credit Act, eligible staff members who are employees of child care and early childhood education programs participating in the Step Up to Quality child care program may apply to the state Department of Revenue for a refundable state income tax credit of up to \$1,500.

LB266, introduced by Omaha Sen. Brett Lindstrom last session, adds self-employed individuals providing services for eligible child care and early childhood education programs to the definition of “eligible staff member,” allowing them to apply for the credit.



Sen. Brett Lindstrom

The bill also requires the state Department of Education to include those self-employed individuals in the Nebraska Early Childhood Professional Record System.

Finally, the bill allows credits awarded to passthrough entities to be distributed in the same manner and proportion as income.

The state Department of Revenue

estimates that the bill will reduce state tax revenue by \$71,000 in fiscal year 2020-21 and an additional \$81,000 in FY2021-22.

Senators voted 47-0 to pass LB266.

Tax package clears final round after cloture vote

Lawmakers passed a bill containing several major tax proposals Aug. 13.

LB1107, introduced by Norfolk Sen. Jim Scheer, contains numerous provisions, including a new tax credit based on the amount of property taxes paid to a taxpayer's school district, a new business tax incentive program and a requirement to provide matching funds for a potential project at the University of Nebraska Medical Center.

The bill creates a refundable income tax credit based on the amount an eligible taxpayer paid in property taxes to their school district during the previous year, not including those amounts levied for bonded indebtedness or a levy override. The credit is allowed to each individual, business or other entity that pays school district taxes.

For calendar year 2020, the total amount of credits is limited to \$125 million. For the following three years, that amount could increase based on growth in the state's net tax receipts and the level of its cash reserve.

The credit cap will increase to \$375 million in 2024. For each year after that, the total amount of credits will be \$375 million plus an allowable growth percentage equal to the growth in real property value.

The credit cap would be \$375 million for 2024. For each year after that,

the total amount of credits would be \$375 million plus an allowable growth percentage equal to the growth in real property value.

Sen. Lou Ann Linehan of Elkhorn filed an amendment during select file debate Aug. 11. She said the amendment, adopted 41-3, clarifies that any funds appropriated to the new refundable income tax credit will be based on growth in actual tax receipts compared to the prior fiscal year, not estimated growth. The amendment also prohibits the allowable growth percentage from exceeding 5 percent in any one year.

The amendment ensures that the state's cash reserve cannot drop below \$500 million after any transfer of funds to the new program, Linehan said.

LB1107 also creates a new business tax incentive program, the ImagiNE Nebraska Act. The application period for the state's current program, the Nebraska Advantage Act, ends this year.

Sen. Mark Kolterman of Seward introduced the original proposal, LB720, last session. Under LB1107, qualifying businesses will receive a varying combination of

incentives based on their level of capital investment and the number of employees they hire at a minimum qualifying wage.

To qualify for sales and use tax incentives under the act, a taxpayer must offer full-time employees the opportunity to enroll in minimum essential health care coverage under an employer-sponsored plan and offer a "sufficient package of benefits."

The director of the state Department of Economic Development may not approve applications that would

include refunds or credits for a calendar year in which a "base authority" is projected to be exceeded.

Base authority is \$25 million for calendar years 2021 and 2022, \$100 million for 2023 and 2024 and \$150 million for 2025.

Beginning in 2026, the director will adjust the base authority every three years to an amount equal to three percent of the state's general fund net receipts for the most recent fiscal year. Unused base authority will carry forward to the following year, but base authority prior to 2026 may not exceed \$400 million.

The bill requires the director and the state tax commissioner to submit an annual report to the Legislature listing the tax incentive agreements signed in the previous year, the agreements still in effect, the identity of each taxpayer who is party to an agreement, the qualified location or locations and other information.

LB1107 includes the amended provisions of Kolterman's LB1084, which require the state to provide \$300 million in matching funds for a potential academic hospital and all-hazards disaster response facility at the University of Nebraska Medical Center.

The state will not provide matching funds unless the applicant's project has been selected for participation in the federal program and \$1.3 billion in federal funds and private donations have been received.

In no case will matching funds be transferred before fiscal year 2025-26 or before the total amount of credits granted annually under the Nebraska Property Tax Incentive Act reaches \$375 million.

Under LB1107, the state will grant \$275 million in credits each year under the Property Tax Credit Relief Act, which uses state sales and income tax



Sen. Jim Scheer



Sen. Mark Kolterman

revenue to provide Nebraskans with credits meant to offset part of what they pay in local property taxes.

Any amount transferred or credited to the Property Tax Credit Cash Fund pursuant to any other state law will be added to the minimum amount when determining the total amount of relief granted under the act.

In addition, the bill includes provisions meant to encourage “key employers,” or those with at least 1,000 equivalent employees during the base year, to retain jobs in Nebraska when new owners of those companies are considering moving all or some of those jobs out of the state.

Key employers that retain at least 90 percent of their equivalent base-year employment and meet certain other requirements may apply to receive a wage retention credit equal to five percent of the total compensation paid by the employer in the year to all retained Nebraska employees who are paid wages at the required level.

The credit earned for all employers may not exceed \$4 million in any year, and the total amount of credits received under the act may not exceed \$40 million.

The bill directs the state Department of Economic Development to create and administer a revolving loan program for workforce training and infrastructure development expenses incurred by ImagiNE Act applicants. Applicants may repay loans for job training or infrastructure development with certain credits earned under the act.

LB1107 also creates a job training fund to be administered by the state Department of Economic Development to provide grants to employers for reimbursement of job training expenses.

For an employer to qualify for a job training reimbursement grant,

the jobs being trained for must be net new jobs or result in a net increase in wages per employee, and the jobs must meet or exceed the Nebraska average annual wage.

The bill provides a refundable income tax credit to Nebraska businesses that produce renewable chemicals made from agricultural products. The director of the state Department of Economic Development could approve up to \$3 million in tax credits for calendar years 2022 and 2023 and up to \$6 million per calendar year after that.

LB1107 also repeals a tangible personal property tax exemption. The Legislative Fiscal Office estimates that the change will reduce general fund expenditures by \$14.8 million in FY2020-21 and an additional \$15.2 million in FY2021-22.

The office estimates that the bill will reduce general fund revenue by \$95 million in FY2020-21 and an additional \$135 million in FY2021-22.

By FY2024-25, when the total amount of refundable credits reaches \$375 million, the office estimates that the bill will reduce general fund revenue by \$441 million.

Assuming that UNMC is selected for the federal program and the state transfers \$50 million in matching funds annually beginning in FY2025-26, the office estimates that the bill will reduce general fund revenue by \$526 million that year and an additional \$559 million in FY2026-27.

After 45 minutes of debate on final reading, Scheer filed a motion to invoke cloture, which ceases debate and forces a vote on a bill. The motion succeeded on a vote of 42-3. Thirty-three votes were needed.

Senators then voted 41-4 to pass LB1107.

TRANSPORTATION & TELECOMMUNICATIONS

Rural broadband provisions approved

Lawmakers passed a bill Aug. 11 intended to encourage expansion of broadband internet service in underserved and unserved areas.

LB992, introduced by Sen. Curt Friesen of Henderson, creates a new position of state broadband coordinator within the office of the state chief information officer.



Sen. Curt Friesen

Among other duties, the coordinator will encourage counties to appoint a broadband coordinator to facilitate broadband planning and coordination, assist counties in determining available broadband assets and explore the creation of broadband cooperatives in unserved or underserved areas of the state.

The bill allows an electric utility and a commercial broadband supplier to enter into an agreement for the use of an electric utility easement or certain electric utility infrastructure to install, maintain or own certain attached equipment for operation by a commercial broadband supplier.

In entering into an agreement, an electric utility may not discriminate among commercial broadband suppliers in offering or granting rights to install or attach certain broadband equipment.

LB992 requires electric utilities to charge fees that are nondiscriminatory among commercial broadband suppliers for a substantially similar lease or use of the capacity of attached

facilities owned or controlled by the electric utility.

The bill also requires the Nebraska Public Service Commission to establish a matching fund program to provide incentives for the deployment of fiber-optic cable to benefit public libraries.

Beginning July 1, 2021, the program will receive funding from the Nebraska Telecommunications Universal Service Fund.

Additionally, LB992 changes current law allowing a state agency or political subdivision to lease its unused fiber-optic cable to certain telecommunications carriers.

Before a dark fiber lease becomes effective, it must be filed with the commission, which will cause notice of the lease and lease rates to be published.

The bill requires the commission to establish a safe harbor range of market rates for all dark fiber leases using a competitive price determination comparison.

Under LB992, 50 percent of the profit earned by an agency or political subdivision under certain dark fiber leases must be remitted to the Nebraska Telecommunications Universal Service Fund. The provision does not apply to a lease or a portion of a lease of dark fiber leased to exclusively serve unserved locations.

Finally, the amendment provides that Nebraska Rural Broadband Task Force members appointed by the governor will serve two-year terms and may be reappointed.

LB992 passed on a vote of 47-0.

URBAN AFFAIRS

Land bank options expanded

A bill that broadens the potential use of land banks in Nebraska passed Aug. 11.

LB424, introduced by Grand Island Sen. Dan Quick, allows any municipality in Nebraska to join an existing land bank—a tax-exempt political subdivision that acquires, manages and develops vacant and tax-delinquent properties—under the Nebraska Municipal Land Bank Act.



Sen. Dan Quick

Metropolitan and first class cities are allowed to create stand-alone land banks under the bill.

Among other provisions, LB424 also:

- prohibits a land bank from issuing bonds;
- prevents a land bank from investing in a property that financially could benefit a board member, their businesses or their immediate family members;
- limits the total number of parcels that a land bank may own;
- requires a land bank to issue an annual report to the Legislature;
- prevents a land bank from receiving property tax revenue from an agreement under the Joint Public Agency Act; and
- allows an entity that creates or joins a land bank to withdraw from the agreement by a two-thirds vote of the governing body.

Sen. Steve Erdman of Bayard offered a motion on final reading to

bracket LB424 until the end of the legislative session. After approximately an hour of discussion, Quick offered a motion to invoke cloture, which ends debate and forces a vote on the bill.

Lawmakers voted 33-12 to invoke cloture. Thirty-three votes were needed. Senators then rejected the bracket motion and passed LB424 on a 31-12 vote.

Affordable housing bill amended, approved

A bill intended to increase the availability of affordable housing passed Aug. 13.

LB866, introduced by Omaha Sen. Justin Wayne, adopts the Municipal Density and Missing Middle Housing Act. The bill incentivizes affordable housing projects by establishing a workforce housing investment grant program for urban areas of the state and requiring affordable housing action plans.



Sen. Justin Wayne

The bill was amended on general file to include some provisions of LB794, introduced by Lincoln Sen. Matt Hansen. Those provisions require cities with populations greater than 20,000 to submit a report every two years, beginning July 1, 2021, to the Urban Affairs Committee detailing their efforts to incentivize affordable housing.



Sen. Matt Hansen

The report will include an overview of the city's residential zoning requirements, percentage of residential areas zoned for multi-family housing, a five-year history of new residential

construction and residential units annexed and an estimate of per unit housing costs.

In addition, all cities with populations greater than 50,000 will be required to adopt an affordable housing action plan by Jan. 1, 2023, and all cities with populations between 20,000 and 50,000 will be required to adopt a plan by Jan. 1, 2024.

Cities that do not comply will be required to adopt a default housing plan to allow development of “middle housing” in areas currently zoned for single-family residences. Middle housing includes duplexes, triplexes, quadplexes, cottage clusters and townhouses.

During select file debate Aug. 11, an amendment adopted 29-12 added provisions of Omaha Sen. Tony Vargas’ LB1155. The provisions create the Middle Income Housing Investment Fund within the state Department of Economic Develop-



Sen. Tony Vargas

ment to support development of workforce housing in Nebraska counties of 100,000 or more residents.

Only nonprofit organizations may apply for grants, which will be based on a demonstrated need for additional owner-occupied housing in communities with an unemployment rate higher than the state average. The amendment also sets valuation parameters for workforce housing units eligible for grants at \$125,000 to \$275,000.

The fund will receive a one-time, \$10 million general fund transfer. Any grants awarded will require one-to-one matching funds.

Following adoption of the amendment, lawmakers advanced LB866 to final reading by voice vote Aug. 11. The bill passed Aug. 13 on a 31-7 vote.

Tax-increment financing changes adopted

A bill intended to make certain redevelopment projects easier passed Aug. 13.

LB1021, introduced by North Platte Sen. Mike Groene, creates

expedited review of tax-increment financing for redevelopment projects under the state’s Community Development Law if the project:



Sen. Mike Groene

- involves repair, rehabilitation or replacement of an existing structure in an existing substandard or blighted area;
- is in a county with a population of less than 100,000 or in an area that has been declared extremely blighted;
- involves a structure that is at least 60 years old; and
- does not exceed \$250,000 for a single-family structure, \$1 million for a multi-family or commercial structure or \$10 million for a structure on the National Register of Historic Places.

The decision to allow expedited review will rest with the governing body of a municipality.

Lawmakers passed the bill 49-0. ■

Resolution to affirm LGBTQ+ inclusivity approved

Lawmakers approved a legislative resolution Aug. 12 asserting protections against employment discrimination based on sexual orientation or gender identity.

Lincoln Sen. Patty Pansing Brooks introduced LR466 to affirm a recent U.S. Supreme Court decision, which held that an employer who fires an individual merely for being gay or transgender violates Title VII of the Civil Rights Act of 1964.



Sen. Patty Pansing Brooks

Pansing Brooks said the resolution would send a strong message to employers and workers that Nebraska is committed to being a welcoming and inclusive state for all.

“Business leaders have been clear that workforce development is our state’s number one business need,” she said. “We need to do more to make sure our state competes for the talented young workers that we need.”

Elmwood Sen. Robert Clements expressed concerns that the Court’s decision, and the subsequent legislative resolution, were in direct conflict with the Nebraska’s constitutional protections of religious freedom.

The resolution was adopted on a 28-8 vote. ■

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From left: term-limited Sens. Jim Scheer, Sue Crawford, Kate Bolz, Sara Howard and Rick Kolowski. (Not pictured: Sen. Ernie Chambers.)