

Legislative session resumes

Senators reconvened at the State Capitol July 20 to complete the second session of the 106th Nebraska Legislature.

Speaker Jim Scheer of Norfolk suspended the session in March due to public health concerns regarding the coronavirus pandemic.

Senators returned to a changed physical environment, including limitations on staff access to the legislative chamber and clear plastic barriers between members. Balconies are closed to the public.



Among the major proposals remaining on the agenda are a property tax measure, a new business tax incentive program and passage of the state

budget.

Seventeen legislative days remain in the 2020 session, which is scheduled to adjourn Aug. 13. ■

Modified property tax proposal stalls

Lawmakers resumed debate July 22 on a major property tax measure after it was modified to address concerns raised regarding an earlier proposal.

As introduced by Norfolk Sen. Jim Scheer, LB1106 would have repealed outdated sales tax provisions. A pending Revenue Committee amendment would replace the bill with a modified version of the proposal contained in the committee's LB974, which remains on general file after debate in February.



Sen. Jim Scheer

Elkhorn Sen. Lou Ann Linehan, the committee's chairperson, said Nebraskans pay some of the highest property taxes in the country because the state relies too heavily on property taxes to fund public education.

Like the original proposal, Linehan said, the amendment would reduce property valuations for school tax purposes over three years—thereby reducing the amount of property taxes they collect—while simultaneously increasing

state aid to schools via a new foundation aid component.

“We as a state need to continue to properly fund our schools,” she said. “However, we also need to help businesses stay in business by lowering their property taxes, help our ag producers stay in business and help our homeowners stay in their homes.”

Among other changes to the state's school funding formula, Linehan said, the amendment would limit schools districts' basic allowable growth rate to 2 percent. She said some districts had opposed the previous proposal because it would have tied budget growth to the inflation rate.

Linehan said the amendment would address some school districts' concerns by allowing them to carry forward a portion of their unused budget authority to future years.

She said the amendment also would reduce school districts' special building fund levy from the current 14 cents per \$100 of taxable valuation to 6 cents. School districts also would have to receive voter approval before building a new school building, Linehan said.

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Modified property tax proposal stalls

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Sen. Tom Briese of Albion supported the amendment, saying it represents a “generational opportunity” to remedy the state’s property tax crisis. He said the amendment would increase state school aid to each district while limiting property tax increases.

He said the proposal allows schools to reasonably grow their budgets while allowing their tax asking authority to increase by 2 percent plus the value of new property.

“I just don’t think we’re asking anything that’s unreasonable of our partners in the education community,” Briese said.

Sen. Mike Groene of North Platte also supported the amendment, saying that Nebraskans are demanding property tax relief. He said the proposal would introduce long-term stability to the state’s school funding formula and provide schools with at least 15 percent of their costs through



Sen. Lou Ann Linehan said LB1106 would direct more state funding to public schools, reducing their reliance on property taxes.

foundation aid.

Groene said some school administrators oppose the proposal not because it would underfund schools but because it would reduce the amount of property taxes they could collect.

“If you’re going to wait around ... for the education establishment to support what we must do for our citizens,” he said, “it will never happen.”

Also in support was Plymouth Sen. Tom Brandt, who said rising agricultural valuations have resulted in high

property taxes in rural Nebraska for years. Recent large residential valuation increases mean homeowners in urban areas will see higher property tax bills too, he said.

“This is not a rural problem only,” Brandt said. “This is now a Nebraska problem.”

Sen. Wendy DeBoer of Bennington opposed the bill and filed a motion to bracket it, which effectively would end debate on it this session. She said the Legislature should find a way to reduce property taxes but that the coronavirus pandemic has changed the state’s economic outlook since lawmakers debated the previous proposal earlier this year.

“I don’t think we have the money for this bill,” DeBoer said. “If we give more money from our state budget to schools in an attempt to lower property taxes, it’s got to come from somewhere.”

UNICAMERAL UPDATE

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Sen. Sue Crawford of Bellevue also opposed the measure. She said the state's school funding formula directs state equalization aid to districts where needs are greater than resources. Many educational leaders are concerned about the proposal because the state often has not met the requirement to fully fund that equalization aid, Crawford said.

By dedicating up to 15 percent of state tax revenue to foundation aid, she said, the proposal could make it even more difficult for the state to meet its obligation to Nebraska's

neediest students in the future.

Gering Sen. John Stinner said he supports property tax relief but that the proposal "ties the Legislature's hands" by requiring the state to make up school districts' revenue shortfall created by limiting the amount of property taxes they could collect.

If state revenue growth is flat or negative due to the pandemic's economic effects, he said, the Legislature could be required to cut other budget items in order to fully fund the state school aid proposed in the amendment.

"I'm not sure the revenue's going to be there to support all the services that provide for the well being of our citizens," Stinner said.

After three hours of general file debate, the Legislature recessed without voting on DeBoer's motion, the amendment or the bill. Per a practice implemented by Speaker Jim Scheer, the sponsor of a bill that is facing a potential filibuster must demonstrate sufficient support for a cloture motion before the measure will be scheduled for additional debate. ■

Lawmakers vote to allow introduction of police oversight bill

Senators voted to suspend the Legislature's rules July 23 to permit introduction of a new bill.

Normally, new bills may be introduced only during the first 10 days of the legislative session. Omaha Sen. Justin Wayne moved to suspend the rules to introduce a measure that would mandate police oversight.



Sen. Justin Wayne

Wayne said the motion would provide an opportunity for a conversation about policing, a topic of concern within his community and across the country.

"The community I represent ... is looking for some leadership on this issue," he said. "It's looking for the ability to make sure that there is proper oversight and to make sure we build community and police relationships."

The language proposed for the new bill, LB1222, would require any city that employs full-time police officers to create a citizen police oversight board. Each board would be composed of seven members of the public appointed by the city's mayor

for five-year terms and confirmed by the city council.

Each citizen police oversight board would have full investigatory powers—including subpoena authority—to address grievances and complaints filed by members of the public against the police department, officer-involved shootings, alleged police misconduct or ill treatment. The oversight board also would be empowered to evaluate the policing standards and practices of the police department.

Sen. Ernie Chambers of Omaha supported the motion to suspend the rules. He said that over 100 people attended two listening sessions held by the Judiciary Committee this summer in reaction to public demonstrations calling for racial justice.

He said that every person who attended one of the listening sessions said they were pleased that they were given the chance to address a governmental body about these serious issues.

"It would give those who might be of a mind to think the only avenue to bringing about a change is to have a massive collection of people in the streets the [assurance] that some politicians have listened, have heard

them and are willing to give the public an opportunity in a formal setting to express what their concerns are," Chambers said.

Omaha Sen. Tony Vargas also spoke in support of the motion, saying people in his community and across the country are "crying out" for a genuine dialogue.

"I know it's really difficult if you haven't experienced racial injustice to understand that [issue]," Vargas said. "But for those of us [in the Legislature] who have, and for communities that have higher percentages of individuals of color, conversations like this are not fleeting. They're necessary."

The Legislature is nearing the end of its session, Henderson Sen. Curt Friesen noted, expressing reluctance to address such a "weighty" issue with little time left for thoughtful debate.

"I'm not afraid to have the discussion, but I am concerned that at this time in the session, when we're at the end of it, it's a hard [task] just to get it done," he said.

Senators approved the motion on a 32-4 vote. Thirty votes were needed.

A public hearing on LB1222 is scheduled for July 31. ■

AGRICULTURE

New checkoff program amended, advanced

Lawmakers advanced a bill July 20 that would create a checkoff program for Nebraska dry pea and lentil growers.

As introduced by Sen. Dan Hughes of Venango, LB803 would create the Pulse Crop Development, Utilization and Marketing Board.



Sen. Dan Hughes

Hughes filed an amendment on select file that would replace the bill. It instead would create the five-member Dry Pea and Lentil Commission to protect and stabilize the state's dry pea and lentil industry and the economy of the areas producing those crops.

Hughes said the name change is meant to clarify which growers would be included in the checkoff program.

The commission would have the power to create general state policies and programs related to the discovery, promotion and development of markets and industries for the utilization of dry peas, lentils, chickpeas or garbanzo beans, faba beans or lupins grown in Nebraska.

It also could adopt an education and publicity program, make grants and enter into research contracts.

The commission's members, who would be appointed by the governor, would have to be Nebraska residents who are dry pea or lentil growers with at least five years of experience, among other requirements.

The director of the state Department of Agriculture and the vice chancellor of the University of Nebraska's Institute of Agriculture and Natural

Resources would serve as nonvoting members.

All voting members of the commission would be entitled to expenses while attending commission meetings or while engaged in their official duties.

Beginning July 1, 2021, a 1 percent excise tax would be imposed on the net market value of dry peas and lentils sold through commercial channels in the state. The tax would be levied and imposed on the grower at the time of sale or delivery. The first purchaser would collect the tax and remit it to the commission.

Senators voted 42-0 to adopt the Hughes amendment and then advanced LB803 to final reading by voice vote.

APPROPRIATIONS

Secretary of state fee increase advanced

Lawmakers gave first-round approval July 21 to a measure that would change a number of business administrative fees collected by the Nebraska secretary of state's office.

LB910, sponsored by Gering Sen. John Stinner, would consolidate cash funds administered by, and restructure fees assessed by, the secretary of state's office. The bill would create the Secretary of State Cash Fund by transferring the balances of the existing Administration Cash Fund, Corporation Cash Fund, Nebraska Collection Agency Fund, Secretary of State Administration Cash Fund and the Uniform Commercial Code Cash Fund.



Sen. John Stinner

Stinner said the bill would shift the business administration functions of the secretary of state's office to more of a user fee model.

"Most of these fees have not been changed for more than 20 years," Stinner said.

LB910 advanced to select file on a 32-0 vote.

BANKING, COMMERCE & INSURANCE

Omnibus banking bill passed

A bill that updates Nebraska banking law passed July 21.

Among other provisions, LB909, introduced by Sen. Matt Williams of Gothenburg, will:



Sen. Matt Williams

- allow minors to establish deposit accounts;
- repeal obsolete language in the Nebraska Banking Act related to report publication;
- allow the director of the state Department of Banking and Finance to examine licensees at his or her discretion;
- allow a financial institution to notify a caretaker or other third-party reasonably associated with a vulnerable adult or senior of suspected financial exploitation and allow a financial institution to place up to a 30-day hold on suspicious transactions. A financial institution's employees, officers and directors would be indemnified from civil, criminal or administrative liability for any transaction delayed based on a good faith belief that the transaction may have been

exploitive;

- grant state-chartered banks, savings associations and credit unions the same rights, powers, privileges and immunities as federally chartered entities doing business in the state as of Jan. 1, 2020; and
- allow certain employees of the state Department of Banking to borrow from a financial institution chartered by the department. The department director, deputy director, counsel, attorney or financial institution examiner still will be prohibited from such borrowing.

LB909 passed 48-0 and takes effect immediately.

Measure to address surprise medical bills approved

Lawmakers passed a bill July 21 meant to reduce “surprise billing” for emergency medical care.

LB997, introduced by Sen. Adam Morfeld of Lincoln, creates the Out-of-Network Emergency Medical Care Act. The bill allows for



Sen. Adam Morfeld

resolution of unexpected medical bills due to an emergency visit to a health care facility or provider that was not in a patient’s health insurance network.

The bill defines an emergency as the sudden onset of a medical condition that would place a person in serious jeopardy if not treated immediately, and limits a patient’s expenses to what would have been charged if the patient had been treated at an in-network facility.

Senators passed LB997 on a 47-0 vote.

BUSINESS & LABOR

State claims bill amended, advanced

Claims against the state would be approved by a bill advanced from general file July 24.

If an individual sues the state of Nebraska, he or she files a claim with the state claims board. Approved claims exceeding \$50,000 must be reviewed by the Legislature.

LB927, as introduced by the Business and Labor Committee, would approve tort and workers’ compensation claims totaling approximately \$592,000 and includes \$66 million in agency write-offs.

Among the agency write-offs is \$63 million from the Nebraska Department of Labor for uncollected unemployment insurance tax dating back to the 1930s for businesses that have gone bankrupt or no longer exist.

Committee chairperson Sen. Matt Hansen of Lincoln said that no write-offs for existing businesses were included in that number.

A committee amendment, adopted 35-0, made minor adjustments to several agency write-offs and added \$965,000 in claims settled after the public hearing on LB927. That amount includes \$850,000 to two women who were attacked in their apartment in 2016 by escaped inmates from the Lincoln Regional Center.

Following the 36-1 adoption of a Hansen amendment to add an additional claim, senators gave the bill first-round approval on a vote of 40-0.

Compensation for amateur athletes approved

Nebraska college and university athletes can earn income under a bill

passed by the Legislature July 21.

LB962, sponsored by Omaha Sen. Megan Hunt, allows college athletes at public and private schools to earn money from their name, image and likeness rights.



Sen. Megan Hunt

The bill prohibits any postsecondary institution or athletic association from penalizing or punishing a student athlete who enters into a commercial contract, as long as it does not directly conflict with a team contract.

Student athletes will be required to report any personal contracts to their postsecondary institution and will be barred from wearing a sponsor’s apparel or otherwise advertising for the sponsor during official team activities.

LB962 also allows student athletes to obtain professional representation to negotiate related contractual or legal matters. An athlete may seek civil damages against their postsecondary institution or athletic association if they believe their right to seek compensation has been violated.

Any compensation earned by a student athlete will be factored into any application for need-based financial aid. Schools also will have until July 1, 2023, to implement a framework for handling student athlete compensation.

LB962 includes a one-year statute of limitation from the cause of action for any student filing a civil complaint against his or her school.

The bill passed on a 37-6 vote.

Omnibus labor bill passed

Lawmakers passed a bill July 21 that makes several changes to existing employment regulations.

LB1016, as introduced by Lincoln

Sen. Matt Hansen, prohibits an employer from retaliating or discriminating against an employee who files a suit or complaint or otherwise participates in an investigation under the Nebraska Wage Payment and Collection Act.



Sen. Matt Hansen

An employee who works for a company that is not subject to the Nebraska Fair Employment Practice Act—and alleges a violation of the Nebraska Wage Payment and Collection Act—can bring a suit against their employer to recover damages resulting from the violation.

Citations issued to employers for violations under LB1016 must be paid before the employer may contract with the state or any political subdivision.

LB1016 includes the provisions of two additional bills.

Peru Sen. Julie Slama introduced LB788, which changes the fee for contractor registration from \$40 to no more than \$40. LB926, introduced by the committee, changes the citation process under the Employee Classification Act to mirror the Nebraska Wage Payment and Collection Act.



Sen. Julie Slama

The bill passed on a 42-4 vote and takes effect immediately.

Collection of educational, workforce data advanced

The state would more closely track educational and workforce outcomes under a bill advanced from general file July 22.

The data collection system created under LB1160, sponsored by Lincoln

Sen. Matt Hansen, would allow the state to track individuals as they progress through the state’s educational system and enter the workforce.

Hansen said the bill would enable lawmakers to make more informed decisions when allocating workforce training resources.

“LB1160 will be the start of what I hope will be a valuable asset to the state of Nebraska,” he said. “It will [provide] for long-term focus on workforce education programs that will allow us to meet the needs of our citizens.”

A Business and Labor Committee amendment, adopted 34-3, removed redundant data collection prescribed in the introduced bill. These changes effectively eliminated any fiscal impact to the state, Hansen said.

Under the amended bill, the state Department of Labor would execute a memorandum of understanding with the data collection system before Dec. 31, 2020, to ensure the exchange of workforce data with all stakeholders.

The bill would establish data collection goals, including:

- providing workforce outcome data to postsecondary educational institutions;
- guiding students to education, training and career pathways that would support occupational success;
- providing comprehensive data reports on students’ workforce results;
- tracking workforce outcomes;
- tracking student outcomes by race, ethnicity, gender and economic status to close educational attainment gaps; and
- identifying long-term return on investment from early education programs.

An annual report of policy recommendations would be provided to

lawmakers before Dec. 1, 2021.

Senators voted 33-4 to advance the bill to select file.



Authorized restraint, removal of students debated

Lawmakers debated a bill on general file July 21 that would authorize teachers to physically prevent a student from harming others.

Under LB147, as introduced last session by North Platte Sen. Mike Groene, teachers and administrators could “use the necessary physical contact or physical restraint” to control a student who becomes physically



Sen. Mike Groene

violent and to protect school property from destructive students.

The bill also would allow a teacher to have a disruptive student removed from the classroom under certain circumstances.

Groene introduced an amendment on general file that would replace the bill. He said the amended proposal is meant to address concerns that teachers, administrators, advocates for students with disabilities and other senators had with the original bill.

Groene said legislation is needed to clarify what administrative and legal protections are available to school employees when they act to stop a student’s harmful behavior in the classroom.

“When LB147 becomes law, teachers, students, parents and administrators will be given [a] much-needed tool to assure that time spent in the classroom is used to maximize educational opportunity with minimal disruptions,” he said.

The amendment would modify the state Student Discipline Act and authorize teachers and other school personnel to “use reasonable physical intervention to safely manage the behavior of a student” to protect the student or another person from physical injury or to secure property in the student’s possession if it poses a threat of physical injury to the student or another person.

It also would require a teacher or other school personnel to notify the parent or guardian of a student if physical intervention is used and prohibit the use of physical intervention to inflict bodily pain as a penalty for disapproved behavior.

Unless prohibited by federal law, Groene’s amendment also would require a school administrator or their designee to remove a student from a class upon the request of a teacher or other school personnel if they have followed school policy in requesting the removal.

Additionally, the amendment would require each school district to have a policy describing a process for removing a student from a class and then returning the student to a class.

Like the original bill, the amendment would protect teachers and other school personnel from professional or administrative discipline for using physical intervention or removing a student from a class as long as those actions were reasonable and in accordance with school policy.

The proposal includes amended provisions of LB998, introduced by Sen. Dave Murman of Glenvil. They would require each school district to offer annual behavioral awareness and intervention training to teachers, administrators, paraprofessionals, school nurses and counselors beginning with



Sen. Dave Murman

the 2021-22 school year.

Murman supported the amendment, saying that schools should be a place where students can focus on learning.

“If children are endangering the safety of themselves, others or the teacher, that is a threat to what schools should be about,” he said, “and the teacher should be able to intervene with a minimal risk to their license to teach.”

Sen. Joni Albrecht of Thurston also supported the amendment. She read a letter of support from the Nebraska State Education Association, the state teacher’s union, which said the proposal would provide a safe and productive learning environment for teachers and students.

Omaha Sen. Justin Wayne opposed the bill and filed a motion to indefinitely postpone it. He objected to a provision in Groene’s amendment that would not require school employees to complete behavioral awareness and intervention training before receiving any protections and defenses found in the Student Discipline Act.

“When governments across the country are looking to figure out ways to reduce qualified immunity, we are going to endorse it and give it to untrained people,” Wayne said.

He also said it is logical to assume, in light of data on the disproportionate use of suspension against black, Latino and other students of color in Nebraska schools, that physical intervention also would be used disproportionately against students of color.

Sen. Patty Pansing Brooks of Lincoln said Groene’s amendment would not offer strong enough protections for students with disabilities. She said a competing amendment would limit the types of physical restraint that could be used against a student, among other protections.

Omaha Sen. Tony Vargas also opposed the amendment. The Leg-

islature should do more to address disruptive student behavior, he said, but the proposal would not address underlying causes of that behavior.

“How does providing some level of immunity to teachers from discipline solve the problem of student behavior in our classrooms?” Vargas said.

After three hours of debate, the Legislature recessed before voting on pending motions, the amendment or the bill. Per a practice implemented by Speaker Jim Scheer, the sponsor of a bill that is facing a potential filibuster must demonstrate sufficient support for a cloture motion before the measure will be scheduled for additional debate.

Allocation of lottery funds for education advanced

Senators gave first-round approval July 21 to a bill that would allocate lottery funds to certain education-related programs for the next five years.

Current law directs a portion of state lottery funds to several education programs. LB920, introduced by North Platte Sen. Mike Groene, would allocate those funds for fiscal year 2021-22 through FY2025-26.

The state Department of Revenue estimates that approximately \$21 million in lottery funds will be directed toward education during each of those years.

An Education Committee amendment, adopted 43-0, would replace the bill with a modified version of the original proposal. Groene said the amendment is the result of an Education Committee interim study, which is required every five years to evaluate the use of education lottery funds.

Under the amendment, the Nebraska Opportunity Grant Fund, which provides financial aid to low-income Nebraska residents enrolled at postsecondary educational institutions, would continue to receive the

largest allocation of funds, 58 percent.

The amendment would allocate 9.5 percent of the education lottery funds each year to a new fund that would pay for training outlined in LB998. That bill, introduced by Glenvil Sen. Dave Murman, would require school districts to provide behavioral awareness and intervention training to teachers and certain other school staff.

In addition to setting the allocations, the amendment would require any department or agency receiving a transfer of lottery funds or administering a fund that receives a transfer to submit a report each year to the state Auditor of Public Accounts with information on how the money is used. It would require the auditor to compile annual summaries of those reports and submit them to the Legislature.

The committee amendment also includes amended provisions of LB568, introduced by Lincoln Sen. Adam Morfeld, and LB1168, introduced by Omaha Sen. Rick Kolowski.

Morfeld's proposal would require the state Department of Education to establish a mental health training grant program for school districts and educational service units. The amendment would direct 1.5 percent of the lottery education funds to a cash fund used to pay for the grants.

Kolowski's proposal would direct 7 percent of education lottery funds—approximately \$1.4 million the first year, according to the state Department of Education—to new career-readiness and dual-credit education initiatives.



Sen. Adam Morfeld



Sen. Rick Kolowski

The amendment would allocate the first \$282,500 of those funds to a cash fund used to pay the annual fee for an online education and career planning tool.

It would allocate 45 percent of the remaining funds to a new grant program that would be administered by the Coordinating Council for Postsecondary Education. Under the program, the commission would distribute money to teachers enrolled in courses leading to qualification to teach dual-credit courses and career and technical education courses.

The amendment would allocate 15 percent of the remaining funds to another new program that would be administered by the department. Beginning with school year 2021-22, the department would reimburse school districts for the amount they pay to reduce the fees charged to low-income students by certain college credit testing programs.

Finally, the amendment would direct 40 percent of the remaining funds to the existing Access College Early Scholarship Cash Fund. The ACE program, also administered by the commission, provides financial aid to low-income high school students who enroll in college courses through dual enrollment or early enrollment at Nebraska colleges or universities.

Kolowski supported the amendment, saying the commission estimates that it turns down approximately 500 ACE applicants per year due to a lack of funds.

"Hopefully, our additional dollars will come close to fully funding the scholarship program," he said.

After adopting a technical amendment on a vote of 41-0, senators advanced LB920 to select file on a vote of 43-0.

Injury leave for school employees amended, advanced

Lawmakers gave second-round approval July 20 to a bill under which school employees would receive injury leave if they are injured by another person while at work.

Lincoln Sen. Mike Hilgers, sponsor of LB1186, has said teachers who cannot work after being assaulted while on the job currently may receive workers' compensation benefits



Sen. Mike Hilgers

after seven days. If they are absent for seven or fewer days, however, they must use personal or sick leave, he said.

Under LB1186, a school district employee who is physically injured by another person who "intentionally, knowingly or recklessly causes bodily injury" to that employee would receive injury leave and be paid their usual salary for the time they are absent and unable to work as a result of the injury.

The employee's injury must have occurred within their scope of employment in a way that would be covered by the Nebraska Workers' Compensation Act.

Under an amendment Hilgers introduced on select file, an employee would receive no additional compensation under the act for any day that they already have been paid injury leave.

Hilgers said the amendment also would clarify that an employee would receive no more than seven calendar days of injury leave. After that, LB1186 would require the employee to use workers' compensation benefits.

Under the bill's provisions, injury leave would not count against any other leave an employee accrues. In determining the applicability of injury leave, a school district could require

confirmation from a physician regarding the causation and the period of time for which an employee is unable to work.

The Hilgers amendment would allow a district to withhold injury leave until the employee provides confirmation.

Senators voted 45-0 to adopt the amendment and advanced LB1186 to final reading by voice vote.

EXECUTIVE BOARD

Extreme weather response plan stalls

A bill that would require Nebraska to develop a plan to respond to extreme weather risks stalled during the first round of debate July 23.

LB283, introduced last year by Lincoln Sen. Patty Pansing Brooks, would have required the University of Nebraska to develop a strategic action plan to provide methods for adapting to and mitigating the impacts of climate change.



Sen. Patty Pansing Brooks

A pending Executive Board amendment would shift the focus to extreme weather risks and change the \$250,000 funding source from the Waste Reduction and Recycling Incentive Fund to the Petroleum Release Remedial Action Collection Fund.

Pansing Brooks said the proposal would be the final step in a bi-partisan legislative effort begun in 2016, when a special committee recommended development of a climate action plan.

“Pests, droughts, flood, high winds and other extreme weather events present serious, diverse and ongoing

issues for Nebraska,” she said, impacting every sector of the economy from agriculture to health care.

A decision was made to narrow the focus of the plan, she said, in part due to recent historic flooding.

“We have had two 500-year floods within the past 10 years,” Pansing Brooks said.

Omaha Sen. John McCollister supported the bill, calling climate change “a life and death threat,” and the most pressing issue facing the state and the country.

“The frequency of extreme weather will increase if climate change forecasts are correct,” he said. “[This amendment] welcomes all efforts to reduce those risks.”

Gretna Sen. Andrew LaGrone opposed the amendment’s funding mechanism. He said the Petroleum Release Remedial Action Collection Fund is used to address leaking oil tanks in the state and should be preserved for that purpose.

“It doesn’t make any sense to take money from a fund that’s cleaning up real environmental damage to study environmental damage,” LaGrone said.

Other opposition focused on the veracity of climate science.

Sen. Dan Hughes of Venango opposed the bill and the amendment. He said several entities in Nebraska already are charged with preparing for extreme weather and another plan is not necessary to deal with what is essentially an “active weather pattern.”

“I’m not a believer in climate change,” Hughes said. “As an ag producer, I’ve lived and breathed by the weather for over 60 years.”

Sen. Steve Erdman of Bayard offered a motion to bracket the bill until Aug. 13, which would effectively end debate on the proposal. He said that policies requiring Americans to end the use of fossil fuels would “end life

as we know it.”

“This climate change catastrophic theory is a hoax,” Erdman said.

Columbus Sen. Mike Moser supported the bracket motion, calling LB283 a “feel good” proposal. Climate change is a long-term trend, he said, that has been studied extensively but not addressed because both legislators and citizens lack the political will to do so.

“I think it’s a waste of time,” Moser said.

Sen. Megan Hunt of Omaha spoke against the bracket motion and in support of LB283 and the amendment. A state in which 40 percent of economic output relies on agriculture should care about climate security, she said, adding that students in her urban district are deeply concerned about the subject.

“We have a failure of imagination in [the Legislature] to solve big problems,” Hunt said.

After three hours of debate, lawmakers moved to the next item on the agenda without voting on the bracket motion, the amendment or the bill. Per a practice implemented by Speaker Jim Scheer, the sponsor of a bill that is facing a potential filibuster must demonstrate sufficient support for a cloture motion before the measure will be scheduled for additional debate.

GENERAL AFFAIRS

Bill to reduce special designated licenses amended, advanced

Certain alcohol vendors would be able to expand their operations temporarily under a bill that advanced from general file July 22.

LB1056, introduced by Kearney Sen. John Lowe, would allow

farm wineries, craft breweries, micro-distilleries, bottle clubs or entities with a retail liquor license temporarily to expand their licensed premise to a street, parking lot or alley that is immediately adjacent to their licensed location upon approval by the appropriate local governing body.



Sen. John Lowe

A temporary area would be enclosed by a fence or other means, have easily identifiable entrances and exits and meet all sanitation requirements for a premise with a liquor license.

The bill would limit expansion to 15 days a year and local governing bodies could establish additional criteria.

Under current law, an establishment must obtain a special designated license from the state Liquor Control Commission for each event, which, Lowe said, costs time and money.

A General Affairs Committee amendment, adopted 40-0, would have added provisions of two additional bills: LB943, introduced by Omaha Sen. Megan Hunt, which would authorize the Nebraska Arts Council to recommend a plan to divide the state into creative districts; and LB980, introduced by Plymouth Sen. Tom Brandt, which would extend a special permit to conduct a lottery or raffle under the Nebraska Lottery and Raffle Act from three months to one year. It also would allow raffle tickets to be sold online and to be purchased with a debit card.



Sen. Megan Hunt



Sen. Tom Brandt

Brandt said the amendment would help nonprofits struggling to raise money during the Covid-19 pandemic.

“This bill gets us into the 21st century by allowing payment with a debit card,” Brandt said.

Sen. Tom Briese of Albion offered an amendment that removed the provisions of Hunt’s LB943, which were amended into another bill earlier this session

Lawmakers adopted the Briese amendment 37-0 and advanced LB1056 to select file on a 39-0 vote.

Bill to raise smoking age advanced

A bill to raise Nebraska’s smoking age advanced from general file July 21.

LB1064, introduced by Sen. Tom Briese of Albion, would raise 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

Briese said change is necessary because the federal smoking age was raised to 21 in December 2019, shortly before Nebraska’s age changed to 19. The situation caused confusion among consumers and retailers, he said.

“This has led to a patchwork of legal age limits across Nebraska,” Briese said. “[LB1064] levels the playing field among our retailers.”

He added that not raising the age could result in Nebraska losing a variety of federal funding.

Briese introduced an amendment, adopted 41-0, that would make the bill effective Oct. 1.

Following adoption of the amendment, lawmakers advanced LB1064 to select file on a 42-0 vote.

HEALTH & HUMAN SERVICES

Omnibus health licensure bill clears second round

A Health and Human Services omnibus bill was amended and advanced from select file July 20.

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



Sen. Carol Blood

Blood introduced an amendment during select file debate based on her LB752. The amendment, adopted 42-0, would require that the state Department of Health and Human Services and the Nebraska Department of Veterans Affairs encourage their service providers and state and local agencies to ask applicants if they or their family members have served in the military.

This would enable veterans to access services that they otherwise may not be aware are available, Blood said.

“By asking this question, the state can also connect this demographic to federal services,” she said.

As previously amended, LB755 also includes provisions of the following bills:

- LB37, introduced by Sen. Robert Hilkemann of Omaha, which would amend the Podiatry



Sen. Robert Hilkemann

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;

- LB772, introduced by Sen.

Matt Williams of Gothenburg, which would 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 would amend the Parkinson's Disease Registry Act and require that a patient's date of birth rather than Social Security number be included in a pharmacist's semi-annual report to the state Department of Health and Human Services;

- LB825, also introduced by Hilkemann, which would 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 would allow architecture candidates to begin taking their profes-



Sen. John McCollister

sional licensure exam as they are completing 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.



Sen. John Arch

Following adoption of the Blood amendment, LB755 advanced to final reading by voice vote.

Following adoption of the Blood amendment, LB755 advanced to final reading by voice vote.

Managed care changes advanced

A bill that would change provider notification procedures for state-contracted managed care companies that deliver Medicaid services advanced from general file July 22.

LB956, introduced by Fremont Sen. Lynne Walz, would require notice of material changes to an agreement between health care providers and a managed care organization. Under the bill, providers would receive:

- 90-day notice of any material change;
- a proposed effective date of the change;
- a description of the change;
- notice that the provider can accept or reject the change;
- contact information for the managed care organization;
- the opportunity to meet with the managed care organization; and
- a copy of the entire agreement after three material changes in 12 months.



Sen. Lynne Walz

LB956 defines a material change as one that decreases a provider's payment or compensation, or changes the administrative procedures in a way that may reasonably be expected to significantly increase the provider's administrative expense, including altering an existing prior authorization, precertification, notification or referral program or specific edits.

Walz said providers in Nebraska have suddenly, and without warning, stopped being paid for services, which can lead to care delays for patients.

"The current notification process is not nearly substantial enough," Walz said. "This has caused a number of issues."

A Health and Human Services Committee amendment, adopted 42-0, added provisions of Walz' LB955 and LB1105, introduced by Blair Sen.



Sen. Ben Hansen

Ben Hansen. The provisions would require the state Department of Health and Human Services to notify Medicaid recipients when eligibility is discontinued or modified and clarify the intent of Medicaid program integrity audits.

Lawmakers advanced the amended bill to select file on a 45-0 vote.

Prescription drug access measure advanced

Medicaid recipients could not be denied certain prescription medication coverage under a bill advanced from general file July 22.

LB1052, introduced by Lincoln Sen. Anna Wishart, would prohibit the state



Sen. Anna Wishart

Department of Health and Human Services, a managed care organization or a contracted pharmacy benefit manager from denying coverage of antidepressant, antipsychotic or anti-convulsant medication if the patient's health care provider deemed the drug medically necessary.

Wishart said she introduced LB1052 after learning about a mentally ill man named Curtis. He overcame suicidal ideation in 2006 and was stable and independent for 11 years, she said, benefitting from a drug that was later removed from the preferred drug list. Unable to afford the medication, Curtis became delusional, attempted suicide, was hospitalized five times and moved into an assisted living facility where he remains, Wishart said.

"While he's back on the original drug his managed care organization denied him originally, Curtis may never go back to the level of independence he had for 10 years," Wishart said. "This has to change."

A Health and Human Services Committee amendment added provisions from two bills—LB847 and LB887—originally introduced by Sen. John Arch of LaVista. The amendment would change pharmacy provisions at long-term care facilities, allow a pharmacist, in certain circumstances, to adapt a prescription for a patient at the request of the patient and allow a pharmacist to package medications for a patient that have been dispensed from a different pharmacy.

Arch said the changes would allow for only minor modifications to prescriptions.

"Pharmacists are not changing prescriptions or writing prescriptions," he said.



Sen. John Arch

Lincoln Sen. Suzanne Geist supported the bill, saying it can be extremely difficult to find a medication that stabilizes someone with mental illness. Subsequent changes in medication or dosage can cause upheaval in an individual's life, she said.

Sen. Steve Lathrop of Omaha also supported the bill. Any cost savings associated with switching a prescribed drug are miniscule compared to the damage the change could cause to a patient, he said.

"When you lock in on what works for an individual, you don't want to change it," Lathrop said.

Lawmakers adopted the committee amendment 41-0 and advanced LB1052 to select file 42-0.

Child protection bill passed

A bill that extends and revamps the state's alternative response procedures in child welfare cases passed July 21.

Alternative response is a practice that handles low-risk child welfare cases by empowering families to build on their strengths, rather than criminally investigating them or placing them on the Child Abuse and Neglect Registry. Nebraska's alternative response pilot program has been in place since 2014.

Among other provisions, LB1061, introduced by Sen. Sue Crawford of Bellevue, eliminates the pilot program's sunset date, removes abandonment of a child for six months or more immediately prior to a report



Sen. Sue Crawford

from the list of cases excluded from eligibility for alternative response, provides clearer definitions of response pathways for reports of child abuse and neglect and establishes an advisory group under the Nebraska

Children's Commission to examine the state Department of Health and Human Service's use of alternative response.

The bill also narrows the types of cases eligible for alternative response. Cases instead will be forwarded directly to the county attorney if they involve:

- a history of termination of parental rights;
- domestic violence involving a caretaker in situations where the alleged perpetrator has access to the child or caretaker;
- someone living in a home where a child lives who is illegally manufacturing methamphetamine or opioids;
- a child has contact with methamphetamine or other nonprescribed opioids;
- a household member who tests positive for methamphetamine or nonprescribed opioids at the birth of an infant who is the subject of the report; or
- absence of a caretaker without having given an alternate caregiver authority to make decisions and grant consents for necessary care, treatment and education of a child and without the caregiver having made a provision to be contacted to make such decisions or grant such consents.

LB1061 passed 46-0 and takes effect immediately.

Opioid addiction treatment, prevention fund advanced

A bill to fund treatment and prevention of opioid addiction advanced from general file July 22.

LB1124, introduced by Omaha Sen. Sara Howard, would create the Nebraska Opioid Recovery Fund as the repository of any money that the

state may receive from a federal Department of Justice lawsuit against opioid manufacturers accused of deceptive advertising.



Sen. Sara Howard

The bill also would require the Nebraska Department of Health and Human Services to report annually to the Legislature, governor and attorney general regarding how funds were distributed and the outcomes achieved.

Howard said the fund should be established now even though money from a settlement has not been received.

“Receiving this money will go a long way in combating the opioid epidemic,” she said.

Howard introduced a technical amendment, adopted 43-0, that would clarify how the fund would be managed and expenditures made.

Lawmakers advanced LB1124 to select file on a 46-0 vote.

Amended youth center reforms advance

A bill to codify guidelines for youth rehabilitation and treatment centers in Nebraska was amended and advanced to final reading July 20.

LB1140, introduced by the Health and Human Services Committee, would outline a series of requirements for the state’s YRTCs, including providing:

- health care and medical services;
- a safe and sanitary space for sleeping, hygiene, education, programming, treatment, recreation and visitation for each juvenile;
- appropriate physical separation and segregation of juveniles based on gender;
- training that is specific to the population being served;
- sufficient staffing to comply

with state and federal law and protect the safety and security of each juvenile;

- an age-appropriate and developmentally appropriate education program for each juvenile;
- a case management and coordination process, designed to assure appropriate reintegration of the juvenile to his or her family, school and community; and
- research-based or evidence-based programming and treatment services.

Sen. Sara Howard, chairperson of the Health and Human Services Committee, introduced an amendment during select file debate that would prevent the state Department of Health and Human Services from establishing a new YRTC or moving a current one until March 30, 2021.

Howard said the amendment was in response to DHHS’ recent announcement that girls temporarily housed at YRTC-Kearney would move to a new building at the Hastings Regional Center campus, which was built to house a youth drug treatment program. Prior to the announcement, she said, DHHS had planned to return the girls to a renovated facility in Geneva in October.

Howard called the department’s decision “hasty,” and said the building in Hastings cannot safely accommodate girls currently in the YRTC system because it was constructed for a different purpose.

“This amendment merely solidifies the original intentions of the bill,” Howard said. “True planning is needed before programming is disrupted.”

Sen. Steve Halloran of Hastings supported the amendment, saying the Legislature should halt the proposed move so that the city of Hastings can be involved in developing a plan.

“There was no planning,” Halloran said. “There certainly wasn’t

collaboration.”

North Platte Sen. Mike Groene cautioned against a desire to “micromanage” DHHS, saying senators should defer to the department’s expertise.

Lawmakers adopted the Howard amendment 32-3. A technical amendment was adopted 38-0 and LB1140 advanced from select file on a voice vote.

JUDICIARY



Bill to ban abortion procedure pulled from committee

A bill that would ban a specific abortion method in Nebraska was advanced to general file July 21 after a successful procedural motion.

LB814, introduced by Lincoln Sen. Suzanne Geist, would ban “dismemberment”

abortions except in emergency situations. 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.

Geist filed a motion to place the bill on general file, even though the Judiciary Committee has not voted to advance it.

The committee was at an impasse, Geist said, with not enough votes to advance or indefinitely postpone the bill. She said her motion follows the rules of the Legislature as prescribed.

“I believe the citizens of Nebraska deserve to hear the details of my bill and the majority of its citizens will agree with its premise,” Geist said.

Peru Sen. Julie Slama supported the



Sen. Suzanne Geist

motion to pull LB814 from committee. Preventing dismemberment abortion is a rare case in which it is appropriate to circumvent legislative tradition, she said.

Glenvil Sen. Dave Murman agreed, saying it is important for the Legislature to discuss the sanctity of human life.

“I do respect the committee process, but some discussions don’t require specialized committee insight,” he said. “This is one of those issues.”

Opposing the procedural motion was Omaha Sen. Megan Hunt. It is “irresponsible” to attempt to limit women’s access to health care in the midst of a global pandemic, she said. Instead, senators should focus on helping people recover from the physical and financial effects of the coronavirus, she said.

“Since we adjourned [in March], over 22,000 Nebraskans have contracted COVID and more than 300 have died,” Hunt said. “My inbox is full of people asking for financial relief ... not asking me to restrict health care.”

Senators voted 30-8 to adopt the motion to advance LB814 to the first round of debate.

Omnibus judiciary bill clears second round

Lawmakers amended and advanced a bill from select file July 20 that would make several changes to judicial procedure.

LB881, sponsored by Lincoln Sen. Matt Hansen, would eliminate the court’s authority to deduct fines automatically from otherwise encumbered portions of an offender’s bond. A Judiciary Committee amendment adopted on general file incorporated provisions of several additional measures.



Sen. Matt Hansen

Omaha Sen. Steve Lathrop intro-

duced an amendment during select file debate that would add provisions of four more bills heard by the committee:

- LB766, sponsored by Omaha Sen. Brett Lindstrom, which would prohibit sexual assault of a minor by an authority figure, change statute of limitations for failure to make a report of child abuse or neglect and change provisions relating to sexual offenses;



Sen. Brett Lindstrom

- LB991, sponsored by Hastings Sen. Steve Halloran, which would create the offense of sexual assault of a student and prohibit related enticement conduct by school officials;



Sen. Steve Halloran

- LB1048, sponsored by Grand Island Sen. Dan Quick, which would create the offense of sexual assault by a school employee and provide notification to the Commissioner of Education; and



Sen. Dan Quick

- LB1210, sponsored by Omaha Sen. Tony Vargas, which would create the offense of sexual exploitation of a student.



Sen. Tony Vargas

Under the amendment, a person

would commit the offense of sexual abuse by a school employee if that employee subjects a student to sexual penetration or contact or engages in a pattern or scheme to subject a student to such conduct, commonly referred to as “grooming.”

Sexual penetration of a student by a school employee would be a Class IIA felony, punishable by up to 20 years in prison. Under the amended bill, a student’s consent to sexual activity would not be considered a valid defense.

Sexual contact with a student would be a Class IIIA felony, subject to a penalty of up to three years imprisonment with 18 months post-release supervision, a \$10,000 fine or both. A person found to have committed grooming behavior would be guilty of a Class IV felony, punishable by a maximum of two years in prison with 12 months post-release supervision, a \$10,000 fine or both.

A school employee found guilty of sexual abuse of a student would be required to register as a sex offender.

Any report of alleged sexual abuse by a school employee would be forwarded to the state commissioner of education, including the status of an active law enforcement investigation into the allegations.

Additionally, the amendment would extend the statute of limitations for failure to report child abuse or neglect to 18 months after the commission of the crime or the date upon which the child reaches the age of majority, whichever is later.

The Lathrop amendment was adopted 46-0.

As amended on general file, LB881 includes provisions of:

- LB213, sponsored by Omaha Sen. John McCollister, which would allow a person sen-



Sen. John McCollister

tenced to community service to apply to have their conviction set aside;

- LB282, sponsored by Hansen, which would require the court to appoint counsel when setting bond for an indigent defendant;

- LB776, sponsored by Bennington Sen. Wendy DeBoer, which would allow evidence



Sen. Wendy DeBoer

from an expert witness regarding eyewitness testimony to be admitted under the Nebraska Evidence Rules;

- LB777, also sponsored by DeBoer, which would replace references to infractions, misdemeanors and felonies and use the term “offense;”

- LB945, sponsored by Omaha Sen.

Machaela Cavanaugh, which would require cities of



Sen. Machaela Cavanaugh

more than 100,000 people to prepare an annual report of untested sexual assault evidence collection kits;

- LB1007, also sponsored by Hansen, which would reduce the time between court reviews of a person’s competency to stand trial to every 60 days;

- LB1041, sponsored by Lincoln Sen. Patty Pansing



Sen. Patty Pansing Brooks

Brooks, which would clarify the process for making a grand jury transcript publicly available when convened to investigate the death of a person in custody or detention;

- LB1180, sponsored by Omaha

Sen. Justin Wayne, which would increase to six the number of alternate jurors a court can impanel; and



Sen. Justin Wayne

- LB1181, also sponsored by Wayne, which would provide that a person cannot be held in custody while awaiting trial on an offense for a period of time longer than the maximum sentence for that offense.

Following adoption of a technical amendment, senators advanced LB881 to final reading by voice vote.

NATURAL RESOURCES

Natural resources omnibus bill advances

Senators gave first-round approval July 22 to a bill containing provisions of several proposals related to natural resources.

As introduced by Venango Sen. Dan Hughes, LB632 would make a technical change to a law related to rural water districts. A Natural Resources Committee amendment would have replaced the bill with



Sen. Dan Hughes

the provisions of four other measures that the committee heard this session.

Omaha Sen. Megan Hunt made a motion to divide the question and consider the amended provisions of LB861, introduced by Hughes, as a separate amendment. The motion carried.

The Hughes proposal would 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 would 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.”

Hughes said the proposal would provide for uniform regulation of containers statewide, allowing businesses to streamline their operations by not having to comply with varying and conflicting regulations.

Hunt said she opposed the provisions of LB861 because they would preempt local control. No Nebraska municipality has enacted a ban on single-use plastic bags except Omaha, she said, where the mayor vetoed it.

“That’s exactly how we want the system to function,” Hunt said. “Let the local process work how it works.”

When cities in other states have enacted regulations on containers, she

said, retailers have adapted.

Lawmakers voted 28-10 to adopt the amendment containing the provisions of Hughes's bill. They then voted 41-0 to adopt the amendment containing the provisions of the other three bills.

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



Sen. Tim Gragert

Under LB1201, as introduced by Sen. Bruce Bostelman of Brainard, a new task force would create a statewide flood mitigation plan.



Sen. Bruce Bostelman

The amended provisions would require the state Department of Natural Resources to create the plan as a standalone document that would be included in the state hazard mitigation plan maintained by the Nebraska Emergency Management Agency.

The proposal would require 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 would 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.

The amended provisions of LB933, introduced by Sen. Sue Crawford of Bellevue, would prohibit a public or pri-

vate 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 would make several changes to current law prohibiting most public and private utilities from discontinuing service to subscribers for nonpayment unless it first notifies them.

Crawford said the coronavirus pandemic makes the proposed changes more timely than ever.

At the end of June, she said, Lincoln Electric System reported that the number of past-due accounts is 350 percent higher than normal for this time of year, and the Metropolitan Utilities District in Omaha reported twice as many customers were at risk of disconnection as of July 1 as were at the end of March.

"With many Nebraskans out of work, utility bills are a challenge for many that are struggling to keep up with the loss of income and juggle other bills and obligations," Crawford said.

Senators voted 39-0 to advance LB632 to select file.

Free park entry permit for disabled veterans approved

Certain disabled veterans may apply for a free lifetime state park entry permit under a bill passed by lawmakers July 21.

LB770, introduced by Creighton Sen. Tim Gragert, requires the state Game and Parks Commission to issue resident motor vehicle park entry permits to qualified disabled veterans in addition to the current annual and temporary permits.

To qualify, a veteran must be a Ne-

braska resident who has been honorably discharged and either rated by the U.S. Department of Veterans Affairs as 50 percent or more disabled as a result of service in the U.S. military or be receiving a pension from the department as a result of total and permanent disability not connected to military service.

The permits are free, perpetual and become void only if a veteran no longer meets the eligibility criteria.

LB770 also increases the maximum fee for a nonresident motor vehicle annual park entry permit from \$55 to \$65 and increases the maximum fee for a temporary nonresident motor vehicle park entry permit from \$10 to \$12.

Senators voted 48-0 to pass the bill.

NEBRASKA RETIREMENT SYSTEMS

Retirement plans updated

A bill that brings Nebraska's state-administered retirement plans into compliance with recent federal changes passed July 21.

LB1054, introduced by Seward Sen. Mark Kolterman, updates plans within the Nebraska Public Employees Retirement Systems to comply with new provisions under the SECURE Act passed by Congress and signed into law in late 2019.



Sen. Mark Kolterman

The bill passed on a 48-0 vote and takes effect immediately.

REVENUE



Updated business tax incentive proposal stalls

Lawmakers continued second-round debate July 22 on a proposal to replace the state's current business tax incentive program, the application period for which is set to end this year.

LB720, as introduced last session by Seward Sen. Mark Kolterman, would create the ImagiNE Nebraska Act.

Kolterman introduced an amendment on select file that would replace the bill. He said the proposal includes additions and changes to the original proposal made at the request of several senators.

Kolterman said encouraging job growth and capital investment is key to generating revenue to fund the state's other priorities, including property tax relief, K-12 education, infrastructure and healthcare.

Businesses seeking to expand will not consider Nebraska if it does not have a business tax incentives program, he said.

"We can find the money for all of our priorities, including property tax relief," Kolterman said, "but we have to put politics aside and send a strong message to companies that Nebraska is open for business."

Under the proposal, 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 would require qualifying taxpayers to offer employees the opportunity to enroll in minimum

essential health coverage under an eligible employer-sponsored plan.

Taxpayers seeking incentives would apply to the director of the state Department of Economic Development. The director would approve applications and enter into agreements with taxpayers to provide incentives once they have attained the required employment and investment levels.

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

The amendment also includes provisions meant to cap the amount of incentives that could be offered each year. The director could not approve applications that would include refunds or credits for a calendar year in which a "base authority" is projected to be exceeded unless the governor approves a request for additional authority.

Under the amendment, the base authority would be \$100 million for calendar years 2021 and 2022. It would increase to \$125 million for 2023 and 2024 and \$150 million for 2025 or 2026. After that, the director would adjust the base authority to equal 3 percent of general fund net receipts for the most recent fiscal year.

An earlier amendment would have allowed the Legislature's Executive Board to approve a request to exceed the base authority. An attorney general's opinion said that approach would encroach on executive power and would be an unlawful delegation of the full Legislature's authority.

The new proposal also includes a provision meant to encourage "key employers," or those with at least 1,000 equivalent employees, to retain jobs in Nebraska when new owners of those

companies are considering moving all or some of those jobs out of the state.

Finally, the amendment includes amended provisions of Kolterman's LB1084, which would require the state to provide \$300 million in matching funds for a potential \$1.6 billion academic hospital and all-hazards disaster response facility at the University of Nebraska Medical Center.

Kolterman said the project could result in more than 40,000 construction jobs over 10 years and 8,700 new high-paying jobs when completed.

Sen. Matt Williams of Gothenburg supported the proposal, saying that the state's current business tax incentive programs have benefited his community by creating new jobs and encouraging companies to invest there. Nebraska cannot grow its economy without a strong business tax incentives program, he said.

"[The Nebraska Advantage Act] sunsets at the end of this year," he said, "and if we hang out the 'we are not open for business' sign, that will hurt us immensely."

Sen. Steve Erdman of Bayard opposed the bill and filed a motion to bracket it, which effectively would end debate on it this session. He said the state's business tax incentive programs forgo more state revenue than they generate through economic development.

Albion Sen. Tom Briese said he would not vote for a business tax incentive program unless it is part of a larger package that includes property tax relief. Additionally, he said the Legislature cannot be certain whether business tax incentives actually incentivize businesses to locate and expand in Nebraska.

"Are we throwing taxpayer money away by rewarding conduct that would have occurred anyway?" Briese said.

After 90 minutes of select file de-

bate, the Legislature moved to the next item on the agenda without voting on Erdman’s motion, the amendment or the bill. Per a practice implemented by Speaker Jim Scheer, the sponsor of a bill that is facing a potential filibuster must demonstrate sufficient support for a cloture motion before the measure will be scheduled for additional debate.

TRANSPORTATION & TELECOMMUNICATIONS

Data collection program to improve broadband availability approved

Lawmakers passed a bill July 21 that will help Nebraska obtain federal funding for increased broadband availability.

LB996, sponsored by Plymouth Sen. Tom Brandt, allows Nebraska to create a state-wide crowdsourcing program to collect broadband availability data to supplement federal data that already is collected.



Sen. Tom Brandt

The bill prioritizes resources and outreach in areas of the state that crowdsourcing, public feedback and other evidence suggests are unserved or underserved by high-speed internet.

The bill passed 47-0 and takes effect immediately.

URBAN AFFAIRS

Revived land bank bill advances

A bill that would expand the use of land banks advanced from general

file July 21.

LB424, introduced by Grand Island Sen. Dan Quick, was debated last year but did not advance from general file after a failed cloture motion. It again stalled Feb. 25 when lawmakers moved on without a vote after three hours of debate.



Sen. Dan Quick

The bill would allow 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.

Currently, only municipalities in Douglas and Sarpy counties are eligible under state law to create land banks. As introduced, the bill would allow only metropolitan class cities to create a stand-alone land bank. Omaha is the state’s only metropolitan class city.

During a previous round of debate, senators adopted an amendment that would create a system to remove land bank board members for neglect of duty or misconduct.

Quick said blighted properties are costly and time consuming for municipalities to address.

“Cities across the state have been asking for the ability to create and join land banks for several years,” Quick said.

Gering Sen. John Stinner supported LB424. He said expanding land bank authority to smaller communities would provide a means to improve dilapidated properties that negatively affect the value of nearby properties.

“This is a solution to a growing problem,” Stinner said.

Also speaking in support of the bill was Sen. Carol Blood of Bellevue. She

said LB424 would lower municipal expenses by reducing the need to respond to trespassers or put out fires in abandoned buildings. A land bank could address properties in which developers will not invest, she said.

“These properties have serious financial or legal barriers,” Blood said. “There’s back taxes; there’s clouded titles.”

Lincoln Sen. Mike Hilgers opposed the bill. He said LB424 was too broadly written and that land banks would not be accountable to either the state or the municipalities where they would be located.

“If we give the authority to people to manage other people’s money, there will be problems,” Hilgers said.

Sen. Steve Erdman of Bayard also spoke in opposition, saying the government shouldn’t be involved in selling real estate.

“These land banks are trying to circumvent what private investors should be doing,” he said. “If it doesn’t work for the private sector, it won’t work for the government to do it.”

Omaha Sen. John McCollister said that Omaha’s land bank has worked well, without fraud or conflicts of interest, since it was created in 2014.

Quick offered an amendment to address opponents’ concerns, which was adopted 37-0. The amendment would prohibit a land bank from issuing bonds, prevent a land bank from investing in a property that could financially benefit a board member, their businesses or their immediate family members, prevent a land bank from receiving property tax revenue from an agreement under the Joint Public Agency Act and allow an entity that creates or joins a land bank to withdraw from the agreement by a two-thirds vote.

An Urban Affairs Committee amendment, adopted 30-0, would

allow a primary class city to create a stand-alone land bank. Lincoln is the state's lone primary class city.

Following adoption of the amendments, LB424 advanced to select file 26-11. Twenty-five votes were needed.

Municipal borrowing options expanded

Senators passed a bill July 21 that

allows cities and villages to borrow money after a calamity.

LB870, introduced by Bellevue Sen. Sue Crawford, allows cities and villages to borrow directly from a financial institution to repair or



Sen. Sue Crawford

rebuild property or restore public

services damaged or disrupted by a natural disaster.

The bill limits direct borrowing to 20 percent of the annual budget of a second class city or village or 10 percent for a first, primary or metropolitan class city.

LB870 was approved on a 48-0 vote and takes effect immediately. ■

2020 Reconvened Legislative Session*

Sun	Mon	Tues	Wed	Thur	Fri	Sat
July						
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20 DAY 44	21 DAY 45	22 DAY 46	23 DAY 47	24 DAY 48	25
26	27 DAY 49	28 DAY 50	29 DAY 51	30 DAY 52	31 DAY 53	

Sun	Mon	Tues	Wed	Thur	Fri	Sat
August						
						1
2	3 DAY 54	4 DAY 55	5 DAY 56	6 DAY 57	7 RECESS	8
9	10 RECESS	11 DAY 58	12 DAY 59	13 DAY 60	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Legislative Recess Days
August 7, 10

*The legislative session was previously suspended March 25 due to safety concerns regarding the coronavirus pandemic. The Speaker reserves the right to further revise the session calendar.

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Gov. Pete Ricketts was invited to the George W. Norris Chamber July 24 to give senators a brief update on the state's pandemic response.