

UNICAMERAL UPDATE

News published daily at Update.Legislature.ne.gov

Vol. 43, Issue 13 / July 27 - 31, 2020

Budget adjustments amended, approved



From left: Sens. John Stinner, Jim Scheer, Matt Williams and Kate Bolz discuss proposed changes to the state budget during select file debate.

Lawmakers gave final approval July 31 to three bills comprising the Legislature's mid-biennium budget adjustment package.

LB1008, introduced by Speaker Jim Scheer of Norfolk at the request of Gov. Pete Ricketts, is the mainline budget bill. The bill adjusts appropriations for state operations, aid and construction programs in the current and next fiscal year.

Gering Sen. John Stinner, chairperson of the Appropriations Committee, said the committee's changes, adopted during the first round of debate, restore the state's cash reserve, control state spending growth and attain a structural balance between revenue and spending.

As amended on general file, LB1008 includes \$55.2 million to address damage from the 2019 floods. It also incorporates the provisions of 19 additional bills, with a total cost of \$15.2 million. The measures include:

- LB773, sponsored by Gothen-

burg Sen. Matt Williams, which transfers \$10 million in general funds to the Rural Workforce Housing Investment Fund;

- LB 8 2 7 , sponsored by Omaha Sen. Robert Hilkemann, which provides a \$3.7 million increase in developmental disability provider rates;

- LB 1 0 1 8 , sponsored by Omaha Sen. Tony Vargas, which appropriates an ad-



Sen. Matt Williams



Sen. Robert Hilkemann



Sen. Tony Vargas

ditional \$1.5 million to aid local public health departments;

- LB1079, sponsored by Lincoln Sen. Anna Wishart, which appropriates \$250,000 in general funds to the Nebraska State Patrol crime lab to support the timely processing of sexual assault forensic evidence; and



Sen. Anna Wishart

- LB1097, sponsored by Omaha Sen. Mike McDonnell, which appropriates \$458,000 over two years to the state Supreme Court to increase staffing for youth problem-solving courts.



Sen. Mike McDonnell

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Budget adjustments amended, approved

(continued from front page)

Stinner offered an amendment during select file debate July 28 that requires any unallocated and unexpended coronavirus relief funds as of Nov. 15, 2020, to be reoffered through a grant process to meet remaining unmet needs, including rental and food assistance, small business and livestock stabilization, broadband, workforce retraining and child care.

“The \$1.25 billion of COVID relief funds [that Nebraska] received in April must be expended by Dec. 31, 2020, or be returned to the federal government,” Stinner said.

In addition—if allowed by federal law—any unallocated or unexpended funds received pursuant to the federal 2020 Coronavirus Aid, Relief and Economic Security (CARES) Act, will be transferred to the Cash Reserve Fund on or before Dec. 26, 2020.

The amendment was adopted 33-0.

Additional amendments considered

During select file debate, Omaha Sen. Machaela Cavanaugh offered an

amendment that would have outlined how the state would appropriate the \$258 million in CARES Act funds not yet allocated by the governor. Cavanaugh said the amendment would direct those funds to services and programs strained during the public health emergency.

“Part of what I’m trying to do is to direct funds directly to individuals who are most in need,” Cavanaugh said, “but also to infuse cash flow into our economy.”

Sen. Sue Crawford of Bellevue supported the amendment. She said the funds could assist individuals in hard-hit service sector jobs who did not qualify for other assistance by bolstering existing programs administered through established nonprofits.

“Most of the money is focused on policies that are already in place,” Crawford said.

Henderson Sen. Curt Friesen cautioned against allocating additional funds at a time when long-range economic forecasts remain “pretty bleak.” The state is facing a potential shortfall in revenue needed to fund the next

biennium budget, he said, and there is no indication of when economic activity will return to normal in light of the pandemic.

“If times are going to be this bad going down the road, if this was my personal budget, I would stop spending money,” Friesen said.

The Cavanaugh amendment failed on a vote of 16-28. Twenty-five votes were needed.

Friesen then offered and later withdrew an amendment that would have eliminated a number of DHHS funding provisions outlined in LB1008, as well as \$10 million for rural workforce housing.

The reductions would come from stripping the provisions of several proposals that were incorporated into the bill on general file, including \$3.7 million to increase developmental disability provider rates and \$1.5 million to local public health departments.

“It’s probably prudent for us not to be spending any dollars,” Friesen said.

Sen. Sara Howard of Omaha, chairperson of the Health and Human Services Committee, expressed

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Clerk of the Legislature: Patrick J. O'Donnell

Editor: Kate Heltzel; Writers: Kyle Harpster, Ami Johnson, Mike Malloy; Photographer: Bess Ghormley

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Sen. Machaela Cavanaugh's amendment attempted to direct CARES Act funds to assist the state's workers and families.



Sen. Curt Friesen urged caution in state spending, saying Nebraska faces an uncertain economic future.

“vehement opposition” to the amendment, which she said would cost Nebraska federal matching dollars and trigger a return of federal funds already dispensed to the state because it would violate rate methodology requirements.

In addition, she said, local public health departments currently are providing coronavirus testing, contact tracing and extensive data gathering in addition to their regular duties.

“It sends a terrible message for us to essentially underfund our public health departments in the middle of a pandemic,” Howard said.

After several hours of debate spanning two days, Scheer offered a motion to invoke cloture, which ceases debate and forces a vote on a bill. The cloture motion was adopted on a vote of 40-7 and senators advanced LB1008 to final reading by voice vote.

Omaha Sen. Justin Wayne offered a motion July 31 on final reading to bracket the bill until Aug. 11, saying senators should wait to see the impact on state finances of any additional guidance or relief that may be passed by Congress prior to their recess.

The motion failed 9-36 and lawmakers passed LB1008 on a vote of 43-2. The bill took effect immediately.

Other components

LB1009, also introduced by Scheer at the request of the governor, authorizes and provides for certain fund transfers outlined in the mainline budget bill.

Stinner offered an amendment during select file debate July 28, adopted 40-0, which transfers \$60 million from the Governor’s Emergency Cash Fund to the state’s Cash Reserve Fund. In March, the Legislature appropriated \$83.6 million to the emergency fund to support the state’s response to the coronavirus pandemic.

Stinner said more than \$60 million of that transfer was not needed because of funds received from the federal government and should be moved to the state’s “rainy day” fund.

After additional debate, lawmakers adopted a cloture motion 43-4 and LB1009 was advanced to final reading by voice vote. The bill passed July 31 on a 46-2 vote.

Also included in the budget package is LB927, which provides for payment of claims against the state. During select file debate July 28, senators adopted an amendment offered by Lincoln Sen. Mike Hilgers to shift a \$50,628 claim for attorney fees incurred by the State Racing Commission.

Hilgers said the racing commission was the subject of an action by the state attorney general’s office and, as a result, could not be represented by the office and had to hire outside counsel.

The amendment directs that the resulting attorney fees be paid from the racing commission’s cash fund rather than the state’s general fund. Hilgers said it could set a bad precedent to use general fund dollars to pay fees through the state claims process that are the responsibility of a state agency.

The Hilgers amendment was adopted 26-18. Twenty-five votes were needed. Lawmakers then advanced LB927 to final reading by voice vote. The bill passed on a 48-0 vote July 31 and took effect immediately.

The governor must sign, veto or line item veto the budget within five calendar days, excluding Sunday. ■

AGRICULTURE

New checkoff program created

Lawmakers approved a bill July 31 creating a checkoff program for Nebraska dry pea and lentil growers.

LB803, introduced by Venango Sen. Dan Hughes, creates the five-member Dry Pea and Lentil Commission.



Sen. Dan Hughes

The commission may 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 may adopt an education and publicity program, make grants and enter into research contracts.

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

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

The commission may adjust the levy after July 1, 2023, but it may not be less than 1 percent or more than 2 percent of net market value.

LB803 passed on a vote of 44-0.

APPROPRIATIONS

Art funding changes, creative district plan approved

Lawmakers gave final approval July 31 to a bill that makes a technical change to the budgeting process of the Nebraska Arts Council and authorizes creative districts.

LB780, introduced by Gering Sen. John Stinner, changes the level of administrative funding available from the Nebraska Arts and Humanities Cash Fund beginning in fiscal year 2021. Current state law caps that amount at \$30,000.

The bill includes provisions of Omaha Sen. Megan Hunt's LB943, which require the Nebraska Arts Council to devise a plan for creative districts throughout the state.

The newly formed districts will be certified by the council and distinguished by geography, artistic or cultural activities or facilities, promotion and preservation of artistic or cultural sites, educational uses of artistic or cultural activities or sites and unique or niche areas, activities, events, facilities or sites.

The bill also allows the council to create a competitive grant program available to a certified cultural district through the Nebraska Arts and Humanities Cash Fund.

LB780 passed on a 47-0 vote.



Sen. John Stinner



Sen. Megan Hunt

Secretary of state fee increase approved

Lawmakers gave final approval July 31 to a measure that changes 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 creates 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.

LB910 passed on a 45-2 vote.

BANKING, COMMERCE & INSURANCE

Dermatology access expanded

Dermatology services conducted through asynchronous review may be covered by a patient's individual health insurance under a bill passed July 31.

LB760, introduced by Seward Sen. Mark Kolterman, defines asynchronous review as the acquisition and storage of medical information at one location that is then forwarded to or retrieved by a health care provider at a different location for evaluation.

Under the bill, beginning Jan. 1, 2021, asynchronous review that is deemed medically necessary cannot be excluded from a health insurance



Sen. Mark Kolterman

policy solely because it is delivered asynchronously. Reimbursement rates will be negotiated between the provider and the insurer.

LB760 passed 45-0.

EDUCATION

Student intervention, removal bill stalls

A bill that would authorize teachers to physically intervene when a student is harming others failed to advance past the first round of debate July 30 after a failed cloture motion.

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 violent.



Sen. Mike Groene

Groene introduced an amendment on general file that would replace the bill. It would 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.

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 the 2021-22 school year.



Sen. Dave Murman

Groene said the amendment has been endorsed by groups representing teachers, administrators and school boards across the state and that the proposed training was developed, in part, by experts at Boys Town.

He said teachers and other school staff regularly use such physical interventions already, but most have no training or school policy to guide them.

“They’re out there trying to do the best they can with no guidance from us,” Groene said. “We owe them some help.”

Sen. Patty Pansing Brooks of Lincoln opposed the amendment, saying it had not been vetted by the Education Committee or by groups that advocate for children with disabilities.

She agreed that teachers should be trained to deescalate dangerous situations in the classroom but said current case law already allows them to use reasonable force to protect themselves and others.

“The problem is [that]—and we’ve discussed this with the teachers multiple times—they are not told that in the schools,” Pansing Brooks said.

After several hours of debate on general file, Groene offered a motion to invoke cloture, which ceases debate and forces a vote on a bill. The motion

failed on a vote of 32-15. Thirty-three votes were needed.

LB147 is unlikely to be scheduled for further debate this session.

EXECUTIVE BOARD

Legislative YRTC oversight bill approved

A bill that provides greater legislative oversight for the state’s youth rehabilitation centers passed July 31.

The Office of Inspector General of Nebraska Child Welfare is housed within the Office of Public Counsel, a division of the Legislature. Currently, the office investigates allegations of misconduct by employees of the state Department of Health and Human Services, the juvenile services division, contractors and juvenile detention facilities.

LB1144, introduced by the Health and Human Services Committee, expands legislative oversight of the state’s YRTCs. The bill requires the juvenile services division to report to the inspector general any instance of assault, escape, attempted suicide and other acts that occur at a YRTC.

In addition, the department is required to submit quarterly reports of grievances filed at YRTCs and to notify the inspector general of any leadership changes within the juvenile services division or the YRTCs. The inspector general is required to conduct an annual review and physical inspection of six state institutions and report to the Legislature.

The bill includes provisions of LR298, sponsored by Omaha Sen. Sara Howard,



Sen. Sara Howard

that create the Youth Rehabilitation and Treatment Center Special Oversight Committee of the Legislature.

The oversight committee is required to issue a report with any findings and recommendations to the Legislature by Dec. 15, 2020, and will terminate on Dec. 31, 2020.

Also included are provisions of Howard's LB1085, which make gender neutral several references to the Office of Public Counsel in state law.

LB1144 passed on a vote of 48-0 and takes effect immediately.

GOVERNMENT, MILITARY & VETERANS AFFAIRS

Bill to create Native American holiday advanced

A bill that would make the second Monday in October Indigenous Peoples' Day and Columbus Day in Nebraska advanced from select file July 30.

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

The bill was amended on general file to include provisions of Pansing Brooks's LB849, which extend eligibility for the Bridge to Independence Program to Native American youth who have reached the age of majority under tribal law.

Gordon Sen. Tom Brewer introduced an amendment during select file debate, adopted 38-0, that added



Sen. Patty Pansing Brooks



Sen. Tom Brewer

provisions of his LB937. The amendment would 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. Mike Groene of North Platte offered an amendment that would have stricken Indigenous Peoples' Day from the bill, essentially leaving the Columbus Day holiday to stand alone.

Groene said the state already recognizes American Indian Day in late September, and said it would be "belittling" to Native Americans to have a shared holiday.

"Columbus Day is Columbus Day," Groene said. "You can like the man or not like the man but what he did was equivalent to landing on the moon."

The amendment failed 6-25.

Lawmakers advanced LB848 to final reading by voice vote.

Civil War monument authorized

The First Regiment Nebraska Volunteer Infantry will be honored under a bill passed July 31.

LB850, introduced by Lincoln Sen. Patty Pansing Brooks, authorizes a committee to create a monument to the regiment at the Fort Donelson National Battlefield in Tennessee where it fought alongside Union soldiers during the American Civil War.

The bill directs the Nebraska secretary of state to submit to the secretary of the interior a written request to approve and authorize placement of the monument and would create a committee to provide for the creation, construction, transportation, installation and unveiling of the monument.

The committee will be funded privately.

LB850 passed on a 43-0 vote and takes effect immediately.

Lawmakers pave way for new cemetery

The state of Nebraska will acquire a veterans' cemetery in Grand Island under a bill passed July 31.

LB911, introduced by Grand Island Sen. Dan Quick, enables the city to gift the former Nebraska Veterans' Memorial Cemetery and adjacent land to the state in order to establish a new state cemetery for veterans.



Sen. Dan Quick

The bill also requires the state Department of Veterans Affairs to apply for funding assistance from the federal government.

LB911 passed 49-0 and takes effect immediately.

HEALTH & HUMAN SERVICES

Indoor e-cigarette ban passed

Lawmakers passed a bill July 31 banning electronic smoking devices inside public buildings in Nebraska.

LB840, introduced by Grand Island Sen. Dan Quick, amends the Nebraska Clean Indoor Air Act to prohibit use of electronic nicotine delivery systems as defined in state law in public buildings.

The bill exempts licensed electronic smoking device retail outlets from the Nebraska Clean Indoor Air Act as it relates to the use of electronic smoking devices. Such an outlet is defined as one that does not sell alcohol or gasoline, derives no more than 20 percent of its revenue from the sale of food and food ingredients and

prohibits individuals younger than 21 from entering the premises.

Until Jan. 1, 2022, electronic smoking device retail outlet employees may be younger than 21. After that date, no employee younger than 21 may work in an outlet store.

LB840 passed on a 33-2 vote.

EMS changes clear first round

A bill to allow emergency medical service providers to restock prescription medications from local hospital pharmacies was expanded and advanced from general file July 27.

Brainard Sen. Bruce Bostelman, sponsor of the bill, said current law allows for the transfer of prescription drugs between holders of a pharmacy license, health care practitioners and hospitals to alleviate a temporary shortage. LB1002 would add EMS providers to that list.



Sen. Bruce Bostelman

Bostelman said EMS providers currently must purchase and restock the medications used in treatment and transport only from wholesale drug distributors, which are not local, require minimum purchases and do not always have the necessary medications on hand.

“The bill will be a big step in assisting our state emergency medical service providers with the financial and logistical issues they currently face,” he said.

A Health and Human Services Committee amendment added provisions of three additional bills.

LB893, also introduced by Bostelman, would add community care paramedic and critical care paramedic practices as EMS providers. The amendment would direct the

state Board of Emergency Services to provide education and licensure requirements for the positions.

Bostelman said the two new licensure classifications are necessary for public safety.

“Research, according to findings from the Nebraska State Board of Health, shows that paramedics currently deliver medical care using equipment and medications at a level above their education and qualifications and for which they’re not certified,” he said.

Under the amendment, licensed practical nurses would no longer be exempt from Emergency Medical Services Practice Act licensing requirements.

Bellevue Sen. Sue Crawford spoke in “enthusiastic support” of the bill and the amendment, saying EMS is essential to the state’s health care network.

“Our EMS providers are a critical part of health care access—even more critical in our rural communities,” she said.

Also included in the amendment was LB1184, originally introduced by La Vista Sen. John Arch, which would require the state Department of Health and Human Services to set standards for juvenile inpatient psychiatric units and psychiatric residential treatment facilities.



Sen. John Arch

Staff would be required to 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, LB1044, originally introduced by Blair Sen. Ben Hansen, would clarify that only



Sen. Ben Hansen

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.

Following the 41-0 adoption of the committee amendment, lawmakers advanced LB1002 to select file on a 43-0 vote.

Bill to prevent new methodology for Medicaid rate changes advanced

A bill that would require the state Department of Health and Human Services to keep its Medicaid reimbursement rate methodology within its existing rules and regulations process advanced from general file July 27.

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

Sen. Matt Williams of Gothenburg introduced the bill on behalf of the committee. He said the rate methodology is used to calculate the amount of reimbursement that nursing facilities and hospitals receive for the care of Medicaid patients.

The department announced last year that it would remove the reimbursement rate methodology from its rules and regulations process, he said, and that it had developed a new flat-rate methodology to calculate the Medicaid reimbursement amount for nursing facilities.

“Many of our offices were flooded with calls, not only from nursing home administrators but also from hospital administrators, who were extremely concerned that the removal of the rate methodologies without their involvement would lead to unintended conse-

quences,” Williams said. “Not having the rate methodology implemented through a formal public process introduced too much uncertainty.”

Williams said the bill would address a “crisis” that could cause some nursing homes to deny care to Medicaid recipients.

A committee amendment, adopted 34-0, added provisions of two bills—LB833, introduced by Sen. Sue Crawford of Bellevue, and LB1043, introduced by Blair Sen. Ben Hansen.



Sen. Sue Crawford

LB833 would allow Programs of All-Inclusive Care for the Elderly (PACE) facilities that meet DHHS licensure requirements to operate multiple centers under one license. LB1043 would 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.



Sen. Ben Hansen

Senators advanced LB1053 to select file on a 47-0 vote.

Youth center reforms passed

A bill to codify guidelines for youth rehabilitation and treatment centers in Nebraska passed final reading July 31.

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

- 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.

The bill also prevents the state Department of Health and Human Services from establishing or moving a YRTC until March 30, 2021.

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

Administrative, educational changes for youth centers passed

A bill overhauling management and educational programming at Nebraska’s youth rehabilitation and training centers passed July 31.

LB1188, introduced by Omaha Sen. Sara Howard, requires the Office of Juvenile Services to create a superintendent of schools position to administer education for YRTCs by Dec. 1, 2020.



Sen. Sara Howard

It also mandates that education for any juvenile committed to OJS be provided by a school program meeting the requirements of an interim program school, an approved school or an accredited school. The bill designates YRTCs as interim program schools.

LB1188 includes provisions of two bills originally introduced by Sen. Tony Vargas of Omaha. LB1147 requires the state Department of Health and Human Services to administer daily maintenance, minor repairs, custodial duties and other operations at YRTCs, while the state Department of Administrative Services will oversee major repairs, capital improvements, contract procurement for such improvements and other facility maintenance functions that are not the responsibility of DHHS.



Sen. Tony Vargas

Provisions of LB1149 require OJS to utilize evidence-based and validated tools, programs and services and prohibits staff from limiting or prohibiting a juvenile from communicating with relatives as a punishment.

LB1188 passed on a vote of 42-4.

JUDICIARY



Protections adopted for victims of sexual assault

The Legislature passed a bill July 31 that creates a sexual assault victim’s bill of rights.

Under LB43, sponsored by Lincoln Sen. Kate Bolz, a victim of sexual assault is guaranteed the right to privileged consultation with a sexual

assault advocate during any physical examination or interview by a peace officer, prosecutor or defense attorney. However, the advocate cannot consult with or provide legal advice to the victim.



Sen. Kate Bolz

Any medical professional, peace officer, prosecutor or defense attorney is required to provide a victim with written documentation of his or her rights before conducting an initial physical examination or interview. A victim has the right to be interviewed by a peace officer of the gender of his or her choosing, if the request can be accommodated reasonably.

LB43 also requires a medical provider who conducts a physical exam after a sexual assault to contact the appropriate law enforcement agency, which will be required to retain any forensic evidence for 20 years.

Evidence collected from a sexual assault physical examination cannot be used to prosecute a survivor for any misdemeanor crimes or offenses under the Uniform Controlled Substances Act.

Senators passed the bill 43-0.

Mental health care directives adopted

Nebraskans will have more control over their future mental health care under a bill passed by the Legislature July 31.

LB247, introduced by Lincoln Sen. Kate Bolz, allows a person to issue instructions or preferences regarding future mental health care decisions, including consent to or refusal of specific types of care, such as inpatient treatment, psychotropic medication or electroconvulsive therapy.

The bill requires two witnesses to the signing of an advance directive. Witnesses cannot be the person's attending physician or member of their mental health care treatment team, family member, romantic partner, attorney or owner or employee of a treatment facility at which the person is receiving treatment.

The person signing an advance directive must be of sound mind and cannot appear incapacitated or under undue influence or duress at the time of signing. An advance mental health care directive will remain in effect until it expires according to its own terms or is revoked by the person to whom it applies.

Under LB247, a health care professional who acts or declines to act according to reasonable medical standards, in good faith reliance upon a person's advance directive, will not be subject to criminal prosecution, civil liability or discipline for unprofessional conduct.

The bill passed on a 44-0 vote.

Student mental health considerations approved

A bill meant to prioritize students' mental health was passed by the Legislature July 31.

Currently, a Nebraska school may refer a child to the county attorney for truancy if the child has had more than 20 absences during the school year and a collaborative plan has not successfully resolved the child's barriers to attendance.

LB751, sponsored by Bellevue Sen. Carol Blood, adds mental health as a recognized barrier to attendance for consideration as part of a collaborative plan.



Sen. Carol Blood

Senators passed the bill on a 48-0 vote.

Bill to ban abortion procedure stalls

A bill that would ban a specific abortion method in Nebraska stalled during general file debate July 29.

LB814, introduced by Lincoln Sen. Suzanne Geist, would ban "dismemberment" abortion 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.



Sen. Suzanne Geist

The bill would not apply to an abortion in which suction is used to dismember a fetus, or removal of a fetus that already is dead.

In light of the coronavirus pandemic and social unrest, Geist said that now is a fitting time to have a conversation about the value of human life.

"When you distill all the controversy that's happening in our community down, that's the bottom line," she said. "How do we value our fellow man or woman, regardless of race, health or economy?"

LB814 would allow 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—would be 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 filed a motion to indefinitely postpone the

bill, which would end consideration of it for this session. She said that when someone decides to end a pregnancy, their care should be safe, affordable and free from punishment or judgment.

“However we feel about abortion, about pregnancy, we should all agree that a woman’s health, not politics, should guide important medical decisions at every point in a pregnancy,” Hunt said.

Because LB814 was pulled from the Judiciary Committee July 22, Omaha Sen. Sara Howard said, it did not go through the traditional vetting process to correct drafting errors or legally questionable provisions. As a result, she said, doctors could be sent to jail under the bill for performing a procedure that is recommended by their professional practice group.

“What’s concerning about this piece of legislation in particular is that it means that doctors will be forced—by ill-advised, unscientifically motivated policy—to provide lesser care to patients,” Howard said. “Ultimately, in Nebraska we want our patients to have the highest quality of care with the best medical judgment, unhindered by policies that don’t support the patient.”

Sen. Machaela Cavanaugh of Omaha supported Hunt’s motion, saying the Legislature consistently has failed to provide services to women and families.

“We want women to carry to term but we don’t want to give them the resources or the supports to do that,” she said. “I appreciate that this [bill] is important to Sen. Geist, but this doesn’t solve anything for children in this state.”

Opposing the motion and speaking in support of LB814 was Peru Sen. Julie Slama. Discussion of dismemberment abortion is bound to make people uncomfortable, she said, but is necessary to understand what would

be prohibited by the bill.

“The dismemberment of a living baby is not a health care decision,” Slama said. “It is a [matter] of basic human decency.”

Sen. Mike Groene of North Platte said that prohibiting abortion is one of the most important issues to the majority of his constituents. If given the choice between saving an unborn baby’s life or their own, he said, many would choose the baby.

“The real question is why does our society make us even contemplate that choice?” Groene said.

After three hours of debate, lawmakers moved to the next item on the agenda without taking any votes on LB814. 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.

Immunity approved for emergency child removal

A person assisting a child believed to be in imminent danger will be eligible for legal immunity under a bill passed by lawmakers July 31.

State law currently includes a “good Samaritan” provision that extends legal immunity to a person rendering aid at the scene of an accident or other emergency.

LB832, introduced by Brainard Sen. Bruce Bostelman, expands the definition to include entering a vehicle to remove a child to avoid immediate harm.

The bill passed on a 46-0 vote.

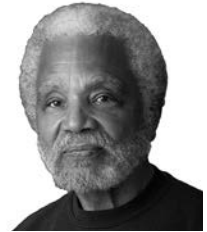


Sen. Bruce Bostelman

Anti-bias and implicit bias training requirement approved

Lawmakers passed a bill July 31 that seeks to strengthen enforcement of the state’s ban on racial profiling by law enforcement.

LB924, sponsored by Omaha Sen. Ernie Chambers, requires each law enforcement agency in Nebraska to implement an anti-bias and implicit bias training policy to combat apparent or actual racial profiling practices.



Sen. Ernie Chambers

Each agency is required to submit its adopted policy to the Nebraska Commission on Law Enforcement and Criminal Justice. Every law enforcement officer will be required to complete at least two hours of bias training during each calendar year.

Additionally, the bill authorizes the commission to withhold loans, grants, funds or donations from a law enforcement agency if the agency is found to have neglected to collect required vehicle stop demographic data. The funding could be reinstated once the reporting failure is corrected.

LB924 passed on a 49-0 vote and takes effect immediately.

Juvenile justice omnibus bill passed

Senators passed a bill July 31 that makes several changes to existing juvenile justice practices.

LB1148, sponsored by Omaha Sen. Tony Vargas, requires the Office of Juvenile Services to file a report with the court and give notice of any



Sen. Tony Vargas

changes in a youth offender’s placement at a youth rehabilitation and treatment center. The office is required to provide copies of the notice to all interested parties, including any parent or guardian of the juvenile, at least seven days before the placement.

The bill also authorizes the court to hold a review hearing for any change in placement and issue a temporary stay of such change until completion of the review. Each juvenile who is placed at a YRTC is entitled to an annual review of their placement by the juvenile court for as long as they remain committed.

Provisions of four additional bills also are included in LB1148:

- LB458, sponsored by Omaha

Sen. Steve Lathrop, which allows child advocacy centers to access child abuse and neglect investigations under review by the state Department of Health and Human Services;



Sen. Steve Lathrop

- LB906, sponsored by Bennington Sen.

Wendy DeBoer, which clarifies the process of retaining forensic interview videos by child advocacy centers;



Sen. Wendy DeBoer

- LB969, sponsored by Omaha

Sen. Justin Wayne, which ensures that defendants are entitled to a physical copy of a



Sen. Justin Wayne

video recording in which they are described; and

- LB975, sponsored by Lincoln Sen. Suzanne Geist, which allows DHHS to share information gathered from adult and child abuse investigations for the purpose of complying with other state or federal investigations.



Sen. Suzanne Geist

The bill passed on a 35-6 vote.

NATURAL RESOURCES

Municipal energy bill approved

Senators passed a bill July 31 updating governance of the Municipal Energy Agency of Nebraska.

LB858, introduced by Sen. Dan Hughes of Venango, reorganizes, simplifies and streamlines MEAN’s governing document, the Municipal Financing Act.



Sen. Dan Hughes

Among other provisions, the bill specifies how a municipality may terminate participation in an agency, makes a variety of changes to board of director qualifications and specifies that construction, maintenance or remodeling of an agency’s headquarters is not a “power project.”

LB858 includes provisions of three additional bills:

- LB367, also introduced by Hughes, which extends the sunset date of the Nebraska Litter Reduction and Recycling Act to Sept. 30, 2025, and eliminates

fund transfer language;

- LB855, introduced by Columbus Sen. Mike Moser, which removes the legislative confirmation process for the appointment of board members to the Niobrara Council; and
- LB856, also introduced by Moser, which extends the sunset date for the Petroleum Release Remedial Action Cash Fund from June 30, 2020, to June 30, 2024.



Sen. Mike Moser

Lawmakers voted 47-0 to pass LB858.

Public power biofuel development authorized

Nebraska’s public power districts may develop, manufacture and sell certain biofuels in an effort to reduce their greenhouse gas emissions under a bill passed by lawmakers July 31.

LB899, introduced by Venango Sen. Dan Hughes, authorizes public power districts to develop, manufacture, use, purchase or sell at wholesale “advanced” biofuels and biofuel byproducts and other fuels and fuel byproducts so long as those activities are done to help offset greenhouse gas emissions.

The bill passed on a vote of 45-0.

REVENUE

Proposal to decouple from federal tax changes considered

The Revenue Committee held a special hearing July 27 on a proposal

that would decouple Nebraska's tax code from federal changes meant to provide economic relief to businesses affected by the coronavirus pandemic.

Because Nebraska conforms to federal tax law on a rolling basis, it automatically incorporated into its tax code the Coronavirus Aid, Relief and Economic Security Act changes passed by Congress in March.

LB1074, introduced by Elkhorn Sen. Lou Ann Linehan, would make several technical corrections to state tax law requested by the state Department of Revenue.



Sen. Lou Ann Linehan

Sen. Tom Briese of Albion introduced an amendment to the bill that would decouple Nebraska from certain CARES Act provisions—including one that temporarily removes an excess business loss limitation for passthrough entities—that he said would reduce state tax revenue by approximately \$242 million over the next three years.



Sen. Tom Briese

Briese said he introduced the amendment to ensure that the Legislature can fund property tax reform, which he called the “marquee issue facing our state.”

“I would submit that the dollars we’re targeting [in the amendment] could be more beneficial to economic growth when dedicated to property tax relief than if they’re simply added to the roughly \$1 billion in federal income tax relief,” he said.

Adam Thimmesch, an associate professor at the University of Nebraska College of Law, testified in support of the amendment on his own behalf.

He said that decoupling—as two other rolling conformity states have done so far—would allow Nebraska to control its tax base rather than assuming that the federal changes reflect what’s best for the state.

“The federal tax cuts at issue ... help the people who get them,” Thimmesch said, “but they’re not targeted at the Nebraska companies who need relief the most.”

Tiffany Friesen Milone, policy director at OpenSky Policy Institute, also testified in support, saying the CARES Act provisions in question would benefit a small number of wealthy Nebraskans.

Because many of the changes are retroactive, she said, taxpayers could receive refunds based on losses incurred before the pandemic and economic crisis began.

“Those losses also are often based on asset depreciation and other only-on-paper accounting measures and so don’t act to necessarily reflect actual monetary losses,” Friesen Milone said.

Bryan Slone, president of the Nebraska Chamber of Commerce and Industry, testified in opposition to the proposal on behalf of the chamber and the Nebraska Bankers Association.

He said the excess business loss provision and others are meant to create essential liquidity for businesses that were distressed even before the pandemic-related economic downturn.

“To increase taxes on these particular industries right now to the tune of \$180 or \$220 million in the middle of this crisis ... makes no sense in terms of what we’re trying to do to maintain jobs and the economy,” Slone said.

Also in opposition was Sarah Curry, policy director at the Platte Institute. If the proposal is enacted, she said, it could lead to more business closures and layoffs this year, slowing the state’s economic recovery.

“The measures in the CARES Act are intended to help businesses and jobs survive this pandemic,” Curry said. “The amendment, in effect, is a tax increase on businesses that are trying to survive.”

Curry said she believes that the new federal relief bill being prepared by Congress will allow states to use federal dollars to offset general fund revenue losses caused by tax code conformity.

Erica Parks, a managing director at accounting firm BKD in Omaha, also testified in opposition. Now that the July 15 deadline for filing state corporate and income tax returns has passed, she said, enacting the proposed changes would require affected Nebraska taxpayers to file amended returns.

The committee took no immediate action on the amendment.

TRANSPORTATION & TELECOMMUNICATIONS

Transportation load limit exception approved

Farmers will have expanded transportation options under a bill passed by the Legislature July 31.

Currently, the state Department of Transportation, Nebraska State Patrol or local authorities can issue permits authorizing a person to move objects greater than maximum weight and load limits set in state law.

One of these permits allows a person transporting grain to exceed vehicle weight limits by 15 percent and length limits by 10 percent to transport grain from the field to storage, market or stockpile in the field, or from stockpile to market or factory when failure to do so would mean

economic loss.

LB931, sponsored by Hastings Sen. Steve Halloran, expands the permit to apply to transport of grain directly from farm storage to market.



Sen. Steve Halloran

The bill also allows single-axle trucks to exceed single axle and gross weight by up to 15 percent for transport from farm storage to market or factory, up to 70 miles.

The maximum load of seasonally harvested grain is increased for tandem axle, group of axles or on the gross weight by 15 percent for transport from farm storage to market or factory without a permit.

LB931 passed on a 46-0 vote.

Omnibus transportation bill passed

Lawmakers passed a bill July 31 containing several transportation measures.

LB944, introduced by Lincoln Sen. Suzanne Geist, allows owners to seek a refund on vehicle registration if a vehicle is lost to natural disaster.



Sen. Suzanne Geist

Provisions of LB1088, originally introduced by Henderson Sen. Curt Friesen and included in the bill, allow people to purchase a personalized message organizational license plate. The provisions also permit the state Department of Motor Vehicles to discontinue issuance of certain specialty license plates if less than 500 new and



Sen. Curt Friesen

renewal applications are received in any consecutive two-year period. The current threshold is 200.

LB944 includes provisions of five bills authorizing new license plates:

- LB843, introduced by Omaha Sen. Machaela Cavanaugh, which provides for “Donate Life” license plates;
- LB903, introduced by Omaha Sen. Rick Kolowski, which provides for Down syndrome awareness license plates;
- LB921, introduced by Omaha Sen. Robert Hilkemann, which provides for “The Good Life is Outside” license plates;
- LB942, introduced by Omaha Sen. Megan Hunt, which provides for “Support the Arts” license plates; and
- LB1139, introduced by Lincoln Sen. Anna Wishart, which provides for



Sen. Machaela Cavanaugh



Sen. Rick Kolowski



Sen. Robert Hilkemann



Sen. Megan Hunt



Sen. Anna Wishart

“Pets for Vets” license plates. Additionally, provisions of the following six bills are incorporated in LB944:

- LB976, introduced by Lincoln Sen. Kate Bolz, which adds neurological impairment to the list of criteria eligible for handicap parking passes within the existing 200-foot mobility impairment standard;
- LB831, introduced by Brainard Sen. Bruce Bostelman, which allows the state DMV to issue a salvage title for a vehicle manufactured prior to 1940 if it previously was titled as “junk;”
- LB768, introduced by Thurston Sen. Joni Albrecht, which incorporates updated federal regulations related to cabin trailers, low-speed vehicles, handicapped parking, vehicle registration and driver licenses and state identification cards, among others;
- LB785, introduced by Friesen, which provides length, weight and load capacity exceptions for stinger-steered automobile transporters, towaway trailer transporter combinations, battery-powered vehicles, emergency vehicles and certain heavy-



Sen. Kate Bolz



Sen. Bruce Bostelman



Sen. Joni Albrecht

duty tow and recovery vehicles;

- LB983, introduced by Bellevue Sen. Sue Crawford, which eliminates the one-point deduction from a person's driver license for a speeding violation of



Sen. Sue Crawford

up to five miles per hour over the speed limit; and

- LB1067, introduced by Bayard Sen. Steve Erdman, which allows all-terrain and utility-type vehicles to cross controlled-access highways of more than two marked lanes, if used for agricultural purposes.



Sen. Steve Erdman

LB944 passed on a 48-0 vote and takes effect immediately.

Rural broadband task force recommendations advanced

Lawmakers gave first-round approval July 27 to a bill intended to encourage expansion of broadband internet service in underserved and unserved areas of the state.

Sen. Curt Friesen of Henderson, sponsor of LB992, said the bill would make several changes to state telecommunications law recommended by the Nebraska Rural Broadband Task Force.



Sen. Curt Friesen

He said expansion of broadband internet service in rural areas is necessary for economic development and is

especially important for students who must attend classes virtually because of the coronavirus pandemic.

"We need to do what we can to bridge the digital divide that exists between urban and rural areas of the state," Friesen said.

A committee amendment, adopted 44-0, would replace the bill with a modified version of the original proposal.

In addition to several technical changes, Friesen said, the amendment eliminates provisions in the original bill that would have required the Nebraska Library Commission to employ four regional technicians to provide technical support to public libraries.

It also would delay until 2022 the creation of a new position of state broadband coordinator within the office of the state chief information officer.

Among other duties, the coordinator would 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 amendment also would allow 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.

An electric utility would have to notify property owners of the agreement. If an owner submits a claim for compensation related to the use of the electrical easement within 90 days, the commercial broadband supplier would be responsible for the claim.

In entering into an agreement, an electric utility could not discriminate among commercial broadband suppliers

in offering or granting rights to install or attach certain broadband equipment.

The amendment would require 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 amendment also would require 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 would receive funding from the Nebraska Telecommunications Universal Service Fund.

Additionally, the amendment would change 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 would have to be filed with the commission, which would cause notice of the lease and lease rates to be published.

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

It would direct 50 percent of the profit earned by an agency or political subdivision under certain dark fiber leases to be remitted to the Nebraska Telecommunications Universal Service Fund. The provision would not apply to dark fiber leases that serve unserved locations.

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

Senators voted 47-0 to advance LB992 to select file.

URBAN AFFAIRS

Land bank bill narrowed, advanced

A bill that would expand the potential use of land banks in Nebraska advanced from select file July 30.

LB424, introduced by Grand Island Sen. Dan Quick, 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.



Sen. Dan Quick

Currently, only municipalities in Douglas and Sarpy counties are eligible under state law to create land banks.

The bill was amended on general file to allow primary class cities also to create stand-alone land banks. Lincoln currently is the state’s only primary class city.

As amended, LB424 also would:

- prohibit a land bank from issuing bonds;
- prevent a land bank from investing in a property that financially could 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.

Quick introduced an amendment during select file debate that he said

would strengthen conflict of interest provisions, reduce the number of parcels a land bank could own and eliminate an automatically accepted bid process except for land banks in metropolitan class cities.

“That is a big compromise, but this bill is that important,” Quick said.

Lincoln Sen. Mike Hilgers said the amendment improved the bill but that he remained opposed to the expansion of land banks, primarily out of concern that they might use the public trust to further their own financial interests.

“One of the things that I was concerned about was ensuring that we had stronger conflict of interest provisions,” Hilgers said.

Sen. Steve Erdman of Bayard said he opposed the bill despite the changes, saying it would not solve the problem of blighted properties.

“There’s not an improvement you can make to this bill to get my vote,” Erdman said.

The Quick amendment was adopted 33-4, and LB424 advanced to final reading by voice vote.

Omnibus municipal bill passed

Senators gave final approval July 31 to a bill that makes several changes to state law governing cities and villages.

LB1003, introduced by Sen. Lynne Walz of Fremont, allows any second class city or village to annex land, lots, tracts, streets or highways to relocate all or part of a town because of catastrophic flooding, while waiving a requirement that annexed areas be contiguous or adjacent and urban or suburban in character.



Sen. Lynne Walz

Annexation will require a two-

thirds vote of either a city council or village board.

The bill includes provisions of eight other measures:

- LB795, introduced by Lincoln Sen. Matt Hansen, which amends the Enterprise Zone Act to define unemployment criteria;
- LB799, introduced by the Urban Affairs Committee, which makes technical changes to statutes covering primary class cities;
- LB801, also introduced by the committee, which makes technical changes to Community Development Law related to tax-increment financing;
- LB821, introduced by Sen. Tom Brewer of Gordon, which allows the planning commission of a first or second class city or village to cancel a quarterly meeting if there is no business pending;
- LB885, introduced by Lincoln Sen. Kate Bolz, which changes requirements for grants under the Civic and Community Center Financing Act;
- LB957, introduced by Walz, which allows a mayor of a first or second class city to be considered a member of the town’s city council to establish a quorum



Sen. Matt Hansen



Sen. Tom Brewer



Sen. Kate Bolz

if the council consists of four members;

- LB984, introduced by Omaha Sen. Megan Hunt, which requires vacancies on airport authority, metropolitan transit authority, land bank, riverfront development authority boards and housing authority boards to be filled within six months after the date of the vacancy; and



Sen. Megan Hunt

- LB993, introduced by Kearney Sen. John Lowe, which allows cities with a population between 10,000 and 25,000 to expand the size of their city council from five to seven members under the City Manager Plan of Government Act.



Sen. John Lowe

LB1003 passed on a 42-1 vote and takes effect immediately.

Police oversight boards considered

The Urban Affairs Committee heard testimony July 31 on a bill that would require certain Nebraska cities to establish citizen police oversight boards.

LB1222, introduced by Sen. Justin Wayne of Omaha, would adopt the Municipal Police Oversight Act. Under the act, any city that employs



Sen. Justin Wayne

full-time police officers would be required to create a seven-member citizen oversight board. Each city's mayor would appoint board members, with approval of the city council. No law enforcement officer, past or present, would be allowed to serve.

The bill would require each board to:

- investigate all police shootings;
- investigate complaints filed by members of the public against the local police department;
- independently investigate all cases of alleged misconduct by police officers;
- identify all instances of police misconduct and report findings and recommendations to the police department, mayor, city council and all state and federal registries of police misconduct;
- when appropriate, provide law enforcement agencies with evidence in support of any criminal proceedings, disciplinary proceedings or other management actions;
- provide the police department with feedback from members of the public who have direct experience with police practices; and
- monitor, investigate and evaluate policing standards, patterns and practices.

If an investigation reveals apparent criminal wrongdoing by a police officer, the board would present that evidence to the local county attorney.

Wayne said LB1222 would provide meaningful external oversight of police departments across Nebraska, while acknowledging that the proposal is a work in process.

"This may turn into a broader bill, or bills, going into next year, but while this is a hot topic, I thought it was important to have this hearing," Wayne said.

Several proponents of the bill testi-

fied that they were harassed or injured during recent racial justice protests in Lincoln and Omaha.

Michaela Chambers of Omaha said she was arrested July 25 while protesting peacefully and was subsequently detained in a jail cell. She supported the bill, but said it didn't go far enough.

"I believe this [bill] is the tip of the iceberg," she said. "You, as our elected officials, can do and should do more for us. To protect us as your citizens. To allow us to have our right to freedom of speech and for that right not to be taken away by the brutality and the aggression shown by sworn officers who made an oath to protect us."

Kieran Wilson, also testifying in support, said numerous barriers prevent police from being held accountable in Nebraska.

"You have counties in Nebraska in which there isn't a means to send a complaint to the police department; there isn't a means to send a complaint to the police department. In the state of Nebraska, police disciplinary actions are not publicly accessible documents," Wilson said.

Also testifying in support was Maggie Ballard. She said LB1222 would provide oversight of police but that it would not end police misconduct.

"Make no mistake, the unacceptable actions of police officers didn't stop once the [federal] Civil Rights Act was passed or once stop-and-frisk practices were outlawed," Ballard said. "In 2014 we thought that putting cameras on police officers or in cruisers would prevent the use of excessive force."

Omaha Mayor Jean Stothert testified against the bill. She said she recently issued an executive order that expanded police training and strengthened Omaha's process for citizen complaints. Stothert said the city already has a review board to

examine alleged police misconduct and that further oversight would be an overreach.

“LB1222 creates a citizen board that is accountable to no one,” she said. “It threatens the privacy of citizens who have been victims of crime and diminishes the authority of mayors and city councils.”

Also testifying against the bill was Omaha Police Chief Todd Schmaderer. He said the proposal would amount to an unfunded mandate that would cost Omaha \$1 million. Civilian oversight is important, he said, but police leaders need to be able to levy

discipline and direct the culture of an organization.

“[LB1222] undermines the authority of the chief of police. We’re not even mentioned in the bill,” Schmaderer said. “There needs to be a singular, dedicated leader to set a tone.”

Also testifying in opposition was Lincoln Police Chief Jeff Bliemeister. He said the bill was well intentioned but could adversely affect ongoing investigations and potential civil lawsuits that could arise from a criminal investigation.

“The public release of information as described in this bill may not only

jeopardize an individual’s constitutional right to a fair trial but also de-incentivize—which we’re not trying to do—the cooperation of complainants and witnesses and undermine the public trust,” Bliemeister said.

After approximately three hours of testimony, Wayne announced that he had been notified that someone in the hearing room had been exposed to Covid-19. As a result, he said, the hearing on LB1222 would cease “out of an abundance of caution,” but that written testimony would be accepted until Aug. 3. ■

Lawmakers reject introduction of worker protection bill

A motion to suspend the Legislature’s rules to permit the introduction of a new bill was unsuccessful July 29.

Traditionally, new bills may be introduced only during the first 10 days of the legislative session. Omaha Sen. Tony Vargas moved to suspend the rules to introduce a measure that would have implemented new workplace protections for employees of meat processing facilities in response to the coronavirus pandemic.



Sen. Tony Vargas

Vargas said the pandemic has disproportionately impacted the state’s minority population, who make up a large segment of meat processing employees. Of the approximately 25,000 people who have tested positive for COVID-19 in Nebraska, he said, nearly 5,000 are meat processing plant employees.

Calls for improved worker treatment and health and safety measures, however, largely have gone unanswered, Vargas said.

“If you don’t see the urgency in this and understand why this situation demands us to act now, then I’m at a loss,” he said. “This is exactly why this rule exists.”

Omaha Sen. Justin Wayne spoke in support of the motion, saying lawmakers need to provide all community members a forum to discuss the pandemic’s impact.

“This is about all of our communities building trust with our government,” Wayne said. “That when there is a major pandemic and it’s disproportionately hitting an industry, that we can at least listen and figure out a way to respond.”

Gothenburg Sen. Matt Williams also supported the motion to suspend the rules. The pandemic has drastically changed every aspect of daily life for many in Nebraska, he said, and that warrants a discussion of working conditions in critical industries like meat processing.

“The hearing we would have on this would allow the workers to share their stories and allow the industry to share the specific things that they’ve done ... to address these issues,” Wil-

liams said.

Sen. Tom Brewer of Gordon expressed concerns about the potential impact of increased regulations on an industry that already has been impacted negatively by the pandemic.

“When the packing plants closed last spring and things ground to a halt, all of a sudden the feedlots weren’t able to move the cattle, the sale barns weren’t able to buy the cattle and ranchers weren’t able to sell the cattle,” Brewer said. “If we do something that grinds the system to a halt [again], life for a good share of Nebraskans will grind to a halt.”

Brainard Sen. Bruce Bostelman suggested that lawmakers instead hold an interim hearing, which he said would allow them to take the public hearing process into the communities most directly impacted.

“I’m afraid that if we have a hearing [in Lincoln], we’ll lose the opportunity to understand how it affects [people] in their community,” Bostelman said.

The motion to suspend the rules failed on a 28-10 vote. Thirty votes were needed. ■

CRAFTING THE STATE BUDGET

The primary constitutional duty of the Legislature is to pass the state budget. Before a budget is passed, however, the Legislature must consider hundreds of funding requests for the creation, maintenance or improvement of government services, programs, equipment and infrastructure.

This lengthy process is governed and guided by provisions of the Nebraska Constitution, state statutes and legislative rules.

BIENNIUM Nebraska's budget cycle consists of two fiscal years, called a biennium. Biennial budgets are enacted during regular 90-day legislative sessions held in odd-numbered years. Budget adjustments are made during regular 60-day sessions held in even-numbered years. Consequently, the volume of issues and dollar value of decisions during short sessions typically are less.

The Legislature's Appropriations Committee is responsible for reviewing budget requests and presenting a budget recommendation to be considered by the full Legislature. Before submitting its recommendation, the committee considers recommendations from the governor, requests from state agencies and fiscal impacts of bills sponsored by senators.

The process begins when state agency requests come to the Legislative Fiscal Office in the fall prior to each session. Fiscal Office staff study the requests and prepare briefings for the Appropriations Committee. At the same time, budget analysts from the executive branch are reviewing agency requests and working with the governor to formulate his or her budget recommendation.

Revenue forecasts generated by the Fiscal Office are reviewed by the Nebraska Economic Forecasting Advisory Board along with forecasts developed by the state Department

of Revenue. The board's estimates become the basis for planning General Fund budget conditions for the current and next biennium.

GOVERNOR'S RECOMMENDATION The governor is required to submit his or her budget recommendation by Jan. 15 in odd-numbered years, except that in the first year of office a governor may submit a proposal on or before Feb. 1. The governor communicates his or her proposals through a state of the state address and formally submits his or her recommendation to the Legislature through one or more bills, introduced by the speaker of the Legislature at the request of the governor.

The governor's appropriation bills routinely are referred to the Appropriations Committee. Other substantive bills that are instrumental to the governor's budget recommendation are referred to the standing committee having subject matter jurisdiction. Such substantive bills are not subject to the Jan. 15 deadline.

During the first 10 days of session, senators introduce other bills, which may require an appropriation to implement.

In January and February, the Appropriations Committee reviews

the Fiscal Office analysis of each agency budget request. Under legislative rules, the committee must submit its preliminary recommendations in a report to the Legislature 20 to 30 legislative days after the governor's budget submission.

The report includes preliminary funding levels and an overall analysis of the state's spending capacity based on current revenue forecasts, tax rate assumptions and compliance with the statutory minimum reserve, which must fall between 3 and 7 percent of available general funds. The estimates in the preliminary report become the basis of discussion during subsequent public hearings with state agencies and other interested parties.

"A" BILLS During this time, other standing committees are conducting hearings on bills referred to them. Each bill has an accompanying fiscal note, which is an estimate of the financial impact of the legislation, including expenditures and revenues.

The fiscal note becomes the basis for estimating what appropriation may be necessary if the bill becomes law. When a committee advances a bill that has a financial impact, a companion bill authorizing an appropriation is introduced. This bill is assigned the same number as its companion along with an "A" suffix.

COMMITTEE RECOMMENDATION

After issuing its preliminary report, the Appropriations Committee conducts public hearings on the budget and then reviews all preliminary decisions, information obtained during the hearings and any other information brought to its attention.

The committee meets for about two weeks to complete a set of recommendations that is offered to the full Legislature in the form of amendments to the governor's legislation or new bills.

During a long session, the committee has until the 70th day to place its budget bills on general file. During a short session, the deadline is the 40th legislative day. If the committee fails to introduce its bills by the deadline, legislative rules require that senators consider the appropriation bills as introduced by the governor.

At a minimum, the Legislature must consider three appropriation bills: one for legislators' salaries; another for constitutional officers' salaries, which generally include other elected officials and judges; and a third to appropriate for all other expenditures.

However, the committee typically introduces several bills that fall under broad categories. One large bill appropriates most state funds for operations and state aid. A second bill typically is offered to make appropriations for capital construction projects. Another bill provides for deficit appropriations, which are adjustments to appropriations previously authorized for the

current year. It is not unusual for the deficit bill to be considered early in the session because some of the adjustments may be emergencies that apply to the current year.

Other bills also may be offered, including bills making appropriations for salary increases, increased benefit costs or substantive law changes – such as authorization for a fee and creation of a fund – that implement some aspect of the committee recommendation.

STATUS REPORT

After the committee's bills are placed on general file, a daily financial status report of the general fund accompanies the daily agenda. The status report indicates the amount of budgeted funds under the committee recommendation and the amount of additional spending that could be accommodated beyond the statutorily required minimum reserve.

For planning purposes, the status also indicates financial conditions for the biennium under consideration plus the two following years. Although the Legislature considers only the first two years for appropriations, simulating impacts for two additional years provides useful information on the state's ability to sustain future obligations.

During long sessions, all other bills having a general fund expenditure or a general fund revenue loss are held on final reading and may not be read until the Appropriations Committee's budget bills pass. During short sessions, other bills may be read after the 45th day.

By rule, the Legislature must pass

appropriations bills by the 80th day in a long session or the 50th day in a short session. There is no penalty for not passing appropriations bills as provided by rule, other than the holdup of bills during a long session. Circumstances such as volume of amendments, length of debate and full discussion of appropriations matters can extend passage of the appropriations bills beyond the prescribed deadlines. Appropriations bills usually carry the emergency clause, which requires 33 votes for passage on final reading. This also is true of deficit bills. Bills without the emergency clause need 25 votes to pass.

VETOES

On appropriations bills, the governor has the option of signing the bill, letting the bill become law without his or her signature, vetoing the bill or returning the bill to the Legislature with one or more line-item vetoes. Within a day of the return of appropriations bills to the Legislature with total or line-item vetoes, the Appropriations

Committee must report on the impact of the vetoes and may offer a motion to override all or some of them.

Individual members of the Legislature may then offer their own veto override motions. For an override motion to succeed, two-thirds of the Legislature must vote for it.

All final appropriations ultimately enacted take effect July 1 of the designated fiscal year or, if passed without the emergency clause, three calendar months after the end of the legislative session. Deficit bills making adjustments to current-year appropriations with the emergency clause are effective immediately. ■

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Social distancing measures were implemented July 31 to accommodate testifiers at the Urban Affairs Committee hearing on LB1222.