

Last-minute tax package advances after cloture vote



Speaker Jim Scheer and Sen. Lou Ann Linehan, key members of a group that brokered a compromise on the proposal, confer during floor debate.

Lawmakers gave first-round approval Aug. 5 to a bill combining several major tax proposals.

As introduced by Norfolk Sen. Jim Scheer, LB1107 would make a technical change to state law related to the assessment of real property.



Sen. Jim Scheer

A Revenue Committee amendment, adopted 44-2, would replace the bill with numerous provisions, including a proposal to create a new tax credit based on the amount of property taxes paid to a taxpayer's school district, establish a new business tax incentive program and commit funds to a potential project at the University of Nebraska Medical Center.

Scheer supported the proposal, calling it "an opportunity to move this state forward for all of our citizens." By making Nebraska more inviting to businesses, he said, LB1107 would create new jobs and increase the state's population, reducing taxes on homeowners, farmers and businesses.

"I don't necessarily love incentives—no one does," Scheer said. "But we're naive to think that we don't have to have anything in order to attract new business."

Nebraska Property Tax Incentive Act

The previous committee proposal, contained in an amendment to Scheer's LB1106, would have reduced

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Proposal to ensure workplace protections considered

The Business and Labor Committee held a public hearing Aug. 6 on a proposal that would implement certain protections for meat processing employees during the coronavirus pandemic.

LB667, as introduced by Omaha Sen. Tony Vargas, would provide grant funding for youth workforce development training.



Sen. Tony Vargas

Vargas introduced an amendment that would remove those provisions and instead require meatpacking plant employers to maintain six feet of space around and between each worker through a combination of increasing physical space between workstations, slowing production speeds, staggering shifts and breaks and adjusting shift size.

Vargas said the proposal is necessary to address the mistreatment of meatpacking workers, the failure of employers to implement health and safety measures and the perception throughout the state that the coronavirus is not a serious threat.

"This is not the first action that meatpacking workers, their families and advocates have taken to address these issues," he said. "I know they've communicated with the governor and with employers about these concerns and issues, but their concerns and cries for help have gone unacknowledged and unaddressed."

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Proposal to ensure workplace protections considered

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Under the proposal, employers would be required to provide all workers with face masks and shields, free of charge, replaced daily or as needed. Workers would have the ability to frequently sanitize their hands and receive gloves, also free of charge, upon request.

The amendment would require regular cleaning and disinfection of all frequently touched surfaces and installation of ventilation systems that would ensure unidirectional air flow, ventilation with outdoor air and filtration.

Each individual would be screened for coronavirus upon entering a facility and be informed of their results. A worker who believes they may have been exposed could immediately leave the facility to receive a COVID-19 test on paid work time.

If an employee tests positive, the employer must identify and notify in writing all workers who worked in the same area and on the same shift of their possible exposure, while maintaining the infected person's confidentiality.

The amendment also would ensure paid quarantine time for a worker awaiting test results and paid sick leave

for someone who has tested positive.

Gabriela Pedroza, a former meatpacking worker, spoke in support of the amendment. The protections would show workers that the state hears and understands their concerns, she said, and is doing what it can to keep them safe.

"It is no secret that a lot of people have gotten sick and one too many, unfortunately, have passed away," Pedroza said. "They're essential workers but most importantly every human in [a meatpacking plant] is essential to their families and communities."

Also speaking in support of the amendment was Eric Reeder, president of the United Food and Commercial Workers Union Local 293. The proposal alone will not solve the problem of meat processing working conditions, he said, but it would move things in the right direction.

"What you have in front of you is a first step in helping the [workers]," Reeder said. "The employers, as long as they're not mandated to do something, they're not going to do it."

The amendment would allow the state Department of Labor to conduct

unannounced workplace inspections of meatpacking facilities.

Nebraska Farmers Union President John Hansen supported the provision, saying that healthy meatpacking workers are essential to a successful agricultural industry.

"[Coronavirus] created enough sickness and shutdowns in the meatpacking industry that we were contemplating the logistics of euthanizing, destroying and burying millions of animals," he said. "It behooves our state for both economic and moral reasons to find a way to do this additional inspection."

The amendment also would require meatpacking plants to track the daily total number of positive test results and COVID-related deaths, disaggregated by race and ethnicity. The data would be transmitted to the state Department of Health and Human Services and Department of Labor, as well as the Business and Labor and Health and Human Services committees of the Legislature.

No one spoke in opposition to the amendment and the committee took no immediate action. ■

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Last-minute tax package advances after cloture vote

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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.

The new proposal would create a refundable income tax credit based on the amount an eligible taxpayer paid in property taxes to their school district during the previous year, not including those amounts levied for bonded indebtedness or a levy override.

The credit, which would be allowed to each individual, business or other entity that pays school district taxes, would be equal to a percentage set by the state Department of Revenue multiplied by the amount of school district taxes paid by the taxpayer during the taxable year.

For calendar year 2020, the department would set the percentage so that the total amount of credits is \$125 million.

Sen. Lou Ann Linehan, the committee's chairperson, said that for the following three years the amount of credits would increase based on growth in the state's net tax receipts and the level of its cash reserve.

For 2024, the credit cap would be \$375 million. For each year after that, the department would set the percentage so that the total amount of credits would be \$375 million plus an amount equal to the growth in total assessed value for all real property from the prior year to the current year.

Linehan introduced an amendment to the committee amendment that would transfer \$30 million from the cash reserve to the state's general fund to offset the proposal's cost. It would prohibit any further transfer to fulfill the act's obligations until the cash reserve's balance is \$500 million

or more. Senators voted 42-0 to adopt the amendment.

Linehan said Sen. John Stinner of Gering, chairperson of the Appropriations Committee, insisted on the amendment to ensure that the proposal would not direct any money in the state's "rainy day fund" to meet the new property tax credit program's obligations before the cash balance reaches the required threshold.

Stinner supported the proposal. He said Linehan's amendment would set fiscal "guardrails" to ensure that the proposed property tax relief is funded through growth in state tax receipts, not by making "major league" cuts to government programs.

Lincoln Sen. Kate Bolz said she would vote to advance the bill from general file provided those guardrails were included, but she cautioned lawmakers about the proposal's effect on the budget in future years as the global economy recovers from the coronavirus pandemic.

"I am optimistic," she said, "but it is possible that we will not be able—in a fiscally responsible way—to keep up with the demands of this bill."

The committee amendment also includes the provisions of LB930, introduced by Sen. Tom Briese of Albion.



Sen. Tom Briese said the package is a compromise that will move the state forward.

Under those provisions, the state would grant \$275 million in credits each year under the Property Tax Credit Relief Act, which uses state sales and income tax revenue to provide Nebraskans with credits meant to offset part of what they pay in local property taxes.



Sen. Tom Briese

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

Briese supported the committee proposal, calling it "the package deal that we've all been working towards." He said it would provide relief to every Nebraska property taxpayer and help grow the state's economy.

North Platte Sen. Mike Groene said he would not vote to advance

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the bill from general file. He said the property tax relief proposal, like the existing property tax credit, would not keep up with increases in property tax collections because it does not control government spending.

“This is peanuts thrown to the gallery,” Groene said.

Sen. Steve Erdman of Bayard said the proposed credit would result in a “miniscule, unrecognizable amount of reduction in your taxes.”

“[LB]1107 is not property tax relief,” he said.

ImagiNE Nebraska Act

Also included in the committee amendment is a proposal to create a new business tax incentive program, the ImagiNE Nebraska Act. The application period for the state’s current program, the Nebraska Advantage Act, ends this year.

Sen. Mark Kolterman of Seward introduced the original proposal, LB720, last session. Under the committee amendment, qualifying businesses would receive a varying combination of incentives based on their level of capital investment and the number of employees they hire at a minimum qualifying wage.



Sen. Mark Kolterman

Under Linehan’s amendment, the director of the state Department of Economic Development could not approve applications that would include refunds or credits for a calendar year in which a “base authority” is projected to be exceeded. The committee amendment would have allowed the director to exceed that base authority with the governor’s approval.

Under the committee amendment,

the base authority would be \$25 million in calendar years 2021 and 2022, \$100 million for 2023 and 2024 and \$150 million for 2025.

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

Omaha Sen. Machaela Cavanaugh said she was disappointed that the Legislature was considering three major proposals in a single package rather than debating and voting on them individually.

She said she would like to support the new business tax incentive program because the business community feels it is important.

“But I will not support [a] tax incentive package that subsidizes companies that do not pay a living wage, do not pay benefits, do not pay leave to their employees,” Cavanaugh said. “Businesses that are getting tax incentives should be the best of the best.”

Nebraska Transformational Projects Act

The committee amendment also includes the 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-



Sen. Steve Erdman opposed LB1107, saying that businesses will locate in Nebraska regardless of whether the state has a tax incentive program.

hazards disaster response facility at the University of Nebraska Medical Center.

Kolterman, who supported the committee’s proposal, said the project could create 32,000 construction jobs and 8,800 permanent jobs once completed.

“I don’t know where you get a better return on your investment,” he said.

Under the new proposal, the state would provide no matching funds unless the applicant has been selected for participation in the federal program and \$1.3 billion in federal funds and private donations have been received. In no case would matching funds be transferred before fiscal year 2025-26 or before the total amount of credits granted annually under the Nebraska Property Tax Incentive Act reaches \$375 million.

After several hours of general file debate, Scheer offered a motion to invoke cloture, which ceases debate and forces a vote on a bill. The motion succeeded on a vote of 41-2. Thirty-three votes were needed.

Senators then voted 43-2 to advance LB1107 to select file. ■



Hemp program updated

Senators updated the Nebraska Hemp Farming Act Aug. 3 to harmonize it with new federal regulations.

LB1152, introduced by Sen. Steve Halloran of Hastings, requires the state Department of Agriculture to receive and process all completed license applications and issue licenses to qualified applicants.



Sen. Steve Halloran

It also requires licensees to maintain a record of hemp shipments sent from or received by the licensee.

Additionally, the bill references a federal definition of “acceptable hemp THC level” and requires testing laboratories to measure the total THC in a hemp sample and report a measurement of uncertainty along with the test results.

LB1152 clarifies that the lot represented by a hemp sample must be harvested within 15 days.

The bill also defines a negligent violation of the act and clarifies that the presence of uncultivated, naturalized hemp plants in the environment is not considered cultivation for purposes of the act.

Finally, it authorizes the Nebraska Hemp Commission to preserve and develop certain Nebraska heirloom hemp varieties.

LB1152 passed on a vote of 44-3 and takes effect immediately.



Ban on hair discrimination amended, returned to final reading

A bill on final reading that seeks to extend employment discrimination protections was amended Aug. 3 after lawmakers voted to return it to select file.

LB1060, as originally introduced by Omaha Sen. Machaela Cavanaugh, would expand the definition of race for purposes of employment discrimination to include traits historically associated with race, such as hair texture and protective hairstyles, including braids, locks and twists.



Sen. Machaela Cavanaugh

Senators voted to return the bill to select file to consider an amendment offered by Cavanaugh, which she said incorporated feedback from the state attorney general’s office. The amendment would align the bill’s language with the legally accepted definition of race, she said, which includes hair texture and protective hairstyles.

Sen. Ben Hansen of Blair opposed the bill, saying that it represented government overreach.

“Are we, as a government, encroaching too much on the employer/employee relationship and disproportionately affecting employers and their ability to [do] what’s best for their business?” he said.

After voting 34-0 to adopt Cavanaugh’s amendment, senators advanced the bill to final reading by voice vote.

Collection of educational, workforce data approved

The state will more closely track educational and workforce outcomes under a bill passed by lawmakers Aug. 4.

The data collection system created under LB1160, sponsored by Lincoln Sen. Matt Hansen, allows the state to track individuals as they progress through the state’s educational system and enter the workforce.



Sen. Matt Hansen

The state Department of Labor will 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 establishes data collection goals, including:

- providing workforce outcome data to postsecondary educational institutions;
- guiding students to education, training and career pathways that will 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 will be provided to lawmakers before Dec. 1, 2021.

The bill passed on a 33-5 vote and takes effect immediately.

EDUCATION

Student-teacher relationship policy requirement approved

Nebraska public and private schools must create a policy that prohibits sexual contact between a teacher and a student under a bill passed by lawmakers Aug. 3.

LB1080, introduced by Omaha Sen. Steve Lathrop, requires the school board or board of education of each school district and the governing authority of each private, denominational or parochial school to adopt a policy regarding appropriate relationships between a student and a school employee, student teacher or intern on or before June 30, 2021.

The required policy must prohibit any school employee, student teacher or intern from engaging in grooming. It also must prohibit any relationship that involves sexual contact or penetration from occurring between a student and a school employee, student teacher or intern while a student is enrolled and for a minimum of one year after a student graduates or ceases enrollment.

The policy also must include a procedure for reporting suspected grooming or other unacceptable conduct by a school employee, student teacher or intern to the school administration, the state Department of Education, the state Department of Health and Human Services and law enforcement.

Additionally, the policy must describe the preferred methods for a school employee, student teacher or intern to use in communicating with



Sen. Steve Lathrop

students, including cell phones, email services or social media platforms.

Finally, it must include notice that policy violations could result in disciplinary action and referral to the state Department of Education and that any violation involving sexual or other abuse will result in referral to DHHS, law enforcement or both.

Senators voted 47-0 to pass LB1080.

FAFSA completion requirement advanced

Lawmakers gave first-round approval Aug. 4 to a bill that would require Nebraska students to submit a federal college financial aid application before they graduate from high school.

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

Vargas said mandatory FAFSA filing policies in other states have increased the overall completion rate and closed the gap in completed applications between high- and low-income school districts within two years.

More than 70 percent of Nebraska jobs require postsecondary education or training, Vargas said, and LB1089 would benefit the state's workforce by ensuring that more students, including those from low-income families, have the financial resources to pursue higher education.

As introduced, LB1089 would allow the state commissioner of education or the administrator of the district in which the student is enrolled to waive the requirement under certain

circumstances.

An Education Committee amendment, adopted 30-0, would replace the bill. Under the amendment, a student's parent or legal guardian, or the person standing in loco parentis to the student, could submit a signed form indicating that they authorize the student to decline to complete and submit a FAFSA.

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

The principal or a designee would provide the number of students who completed a FAFSA or submitted the required waiver to the school district or governing authority for the high school and to the state Department of Education.

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

Vargas introduced an amendment to the committee amendment that would authorize a student who is 19 or older or is an emancipated minor to sign and submit the waiver. The amendment was adopted on a vote of 32-0.

Sen. Mike Groene of North Platte opposed the bill, saying it would create an unnecessary graduation requirement. Groene said he trusts high school guidance counselors and administrators to help students and their families complete and submit a FAFSA if they choose to do so.

"[LB1089] is a mandate to parents to fill out a form for a ... voluntary government program," he said.

Senators voted 28-9 to advance LB1089 to select file.



Sen. Tony Vargas

Injury leave for school employees approved

School employees will receive injury leave if they are injured by another person while at work under a bill passed by lawmakers Aug. 3.

Under LB1186, sponsored by Lincoln Sen. Mike Hilgers, a school district employee who is physically injured by another person who “intentionally, knowingly or recklessly causes bodily injury” to that employee will 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.



Sen. Mike Hilgers

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. An employee will receive no additional compensation under the act for any day that they already have been paid injury leave.

An employee may receive no more than seven calendar days of injury leave. After that, the employee must use workers’ compensation benefits. Injury leave will not count against any other leave an employee accrues.

In determining the applicability of injury leave, a school district may require confirmation from a physician regarding the causation and the period of time for which an employee is unable to work. A district may withhold injury leave until the employee provides confirmation.

Senators voted 48-0 to pass LB1186.

GOVERNMENT, MILITARY & VETERANS AFFAIRS

Omnibus election bill passed

A bill that makes numerous changes to election procedures in Nebraska passed Aug. 3.

LB1055, introduced by Sen. Tom Brewer of Gordon, requires counties that conduct elections by mail to have an in-person polling site at the office of the county clerk, at least one secure ballot drop box available for voters and in-person early voting opportunities.



Sen. Tom Brewer

Currently, counties of less than 10,000 residents can apply to the state for permission to hold an election entirely by mail.

LB1055 includes provisions of:

- LB820, also introduced by Brewer, which remove “home” and “work” phone numbers from voter application forms and change timelines for recall elections;
- LB1086, introduced by Sen. Matt Hansen of Lincoln, which require poll



Sen. Matt Hansen

watchers who wish to observe Election Day procedures to be either a registered voter in Nebraska or a member of a state, national or international election monitoring organization;

- LB1136, introduced by Sen. Matt Williams of Gothenburg,

which require members of a public power board to be governed by the Nebraska Political



Sen. Matt Williams

Accountability and Disclosure Act when dealing with conflicts of interest on board business and repeal a law prohibiting a public power board member from having an interest in a contract to which the board is a party;

- LB1119, introduced by Gretna Sen. Andrew La Grone, which prohibit special elections from being held in March of even-numbered years, except



Sen. Andrew La Grone

school bond special elections, unless the election is in conjunction with a statewide primary election; and

- LB1120, also introduced by La Grone, which prohibit special elections from being held in September of even-numbered years unless the election is in conjunction with a statewide general election, or is an election to approve a property tax levy or to exceed the subdivision’s property tax levy limitation.

The bill passed on a 47-0 vote.

HEALTH & HUMAN SERVICES

Human trafficking bill narrowed, returned to final reading

A bill on final reading related to human trafficking was narrowed Aug. 4 after senators voted to return it to select file.

LB518, as introduced by Elkhorn Sen. Lou Ann Linehan, would have adopted the Support for Trafficking Survivors Act and created the Support for Trafficking Survivors advisory board.



Sen. Lou Ann Linehan

Linehan said the original bill would have formalized a statewide plan to provide services to victims of sex trafficking and would have supported law enforcement in more successfully investigating and prosecuting sex traffickers.

“Unfortunately, those things come at a cost,” she said, “and this is not the time [that] our state is able to take on those costs.”

Senators voted to return the bill to select file to consider an amendment offered by Linehan to remove provisions outlined in her original bill. She said the amendment would eliminate the bill’s fiscal impact.

“[LB518] will still be a meaningful step in supporting victims of sex trafficking and abuse,” Linehan said.

The amendment was adopted 40-0.

Remaining in LB518 are provisions of Bellevue Sen. Carol Blood’s LB745, amended into the bill on



Sen. Carol Blood

select file. These provisions would outline procedures for certification of immigration visas by local law enforcement in Nebraska.

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

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

Following adoption of the Linehan amendment, lawmakers advanced LB518 to final reading by voice vote.

Managed care changes adopted

A bill that changes provider notification procedures for state-contracted managed care companies that deliver Medicaid services passed Aug. 4.

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



Sen. Lynne Walz

- 60-day notice of any material change;
- a proposed effective date of the change;
- a description of 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.

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

The bill also clarifies the intent of Medicaid program integrity audits and requires the state Department of Health and Human Services to notify Medicaid recipients when eligibility is discontinued or modified.

LB956 passed on a 47-0 vote.

Prescription drug access measure approved

Medicaid recipients cannot be denied certain prescription medication coverage under a bill that passed Aug. 3.

LB1052, introduced by Lincoln Sen. Anna Wishart, prohibits the state Department of Health and Human Services, a managed care organization or a contracted pharmacy benefit manager from denying coverage of antidepressant, antipsychotic or anticonvulsant medication if the patient’s health care provider deems the drug medically necessary.



Sen. Anna Wishart

The bill includes provisions of La Vista Sen. John Arch’s LB847 and LB887, which change pharmacy provisions at long-term care facilities,



Sen. John Arch

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.

LB1052 passed on a 47-0 vote.

Opioid addiction treatment, prevention fund created

A bill to fund treatment and prevention of opioid addiction passed Aug. 3.

LB1124, introduced by Omaha Sen. Sara Howard, creates 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 requires the state 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.

LB1124 passed on a 48-0 vote.

Health data board established

Lawmakers passed a bill Aug. 3 that creates a new board to oversee the state's health information exchange.

LB1183, introduced by Sen. John Arch of La Vista, creates the Health Information Technology Board, composed of health care professionals and other stakeholders.

The 17-member board will establish criteria for data collection and disbursement by the statewide health information exchange.

The board, which will begin meet-

ing April 1, 2021, will assure that information contained in the exchange was accessed, used and disclosed in accordance with the federal Health Insurance Portability and Accountability Act and also will oversee Nebraska's prescription drug monitoring protocol.

The bill passed 47-0 and takes effect immediately.

Child care provider background checks established

More Nebraska child care providers must undergo a federal background check under a bill passed Aug. 3.

LB1185, introduced by the Health and Human Services Committee, amends the Child Care Licensing Act to require that individuals who are not required to be licensed under the act but who seek to be a provider under the federal Child Care Subsidy program must submit a request for a national criminal history check for each child care staff member.

The bill includes provisions of La Vista Sen. John Arch's LB837, which require the state Department of Health and Human Services to seek federal funding to implement a program to assist residential child care providers and their employees with the cost of fingerprinting and national criminal history record information checks.

LB1185 passed on a 48-0 vote.

JUDICIARY



Bill to ban abortion procedure advanced after successful cloture vote

Lawmakers gave first-round approval Aug. 5 to a bill that would ban a

specific abortion method in Nebraska.

Following extended debate on procedural motions related to the legislative agenda, senators resumed debate on LB814, which previously was discussed on general file July 30. Introduced by Lincoln Sen. Suzanne Geist, the bill would ban "dismemberment" abortion except in emergency situations.



Sen. Suzanne Geist

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

The majority of Nebraskans support ending the "barbaric" practice of dismemberment abortion, Geist said, including both liberals and conservatives.

"I disagree with people who say that this is not important to the people of Nebraska," she said. "There are pro-choice women and men who support this."

LB814 also 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.

Creighton Sen. Tim Gragert supported the bill, calling it one of the most important proposals to come before the Legislature.

"My wife and I were recently blessed with our fourth grandchild," Gragert

said. "I would hate to see anyone miss out on that amazing experience."

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.

"The courts have already recognized that there are no workarounds that could make a [dilation and extraction abortion] ban constitutional," Hunt said. "These are points that the Supreme Court has not wavered on for 40 years."

Bennington Sen. Wendy DeBoer said that even though the provisions of LB814 would apply only to a small number of abortions in Nebraska, she could not support it.

"All constitutional rights are equally protected for each person in the United States," she said. "I can't in good conscience knowingly vote for a bill that violates the Constitution of the United States."

After three hours of debate, Geist filed a motion to invoke cloture, or cease debate and vote on the bill. The motion succeeded 34-11. Thirty-three votes were needed.

Senators then voted 6-32 to reject Hunt's motion to indefinitely postpone LB814 and 34-9 to advance the bill to select file.

Omnibus judiciary bill approved

Lawmakers passed a bill Aug. 3 that makes several changes to judicial procedure.

LB881, sponsored by Lincoln Sen. Matt Hansen, eliminates the court's authority to deduct fines automatically from otherwise encumbered portions of an



Sen. Matt Hansen

offender's bond.

The bill includes provisions of:

- LB213, sponsored by Omaha Sen. John McCollister, which allow a person sentenced to community service to apply to have their conviction set aside;



Sen. John McCollister

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

- LB776, sponsored by Bennington Sen. Wendy DeBoer, which allow evidence from an expert witness regarding eyewitness testimony to be admitted under the Nebraska Evidence Rules;



Sen. Wendy DeBoer

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

- LB945, sponsored by Omaha Sen. Machaela Cavanaugh, which require cities of more than 100,000 people to prepare an annual report of untested sexual assault evidence collection kits;



Sen. Machaela Cavanaugh

- LB1007, also sponsored by Hansen, which 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 Brooks, which clarify the process for making a grand jury transcript publicly available when convened to investigate the death of a person in custody or detention;



Sen. Patty Pansing Brooks

- LB1180, sponsored by Omaha Sen. Justin Wayne, which increase to six the number of alternate jurors a court can impanel; and



Sen. Justin Wayne

- LB1181, also sponsored by Wayne, which 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.

Additionally, LB881 creates the new offense of sexual abuse by a school employee. A person is guilty of such offense 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 is a Class IIA felony, punishable by up to 20 years in prison. A student's consent to sexual activity will not be considered a valid defense.

Sexual contact with a student is a Class IIIA felony, subject to a penalty of up to three years imprisonment with 18 months post-release supervi-

sion, a \$10,000 fine or both. A person found to have committed grooming behavior is 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 is required to register as a sex offender.

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

The bill also extends 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.

Provisions of four bills pertaining to sexual assault offenses are included in LB881:

- LB766, sponsored by Omaha Sen. Brett Lindstrom, which 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 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 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 create the offense of sexual exploitation of a student.



Sen. Tony Vargas

LB881 passed on a 30-8 vote.

Earlier parole eligibility clears first round

A bill that seeks to address the overcrowding crisis in Nebraska's correctional system was advanced from general file Aug. 4.

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



Sen. Steve Lathrop

The bill has the potential to provide relief within the state's overcrowded prison system, Lathrop said, while incentivizing inmates to complete programming and be released on parole, rather than being discharged with no supervision.

"The solution to overcrowding ultimately is going to be some thoughtful

combination of reforms and building," he said. "But we can't possibly build our way out of it [alone]."

A Judiciary Committee amendment, adopted 30-1, included provisions of LB1036, originally introduced by Lincoln Sen. Adam Morfeld. As amended, it would change the age of consent for health care decisions from 19 to 18. It also would allow a person under 19 who is in the custody of the correctional system to consent to medical and mental health care decisions.



Sen. Adam Morfeld

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

Lathrop introduced an amendment that would make LB1004 prospective, meaning it would not apply retroactively to people already serving sentences.

Gordon Sen. Tom Brewer spoke in support of the bill, saying that changing correctional leadership alone would not fix the overcrowding emergency.

"When you sit down with [inmates] and talk to them ... it almost always comes back to programming and how frustrated they are," he said. "We have to think outside of the box. To just simply say that we can't do it because it's too hard isn't the answer."

Sen. Ben Hansen of Blair said he disagreed with making potentially long-lasting policy decisions based on a temporary overcrowding emergency.

"If we need to make more room, then I believe in building a new prison," he said. "Or we should change the laws, not based on prison overcrowding, but because we believe they are unjust and it's the right thing to do to direct our society in a way that

we feel is right.”

Gretna Sen. Andrew La Grone filed a series of amendments in an attempt to delay a vote on the bill, but ultimately withdrew them.

Following the 29-0 adoption of the Lathrop amendment, senators voted 29-2 to advance LB1004 to select file.

REVENUE

NEST program changes approved

Nebraskans may deduct employer contributions to their state college savings accounts from their state income taxes under a bill passed by the Legislature Aug. 3.

Under LB1042, introduced by Sen. Andrew La Grone of Gretna, an individual’s federal adjusted gross income will be reduced by the amount of any contribution made by the individual’s employer into the individual’s Nebraska educational savings plan trust account.



Sen. Andrew La Grone

The deduction is for taxable years beginning on or after Jan. 1, 2021, and may not exceed \$5,000 for those married filing separately or \$10,000 for other filers.

The bill prohibits any state agency that provides benefits or aid to individuals based on financial need from taking employer contributions into account when determining an individual’s income.

Additionally, LB1042 eliminates the provision in current law that allows only an account’s participant, or registered owner, to take a state income tax deduction equal to con-

tributions they make to their account, within certain limits.

The bill includes the amended provisions of LB1083, introduced by Lincoln Sen. Adam Morfeld. The provisions allow the state treasurer to credit private qualified contributions to the Meadowlark Endowment Fund or to accounts opened under the Meadowlark Program at the direction of the donor.



Sen. Adam Morfeld

LB1042 prohibits any money accrued in the College Savings Plan Program Fund from being used to pay expenses associated with attending kindergarten through 12th grade.

It also prohibits private contributions to the Meadowlark Endowment Fund or accounts opened under the Meadowlark Program from being used to pay those expenses.

Finally, LB1042 directs the state treasurer to transfer \$59,500 from the College Savings Plan Expense Fund to a state Department of Revenue fund to defray the bill’s implementation cost.

LB1042 passed on a vote of 47-0 and takes effect immediately.

Proposal to decouple from federal tax change debated

Lawmakers debated a proposal Aug. 6 to decouple Nebraska’s tax code from a federal change made in response to the coronavirus pandemic.

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



Sen. Lou Ann Linehan

Sen. Sue Crawford of Bellevue in-

troduced an amendment on general file that would decouple Nebraska’s tax code from a provision in the Coronavirus Aid, Relief and Economic Security Act passed by Congress in March. Because Nebraska conforms to federal tax law on a rolling basis, it automatically incorporates changes made at the federal level.

The provision in question, which temporarily removes an excess business loss limitation for passthrough entities, would reduce state income tax revenue by approximately \$82 million this year, Crawford said.

She said the proposal is a pared-down version of another amendment introduced by Albion Sen. Tom Briese, which would have decoupled state tax code from several other CARES Act provisions.

Crawford said that decoupling from the excess business loss provision would preserve state tax revenue at a time when the Legislature is seeking to enact property tax reform.

Even if the amendment were adopted, she said, Nebraska passthrough businesses still would receive a federal tax cut about four times greater than the one from the state. Crawford said her amendment would not affect a separate CARES Act provision on net operating losses that is intended to provide businesses with the liquidity they need to survive the economic slowdown caused by the pandemic.

Sen. Mike Groene of North Platte supported the amendment, saying that Nebraska’s tax code already favors the businesses—S corporations and LLCs—that would benefit from the federal change.

He said the Legislature should decouple from the provision so that it has enough revenue to pay for the business tax incentive and property tax relief measures contained in LB1107, which lawmakers advanced to select file Aug. 5.

“This is not a ... tax increase,”

Groene said. "This is good tax policy to decouple us from this ... giveaway."

Briese opposed the amendment. He earlier had withdrawn his own amendment, which he said was introduced to ensure that the state had enough tax revenue to fund a major property tax relief proposal.

That proposal, now embodied in LB1107, "sets out a sustainable path forward for funding property tax reform," Briese said.

Linehan also opposed Crawford's amendment, saying that passthrough businesses would have filed their taxes in July under current law and would have to refile if the change were enacted.

"If you send somebody a letter that says 'you owe taxes that [you] didn't owe two months ago,' that is a tax increase," she said. "Nobody is going to see it any differently."

Also in opposition was Sen. Robert Clements of Elmwood. He said the CARES Act tax cuts are meant to give businesses "breathing room" to help pay operating expenses during the economic crisis and that the act's effect on state tax revenue had been accounted for in the budget.

After several hours of general file debate, the Legislature adjourned without voting on Crawford's 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.

URBAN AFFAIRS

Affordable housing bill advanced

A bill that would expand availability of certain types of housing advanced

to select file Aug. 3 after discussion spanning several days.

LB866, as introduced by Omaha Sen. Justin Wayne, would adopt the Density Bonus and Inclusionary Housing Act. The bill would incentivize affordable housing projects through residential density increases, regulatory concessions and incentives for housing developments that include a certain percentage of income-restricted rental units.

An Urban Affairs Committee amendment, adopted 31-0, replaced the original bill. Wayne said the amendment included concepts from his bill combined with ideas from LB794, originally introduced by Lincoln Sen. Matt Hansen.

The amendment would require Nebraska cities with populations greater than 20,000 to submit a report every two years, beginning July 1, 2021, to the Urban Affairs Committee detailing their efforts to incentivize affordable housing.

The report would include an overview of the city's residential zoning requirements, percentage of residential areas zoned for multi-family housing, a five-year history of new residential construction and residential units annexed and an estimate of per unit housing costs.

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



Sen. Justin Wayne



Sen. Matt Hansen

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

Hansen said the bill would help fill a gap between single-family houses and apartment buildings.

"Housing affordability, I've heard time and time again, is a critical issue," he said.

Sen. Mark Kolterman of Seward supported the amended bill, saying it would help lawmakers make better decisions.

"It gives the [Urban Affairs] Committee a lot more information about what's taking place in our municipalities and what's happening from a housing perspective," he said.

Lincoln Sen. Adam Morfeld introduced an amendment during debate July 27 that would allow a municipality to declare a moratorium on evictions and foreclosures to protect the public welfare from the spread of a virus or infectious disease, such as the current COVID-19 pandemic.

"All Nebraskans deserve a safe place to call home, particularly during a crisis," Morfeld said.

The amendment was ruled not germane to the underlying bill by the presiding officer. Morfeld challenged that ruling, which was upheld by lawmakers on a 19-30 vote. Twenty-five votes were needed to overrule the presiding officer.

Lawmakers advanced LB866 to select file on a 28-5 vote.

Tax-increment financing changes amended, advanced

A bill intended to make certain redevelopment projects easier advanced from general file Aug. 4.

LB1021, as introduced by North Platte Sen. Mike Groene, would create expedited review of tax-increment financing for redevelopment projects under the state's Community Development Law if the project:



Sen. Mike Groene

- involves repair, rehabilitation or replacement of an existing structure in an existing substandard or blighted area;
- is in a county with a population of less than 150,000 or in an area that has been declared

extremely blighted;

- involves a structure that is at least 50 years old; and
- does not exceed \$250,000 for a single-family structure, \$1 million for a multi-family or commercial structure or \$10 million for a structure on the National Register of Historic Places.

An Urban Affairs Committee amendment would increase the minimum age of a structure to 60 years and reduce eligibility to counties with a population of less than 100,000. The decision to allow expedited review would rest with the governing body of a municipality.

Groene described the bill as a "micro-TIF" measure and said it would reduce construction costs, make workforce housing more affordable and rejuvenate blighted areas.

"[LB1021] will remove statutory and financial barriers presently in the way of urban renewal in truly blighted and substandard areas," he said.

Sen. Ben Hansen of Blair supported the bill, which he said would make it more difficult to abuse TIF.

"We're putting the power back in the people's hands," he said.

Following adoption of the committee amendment 40-0, lawmakers advanced LB1021 to select file on a 41-0 vote. ■

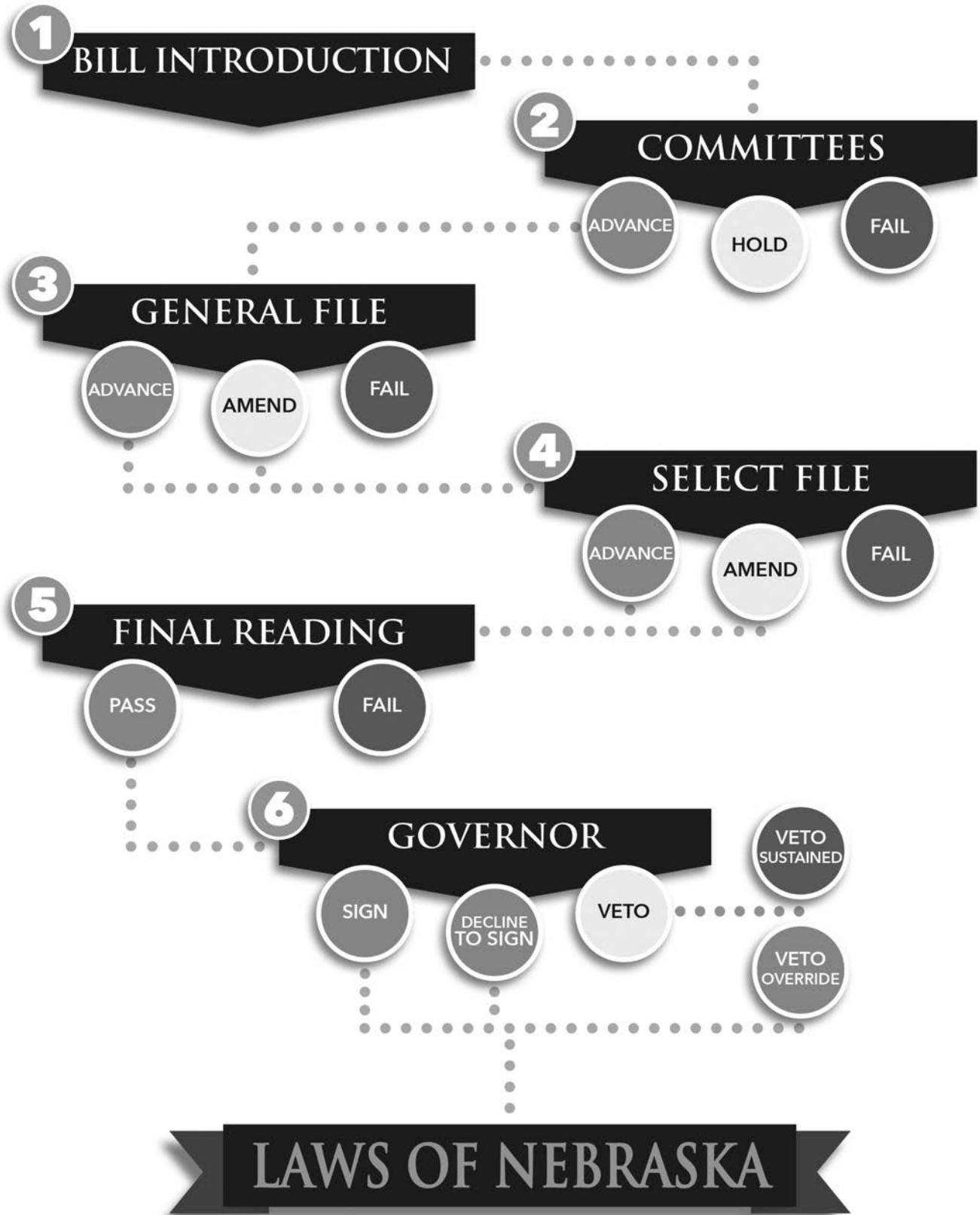
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