

Abortion ‘trigger’ ban stalls on first round

A bill that would ban all abortions in Nebraska if states are given full regulatory authority over the procedure stalled on general file April 6 after an unsuccessful cloture motion.

LB933, introduced by Thurston Sen. Joni Albrecht, would become operative contingent upon one of the three national “triggering” events: if the U.S. Supreme Court overturns *Roe v. Wade*, Congress enacts a law giving states complete authority to regulate abortion or the U.S. Constitution is amended to give states that authority.

The bill would prohibit both medical and chemical abortions starting at fertilization with no exception for cases of rape or incest. A physician who knowingly violates the bill’s provisions would be subject to a Class IIA felony charge, which carries a maximum penalty of 20 years imprisonment.



Sen. Joni Albrecht said passage of LB933 could help the Legislature avoid a special session if *Roe v. Wade* is overturned this summer.

A physician charged under the bill’s provisions could claim an affirmative defense that the procedure was necessary to prevent a woman’s death. A woman who attempts or has an abortion would not be liable under the bill. Medical treatment provided by a licensed physician that results in accidental death or injury of an unborn fetus also would not be a violation.

Albrecht said that since the 1973 Supreme Court ruling in *Roe v. Wade*, approximately 200,000 abortions have been reported in Nebraska — a number equal to approximately 10 percent of the state’s population.

“Life is a human right,” she said. “It is often said that our greatest resource in Nebraska is our people. LB933 is about ensuring our most precious and vulnerable people

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Criminal justice reforms fail to advance

A bill that would enact a series of measures intended to reduce Nebraska’s inmate population and lower recidivism rates stalled April 6 after a failed cloture motion.

LB920, introduced by Omaha Sen. Steve Lathrop, chairperson of the Judiciary Committee, would enact a number of provisions intended to improve Nebraska’s criminal justice system.

Provisions of the bill are based on recommendations from the Criminal Justice Reinvestment Working Group,

Lathrop said, and offer potential reforms to address the state’s prison overcrowding crisis in the face of efforts to construct a new, 1,500-bed prison at a cost of \$270 million.

The working group included members from all three branches of government who examined data on Nebraska’s criminal justice system analyzed by the national Crime and Justice Institute. The group offered a series of recommendations for reform.

LB920 contains a number of those provisions designed to address sen-

tencing, reentry, release and supervision, including:

- requiring each judicial district to establish a problem-solving court;
- reducing potential penalties for some drug and burglary offenses;
- creating three probation system pilot programs;
- limiting mandatory minimum terms for certain nonviolent felonies;
- limiting offenses that can be used for certain sentence en-

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— the pre-born — [are protected] from the violence of abortion.”

Sen. Mike Hilgers of Lincoln spoke in support of the bill. He said the Supreme Court’s ruling in 1973 removed the ability for voters and elected representatives to weigh in on the abortion issue. A case expected to be considered by the court in June could overturn *Roe v. Wade*, however, once again returning the policy question to the states, he said, and Nebraska should be ready.

“I stand with the supporters of science ... that these babies are individual, unique people that are deserving of protection even if they happen to not have been born yet,” Hilgers said. “We stand with those who have no voice.”

Also in support was Sen. Michael Flood of Norfolk. In 2011, the Legislature passed a bill that prohibited abortions after 20 weeks gestational age, he said, yet no doctor has been charged with violating that law. The same exceptions that were provided for in the 20-week abortion bill — such as the provision allowing procedures that involve saving a mother’s life — also are included in LB933, he said.

“Nebraska is a pro-life state,” Flood said. “We pass laws that protect the sanctity of each life.”

Sen. Rita Sanders of Bellevue agreed, saying that pregnancy centers outnumber abortion clinics in Nebraska by an 8 to 1 ratio. The centers offer a wide array of free services to women such as counseling, support and supplies, she said.

“When someone claims that supporters of LB933 don’t care about mother or baby after birth, I respectfully disagree,” Sanders said. “Nebraska was ranked 11th in family-friendliness in having a baby and ... there are many amazing resources available to pregnant women.”

Omaha Sen. Megan Hunt filed a motion to indefinitely postpone LB933, which would end consideration of the bill for the session. With so many issues yet to be addressed by lawmakers, she said, the bill would derail other important work. The motion failed on a 13-28 vote.

Speaking against the bill, Hunt said decisions about whether to become a parent and when are some of the most important that a person can

make. Reproductive rights should not be up for debate, she said, and once someone makes the decision to end a pregnancy, their care should be safe, affordable and free from punishment or judgment.

“This policing of our bodies is something we should be concerned about for the direction of our culture in our country,” Hunt said, adding that LB933 would not end abortion, but would only make it more dangerous.

Lincoln Sen. Anna Wishart also opposed the measure. Globally, nearly 1 in 3 women will experience physical or sexual violence in their lifetime, she said, and the bill would take a “sledgehammer” to women’s freedom.

“I believe that women have the right to their bodies,” she said. “This legislation, while it may claim to be pro-life ... makes Nebraska dangerous to live in as a woman.”

Omaha Sen. Machaela Cavanaugh expressed concern that the bill not only would create a felony charge for medical providers who violate its provisions, but also would change the scope of medical practice in the state.

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UNICAMERAL UPDATE

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Criminal justice reforms fail to advance

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- hancements;
- limiting when courts may impose consecutive sentences;
- providing for geriatric parole, streamlined parole and earlier parole eligibility for some inmates; and
- creating a residential housing program for parolees who commit technical violations.

A Judiciary Committee amendment would, among



Sen. Steve Lathrop said the state cannot build its way out of the prison overcrowding crisis.

other provisions, increase the age requirement for geriatric parole eligibility from age 70 to 75 and increase the sentence length eligibility from 10 years to 15.

Lathrop said that even if the state were to close the existing state penitentiary and build additional capacity, the cor-

rectional system would remain in an overcrowding emergency without sentencing reform, falling 1,300 beds short of needed capacity by 2030.

The underlying problem, he said, is the rate at which the prison population is growing, in part as a result of “jam outs” — when an inmate completes their maximum sentence without having been released on supervised parole.

Ninety-five percent of inmates eventually will be released, Lathrop said, and they need incentives to encourage their participation in programming that will earn them a chance at parole. The only way to reduce jam outs and increase former inmates’ chances at successful re-entry is to improve parole eligibility opportunities, he said.

“That’s what LB920 does,” Lathrop said. “That’s what makes the difference in [the] rate at which our population will grow between now and 2030 and indefinitely.”

Gering Sen. John Stinner agreed. In 2014, Nebraska’s prisons were 150 to 160 percent capacity, he said, yet despite the construction of hundreds of new beds since then, the population currently is at 155 percent capacity. At that continued rate, he said, the state would need to construct

several more prisons in the next 20 years just to keep up.

“The fact of the matter is, we’re under an emergency [overcrowding] declaration. We’re the worst in the country and all we can do is talk about building a new prison,” Stinner said. “We talk about safety and keeping the public safe, but how about the workers and the inmates? This isn’t soft on crime. These are reforms that were put [in place] in other states.”

Omaha Sen. John Cavanaugh spoke in support of LB920 and the committee amendment. The state should reduce penalties for certain first-time offenses, he said, including burglary of a building that isn’t an occupied dwelling and possession of small amounts of drugs. Doing so would correct existing sentencing disparities that don’t reflect the harm that a crime poses to society, he said.

“Having less than half a gram of methamphetamine is not the type of conduct that we think someone should go to prison for and our laws should reflect that,” Cavanaugh said.

Also in support of the proposal was Bennington Sen.

Wendy DeBoer. She said jam outs are dangerous to communities and that the only way to reduce bad outcomes is for inmates to go through the parole system and learn how to successfully re-enter society.

“We have to find a way to incentivize them and then help

them get back in the community safely,” she said. “[Moving up] the parole eligibility date does not mean anyone will get out a day sooner than under current law unless the parole board says they are ready. When they get out, they are supervised until their jam-out date.”

Lincoln Sen. Suzanne Geist said 80 percent of the provisions in LB920 are “consensus items” that deal with rehabilitation and that nearly everyone in the Legislature agrees upon. She offered an amendment that she said would



Sen. Suzanne Geist said several of the provisions in LB920 to reduce sentences and penalties would endanger public safety.

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“I have some very significant concerns about how this is going to affect our medical community and our ability to recruit and retain quality doctors [in] our state,” Cavanaugh said.

Several senators expressed concern that the bill would make no exception for cases of rape or incest. In response, Albrecht said that in 2020, there was one case of incest and 14 cases of sexual assault that resulted in pregnancy reported in Nebraska. One violent act does not justify another, she said.

Omaha Sen. Jen Day, speaking in opposition to LB933, said victims of incest and sexual assault should not be minimized by lawmakers.

“We cannot offer help to [them] because we are putting the rights of an embryo over a living, breathing human regardless of the circumstances in which a woman was impregnated,” Day said. “At what point do we see the humanity of the woman as less [important] than the pregnancy she is carrying?”

After eight hours of debate, Albrecht filed a motion to invoke cloture, which ends debate and forces a vote on the bill and any pending amendments. The motion failed on a vote of 31-15. Thirty-three votes were needed. The bill is unlikely to be placed on the agenda again this session. ■

Criminal justice reforms fail to advance

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remove the other 20 percent of the bill’s “non-consensus” items, which she said are a threat to public safety.

The amendment would remove provisions that would reduce prison sentences and lower penalties for certain felonies such as possession of small amounts of controlled substances and burglary that doesn’t involve an occupied dwelling. It also would remove a requirement that an individual have committed violent offenses previously to be sentenced as a habitual criminal.

“We all agree that we want to prevent jam outs, but we have a different philosophy on how to get there,” Geist said. “Rehabilitation is a large part of what I think is important and something we as a state have rarely focused on, if ever, exclusive of lowering penalties and changing sentences. In my opinion, those cost nothing — except public safety.”

Instead of changing sentencing and penalties, Geist said, the state should focus its efforts on helping inmates get better at a time when the state has an inflow of money. Better means not returning to prison, she said.

“I disagree with changing the penalty for [possession of] a small amount of drugs. That can [indicate] a very serious problem and we want to address it on the front-end as soon as we possibly can so that it can be taken care of,” she said. “Treatment can be the very best thing, even if it’s forced treatment.”

Sterling Sen. Julie Slama spoke in support of the Geist amendment, calling it “responsible governance” that would maintain public safety. LB920 as introduced would go too far, she said, and the Geist amendment would address important issues like jam outs and access to mental health care without endangering the public.

“We’re in the top 15 for the lowest

imprisonment rate in the country,” Slama said. “We don’t need to free felons and tie the hands of our justice system in doing so.”

Lathrop opposed the Geist amendment, which he said would remove all of the provisions from LB920 that could “move the needle” and slow the predicted upward climb in the state’s prison population. Sentencing reform is essential to that equation, he said.

Sen. Terrell McKinney of Omaha also opposed the Geist amendment. He said Nebraska has the 10th highest Black incarceration rate in the country, and that the low incarceration rate cited by Slama only applies to white Nebraskans. People’s lives are at stake, he said, and LB920 is a moderate approach to reforming the criminal justice system.

McKinney said he would rather the Legislature take no action this session than adopt the Geist amendment, which he said would not result in meaningful change.

Sen. Anna Wishart of Lincoln also spoke in opposition to the Geist amendment, saying it wouldn’t go far enough in reducing Nebraska’s inmate population. At the current rate of growth, she said, the state would need to build two prisons over the next 20 years at a cost of at least \$1 billion.

“We need to pass the full package,” Wishart said. “We need to be smart in how we invest in public safety. LB920, with the whole package, is that.”

After eight hours of debate over three days, Lathrop filed a motion to invoke cloture, which ends debate and forces a vote on the bill and any pending amendments. The motion failed on a vote of 26-18. Thirty-three votes were needed. LB920 is unlikely to be placed on the agenda again this session. ■

APPROPRIATIONS

Lawmakers override line-item vetos; budget adjustments stand

Senators approved all the motions offered by the Appropriations Committee to override line-item vetoes of the state's budget adjustment package April 7.

Three bills comprising the Legislature's adjustments to the state's two-year budget were passed last week and sent to Gov. Pete Ricketts. The governor vetoed over \$105 million in line items and Gering Sen. John Stinner, chairperson of the Appropriations Committee, filed motions to override all but one.

Among the provisions vetoed in LB1011, the mainline budget bill, were \$51.8 million in provider rate increases in four programs within the state Department of Health and Human Services: behavioral health, child welfare, developmental disability aid and Medicaid.

In his April 4 veto message, Ricketts said funds received from the federal government for pandemic relief would provide sufficient rate increases for those programs. LB1011 raised the rates 15 percent; the veto would have reduced the rate hike to 5 percent.

"It's important that we strike the appropriate balance between calibrating government spending and returning excess revenue back to the people," Ricketts said. "That is how we responsibly steward taxpayer money."

Stinner said provider rate increases were a top priority for the committee. Rural nursing homes and developmental disability facilities are facing workforce vacancies of up to 35 percent, he said, in part because they cannot pay competitive wages.

La Vista Sen. John Arch supported

the motion, saying the 15 percent increase in provider rates is appropriate.

"We're in a situation where these rates are critical to providers," Arch said, adding that private providers may no longer be able to afford to offer important services without the increase.

The override motion, adopted 42-3, also restored \$4.15 million in general funds in LB1011 and a \$4.15 million transfer from the Cash Reserve Fund in LB1013 to complete the MoPac Trail between Lincoln and Omaha.

The committee did not attempt to restore the elimination of a \$14 million transfer from the Governor's Emergency Cash Fund to the Cash Reserve Fund in LB1011.

Lawmakers also voted 42-3 to override the governor's veto of a \$15 million transfer from the Prison Overcrowding Contingency Fund to the Vocational and Life Skills Programming Fund in LB1012. Ricketts called the transfer an "inappropriate" use of the fund, which is earmarked to replace the state penitentiary.

Stinner said money in the contingency fund has not yet been appropriated for a new prison and that programs that benefit inmates are a suitable use for those dollars.

Finally, senators voted 41-5 to restore a \$20 million transfer from the Cash Reserve Fund to the Middle-Income Workforce Housing Investment Fund in LB1013.

Sen. Mike Hilgers of Lincoln supported all of the override motions. Lawmakers were able to fund the state's priorities, provide the largest tax cut in state history and leave \$1.3 billion in the cash reserve this session, he said. The budget adjustment package was an important piece of that success, he said, and should stand as approved by lawmakers.

"That's a significant trifecta," Hilgers said.

Pandemic funding bill approved

Lawmakers passed a bill April 7 that appropriates the \$1.04 billion allocated to Nebraska from federal pandemic relief funds.

LB1014, introduced by Speaker Mike Hilgers of Lincoln at the request of Gov. Pete Ricketts, contains appropriations for fiscal year 2021-22 and FY2022-23 for the American Rescue Plan Act funds allocated to Nebraska to mitigate the impact of the coronavirus pandemic.

The state has received \$520 million and an additional \$520 million is anticipated by May 2022. The bill's expenditures support COVID-19 mitigation efforts, respond to negative economic impacts of the pandemic, replace lost revenue, provide premium pay for essential workers and fund water, sewer and broadband infrastructure projects.

Among the appropriations are \$100 million for "shovel-ready" projects for qualifying sports complexes and non-profits related to the arts, culture and humanities, \$91 million for workforce housing and \$20 million for water transportation infrastructure projects.

The bill also contains provisions of more than 20 proposals introduced this session, including:

- LB1089, sponsored by Gering Sen. John Stinner, which appropriates \$55 million to the state Department of Health and Human Services for licensed and Medicaid-certified nursing facilities;



Sen. Mike Hilgers



Sen. John Stinner

- LB1066, sponsored by Stinner, which appropriates \$28 million to DHHS and the University of Nebraska for behavioral health care services;
- LB1172, sponsored by Omaha Sen. Robert Hilkemann, which appropriates \$55 million for rate increases for certain providers of developmental disabilities services; and
- LB1201, sponsored by Bennington Sen. Wendy DeBoer, which appropriates \$20 million to DHHS for grants to nonprofit organizations providing food assistance.



Sen. Robert Hilkemann



Sen. Wendy DeBoer

Lawmakers passed LB1014 on a 40-4 vote and the bill took effect immediately.

BUSINESS & LABOR

State claims bills passed

Lawmakers approved two bills April 7 that pay and deny claims against the state.

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

LB1083, introduced by the Business and Labor Committee, provides for payment of approximately

\$900,000 in claims against the state and agency write-offs of approximately \$9.1 million in uncollectible debts. The bill passed 46-0 and took effect immediately.

LB1084, also introduced by the committee, denies two claims against the state totaling \$13,627. The bill passed on a 47-0 vote.

EDUCATION

Holocaust education standards amended, advanced

A bill intended to ensure that Nebraska students receive education on the Holocaust and other acts of genocide advanced to the final round of debate April 7 after lawmakers amended it to clarify which events those lessons would cover.

LB888, introduced by Sen. Jen Day of Omaha, would require the State Board of Education to adopt academic content standards for education on the Holocaust and other acts of genocide as part of the state's social studies standards.



Sen. Jen Day

Under an amendment introduced by Brainard Sen. Bruce Bostelman on select file, the board could adopt education standards related only to acts of genocide as recognized by the U.S. Congress or the United Nations as of Jan. 1, 2022.

Bostelman said those include acts of genocide in Armenia, Bosnia, Darfur and Rwanda as well as the genocide committed against the Yazidi by the Islamic State.

The amendment was adopted on

a vote of 35-0.

Sen. Justin Wayne of Omaha offered an amendment, adopted 31-0, that would require the board also to adopt standards related to slavery, lynching and racial massacres in America.

Wayne said his proposal would ensure that students also learn about events in U.S. history that are not recognized as genocides, including the 1921 Tulsa Race Massacre and massacres of Native Americans.

After adopting the amendments, senators advanced LB888 to final reading by voice vote.

Loan forgiveness, teacher certification changes advanced

Lawmakers gave first-round approval April 7 to a bill intended to address a shortage of teachers in Nebraska schools.

LB1218, introduced by the Education Committee, would provide \$1,000 in loan forgiveness to student teachers under the Attracting Excellence to Teaching Program. An individual would have to provide service for a full academic semester within a public or private school and meet certain requirements to qualify.

Fremont Sen. Lynne Walz, the committee's chairperson, said that change and others in a committee amendment would help more teachers enter the profession.

"Our teacher shortage is a serious issue, especially in rural areas, but persists around the state," she said. "We need to do something to help fix this problem."

The committee amendment, adopted 38-0, replaced the bill with the amended provisions of LB1218 and LB945, introduced by Sen. Lou



Sen. Lou Ann Linehan

Ann Linehan of Elkhorn.

Under Linehan’s proposal, the state Department of Education would provide qualifying teachers \$5,000 per year in loan repayment assistance for up to five years.

To qualify for assistance, an individual must be a Nebraska resident teaching full time at a public or private school or performing dual-credit instructional duties for public or private school students while employed full time at a public or private nonprofit college or university in Nebraska.

The total amount of loan repayment assistance could not exceed \$5 million in any fiscal year.

The amendment would allow a teacher from another state to demonstrate eligibility for a Nebraska teaching certificate or permit if they possess a similar certificate or permit in that state.

It also would require the State Board of Education to authorize the issuance of a permit or certificate to an applicant who has been offered employment to teach, administer or provide special services by a public, private, denominational or parochial school in Nebraska.

Currently, teaching candidates must demonstrate basic skills competency in reading, writing and math by successful employment experiences or successfully completing an exam designated by the State Board of Education.

Walz has said that students also are required to pass that exam, the Praxis core, before enrolling in a Nebraska teacher education program at one of Nebraska’s postsecondary educational institutions.

Under the amendment, the State Board of Education could not require a statewide examination as an entrance requirement related to basic skills competency when approving Nebraska teacher education programs.

The amendment would allow teachers to demonstrate basic skills competency prior to certification by taking an exam designated by the board and correcting any score deficiencies by retaking the failed portion or earning a minimum grade or above in college courses related to the deficiency. They also could demonstrate competency by experience as an educator in another state.

Bayard Sen. Steve Erdman introduced an amendment, adopted 31-1, that removed the proposed changes related to basic skills competency, saying it would be “inappropriate” to certify teachers if they do not pass the Praxis core.

Walz said she disagreed with Erdman that a single standardized test can determine whether a teaching candidate is prepared for the classroom, but she supported his amendment so that the other proposed changes in the bill could move forward.

After adopting the amendments, senators voted 39-0 to advance LB1218 to select file.



Occupational licensing bill discussed

Lawmakers considered a bill on select file April 8 meant to increase professional opportunities for individuals with a criminal history.

LB709, as introduced by Omaha Sen. John McCollister, would amend the Occupational Board Re-



Sen. John McCollister

form Act to provide specific factors to be considered by occupational boards when reviewing a preliminary application for an occupational license, governmental certification or other state-issued occupational credential.

Under the bill, in order to be disqualifying, a felony conviction would have to be related directly to the nature of the occupational field and for a crime that would make credentialing that applicant a “direct and substantial risk to public safety.”

McCollister said the proposal would provide a “fair chance” for individuals with criminal histories to enter occupations if their offenses were unrelated to the field they seek to enter.

A Government, Military and Veterans Affairs Committee amendment would alter the original bill’s language and add provisions of two additional measures.

LB263, introduced by Albion Sen. Tom Briese, would create a framework for issuance of Nebraska occupational licenses and occupational certifications based on credentials and work experience from other states. Several occupations would be exempt, including those regulated by the state supreme court, the State Electrical Board, the Nebraska Commission on Law Enforcement and Criminal Justice and a credential issued pursuant to the Public Accountancy Act.

LB1153, as originally introduced by McCollister, would add two members to the State Electrical Board, changing it from seven to nine members. The committee amendment would retain membership at seven, and require some positions to be affiliated with a labor union. The changes would



Sen. Tom Briese

take effect at the expiration of current membership terms.

Kearney Sen. John Lowe made a motion to divide the question and consider the amended provisions of LB709 separately from those of LB263 and LB1153. The motion was successful.

Discussion focused on the amendment containing provisions of LB263 and LB1153.

Briese said the provisions of his bill would remove barriers to entry for individuals who are credentialed in other states who want to move to Nebraska.

“We’re trying to grow our state, grow our workforce and grow our population,” he said.

Sen. Robert Hilkemann of Omaha offered an amendment that would exempt occupational boards under the Uniform Credentialing Act that issues credentials based on reciprocity. He said the change would impact approximately 35 health care professions and maintain the involvement of Nebraska licensing boards in credentialing decisions.

“I just want to do what’s best for the health and safety of our residents,” Hilkemann said. “It’s important that we maintain our autonomy as a state.”

The amendment failed on a vote of 8-20.

An amendment offered by Norfolk Sen. Michael Flood that would exempt realtors, engineers and architects from the bill’s provisions was adopted 25-0. Twenty-five votes were needed.

Hilkemann then offered a motion to recommit LB709 to the Government, Military and Veterans Affairs Committee, saying the debate had become so complicated that many senators were unclear about actions being taken on the floor regarding the underlying bill and the divided committee amendment.

The motion was pending when the Legislature moved to the next item on the agenda. The bill is unlikely to be debated again this session.

Omnibus election bill clears first round

A clean-up bill that would make numerous changes to election law in Nebraska was amended to become an omnibus election measure and advanced to select file April 6.

LB843, as introduced by Sen. Tom Brewer of Gordon, would make several minor changes to current law. Among other provisions, the bill would:



Sen. Tom Brewer

- prohibit electioneering within 200 feet of a ballot drop box;
- establish a deadline of 8 p.m. Central time or 7 p.m. Mountain time on Election Day for receipt of mail-in ballots;
- allow voters who cannot sign their name to use either a symbol or a signature stamp;
- allow county election commissioners to appoint certain election officials who live outside of the county if that county conducts elections exclusively by mail;
- require non-governmental organizations distributing voter registration forms or early ballot application forms to use those prescribed by the Nebraska secretary of state;
- allow an election commissioner or county clerk to remove a voter from the voter registry if they receive information from the state Department of Motor Vehicles that the voter has moved out of state; and

- establish procedures for removing a voter from a county’s early ballot request list.

A Government, Military and Veterans Affairs Committee amendment added provisions of the following bills:

- LB841, introduced by Brewer, which would allow emergency response providers and others participating in a mutual aid agreement who are responding to an emergency declaration by the president or governor to simultaneously register to vote and to request ballots for all elections in a calendar year;
- LB849, introduced by Lincoln Sen. Eliot Bostar, which would make election officials who neglect their duties or willfully engage in conduct prohibited under the state Election Act subject to a Class I misdemeanor;



Sen. Eliot Bostar

- LB858, introduced by Sen. Robert Clements of Elmwood, which would prohibit the funding of elections by any source other than appropriations from



Sen. Robert Clements

- the federal government, the state of Nebraska and Nebraska political subdivisions. In-kind contributions of food and beverages for poll workers or the use of buildings as polling or election training sites would not be prohibited;
- LB861, introduced by Omaha Sen. John McCollister, which would provide an optional field

on candidate filing forms for the candidate’s email address;

- LB928, introduced by Sen. Rita Sanders of Bellevue, which would require televised political ads for certain statewide offices to be closed captioned



Sen. Rita Sanders

and for a transcript of radio ads to be posted on a candidate’s campaign website; and

- LB1263, introduced by Clements, which would establish statewide standards for ballot drop boxes. Drop boxes would have to be securely anchored, locked, Americans with Disabilities Act compliant and opened only by a county election commissioner, county clerk or election official designated by the commissioner or clerk. Boxes would be opened for accepting ballots no later than the sixth Friday before a statewide election or the fourth Friday before a special election and emptied each business day.

Brewer, the committee chairperson, said the proposals were selected for the omnibus bill based on input from the Nebraska secretary of state, Civic Nebraska and the ACLU of Nebraska.

“We had more than 20 election bills in the government committee this year,” Brewer said. “Our committee worked hard to identify crisis items and issues.”

Lawmakers adopted the committee amendment on a 39-0 vote.

Brewer then offered an amendment, adopted 45-0, that would allow a private entity to donate funds intended to pay for election costs

to the Nebraska secretary of state if those funds are appropriated by the Legislature. County clerks would be prohibited from soliciting or accepting such grants or donations.

Omaha Sen. John Cavanaugh offered an amendment, adopted 39-1, to include provisions of his LB733 that would prohibit foreign nationals from contributing to ballot question campaigns. Contributions from domestic subsidiaries of foreign nationals would be allowed under certain circumstances.



Sen. John Cavanaugh

Senators advanced LB843 to select file on a 41-0.

JUDICIARY



Agricultural equipment right-to-repair bill discussed

Owners of modern farm machinery would have the same access as authorized dealers to the software, tools, technical manuals and parts needed to make repairs under a bill discussed on general file April 7.

LB543, as introduced last session by Plymouth Sen. Tom Brandt, would require original equipment manufacturers to make available, on fair and reasonable terms, the documentation, parts and tools needed



Sen. Tom Brandt

to diagnose, maintain or repair electronics-enabled agricultural equipment to independent mechanics or

the equipment’s owner.

Violating the act – which would apply to equipment sold or in use in Nebraska on or after its effective date – would be an unlawful practice under the state Uniform Deceptive Trade Practices Act.

Brandt said the bill remained in committee until this year to allow time for manufacturers and right-to-repair advocates to reach a memorandum of understanding at the federal level to allow owners and independent repair shops to buy the diagnostic equipment and tools needed to make repairs, in the same way that car and truck owners can. Those negotiations have stalled, he said.

Modern farm equipment is computer-driven, Brandt said, which means that farmers must wait for dealers to have an available technician to diagnose and repair machinery – time that farmers don’t have. Repair manuals are available, he said, but they often are outdated unless one pays to automatically receive updates.

“Historically, in Nebraska ... a good mechanic is worth more than a good doctor,” Brandt said. “As a farmer, I just want the damn thing to work.”

Omaha Sen. John Cavanaugh supported the bill, saying the ability for farmers to make repairs or buy parts from a third party, in the way that car and truck owners can, would improve efficiency. Ag producers are working with small windows of opportunity when it comes to planting and harvesting, he said.

“Time is of the essence when it comes to all stages of agriculture production,” Cavanaugh said.

Sen. Julie Slama of Sterling opposed the bill, citing safety and liability concerns. Manufacturers have given farmers the tools needed to repair their equipment, she said, but unless an individual is highly trained, they cannot

safely repair complicated machines.

“Trying to do so [puts] their own personal safety at risk as well as the safety of their community,” Slama said. “One tweak to a modern tractor could cascade through an entire software system and lead to unintended consequences.”

Venango Sen. Dan Hughes said comparing modern farm equipment to cars and pickups is comparing apples and oranges. Speaking in opposition to the bill, he said combines contain multiple computers with different functions and are extremely complex.

American farmers have become the most productive and effective in the world because of the massive investment that manufacturers have made in technology, he said, and they deserve a return on that investment. No one enjoys paying a local dealer for servicing their equipment, he said, but it is part of doing business.

“As a farmer that takes advantage of those opportunities that modern equipment gives us, I am very appreciative because it allows me to be much more effective – much more productive,” Hughes said.

The legislature adjourned for the day before taking any action on LB543. It is unlikely to be debated again this session.

Bill to increase penalties for assault on public bus drivers debated

A bill that would increase the penalty for assault on a public transportation driver was discussed on general file April 8.

Under current law, a person who assaults an officer, emergency responder, state correctional employee or health care professional faces enhanced penalties. LB661, introduced during the 2021 session by Omaha

Sen. Mike McDonnell, would add public transportation drivers to that list of public safety workers.

McDonnell said assaults on bus drivers occur weekly. Drivers are punched, beaten and spit on while performing their job, he said, yet offenders rarely are reprimanded or charged because current penalties are taken too lightly.

“There have been numerous instances of horrible assaults on these [bus] drivers while in the scope of the basic duties of his or her daily employment,” McDonnell said. “In these examples, there was no provocation – these men and women are simply doing their jobs and providing a service to the citizens of their community.”

An increase in the penalty for assault on a public transportation driver would send a message to offenders and provide repercussions that would be more of a deterrent than the current “slap on the hand,” he said.

Lincoln Sen. Suzanne Geist spoke in support of the bill. She said bus drivers who represent cities deserve respect and should be protected. Currently, offenses against them rarely are charged, she said.

“This is an issue of respect, and if you work for the city of Lincoln or the city of Omaha [and] you have to sit in your seat with no recourse of someone beating you up – whether [by someone] with a mental illness, whether they have a weapon, whether they are in their clear mind or whether they are on drugs – [they] should be fined,” Geist said.

Omaha Sen. Terrell McKinney opposed the bill, saying people who ride buses regularly – often people of color, low-income individuals and those with mental illness – would face a felony



Sen. Mike McDonnell

prosecution for any sort of incident that occurs on public transportation, regardless of the level of harm, under the proposal.

It’s already a felony to commit aggravated assault, McKinney said, and LB661 would increase penalties arbitrarily and would put the level of protection afforded to bus drivers on par with police officers.

“While not intended, this bill is the kind of legislation that contributes to racial disparity in prosecution and punishment,” he said. “This bill will help to increase our prison numbers and the disproportionate number of people of color in prison.”

Sen. John Cavanaugh of Omaha also spoke in opposition to LB661. Cavanaugh said many people who commit crimes against bus drivers are mentally ill and in need of mental health services, not prosecution and punishment.

The Legislature moved to the next item on the agenda without voting on the bill’s advancement. LB661 is unlikely to be debated again this session.

Criminal justice bill amended, advanced

A bill introduced to require certain felony sentences to be served in a county jail was replaced with provisions to address mental and physical health concerns of incarcerated individuals and given first-round approval April 8.

Under current state law, an individual sentenced for a felony charge is required to serve the sentence in a state correctional facility. LB921, as introduced by Omaha Sen. Steve Lathrop, would have required that all sentences for Class III, IIIA or



Sen. Steve Lathrop

IV felony charges or for a maximum term of imprisonment of less than one year be served in a county jail.

Lathrop said LB921 could save the Nebraska Department of Correctional Services \$25 million in marginal costs and would reduce the average population at the NDCS to 3,200 inmates – roughly 400 below capacity. Additionally, he said, the bill could incentivize counties to look for alternatives other than incarceration.

“If we passed LB921, prisons would immediately be at 88 percent of capacity,” Lathrop said. “It would be unnecessary to build a new prison that would cost \$270 million.”

A Judiciary Committee amendment, adopted 39-0, gutted the bill and those provisions. Lathrop said that due to a lack of time, the Legislature could not properly debate the bill as introduced.

“We don’t have enough time left in this session to try to hammer this out and so we have amended this bill to take this provision out,” Lathrop said. “But, I hope you’re thinking about this as a solution for next year because it has merit.”

The amendment instead incorporated provisions of two other bills, including an amended version of LB952, introduced by Omaha Sen. John Cavanaugh, which would require the state Department of Health and Human Services to provide Medicaid enrollment assistance to individuals prior to leaving incarceration.

Under the amendment, DHHS would be required to provide assistance at least 60 days prior to an individual’s release date, or as soon as practicable for inmates with fewer than 60 days



Sen. John Cavanaugh

left on their sentence. The department could contract with a third-party provider and could provide assistance in person, by telephone or video.

Cavanaugh said 56 percent of incarcerated individuals have a mental illness. If they can be set up for Medicaid prior to release, they can receive their medications and continue their progress and treatment after release, he said.

“Access to healthcare is a barrier to reentry,” Cavanaugh said. “By making sure more people are eligible for Medicaid as soon as they are released will not only help the reentry population get back on their feet, but will also help reduce the long-term costs of the state’s uncompensated care.”

The amendment also added provisions of LB1223, introduced by Lincoln Sen. Matt Hansen, which would require DHHS to reimburse a county jail if a person is ordered to be committed for competency restoration but remains in jail. The rate of reimbursement would be \$100 per day and would be adjusted for inflation annually beginning July 1, 2023.



Sen. Matt Hansen

The provisions would apply to individuals with mental illness so severe that they are deemed incompetent to stand trial.

Hansen said there were 77 people on the waitlist for the Lincoln Regional Center earlier this year who were being housed in county jails due to lack of space. On average, he said, the waitlist is between 90 and 120 days, but often can be up to 150 days.

“These are people who are supposed to be in state care who are typically waiting in county jails, which is where the burden comes from on the counties,” he said. “They are housing

people on a waitlist because the state is not stepping up to provide their end of the bargain.”

The amendment also would designate those individuals as a priority group for admission to state hospitals and require that 15 percent of capacity be reserved for them.

Finally, the amendment would create the Legislative Mental Health Care Capacity Strategic Planning Committee, which would be required to contract with an independent consultant to determine the necessary capacity of inpatient mental health care in Nebraska.

Sen. John Arch of La Vista spoke in support of the amendment, but expressed concern about the provision that would require 15 percent of beds be retained for incompetent individuals. Mandating certain types of capacity can be costly and lead to inefficiencies, he said.

Arch said the Health and Human Services Committee is aware of capacity issues and will be studying the state’s regional centers over the interim.

Following the adoption of the committee amendment, senators voted 39-0 to advance LB921 to select file.

Proposal to add district judge in Douglas County amended, advanced

A bill that would add a district judge to the state’s fourth judicial district was amended to become an omnibus judicial measure and advanced from general file April 8.

LB922, introduced by Omaha Sen. Steve Lathrop, would increase the number of judges in Douglas County’s fourth district from 17 to 18.

Lathrop said the state’s Judicial Resources Commission has determined that the current caseload in Douglas

County justifies adding a judge. Doing so also would allow judges more time to devote to problem-solving courts, he said, which is done on a voluntary basis.

“As policymakers, we have a responsibility to take care of the nonpolitical branch of government and that means that we make sure those folks have sufficient resources,” Lathrop said.

A Judiciary Committee amendment added provisions of five other bills to the proposal.

LB870, introduced by Lincoln Sen. Matt Hansen, would amend the State Self-Insured Indemnification Fund and the State Self-Insured Liability Fund to allow payment of attorneys’ fees by allowing fees associated with agency legal counsel or hired outside legal counsel to be paid from revolving funds.



Sen. Matt Hansen

LB903, introduced by Sen. Eliot Bostar of Lincoln, would create a new type of second-degree trespass that criminalizes flying a drone over the property of another individual with the intent to observe the person without their consent in a place of solitude or seclusion.



Sen. Eliot Bostar

Sen. John Cavanaugh of Omaha offered and later withdrew an amendment to strike those provisions, saying the language isn’t necessary and would only make current law less clear. He said he would work with Hansen regarding his concerns before the next round of debate.

“I think it’s important that we’re not adding criminal conduct when we don’t need it,” Cavanaugh said.

Also included in the committee

amendment was LB990, sponsored by Blair Sen. Ben Hansen, which would create the offense of criminal impersonation by stolen valor.



Sen. Ben Hansen

Under the provisions, an individual who pretends to be an active member or veteran of the U.S. military, including armed forces reserves and the National Guard, with the intent to deceive or harm another – or who fraudulently represents themselves as the recipient of a military honor or award – would be guilty of criminal impersonation by stolen valor. Violations would be a Class I misdemeanor.

Provisions of LB1059, introduced by Norfolk Sen. Michael Flood, would add the Judicial Resources Commission to the list of entities excluded from the definition of public bodies under the Open Meetings Act. The provisions also would also remove the commission from the list of public bodies that may, with certain limitations, conduct virtual meetings.



Sen. Michael Flood

Finally, the provisions of LB1171, sponsored by Sen. Rita Sanders of Bellevue, would establish the clerk of the district court as the jury commissioner in all counties.



Sen. Rita Sanders

The committee amendment was adopted on a 31-0 vote.

Bennington Sen. Wendy DeBoer offered an amendment, adopted 33-0, to add provisions of her LB830. She said the amendment is clean-up language to address medical cash support

for children. Currently, state law sets the maximum level of support for the responsible party at 3 percent of gross income.



Sen. Wendy DeBoer

The amendment instead would tie the maximum amount to child support guidelines set by the state supreme court.

DeBoer said the change would allow for future periodic review and adjustment of the amount without legislative action.

Sen. Matt Hansen offered an amendment to include his LB444, which was introduced last session. The provisions would align prison “good time” with county jail “good time.”

Currently, when inmates begin serving a state prison sentence, they are eligible to earn day-for-day good time credit toward their sentences for following rules and not engaging in prohibited conduct. Inmates serving a sentence in a county jail also can earn this good time, but only after the first 14 days of their sentence.

Omaha Sen. John Cavanaugh supported the amendment, calling it a “smart, reasonable, very small” step that would impact a small number of days but a large number of people. County jails currently are full of individuals with no incentive for good behavior under the theory of good time, he said.

Sen. Julie Slama of Sterling opposed the amendment, saying the 15-day waiting period is “absolutely reasonable.”

Hansen withdrew his amendment in order to allow the underlying bill to advance, noting the limited amount of time left in the legislative session.

Lawmakers then voted 33-0 to advance LB922 to select file.

REVENUE



Executive branch closing fund clears first round

The Nebraska governor could use a new fund to attract and retain “high-impact” business projects or facilities if the money likely would be a determining factor under a bill advanced from general file April 7.

Omaha Sen. Brett Lindstrom, sponsor of LB729, said the proposal is modeled on an Oklahoma program that has attracted more than \$3 billion in business investments to that state since 2011.



Sen. Brett Lindstrom

The bill would not require an initial appropriation to the program, he said, which means the governor would have to seek funds from the Legislature in the future.

“The quick action closing fund could be a deciding factor for a company looking to relocate to our state,” Lindstrom said. “And whatever Nebraska can do to gain an edge, I believe that we should do it.”

To qualify for the funds, the applying business would have to be engaged in a business activity that qualifies for incentives under the ImagiNE Nebraska Act, the state’s main business tax incentive program.

The governor could not approve payments from the fund, which would be administered by the state Department of Economic Development, unless the department has conducted an analysis of the applicant’s business activity that includes the number of jobs to be created or retained, the average salary of those jobs and the

total capital investment to be made.

After evaluating selected projects, the director could recommend expenditures from the fund only if they are expected to result in a net economic benefit to the state.

Upon the governor’s approval, the department would enter into an agreement that sets the conditions for payment of money from the fund. Among other provisions, the agreement would include the total amount of funds awarded, the performance conditions that must be met to obtain the award and the methodology for validating performance.

A Revenue Committee amendment would have required the governor to consult with the speaker of the Legislature, the chairperson of the Executive Board of the Legislative Council and the chairpersons of the Appropriations and Revenue committees when determining whether to approve an expenditure from the fund.

Sen. Lou Ann Linehan of Elkhorn, the Revenue Committee’s chairperson, urged lawmakers to vote against the amendment, saying it could violate the state constitution’s separation of powers provisions.

The amendment failed on a vote of 3-33. Twenty-five votes were needed.

Linehan supported LB729, saying she would prefer the proposed fund, in conjunction with lower tax rates, to the state’s complex business tax incentive programs.

When lawmakers created the ImagiNE Nebraska Act in 2020, she said, they included a provision intended to retain a large company that might have left the state, along with thousands of jobs. She said Lindstrom’s proposal would allow the governor to act in a similar situation if the Legislature is not in session.

Henderson Sen. Curt Friesen opposed the bill. Without adequate

oversight by lawmakers, he said, a future governor could use the fund to grant political favors.

Senators voted 27-10 to advance LB729 to select file.

Income tax cuts, additional credits for property taxpayers approved

Lawmakers passed a bill April 7 that cuts individual and corporate income tax rates, speeds up the phaseout of state taxation of Social Security income and expands a program intended to offset the amount of property taxes used to fund education.

LB873, as introduced by Sen. Curt Friesen of Henderson, would have eliminated community colleges’ general fund levy authority. As amended, it includes several major tax proposals heard by the Revenue Committee this session.



Sen. Curt Friesen

The amended provisions of LB939, introduced by Elkhorn Sen. Lou Ann Linehan, will cut Nebraska’s top individual income tax rate in several steps from the current 6.84 percent to 5.84 percent by tax year 2027.

LB873 also includes the amended provisions of LB938, sponsored by Linehan, which continue the phased-in reduction of the state’s top corporate income tax rate approved by the Legislature last year. The bill will cut the rate from the current 7.5 percent to 5.84 percent by 2027.



Sen. Lou Ann Linehan

Also included are the provisions of LB825, introduced by Sen. Brett Lindstrom of Omaha. His proposal

will exempt all Social Security income from state income taxation, to the extent that it is included in federal adjusted gross income, by tax year 2025.

The bill also includes the provisions of LB723, introduced by Albion Sen. Tom Briese.

The proposal is intended to ensure that a refundable state income tax credit does not fall below its current amount of \$548



Sen. Tom Briese

million. The credit, created in 2020 under the Nebraska Property Tax Incentive Act, is based on property taxes paid to schools.

Under LB873, the credit amount will increase to \$560.7 million for tax year 2023 and then increase by an allowable growth percentage of up to 5 percent beginning in tax year 2024.

Finally, the bill creates a similar refundable tax credit under the Nebraska Property Tax Incentive Act based on the amount of property taxes paid to a community college.

For calendar year 2022, \$50 million in credits are available. The total then will increase annually, reaching \$195 million during taxable years that begin during calendar year 2026. After that, the total will increase by the allowable growth percentage.

The state Department of Revenue estimates that LB873 will reduce state general fund revenue by \$115.5 million in fiscal year 2022-23 and \$213.8 million in FY2023-24. When fully implemented in FY2027-28, it will reduce revenue by an estimated \$948 million.

Several amendments to the bill were considered during select file debate April 5. Sen. Wendy DeBoer of Bennington introduced an amendment to reduce the rate on Nebraska's third individual income tax bracket from 5.01 percent to 4.01 percent by

the same year.

Under DeBoer's amendment, the bracket would include taxable income between \$18,000 and \$28,999 for individuals and between \$36,000 and \$57,999 for those married filing jointly.

DeBoer said the "vast majority" of Nebraskans earn an income within that range and that LB873 would give those taxpayers little or no benefit.

Omaha Sen. John Cavanaugh supported the amendment, saying roughly \$70 million of the proposed tax cut would go to Nebraskans whose taxable income is more than \$1 million.

In contrast, he said, DeBoer's proposal would reduce state tax revenue by approximately \$100 million per year when fully implemented.

"If it is acceptable to spend \$70 million giving millionaires thousands of dollars in tax relief," Cavanaugh said, "how can you not be in favor of giving tax relief to people working minimum-wage jobs in the state of Nebraska?"

Sen. Lou Ann Linehan of Elkhorn, chairperson of the Revenue Committee, opposed the amendment, saying a further revenue reduction would not fit within the state's budget.

"I would love to do this," she said, "but we don't have the money to do this unless there's a pay-for that nobody's mentioned thus far."

Albion Sen. Tom Briese also opposed DeBoer's proposal. If it were adopted, he said, the tax package then would benefit income taxpayers more than property taxpayers, jeopardizing the bill's passage.

"A lot of negotiation and compromise went into this to get a fair and equitable balance of income versus property [tax relief]," Briese said. "For now, we need to leave it alone."

The amendment failed on a vote of 18-26.

An amendment introduced by Cavanaugh would cut the top indi-

vidual and corporate rates to 5.99 percent rather than 5.84 percent. He said the additional revenue would have allowed for a tax cut similar to the one DeBoer had proposed. The amendment failed on a vote of 14-28.

Cavanaugh introduced another amendment that he said would fully implement only certain provisions of LB873, including the phaseout of taxation of Social Security income.

It would implement only the first of the incremental reductions in the individual and corporate income tax rates proposed in LB873. Cavanaugh said future lawmakers could further reduce the rates based on near-term revenue projections instead of long-term projections, which tend to be less accurate.

The second Cavanaugh amendment failed on a vote of 14-29.

After four hours of second-round debate, Friesen filed a motion to invoke cloture, which ends debate and forces a vote on the bill and any pending amendments. The motion succeeded on a vote of 43-0. Thirty-three votes were needed.

Senators then advanced LB873 to final reading by voice vote.

The bill passed April 7 on a vote of 43-0.

Tax credit for employers of felons reduced, returned to final reading

A bill on final reading that would create a state income tax credit for businesses that hire felons was narrowed April 7 after lawmakers voted to return it to select file.

Under LB917, introduced by Omaha Sen. Justin Wayne, a business would be eligible



Sen. Justin Wayne

for a nonrefundable state income tax credit equal to 25 percent of the wages paid to an individual who has been convicted of a felony.

Senators voted to return the bill to select file to consider an amendment offered by Wayne that would reduce the credit to 10 percent of the wages paid to an eligible employee.

Wayne said he introduced the change at the request of the business community, which believes the original credit amount was too high.

“Believe it or not, they said they don’t want that much money,” he said.

After voting 46-0 to adopt Wayne’s amendment, lawmakers advanced LB917 to final reading by voice vote.

Change to sales and use tax collection fee, other measures advanced

Lawmakers gave first-round approval April 7 to a bill that would increase the amount businesses receive for collecting and remitting state sales and use tax after amending it to include other sales tax measures considered by the Revenue Committee this session.

The current collection fee for merchants – the amount that they are allowed to retain when remitting the taxes – is equal to 2.5 percent of the first \$3,000, or \$75, in sales or use tax collected each month.

LB984, introduced by Columbus Sen. Mike Moser, would increase the fee to 2.5 percent of the first \$6,000, or \$150, remitted each month, beginning Oct. 1, 2022.

He said the change would help small businesses offset rising credit and debit card transaction costs.

A committee amendment, adopted



Sen. Mike Moser

41-0, would increase the fee to 3 percent of the first \$5,000 remitted each month, or the same total amount as the original bill.

The amendment also includes the provisions of LB881, introduced by Sen. Terrell McKinney of Omaha.

They would exempt feminine hygiene products – tampons, panty liners, menstrual cups, sanitary napkins and other tangible personal property designed for feminine hygiene in connection with the human menstrual cycle – from state sales and use tax.

McKinney’s proposal also would require detention facilities to supply needed feminine hygiene products to female prisoners free of charge.

Also included are the provisions of LB941, introduced by Sterling Sen. Julie Slama.

Under her proposal, state sales and use tax could not be imposed on the gross receipts from the sale, lease or rental of net wrap – plastic wrap used in the baling of hay – purchased for use in commercial agriculture.

Finally, the amendment includes the provisions of LB1209, introduced by Sen. Lou Ann Linehan of Elkhorn.

She said the proposal would allow manufacturers, which are exempt from paying sales and use tax on qualified machinery and equipment, to appoint a contractor as a purchasing agent so that the contractor can purchase those items on behalf of the manufacturer



Sen. Terrell McKinney



Sen. Julie Slama



Sen. Lou Ann Linehan

free of sales and use tax.

After adopting a technical amendment, senators voted 42-0 to advance LB984 to select file.

Imagine Act reporting requirements, other changes advanced

A bill that would make several changes to Nebraska’s main business tax incentive program cleared the first round of debate April 6.

LB1150, introduced by the Legislative Performance Audit Committee, would set new requirements for tax incentive applications under the Imagine Nebraska Act, passed in 2020.

As introduced, the bill would have required applications to state whether locations in other states were considered for relocation or expansion of the taxpayer’s business and whether tax incentives offered by other states were considered.

It also would have required taxpayers to provide several pieces of information for the purpose of tax incentive performance audits, including the federal occupation code of new employees and the asset class for qualified property.

Sen. Suzanne Geist of Lincoln, the committee’s chairperson, said a Revenue Committee amendment would omit those requirements because they could reveal a company’s proprietary information.

“The remaining provisions will generate data that will help inform the Legislature about the Imagine Act’s impact on property taxes, workforce training activities and employee recruitment,” she said.

The amendment, adopted 34-0, would replace the bill with the amended provisions of LB1150 and several other proposals related to the Imagine Nebraska Act and other tax incentive

programs.

Under the amended provisions of LB1150, ImagiNE Nebraska Act applications would have to include the most recent taxable valuations and levy rates for all qualified locations.

They also would have to include a program schedule for job training activities and the city and state where recruited employees lived if tax credits are used for those purposes.

The provisions of LB817, introduced by Sen. Lou Ann Linehan of Elkhorn, would make several technical changes requested by the state Department of Revenue.



Sen. Lou Ann Linehan

Linehan said the measure would require the department to submit reports on tax incentive programs on a fiscal year, accrual basis that satisfies the requirements of the Governmental Accounting Standards Board.

Among other changes, her proposal also would allow the department to obtain employees' Social Security numbers to confirm the number of new employees at a qualified location.

LB502, introduced by Norfolk Sen. Michael Flood, would allow certain businesses receiving tax incentives under the Nebraska Advantage Act to use a direct pay permit, as is allowed under the ImagiNE Nebraska Act. The provision would apply only to certain data center projects.



Sen. Michael Flood

Linehan said such a permit allows a company to purchase qualifying equipment tax-free rather than file a sales and use tax refund claim later.

The amendment also contains the provisions of LB985, sponsored

by Seward Sen. Mark Kolterman, which would change the definition of base year – which is used to measure employment growth for tax incentive purposes – under the ImagiNE Nebraska Act.



Sen. Mark Kolterman

Under Kolterman's proposal, if an applicant increased the number of equivalent employees at a qualified location in 2020 or 2021 in response to the COVID-19 pandemic, the base year would be 2019. The provision would apply to applications made in 2021 or 2022.

Kolterman said the change would apply to a company near Fremont that hired and then laid off employees during the pandemic. He said the company now seeks ImagiNE Act incentives to expand its operations and would be penalized by the current base year definition.

Finally, the amendment contains the provisions of Flood's LB1094. Under his proposal, which also applies to the ImagiNE Nebraska Act, the time worked by employees in their Nebraska residence would be considered spent at a qualified location if the employee works at both locations.

Sen. John McCollister of Omaha introduced an amendment, adopted 33-0, that includes the provisions of his LB457.



Sen. John McCollister

They would require the department to notify each metropolitan and primary class city of the total amount of local option sales tax refunds that are estimated to be paid to taxpayers during the following calendar year under certain tax incentive programs.

McCollister said the proposal would help Omaha and Lincoln budget for those refunds, which can fluctuate from year to year.

Following adoption of the McCollister amendment, senators voted 35-0 to advance LB1150 to select file.

Rural development tax credit increase advanced

A bill that would increase the amount of tax incentives available for certain livestock modernization or expansion projects and other qualifying rural Nebraska businesses advanced from general file April 7.

LB1261, introduced by Glenvil Sen. Dave Murman, would make two changes to the Nebraska Advantage Rural Development Act, which provides refundable income tax credits based on a company's employment and investment.



Sen. Dave Murman

Currently, the state tax commissioner may not approve further applications for incentives under the program once the expected credits from approved projects total \$1 million each year. Murman's proposal would increase the cap to \$25 million per year beginning in 2022.

"There is far more demand for these incentives in terms of applications than the program currently provides, so this would help address the unmet demand," he said.

The bill also would increase the maximum amount of the credit available for taxpayers who invest in certain livestock modernization or expansion projects from \$150,000 per application to \$500,000.

The state Department of Revenue estimates that LB1261 would reduce

state general fund revenue by \$11.5 million in fiscal year 2023-24, \$5.8 million in FY2024-25 and \$2.3 million in FY2025-26.

Currently, no new applications may be filed under the act after Dec. 31, 2022. A Revenue Committee amendment, adopted 36-0, would extend the sunset date to Dec. 31, 2027.

Murman introduced an amendment, adopted 38-0, that includes provisions of LB596, introduced by Sen. Joni Albrecht of Thurston.

Under her proposal, retailers who sell and dispense ethanol blended gasoline formulated with a percentage of at least 15 percent by volume of ethanol would be eligible for a refundable state income tax credit.

The credit would equal 5 cents per gallon of E-15 sold during the prior calendar year through a motor fuel pump located at the taxpayer's motor fuel site and 8 cents per gallon of E-25 or higher blend.

The amendment would limit total credits to \$2 million in 2022. The annual limit for following years could double if the annual amount of tax credits approved in the prior calendar year exceeded 90 percent of that year's annual limit. The annual limit could not exceed \$4 million.

No new applications for credits could be filed under the program after Dec. 31, 2026.

The state Department of Revenue estimates that the proposal would reduce state general fund revenue by \$1.6 million in FY2021-22 and \$1.7 million in both FY2022-23 and FY2023-24.

Following adoption of the amendments, lawmakers voted 35-0 to advance LB1261 to select file.



Sen. Joni Albrecht

Consumption tax proposal fails on first round

A proposed constitutional amendment that would replace Nebraska's tax system with retail consumption and excise taxes failed to advance from general file April 5.

If passed by the Legislature, LR264CA, introduced by Sen. Steve Erdman of Bayard, would place the question on the November 2022 general election ballot. The change would go into effect Jan. 1, 2024, if approved by voters.

Legislative efforts in recent years have failed to yield significant tax relief, Erdman said, and Nebraska's tax system drives away workers, businesses and retirees.

He said replacing property, income, sales and inheritance taxes with a flat consumption tax – with a rate of approximately 9 percent – would increase economic growth by attracting residents and creating jobs.

Elmwood Sen. Robert Clements supported the proposal, saying a simple tax system with a single rate would be best.

"We've tried and tried to put some reins on local property tax increases, and this would help control the overtaxing and overspending of some entities," he said. "I think it's time to let the voters decide and let us know how they would like to be taxed."

Sen. Steve Halloran of Hastings also supported LR264CA, saying the state's current tax system is flawed. He said lawmakers would create a "nuts and bolts" bill to implement the proposal in the next legislative session if voters approve it.

"We need to give the second house



Sen. Steve Erdman

a chance to decide the tax model that's best for them," Halloran said, "and we'll work out the details."

North Platte Sen. Mike Jacobson said he was intrigued by the proposal. He said implementing a consumption tax through legislation, however, rather than a constitutional amendment, would allow lawmakers to change the new system more easily.

Jacobson also raised several questions about how the proposal would be implemented. He questioned, for example, whether the state would assume responsibility for paying off bonds issued by local political subdivisions that could no longer levy their own taxes.

"[LR264CA] sounds very good, but it's the details that we're going to need to work on," Jacobson said. "I think we're premature on pushing this out to the voters without having those answers."

Additionally, he said, the consumption tax rate likely would have to be much higher than 9 percent to raise the same amount of revenue as the current system.

Sen. Tom Brandt of Plymouth said he was concerned that, by approving the proposal, voters would cede control of local political subdivisions, including school districts, to a central state authority.

That authority would have to approve local funding requests and could decide to consolidate smaller school districts, he said.

LR264CA failed to advance to select file on a vote of 19-14. Twenty-five votes were needed.

URBAN AFFAIRS

Economic recovery proposal amended, returned to final reading

A bill on final reading that would direct federal and state dollars to pandemic recovery efforts across the state was returned to select file and amended April 7.

As amended on general file, LB1024, introduced by Omaha Sen. Justin Wayne, would allocate \$250 million of the federal American Rescue Plan Act funds provided to Nebraska. It also would create the Economic Recovery and Incentive Division within the state Department of Economic Development to administer grant funding.



Sen. Justin Wayne

In addition, LB1024 would transfer \$55 million from the state's Cash Reserve Fund and place it, along with \$80 million of the ARPA funds, into the newly created Economic Recovery Contingency Fund.

The bill would create the Economic Recovery Special Committee of the Legislature to review proposals for distribution of those funds. The committee would include the chairpersons of the Appropriations and Urban Affairs committees, the speaker of the Legislature and four other senators who represent legislative districts containing one or more qualified census tracts located within a metropolitan class city. Omaha is the state's only metropolitan class city.

The remaining \$135 million would be distributed in fiscal year 2022-23. Up to \$55 million would be available

to provide grants through the newly created Qualified Census Tract Recovery Grant Program to provide funding to public and private entities located within qualified census tracts.

A federally qualified census tract is one in which 50 percent or more of households have an income less than 60 percent of the area median gross income or a poverty rate of at least 25 percent.

No less than \$35 million would go to qualified census tracts in North and South Omaha. The grant program would be augmented by \$30 million in state general funds over the next three fiscal years.

The bill also would direct at least \$60 million for development of an airport business park in Omaha, \$30 million to innovation hubs located within two miles of the same airport and \$20 million to prepare land parcels for affordable housing.

A total of \$30 million would be available for affordable housing projects in Lincoln, as well as \$5 million for a lost revenue program for the Lancaster County Event Center, \$3 million in tourism development grants across the state and a few smaller projects.

Wayne offered an amendment after the bill was returned to select file that would reduce funds available under the Coronavirus Capital Projects Fund for affordable housing from \$40 million to \$35 million, limit administrative costs for the fund to \$5 million and restrict grant applications to eligible projects in qualified census tracts. Applications from a metropolitan class city working with a nonprofit to rehabilitate or expand existing multipurpose community facilities would be prioritized.

The amendment also would appropriate \$10 million in ARPA funds to DED for administrative costs and

would prohibit the department from using state general funds to implement or administer grants.

Wayne said that provision would enhance accountability by ensuring adequate staffing and oversight at the department when awarding grants.

"We are actually reducing the amount going to North and South Omaha to pay for the accountability piece," he said. "We're reducing our part because we think accountability to [the Legislature] is more important."

The amendment also would specify that no less than \$40 million would be available for grants in the 1st Congressional District and the 3rd Congressional District. In CD3, grants would be available to second class cities and villages only.

Henderson Sen. Curt Friesen supported the provision, saying it would help small Nebraska towns that have been "ignored" in other coronavirus recovery efforts.

Following adoption of the Wayne amendment on a 45-0 vote, senators advanced LB1024 to final reading on a voice vote.

Veto of federal rental assistance requirement sustained

An attempt to override a veto and require Gov. Pete Ricketts to apply for a second round of federal emergency rental assistance fell short April 5.

LB1073, as introduced by Omaha Sen. Justin Wayne, originally would have created a state Department of Housing and Urban Development. The bill was gutted on general file by an amendment offered by the Urban Affairs Committee to make way for an emergency rental assistance proposal from Lincoln Sen. Matt Hansen.

Under the federal program, individuals are eligible for up to 12 months of back rent and three months of

future rent – up to \$20,000 – which is paid directly to their landlords. The federal government has extended the program for three years and made an additional \$120 million available. Current assistance is scheduled to end Sept. 30.

Senators passed LB1073 on a 26-15 vote March 23.

Ricketts said in a veto letter that the state still has nearly \$30 million in unused funds from the first round of assistance and that remaining dollars are more than sufficient to meet existing needs resulting from the pandemic.

“We must guard against big government socialism where people are incentivized not to work but are instead encouraged to rely on government handouts well after an emergency is over,” he said.

Wayne filed a motion to override the veto. He said a recent announcement from the U.S. Treasury Department indicated that, without an application from the state, about \$70 million of the \$120 million available to Nebraska for the second round of funds would be reallocated to the cities of Lincoln and Omaha and to Douglas and Lancaster counties.

That would leave rural Nebraska with no assistance once first-round funds expire in September, he said, unless lawmakers chose to override the veto of LB1073.

“This vote has no impact necessarily on Omaha and Lincoln. This entire vote is about \$56 million that can go to rural Nebraska or completely disappear,” Wayne said. “There’s not a downside. It’s about helping and providing hope to individuals across the state who may need it.”

Hansen supported the override motion, saying people in rural areas of the state continue to apply for assistance and are being approved. The fact that

the program has been underutilized is a reason to improve it, he said, not a reason to refuse additional funds.

Albion Sen. Tom Briese also supported the motion. The state’s housing crisis is hurting economic growth, he said, and federal dollars could help landlords in rural parts of the state. Federal rental assistance is the one safety net that landlords have had during the pandemic, he said.

“Rental assistance ... can help ensure that landlords get paid,” Briese said. “It improves their return on investment [and] it encourages additional investment by the private sector in workforce housing.”

North Platte Sen. Mike Jacobson said the state has a significant amount of money left from the first round of funds. Speaking against the override motion, he expressed concern that

the state would be discouraging self-sufficiency by accepting the second round of assistance.

“When do we get to the point where people can go back to work and raise their own families and create their own living?” Jacobson said. “How much money has the federal government already pumped in over the last two years through stimulus?”

Also in opposition was Kearney Sen. John Lowe, who said programs such as federal rental assistance add to the national debt and will have to be paid for by future generations.

“This is not taxpayer money,” he said. “This is money that we have borrowed from somewhere ... it’s not our money to give away.”

Wayne’s motion to override the veto failed 29-16, one vote short of the number required. ■



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