

**SIXTY-THIRD DAY - APRIL 20, 2021**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION**

**SIXTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, April 20, 2021

**PRAYER**

The prayer was offered by Senator Geist.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was offered by Senator Moser.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Speaker Hilgers presiding.

The roll was called and all members were present except Senator Wayne who was excused; and Senator Pansing Brooks who was excused until she arrives.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixty-second day was approved.

**COMMITTEE REPORT(S)**

Enrollment and Review

**LEGISLATIVE BILL 247.** Placed on Final Reading.

**LEGISLATIVE BILL 320.** Placed on Final Reading.

[ST12](#)

The following changes, required to be reported for publication in the Journal, have been made:

1. In the E&R amendments, ER34, on page 9, line 13, the underscored comma has been struck.

**LEGISLATIVE BILL 320A.** Placed on Final Reading.

**LEGISLATIVE BILL 338.** Placed on Final Reading.

**LEGISLATIVE BILL 423.** Placed on Final Reading.

**LEGISLATIVE BILL 423A.** Placed on Final Reading.

**LEGISLATIVE BILL 497.** Placed on Final Reading.

**LEGISLATIVE BILL 501.** Placed on Final Reading.

**ST11**

The following changes, required to be reported for publication in the Journal, have been made:

1. In the E & R amendments, ER45, on page 37, line 12, "or" has been struck; and the matter beginning with "an" in line 26 through "(3)" in line 29 has been struck.

**LEGISLATIVE BILL 507.** Placed on Final Reading.

**LEGISLATIVE BILL 527.** Placed on Final Reading.

**LEGISLATIVE BILL 527A.** Placed on Final Reading.

**LEGISLATIVE BILL 639.** Placed on Final Reading.

**LEGISLATIVE BILL 650.** Placed on Final Reading.

**LEGISLATIVE BILL 650A.** Placed on Final Reading.

**LEGISLATIVE BILL 664.** Placed on Final Reading.

**LEGISLATIVE BILL 664A.** Placed on Final Reading.

(Signed) Terrell McKinney, Chairperson

**COMMITTEE REPORT(S)**

Enrollment and Review

**LEGISLATIVE BILL 108.** Placed on Select File with amendment.

**ER60**

1 1. On page 1, line 4, strike "and" and after "section" insert "; and  
2 to declare an emergency".

**LEGISLATIVE BILL 108A.** Placed on Select File.

**LEGISLATIVE BILL 428.** Placed on Select File with amendment.

**ER61**

1 1. In the Standing Committee amendments, AM566, on page 4, line 26,  
2 strike "effective date of this act" and insert "operative date of this  
3 section".  
4 2. On page 1, strike beginning with "youth" in line 1 through line 4  
5 and insert "the Department of Health and Human Services; to amend section  
6 68-1213, Reissue Revised Statutes of Nebraska, and sections 43-404,  
7 83-102, 83-106, and 83-107.01, Revised Statutes Cumulative Supplement,  
8 2020; to require notification by the department to the Legislature prior  
9 to implementation of substantial changes to facilities and programs under  
10 the Office of Juvenile Services; to change an evaluation period for a  
11 certain pilot project; to change educational programming provisions  
12 relating to youth rehabilitation and treatment centers; to require  
13 completion of a needs assessment and cost analysis for an inpatient  
14 adolescent psychiatric unit as prescribed; to state intent regarding  
15 substance abuse and behavioral health treatment for juveniles; to provide  
16 operative dates; to repeal the original sections; and to declare an  
17 emergency."

(Signed) Terrell McKinney, Chairperson

**MESSAGE(S) FROM THE GOVERNOR**

April 16, 2021

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 5, 41, 70, 70A, 78, 405, and 461 were received in my office on April 12, 2021.

These bills were signed and delivered to the Secretary of State on April 16, 2021.

Sincerely,  
(Signed) Pete Ricketts  
Governor

**ATTORNEY GENERAL'S OPINION**Opinion 21-007

**SUBJECT:** Application of the Legislative Approval Requirement in Neb. Const. art. IV, § 10, to the Governor's Appointment of Members of the Nebraska Brand Committee (LB 572) (AM686)

**REQUESTED BY:** Senator Steve Halloran  
Nebraska Legislature

**WRITTEN BY:** Douglas J. Peterson, Attorney General  
L. Jay Bartel, Assistant Attorney General

**INTRODUCTION**

Currently, the Nebraska Brand Committee "consist[s] of five members appointed by the Governor." Neb. Rev. Stat. § 54-191(1) (Cum. Supp. 2020). You introduced an amendment to LB 572, recently adopted on General File, which would amend this statute to provide that appointees to the Nebraska Brand Committee are "subject to confirmation by the Legislature." AM686. In connection with this pending legislation, you have requested our opinion on three questions relating to the appointment of members of the Nebraska Brand Committee and the application of the appointment powers granted the Governor in Neb. Const. art. IV, § 10. Your specific questions are:

1.If the underlying statute creating the Brand Committee is silent upon the question of whether the Legislature asserts its confirmation authority as a procedural step in completing the appointment of its members, does the Legislature waive or divest its confirmation jurisdiction under Article IV, Section 10 over appointments of members of the Brand Committee?

2.If such express confirmation intent is required to be stated in the statutory provisions creating an office, and the Legislature is precluded from exercising confirmation jurisdiction without statutory revision, at what point does an appointee's commission begin?

3.If the Legislature does not waive its confirmation authority under Article IV, Section 10 by its statutory silence on the question of the Legislature asserting its confirmation jurisdiction for members of the Brand Committee, what is the procedure for compelling that the Governor's appointments to the Brand Committee be submitted to the Legislature for confirmation?

You state AM686 would "expressly provide that appointments to the Brand Committee are subject to legislative confirmation for all future appointments." You seek guidance regarding the amendment and "to understand if the Legislature may assert confirmation jurisdiction over recent appointments to the Brand Committee."

For the reasons stated below, we conclude that art. IV, § 10, does not require legislative confirmation of appointments to the Brand Committee as it authorizes the Legislature to create offices by law and provide for the appointment of persons to those offices without legislative approval. As § 54-191 currently does not require legislative approval of appointees to the Brand Committee, legislative confirmation of appointees is not required. This is not uncommon, as a review of current statutes creating various offices shows the Legislature has, in some cases, granted power to appoint without legislative confirmation to the Governor, and, in other cases, has required that the Legislature approve appointments. While § 54-191 does not currently require legislative confirmation of Brand Committee appointees, the Legislature can change the statute to provide for legislative confirmation of such appointees. AM686, were it to become law, would require that future appointees to the Brand Committee be confirmed by the Legislature.

### ANALYSIS

Neb. Const. art. IV, § 10, provides, in relevant part:

The Governor shall appoint with the approval of a majority of the Legislature, all persons whose offices are established by the Constitution, or which may be created by law, and whose appointment or election is not otherwise by law or herein provided for; and no such person shall be appointed by the Legislature.

In Op. Att'y Gen. No. 90026 (March 28, 1990), we discussed the application of art. IV, § 10, to legislation offered to implement a proposed constitutional amendment to replace the Board of Regents of the University of Nebraska and Board of Trustees of the Nebraska State Colleges with a new Board of Regents for Nebraska Higher Education. The legislation created a Nebraska Higher Education Commission ["Commission"]. Some of the members of the Commission were to be appointed by the Governor, while other members were to be appointed by the Board of Regents for Nebraska Higher Education and other bodies. The question presented by this process was "whether appointments may be constitutionally made by entities other than the Governor." *Id.* at 2-3. In addressing this question, we noted an early Nebraska Supreme Court decision, *State ex rel. Horne v. Holcomb*, 46 Neb. 88, 64 N.W. 437 (1895) ["*Horne*"], discussing language found in art. V, § 10 of the Nebraska Constitution of 1875, which was "virtually identical" to the language found currently in art. IV, § 10. *Id.* The Court in *Horne* stated:

[A] careful analysis of the above section [art. V, § 10] discloses that power is thereby conferred upon the governor to appoint two classes of officers, viz. (1) those whose offices are established by the constitution itself; (2) those whose offices are created by law, and whose appointment or election is not otherwise provided for. The phrase "whose appointment or election is not otherwise \* \* \* provided for," is an apparent limitation upon the preceding general language, and, read by itself, impliedly authorizes the legislature to prescribe the manner of selecting all officers of its own creation. *Id.* at \_\_\_, 64 N.W. at 438.

Based on this language, we concluded "the Legislature can authorize governmental entities other than the Governor to make appointments." Op. Att'y Gen. No. 90026 at 3. We noted, however, that the final clause of art. IV, § 10 provided "those appointments may not be made the Legislature itself." *Id.*

Op. Att'y Gen. No. 93076 (September 24, 1993), discussed the necessity of legislative approval of an appointee to the office of Lieutenant Governor. We noted three constitutional provisions on appointments and vacancies: Neb. Const. art. IV, §§ 10, 11, and 12. As to art. IV, § 10, we stated it "applies only to initial appointments by the Governor of officials whose appointment or election is not otherwise provided for." *Id.* at 3. (emphasis added).<sup>1</sup>

*Horne* construed language in the Nebraska Constitution of 1875 virtually the same as art. IV, § 10, to mean that the Governor had power to appoint two classes of officers, those whose offices are created by the Constitution, and "those whose offices are created by law, and whose appointment or election is not otherwise provided for." 46 Neb. at \_\_\_, 64 N.W. at 438. The Court further interpreted the phrase "whose appointment or election is not otherwise . . . provided for" to "impliedly authorize the legislature to prescribe the manner of selecting all officers of its own creation." *Id.* Thus,

as to offices created by law, the Legislature has authority to prescribe the manner of appointment. The logical conclusion is that, in exercising this power, the Legislature may by statute create an office and provide for the Governor's appointment of officers without legislative approval.

The Idaho Constitution contains language virtually identical to Neb. Const. art. IV, § 10. Specifically, Idaho Const. art. IV, § 6, provides: "The governor shall nominate and, by and with the consent of the senate, appoint all officers whose offices are established by this constitution, or which may be created by law, and whose appointment is not otherwise provided for." The Idaho Supreme Court has construed this to mean that "[t]he legislature can create positions to be filled by gubernatorial appointments without requiring that they be subject to legislative confirmation." *Troutner v. Kempthorne*, 142 Idaho 389, 393, 128 P.3d 926, 930 (2006) (citing *In re Inman*, 8 Idaho 398, 69 P. 120 (1902)). In *Inman*, the Idaho Supreme found an act allowing the governor to appoint a state board of medical examiners without the concurrence of the senate did not violate art. IV, § 6, of the Idaho constitution. It noted this provision "points out the manner of filling offices whose appointment or election is not otherwise provided for by law." *Id.* at \_\_\_, 69 P. at 121. It found that "in the act in question, the legislature has provided, as it has the power to do under the constitution, for the appointment by the governor." *Id.* See also *Lyons v. Bottolfsen*, 61 Idaho 281, \_\_\_, 101 P.2d 1, 8 (1940) ("[T]he Legislature has the authority to give the power of appointment of the bridge committee without the consent of the Senate.").

Consistent with *Horne*, the Idaho cases construing language virtually identical to art. IV, § 10, further support reading that provision to allow the Legislature to provide for the appointment by the Governor of persons to offices created by law when that law "otherwise" provides for appointment without the approval of the Legislature. That is consistent with numerous existing Nebraska statutes that provide for the Governor's appointment of members of various boards, commissions, and committees, without requiring legislative approval or consent. See, e.g., Neb. Rev. Stat. § 2-3745 (2012) (Dry Bean Commission); Neb. Rev. Stat. § 48-1116 (Cum. Supp. 2020) (Equal Opportunity Commission); Neb. Rev. Stat. § 72-724 (2018) (Nebraska Hall of Fame Commission); Neb. Rev. Stat. § 81-1407 (2014) (Nebraska Police Standards Advisory Council); Neb. Rev. Stat. § 81-3528 (Board of Engineers and Architects). That does not mean that the Legislature cannot require legislative approval of such appointees, as reflected in various statutes which impose such a requirement. See, e.g., Neb. Rev. Stat. § 2-1201 (State Racing Commission); Neb. Rev. Stat. § 9-1003 (Cum. Supp. 2020) (Nebraska Commission on Problem Gambling); Neb. Rev. Stat. § 39-2106 (Cum. Supp. 2020) (Board of Public Roads Classifications and Standards); Neb. Rev. Stat. § 83-309 (2014) (Nebraska Arts Council).

Thus, as to your first question, § 54-191 currently contains no language requiring legislative approval or confirmation of Brand Committee

appointees. Under art. IV, § 10, the Legislature may create offices and provide for the Governor's appointment of officers without requiring legislative approval. Because § 54-191 does not provide for legislative approval of Brand Committee members, no such approval is required.

As to your second question, where legislative confirmation or approval is not required, the general rule of when an appointment commences is stated in 67 C.J.S. Officers § 145 (2021) as follows:

As a general rule, if a law sets forth a date for the commencement of a term of office, the term commences on that date regardless of when appointments are actually made or the appointees formally qualify. Where the office is newly created, the term begins when the office is first filled. The matter of when an oath of office is taken is immaterial to its term.

The general rule is that, where no time is fixed by the constitution or statute, the term begins, in the case of elective offices, on the day of election and, in the case of appointive offices, on the date of appointment, but it is only where the constitution or statute fails to prescribe when the term of office shall begin that it begins on election or appointment.

Section 54-191 provides that "[t]he terms of the members [of the Brand Committee] shall be four-year, staggered terms, beginning on August 28 of the year of initial appointment or reappointment and concluding on August 27 of the year of expiration. At the expiration of the term of an appointed member, the Governor shall appoint a successor." Thus, for Brand Committee members, the commencement of a term is determined by the date prescribed by § 54-191.

Finally, your third question is predicated on the Legislature retaining authority to confirm Brand Committee members under art. IV, § 10, even though § 54-191 currently contains no requirement that appointees to the Brand Committee be approved by the Legislature. As we explained in response to your first question, the absence of language in § 54-191 requiring legislative approval of appointees to the Brand Committee is allowed under art. IV, § 10, and thus there is no requirement that such appointees be confirmed by the Legislature.

### CONCLUSION

To summarize, the current statute creating the Brand Committee provides for appointment of committee members by the Governor and does not require legislative approval. Neb. Rev. Stat. § 54-191. This does not violate art. IV, § 10, as the Legislature may enact statutes creating offices that provide for the Governor's appointment to those offices without legislative approval. The Legislature, of course, is free to impose such an approval requirement if it chooses to do so, as it has in many cases. To require legislative approval of Brand Committee appointees, the Legislature would need to amend § 54-191 to impose this requirement. AM686, were it to

become law, would add such a requirement and future appointees to the Brand Committee would be subject to legislative confirmation.

Sincerely,  
DOUGLAS J. PETERSON  
Attorney General  
(Signed) L. Jay Bartel  
Assistant Attorney General

pc Patrick J. O'Donnell  
Clerk of the Nebraska Legislature

07-1399-29

<sup>1</sup>Your request is limited to appointments and the interpretation of the Governor's appointment power under art. IV, § 10. Accordingly, our analysis is limited to that provision and does not address appointments to fill vacancies under Neb. Const art. IV, §§ 11 and 12.

Opinion 21-006

SUBJECT:           Constitutionality Under the Separation of Powers  
                      Clause of Service as a Member of Both the State  
                      Board of Health and a Judicial Nominating  
                      Commission

REQUESTED BY:    Senator Megan Hunt  
                      Nebraska Legislature

WRITTEN BY:       Douglas J. Peterson, Attorney General  
                      Leslie S. Donley, Assistant Attorney General

You have requested an opinion of the Attorney General relating to the recent appointment of Robert (Bud) Synhorst to the State Board of Health. You indicate in your opinion request letter that in addition to his appointment to the State Board of Health, Mr. Synhorst also serves on the Judicial Nominating Commission-Third District-District Court, which you assert "is an agency, or a component of, the judicial branch of our state government" under art. V, § 21 of the Nebraska Constitution.

You state that in *State ex rel. Spire v. Conway*,<sup>1</sup> "the Nebraska Supreme Court held . . . that a state senator could not hold a teaching position at Wayne State College while serving as a member of the Legislature because the college was operating under the auspices of the Board of Regents of the University of Nebraska," which the court interpreted to be "an executive agency and part of the executive branch."<sup>2</sup> You further state that under *Conway*, "[t]he Court reasoned that our state constitution's separation of powers provision . . . prohibits certain person[s] from serving two branches



of government concurrently." Thus, as a member of the legislative branch, Conway could not continue to serve in both the Legislature and as an assistant professor at Wayne State College.

You assert that "Mr. Synhorst is now concurrently serving as a member of commission[s] in the executive and the judicial branch of government." Based on the foregoing, you have posed the following questions:

1. How is this "dual service" appointment consistent with the *Conway* prohibition against concurrent service in two branches of government?
2. If it is your opinion that Mr. Synhorst's dual service on these commissions is improper, what is the remedy for resolving this unconstitutional arrangement?
3. Section 71-2603 provides for a removal process of Board of Health members for various reasons, including the "failure to maintain the qualifications for the position for which appointed." Would removal of Mr. Synhorst from the Board of Health be the remedy for resolving the conflict with *Conway*?
4. Or would the Legislature's most recent confirmation of Mr. Synhorst to the Board of Health be given deference? If so, and stated another way, is there a process available for removal from Mr. Synhorst from the Judicial Nominating Commission [that would] be the preferred remedy?

You have requested guidance on these questions, "and any other related subjects you identify, regarding the issue of the predicament of Mr. Synhorst's dual service on the above-referenced commissions."

#### ANALYSIS

In Op. Att'y Gen. No. 157 (December 24, 1985), the Attorney General clarified the policies relating to the issuance of opinions to members of the Legislature:

In the case of requests from members of the Legislature, we have limited the issuance of such opinions for "valid legislative purposes" only. The Legislature's purpose is, of course, to make, alter or repeal laws. See, *Nebraska Public Power District v. City of York*, 212 Neb. 747, 326 N.W.2d 22 (1982). It is the function of the executive branch to apply and enforce those laws, and the judicial branch to interpret those laws. Consequently, it has been and continues to be the policy of the Attorney General that we issue legal opinions to state legislators which pertain only to pending or proposed legislation. In this regard it is also our policy to decline opinion requests from legislators concerning the constitutionality, or seeking interpretations, of existing statutes. . . .

There are two exceptions to this policy. The first exception is where the interpretation of an existing statute is directly related to the proposed or pending legislation, or in turn where the proposed legislation is dependent upon such an interpretation. The second exception is where the requested interpretation pertains directly to the performance of some function or duty by the Legislature itself.

*Id.* at 1.

Under those standards, we are uncertain what legislative purpose is implicated in your questions set out above. There is no pending or proposed legislation before us. The questions also do not implicate the performance of a legislative function or duty. It appears to us that the matter of the confirmation of Mr. Synhorst to the State Board of Health was fully resolved when the Nebraska Legislature voted to adopt the Health and Human Services Committee's confirmation report on March 31.<sup>3</sup> Moreover, legislative attempts to recommit the confirmation report to the committee were unsuccessful. There is nothing pending in this regard. However, since the Attorney General has independent authority under the quo warranto statutes<sup>4</sup> to remove a state official who may be improperly holding office, we will take this opportunity to consider the propriety of Mr. Synhorst's dual appointments.

### **I. Applicable Law.**

Article II, § 1 of the Nebraska Constitution provides, in pertinent part:

The powers of the government of this state are divided into three distinct departments, the legislative, executive, and judicial, and no person or collection of persons being one of these departments shall exercise any power properly belonging to either of the others except as expressly directed or permitted in this Constitution.

Neb. Const. art. II, § 1(1). "[T]he Nebraska Constitution prohibits one branch of government from encroaching on the duties and prerogatives of the others or from improperly delegating its own duties and prerogatives." *State ex rel. Shepherd v. Nebraska Equal Opportunity Com'n*, 251 Neb. 517, 524, 557 N.W.2d 684, 690 (1997). "Article II also prohibits certain persons from serving two branches of government concurrently. This is its personnel, or individual, aspect. This aspect serves as a check against the concentration of power, and guards against conflicts of interest which arise when one serves two masters." *Conway*, 238 Neb. at 773-74, 472 N.W.2d at 408.

Neb. Const. art IV, § 6, states that "[t]he supreme executive power shall be vested in the Governor, who shall take care that the laws be faithfully executed and the affairs of the state efficiently and economically administered."

Judicial nominating commissions are created in Neb. Const. art. V, § 21, which provides, in pertinent part:

(1) In the case of any vacancy in the Supreme Court or in any district court or in such other court or courts made subject to this provision by law, such vacancy shall be filled by the Governor from a list of at least two nominees presented to him by the appropriate judicial nominating commission.

\* \* \*

(4) There shall be a judicial nominating commission for the Chief Justice of the Supreme Court and one for each judicial district of the Supreme Court and of the district court and one for each area or district served by any other court made subject to subsection (1) of this section by law. Each judicial nominating commission shall consist of nine members, one of whom shall be a Judge of the Supreme Court who shall be designated by the Governor and shall act as chairman, but shall not be entitled to vote. . . .

(Emphasis added.) In addition, the Legislature has enacted Neb. Rev. Stat. §§ 24-801 to 24-812 (2016, Cum. Supp. 2020), which apply to "[a]ll judicial nominating commissions under Article V of the Constitution of Nebraska . . ." Neb. Rev. Stat. § 24-801 (2016).

## II. Judicial Nominating Commissions Perform Executive Functions.

You initially ask how Mr. Synhorst's "'dual service' appointment [is] consistent with the *Conway* prohibition against concurrent service in two branches of government[.]" Your question is premised on your assertion that a judicial nominating commission "is an agency, or a component of, the judicial branch of our state government." The sole support for this assertion appears to be the fact that commissions are created in article V of the Constitution pertaining to the Judiciary.

The Attorney General has issued several opinions discussing *Conway* in the context of various fact situations. In Op. Att'y Gen. No. 92115 (October 1, 1992), we considered the constitutionality of Supreme Court Judges sitting as presiding members of judicial nominating commissions. Senator Schimek raised the concern that in light of *Conway*, since members of judicial nominating commissions who assist the governor in making judicial appointments are part of the executive branch, the separation of powers clause would preclude the judges from serving as members. Our analysis noted that the *Conway* court interpreted the separation of powers clause "to prohibit 'members of one branch from exercising the powers of a coordinate branch and therefore prohibits any member of one of the three branches—whether it be an officer or employee—from being an officer in another branch.' *Id.* at 788, 472 N.W.2d at 415-16." We further noted that art II, § 1 "requires separation of legislative, executive, and judicial powers 'except as hereinafter expressly directed or permitted.'" *Id.* at 2. In this context, the

Nebraska Supreme Court had applied the exception to entities endowed by the Nebraska Constitution with multiple governmental powers, but not to individuals.<sup>5</sup> We concluded that

Article V, Section 21 . . . expressly directs that Supreme Court Judges, personnel who obviously exercise power in the judicial branch, be members of judicial nominating commissions, which assist the Governor in performing the designated executive function of filling judicial vacancies. This constitutional provision requires judges who exercise power in one governmental branch to be members of another branch, thus creating an exception to the separation of powers provision contained in Article II, Section 1, of the Nebraska Constitution.

*Id.* (emphasis added).

Authority in other jurisdictions supports the position taken in Op. Att'y Gen. No. 92115 that members of judicial nominating commissions exercise an executive function when performing their duties. In *In re Advisory Opinion to the Governor*, 276 So. 2d 25 (Fla. 1973), the governor of Florida requested an opinion from the Florida Supreme Court relating to the appropriate roles of the executive and legislative branches in light of recent enactments elevating judicial nominating commissions "to constitutional stature and permanence." *Id.* at 29. The court held that "[t]he appointment of a judge is an executive function and the screening of applicants which results in the nomination of those qualified is also an executive function." *Id.* In response to whether the governor could establish operational rules for the commissions, the court stated:

Your . . . question is answered in the negative. The purpose of the judicial nominating commission is to take the judiciary out of the field of political patronage and provide a method of checking the qualifications of persons seeking the office of judge. When the commission has completed its investigation and reached a conclusion, the persons meeting the qualifications are nominated. In this respect the commissioners act in an advisory capacity to aid the Governor in the conscientious exercise of his executive appointive power.

The preservation of the inherent powers of the three branches of government, free of encroachment or infringement by one upon the other, is essential to the effective operation of our constitutional system of government. . . . This doctrine is designed to avoid excessive concentration of power in the hands of one branch. . . . As a corollary to the doctrine of separation of powers, the executive branch under the Florida Constitution is empowered to fill by appointment vacancies in judicial office.

*Id.* at 30 (internal citations omitted).

In *Richardson v. Koshiba*, 693 F.2d 911 (9th Cir. 1982), a former state judge brought suit against members of the Hawaii Judicial Selection Commission for violating his Fourteenth Amendment rights to procedural due process by denying his petition for reappointment. Richardson also alleged violations of the Hawaii Constitution and law. Commission members argued they were "absolutely immune from liability for damages" because they were agents of the court acting "in furtherance of their quasi-judicial functions." *Id.* at 913. The court rejected these claims, stating:

One claiming immunity has the burden of demonstrating entitlement to it. . . . The Commission contends that its functions are "judicial" in nature because its responsibilities of recommending candidates for judicial office to the appointing officials and of reviewing reappointment petitions requires it to "weigh the merits of [the] candidates," "consider all the evidence," "conduct extensive investigations," and "act very much like judges in attempting objectively to evaluate . . . the merits of each candidate or petition." Although the Commission describes its responsibilities in "judicial" terms, these functions bear little resemblance to the characteristic of the judicial process that gave rise to the recognition of absolute immunity for judicial officers: the adjudication of controversies between adversaries. . . . Rather, these responsibilities indicate that the Commission's functions are executive in nature.

*Id.* at 914 (emphasis added) (internal citations omitted).

In *Matheson v. Ferry*, 641 P.2d 674 (Utah 1982), the Utah Supreme Court considered the constitutionality of statutes that provided for two members of the Legislature to serve on judicial nominating commissions and required senate confirmation of certain judicial appointments. The court noted that "[t]he function of actually carrying out the judicial selection processes as provided by law and making appointments has historically been the function of the executive in this state . . . ." *Id.* at 677. "Indeed, so far as we are aware, the actual selection and appointment of judges in every state except two (excluding states having popular election procedures) is done by the executive either by Constitution or statute, or both, under limitations and restrictions of varying degrees as the constitutions and laws in such states provide." *Id.* at 678. The court stated that regardless of the source of the Governor's power (i.e., constitutional, statutory, or inherent), the Governor's power is both protected and proscribed by the separation of powers clause. The court concluded that since there was no specific language in the Constitution prohibiting the Legislature from participating in judicial selection and appointment procedures in any degree, the statute providing for two legislative appointees on the commissions did not violate the separation of powers clause. However, the statutes adding the "advice and consent" provisions amounted to an "offensive control" by the Legislature of the Governor's power of appointment and was violative of the clause. *Id.* at 679.<sup>6</sup>

"A constitution represents the supreme written will of the people regarding the framework for their government. *Pig Pro Nonstock Co-op. v. Moore*, 253 Neb. 72, 568 N.W.2d 217 (1997). When the language of the state Constitution is clear, unambiguous, and does not violate the U.S. Constitution, it is not for [the] court to read into it that which is not there." *Pony Lake School Dist. 30 v. State Committee for Reorganization of School Districts*, 271 Neb. 173, 187, 710 N.W.2d 609, 622 (2006). There is nothing in art. V, § 21 that suggests that judicial nominating commissions constitute "agencies" of the judicial branch, or that members of these commissions are exercising judicial or quasi-judicial functions when they screen applicants for judicial appointment. In contrast, art. V, § 21 clearly and unambiguously states that the Governor fills judicial vacancies from a list of nominees presented to him by the appropriate judicial nominating commission. In this regard, members of judicial nominating commissions are exercising an executive function, not a judicial one.

Mr. Synhorst is now serving in the executive branch as a result of his appointment to the State Board of Health. He fulfills an executive function as a member of the Judicial Nominating Commission-Third District-District Court. He does not serve in two branches of government. Thus, in response to your first question, Mr. Synhorst's dual appointments are, in fact, consistent with the *Conway* prohibition since only the executive branch of government is implicated.

### CONCLUSION

Based on the foregoing, it is the opinion of this office that members of judicial nominating commissions exercise an executive function when they screen applicants for judicial office. Applying the *Conway* rule to the facts before us, we conclude that Mr. Synhorst's dual appointments do not violate the separation of powers clause of the Nebraska Constitution since they only involve service in and to the executive branch of government. In light of this conclusion, it is unnecessary for us to address the remaining questions in your request.

Sincerely,  
DOUGLAS J. PETERSON  
Attorney General  
(Signed) Leslie S. Donley  
Assistant Attorney General

pc Patrick J. O'Donnell  
Clerk of the Nebraska Legislature

49-2679-29

<sup>1</sup>238 Neb. 766, 472 N.W.2d 403 (1991).

<sup>2</sup>In *Conway*, the court found that the State College Board of Trustees, like the University Board of Regents, was part of the executive branch. There

was no indication by the court in *Conway* that the Board of Trustees was operating under the auspices of the Board of Regents.

<sup>3</sup>The Legislature confirmed Mr. Synhorst's appointment to the board on March 31, 2021, with 37 members voting aye, 7 nays, 3 present and not voting, and 2 excused and not voting. Nebraska Journal, March 31, 2021, at 837.

<sup>4</sup>Neb. Rev. Stat. §§ 25-21,121 to 25-21,148 (2016).

<sup>5</sup>"While it may be necessary for certain agencies to share attributes with the executive, legislative, and judicial branches in order for those agencies to carry out the function assigned to them in the Constitution, those needs do not require the agency to employ personnel who exercise power in another governmental branch." *Conway*, 238 Neb. at 785, 472 N.W.2d at 414.

<sup>6</sup>*Compare Ashford v. Bowie*, 2016 WL 4186952, *vacated by Ashford v. Douglas County*, 880 F.3d 990 (8<sup>th</sup> Cir. 2018) (Judicial immunity applies to selection committee comprised of judges and nonjudges involved in selecting attorneys to be included on lists for court appointments.).

#### **EXPLANATION(S) OF VOTE(S)**

Had I been present, I would have voted "aye" on final passage of LBs 83, 92, 101, 197, 371, 390, 400, 487, and 503.

(Signed) Carol Blood

#### **EXPLANATION(S) OF VOTE(S)**

Had I been present, I would have voted "aye" on final passage of LBs 83, 92, 101, 197, 371, 390, 400, 487, and 503.

(Signed) Jen Day

#### **RESOLUTION(S)**

Pursuant to Rule 4, Sec. 5(b), LR 87, 88, 89, 90, 91, 92, 93, and 94 were adopted.

#### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 87, 88, 89, 90, 91, 92, 93, and 94.

#### **GENERAL FILE**

**LEGISLATIVE BILL 271A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 57.** Title read. Considered.

Advanced to Enrollment and Review Initial with 43 ayes, 0 nays, 5 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 275.** Title read. Considered.

Committee [AM187](#), found on page 487, was adopted with 46 ayes, 0 nays, 2 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 46 ayes, 0 nays, 2 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 275A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 45 ayes, 0 nays, 3 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 355.** Title read. Considered.

Advanced to Enrollment and Review Initial with 43 ayes, 0 nays, 4 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 261.** Title read. Considered.

Advanced to Enrollment and Review Initial with 43 ayes, 0 nays, 4 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 669.** Title read. Considered.

Committee [AM467](#), found on page 663, was adopted with 44 ayes, 0 nays, 3 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 44 ayes, 0 nays, 3 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 291.** Title read. Considered.

Senator Friesen offered the following amendment:

[AM1023](#)

1 1. Strike the original sections and insert the following new  
2 sections:  
3 Section 1. Section 77-1502, Reissue Revised Statutes of Nebraska, is  
4 amended to read:  
5 77-1502 (1) The county board of equalization shall meet for the  
6 purpose of reviewing and deciding written protests filed pursuant to this  
7 section beginning on or after June 1 and ending on or before July 25 of  
8 each year. Protests regarding real property shall be signed and filed  
9 after the county assessor's completion of the real property assessment  
10 roll required by section 77-1315 and on or before June 30. For protests  
11 of real property, a protest shall be filed for each parcel. Protests



12 regarding taxable tangible personal property returns filed pursuant to  
13 section 77-1229 from January 1 through May 1 shall be signed and filed on  
14 or before June 30. The county board in a county with a population of more  
15 than one hundred thousand inhabitants based upon the most recent federal  
16 decennial census may adopt a resolution to extend the deadline for  
17 hearing protests from July 25 to August 10. The resolution must be  
18 adopted before July 25 and it will affect the time for hearing protests  
19 for that year only. By adopting such resolution, such county waives any  
20 right to petition the Tax Equalization and Review Commission for  
21 adjustment of a class or subclass of real property under section  
22 77-1504.01 for that year.

23 (2) Each protest shall be made on a form prescribed by the Tax  
24 Commissioner, signed, and filed with the county clerk of the county where  
25 the property is assessed. It shall be acceptable for a county to create  
26 its own form, including an electronic form, as long as the form captures  
27 the information required by this subsection. The protest shall contain or  
1 have attached a statement of the reason or reasons why the requested  
2 change should be made, including the requested valuation, and a  
3 description of the property to which the protest applies. If the property  
4 is real property, a description adequate to identify each parcel shall be  
5 provided. If the property is tangible personal property, a physical  
6 description of the property under protest shall be provided. If the  
7 protest does not contain or have attached the statement of the reason or  
8 reasons for the protest, including the requested valuation, or the  
9 applicable description of the property, the protest shall be dismissed by  
10 the county board of equalization. Counties may make reasonable efforts to  
11 contact protesters who have timely filed a protest but have either filed  
12 incomplete information or not used the required form. The protest shall  
13 also indicate whether the person signing the protest is an owner of the  
14 property or a person authorized to protest on behalf of the owner. If the  
15 person signing the protest is a person authorized to protest on behalf of  
16 the owner, such person shall provide the authorization with the protest.  
17 If the person signing the protest is not an owner of the property or a  
18 person authorized to protest on behalf of the owner, the county clerk  
19 shall mail a copy of the protest to the owner of the property at the  
20 address to which the property tax statements are mailed.

21 (3) Beginning January 1, 2014, in counties with a population of at  
22 least one hundred fifty thousand inhabitants according to the most recent  
23 federal decennial census, for a protest regarding real property, each  
24 protester shall be afforded the opportunity to meet in person with the  
25 county board of equalization or a referee appointed under section  
26 77-1502.01 to provide information relevant to the protested property  
27 value.

28 (4) No hearing of the county board of equalization on a protest  
29 filed under this section shall be held before a single commissioner or  
30 supervisor.

31 (5) The county clerk or county assessor shall prepare a separate  
1 report on each protest. The report shall include (a) a description  
2 adequate to identify the real property or a physical description of the  
3 tangible personal property to which the protest applies, (b) any  
4 recommendation of the county assessor for action on the protest, (c) if a  
5 referee is used, the recommendation of the referee, (d) the date the  
6 county board of equalization heard the protest, (e) the decision made by  
7 the county board of equalization, (f) the date of the decision, and (g)  
8 the date notice of the decision was mailed to the protester. The report  
9 shall contain, or have attached to it, a statement, signed by the  
10 chairperson of the county board of equalization, describing the basis  
11 upon which the board's decision was made. The report shall have attached  
12 to it a copy of that portion of the property record file which  
13 substantiates calculation of the protested value unless the county

14 assessor certifies to the county board of equalization that a copy is  
 15 maintained in either electronic or paper form in his or her office. One  
 16 copy of the report, if prepared by the county clerk, shall be given to  
 17 the county assessor on or before August 2. The county assessor shall have  
 18 no authority to make a change in the assessment rolls until there is in  
 19 his or her possession a report which has been completed in the manner  
 20 specified in this section. If the county assessor deems a report  
 21 submitted by the county clerk incomplete, the county assessor shall  
 22 return the same to the county clerk for proper preparation.  
 23 (6) On or before August 2, or on or before August 18 in a county  
 24 that has adopted a resolution to extend the deadline for hearing  
 25 protests, the county clerk shall mail to the protester written notice of  
 26 the board's decision. The notice shall contain a statement advising the  
 27 protester that a report of the board's decision is available at the  
 28 county clerk's or county assessor's office, whichever is appropriate. If  
 29 the protester is not an owner of the property involved in the protest or  
 30 a person authorized to protest on behalf of the owner, the county clerk  
 31 shall also mail written notice of the board's decision to the owner of  
 1 such property at the address to which the property tax statements are  
 2 mailed.  
 3 Sec. 2. This act becomes operative on January 1, 2022.  
 4 Sec. 3. Original section 77-1502, Reissue Revised Statutes of  
 5 Nebraska, is repealed.

The Friesen amendment was adopted with 41 ayes, 1 nay, 5 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 1 nay, 8 present and not voting, and 2 excused and not voting.

#### SELECT FILE

**LEGISLATIVE BILL 372.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 343.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 616.** [ER58](#), found on page 957, was adopted.

Senator Hughes offered his amendment, [AM951](#), found on page 980.

The Hughes amendment was adopted with 40 ayes, 0 nays, 8 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 58.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 63.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 466.** Senator Linehan offered the following amendment:

[AM927](#)

(Amendments to Standing Committee amendments, AM157)

- 1 1. Strike amendment 1 and insert the following new amendment:
- 2 1. On page 2, strike beginning with "real" in line 1 through
- 3 "occurred" in line 4 and insert "residential real property is sold, the
- 4 property taxes due on such real property for the year in which the sale
- 5 occurred shall be prorated".

**SENATOR PANSING BROOKS PRESIDING**

The Linehan amendment was adopted with 41 ayes, 0 nays, 7 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 181.** [ER57](#), found on page 957, was adopted.

Advanced to Enrollment and Review for Engrossment.

**SPEAKER HILGERS PRESIDING**

**BILLS ON FINAL READING**

**Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB379 with 36 ayes, 5 nays, 6 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 379.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2019, LB294, sections 93, 106, 108, 159, 181, 182, and 261; and Laws 2020, LB1008, sections 49, 50, 51, 52, 53, 54, and 55; to define terms; to provide, change, and eliminate appropriations for operation of state government; to change fund transfers; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 47:

Aguilar	Cavanaugh, M.	Groene	Lindstrom	Sanders
Albrecht	Clements	Halloran	Linehan	Slama
Arch	Day	Hansen, B.	Lowe	Stinner
Blood	DeBoer	Hansen, M.	McCollister	Vargas
Bostar	Dorn	Hilgers	McDonnell	Walz
Bostelman	Erdman	Hilkemann	McKinney	Williams
Brandt	Flood	Hughes	Morfeld	Wishart
Brewer	Friesen	Hunt	Murman	
Briese	Geist	Kolterman	Pahls	
Cavanaugh, J.	Gragert	Lathrop	Pansing Brooks	

Voting in the negative, 0.

Excused and not voting, 2:

Moser            Wayne

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

#### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB380 with 31 ayes, 6 nays, 10 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

#### **LEGISLATIVE BILL 380.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to state intent; to define terms; to make appropriations for the expenses of Nebraska State Government for the biennium ending June 30, 2023; to transfer funds; to provide duties; to provide an operative date; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 47:

Aguilar	Cavanaugh, M.	Groene	Lindstrom	Sanders
Albrecht	Clements	Halloran	Linehan	Slama
Arch	Day	Hansen, B.	Lowe	Stinner
Blood	DeBoer	Hansen, M.	McCollister	Vargas
Bostar	Dorn	Hilgers	McDonnell	Walz
Bostelman	Erdman	Hilkemann	McKinney	Williams
Brandt	Flood	Hughes	Morfeld	Wishart
Brewer	Friesen	Hunt	Murman	
Briese	Geist	Kolterman	Pahls	
Cavanaugh, J.	Gragert	Lathrop	Pansing Brooks	

Voting in the negative, 0.

Excused and not voting, 2:

Moser            Wayne

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 381.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the payment of salaries of members of the Nebraska Legislature and payments to be made as provided by Chapter 68, article 6, for FY2021-22 and FY2022-23; to provide an operative date; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 46:

Aguilar	Cavanaugh, M.	Groene	Lindstrom	Slama
Albrecht	Clements	Halloran	Linehan	Stinner
Arch	Day	Hansen, B.	McCollister	Vargas
Blood	DeBoer	Hansen, M.	McDonnell	Walz
Bostar	Dorn	Hilgers	McKinney	Williams
Bostelman	Erdman	Hilkemann	Morfeld	Wishart
Brandt	Flood	Hughes	Murman	
Brewer	Friesen	Hunt	Pahls	
Briese	Geist	Kolterman	Pansing Brooks	
Cavanaugh, J.	Gragert	Lathrop	Sanders	

Voting in the negative, 0.

Present and not voting, 1:

Lowe

Excused and not voting, 2:

Moser            Wayne

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 382.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the payment of the salaries and benefits of certain state officers for FY2021-22 and FY2022-23; to define terms; to provide an operative date; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 46:

Aguilar	Cavanaugh, M.	Groene	Linehan	Slama
Albrecht	Clements	Halloran	Lowe	Stinner
Arch	Day	Hansen, B.	McCollister	Vargas
Blood	DeBoer	Hansen, M.	McDonnell	Walz
Bostar	Dorn	Hilgers	McKinney	Williams
Bostelman	Erdman	Hilkemann	Morfeld	Wishart
Brandt	Flood	Hughes	Murman	
Brewer	Friesen	Kolterman	Pahls	
Briese	Geist	Lathrop	Pansing Brooks	
Cavanaugh, J.	Gragert	Lindstrom	Sanders	

Voting in the negative, 0.

Present and not voting, 1:

Hunt

Excused and not voting, 2:

Moser            Wayne

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**MOTION(S) - Recommit LB383 to Committee**

Senator Hunt offered the following motion to LB383:

MO38

Recommit to the Appropriations Committee.

The Hunt motion to recommit to committee failed with 3 ayes, 35 nays, 5 present and not voting, and 6 excused and not voting.

**BILLS ON FINAL READING****Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB383 with 36 ayes, 3 nays, 4 present and not voting, and 6 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 383.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to define terms; to appropriate funds for capital construction and property acquisition as prescribed; to state intent; to require program statements and a request for funding; to provide an operative date; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 38:

Albrecht	Day	Halloran	Lowe	Slama
Arch	DeBoer	Hansen, B.	McCollister	Stinner
Blood	Dorn	Hilgers	McDonnell	Vargas
Bostar	Erdman	Hilkemann	Morfeld	Walz
Brandt	Flood	Kolterman	Murman	Williams
Brewer	Friesen	Lathrop	Pahls	Wishart
Briese	Geist	Lindstrom	Pansing Brooks	
Clements	Groene	Linehan	Sanders	

Voting in the negative, 2:

Cavanaugh, M. Hunt

Present and not voting, 3:

Cavanaugh, J. Hansen, M. McKinney

Excused and not voting, 6:

Aguilar	Gragert	Moser
Bostelman	Hughes	Wayne

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB384 with 33 ayes, 4 nays, 4 present and not voting, and 8 excused and not voting.

The following bill was put upon final passage:

### LEGISLATIVE BILL 384. With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to amend sections 71-812, 72-729.01, 85-420, 85-426, and 86-594, Reissue Revised Statutes of Nebraska, and sections 9-1,101, 58-706, 61-222, 71-808, 71-7611, 81-1220, 82-331, 85-419, 85-421, 85-422, 85-423, 85-424, 85-425, 86-324, and 86-1103, Revised Statutes Cumulative Supplement, 2020; to provide and change uses and transfers of funds; to change and provide definitions; to provide for grants; to change and eliminate provisions relating to deferred maintenance; to change provisions relating to the University of Nebraska Facilities Program and the State College Facilities Program; to rename programs; to create funds; to repeal the original sections; to outright repeal sections 85-412, 85-413, 85-414, 85-415, 85-416, 85-417, and 85-418, Reissue Revised Statutes of Nebraska; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 41:

Albrecht	Day	Hansen, B.	Lowe	Stinner
Arch	DeBoer	Hansen, M.	McCollister	Vargas
Blood	Dorn	Hilgers	McKinney	Walz
Bostar	Erdman	Hilkemann	Morfeld	Williams
Brandt	Flood	Hunt	Murman	Wishart
Brewer	Friesen	Kolterman	Pahls	
Briese	Geist	Lathrop	Pansing Brooks	
Cavanaugh, M.	Groene	Lindstrom	Sanders	
Clements	Halloran	Linehan	Slama	

Voting in the negative, 0.



Excused and not voting, 8:

Aguilar	Cavanaugh, J.	Hughes	Moser
Bostelman	Gragert	McDonnell	Wayne

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 379, 380, 381, 382, 383, and 384.

### AMENDMENT(S) - Print in Journal

Senator McDonnell filed the following amendment to LB406:

#### AM1001

1 1. Strike the original sections and insert the following new  
 2 sections:  
 3 Section 1. The Legislature finds and declares as follows:  
 4 (1) The future vibrancy of the people, communities, and businesses  
 5 of Nebraska depends on reliable sources of water;  
 6 (2) While it is in the state's best interest to retain control over  
 7 its water supplies, much of the state's water resources are currently  
 8 underutilized;  
 9 (3) Well-planned flood control is critical to the future of the  
 10 people, communities, and businesses of Nebraska;  
 11 (4) The state's water resources provide economic benefit to the  
 12 people, communities, and businesses of Nebraska by helping to attract  
 13 visitors from other states and boost local economies;  
 14 (5) Nebraska has tremendous water resources across the state,  
 15 including, but not limited to, the Ogallala Aquifer, Lake McConaughy, the  
 16 Platte River, the Republican River, and the Missouri River. The state's  
 17 lakes and rivers help Nebraskans enjoy the water resources in our state  
 18 and make Nebraska an even more attractive place to live and raise a  
 19 family;  
 20 (6) In light of the disruption from the COVID-19 coronavirus  
 21 pandemic and the trend toward a remote workforce around the country,  
 22 people around the country are rethinking where they want to work, live,  
 23 and raise a family. As people consider where to live, access to  
 24 sustainable water resources and outdoor recreational opportunities will  
 25 be important considerations in making Nebraska a competitive choice for  
 26 the future;  
 27 (7) Studies should be conducted focusing on securing Nebraska's  
 1 future water supply and strengthening Nebraska's flood control  
 2 infrastructure, while also considering economic and recreational  
 3 opportunities, including opportunities from increased tourism, in finding  
 4 innovative solutions and winning opportunities for the State of Nebraska;  
 5 (8) Any such studies must not deter ongoing economic activity or  
 6 fail to protect current investment in the areas under study; and  
 7 (9) An investment in a one-time series of studies that take  
 8 advantage of previous studies while including innovative approaches and  
 9 new technologies is best positioned to find solutions for all Nebraskans,  
 10 especially Nebraskans living, working, and investing in the areas under  
 11 study.  
 12 Sec. 2. (1) The Statewide Tourism and Recreational Water Access and

13 Resource Sustainability Special Committee of the Legislature is hereby  
14 established as a special legislative committee to exercise the powers and  
15 perform the duties provided in this section. The special legislative  
16 committee shall consist of no fewer than seven members of the Legislature  
17 as determined by the Executive Board of the Legislative Council. The  
18 special legislative committee shall consist of the Speaker of the  
19 Legislature, who shall serve as chairperson of the special legislative  
20 committee, the chairperson of the Natural Resources Committee of the  
21 Legislature, one member of the Appropriations Committee of the  
22 Legislature, and at least four other members of the Legislature appointed  
23 by the executive board. The appointed members of the special legislative  
24 committee shall be members who represent legislative districts comprising  
25 portions of the areas under study or who otherwise have knowledge of such  
26 areas.

27 (2) The Executive Board of the Legislative Council shall provide  
28 staff as required by the special legislative committee from existing  
29 legislative staff. In addition, the special legislative committee may  
30 hire additional staff, make expenditures for travel, and enter into  
31 contracts for consulting, engineering, and development studies. The  
1 contracts shall be subject to approval by the executive board upon the  
2 recommendation of a majority of the members of the special legislative  
3 committee. It is the intent of the Legislature to appropriate two million  
4 dollars for fiscal year 2021-22 to carry out the purposes of this  
5 section.

6 (3)(a) Studies shall be conducted on:

7 (i) The need to protect public and private property, including use  
8 of levee systems, enhance economic development, and promote private  
9 investment and the creation of jobs along the Platte River and its  
10 tributaries from Columbus, Nebraska, to Plattsmouth, Nebraska;

11 (ii) The need to provide for public safety, public infrastructure,  
12 land-use planning, recreation, and economic development in the Lake  
13 McConaughy region of Keith County, Nebraska; and

14 (iii) The socioeconomic conditions, recreational and tourism  
15 opportunities, and public investment necessary to enhance economic  
16 development and to catalyze private investment in the region in Knox  
17 County, Nebraska, that lies north of State Highway 12 and extends to the  
18 South Dakota border and includes Lewis and Clark Lake and Niobrara State  
19 Park.

20 (b) The study of the Lower Platte River pursuant to subdivision (3)

21 (a)(i) of this section shall not include a study of any dam on a Platte  
22 River channel, but may include infrastructure options that maintain the  
23 integrity of the main channel of the Platte River. The committee may  
24 study dams relating to tributaries of the Platte River and levees in such  
25 area.

26 (c) The studies regarding Lake McConaughy in Keith County and Lewis  
27 and Clark Lake and Niobrara State Park in Knox County shall evaluate the  
28 outcomes and the economic benefits of proposed development and  
29 improvements to residents, the local region, and state tourism.

30 (4) The special legislative committee may hold hearings and request  
31 and receive reports from federal, state, county, city, and village  
1 agencies and natural resources districts regarding matters pertaining to  
2 such studies. The special legislative committee may hold one or more  
3 closed sessions for the receipt of confidential information if at least  
4 one-half of the members of the special legislative committee vote in open  
5 session to hold a closed session. The special legislative committee may  
6 appoint one or more subcommittees for the purpose of receiving public  
7 input as it relates to the purposes described in section 1 of this act  
8 and this section.

9 (5) The special legislative committee shall endeavor to complete  
10 each study on or before December 31, 2021, but such studies shall be

11 completed no later than December 31, 2022.

12 Sec. 3. Since an emergency exists, this act takes effect when

13 passed and approved according to law.

## RESOLUTION(S)

### LEGISLATIVE RESOLUTION 97. Introduced by Hansen, M., 26.

PURPOSE: The purpose of this interim study is to determine whether further revision to Nebraska grand jury laws is necessary to ensure that such proceedings are transparent and open to public inspection. The Legislature passed Laws 2020, LB881, which included a provision that amended the law relating to grand jury proceedings. The Legislature intended to provide for public access to the transcript of a grand jury convened to investigate the death of a person in custody or detention. Specifically, Laws 2020, LB881 amended section 29-1407.01 to provide that if no true bill was issued by the grand jury, then the transcript and exhibits of the grand jury are to be available upon written request from the clerk of the district court. If a true bill is returned by the grand jury, Laws 2020, LB881 provided for a process by which the transcript and exhibits are generally publicly available unless a trial court limits or prohibits access due to a related criminal proceeding. Despite the changes made by Laws 2020, LB881, the exact process by which a member of the public or press accesses grand jury transcripts is not clearly delineated. Additionally, the clerks of the courts differ in their interpretations of the law.

The study shall include, but not be limited to:

- (1) An examination of whether further legislation is necessary to ensure that grand jury proceedings are transparent and open to public inspection;
- (2) An examination of whether there is a clear and uniform practice among the courts to make sure such proceedings are available to the public or press;
- (3) An examination of any additional issues or components of the Nebraska grand jury laws and consideration of additional reforms or amendments; and
- (4) Input from the public and impacted individuals regarding the subject matter of this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SEVENTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**UNANIMOUS CONSENT - Add Cointroducer(s)**

Unanimous consent to add Senator(s) as cointroducer(s). No objections. So ordered.

Senator Murman name added to LB2.

Senator Walz name added to LB147.

Senator Cavanaugh, M. name added to LB147.

Senator Cavanaugh, M. name added to LB275.

Senator Flood name added to LB406.

**RECESS**

At 12:11 p.m., on a motion by Senator McKinney, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Speaker Hilgers presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Aguilar, J. Cavanaugh, Day, and Hughes who were excused until they arrive.

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on April 20, 2021, at 1:38 p.m. were the following: LBs 379e, 380e, 381e, 382e, 383e, and 384e.

(Signed) Jamie Leishman  
Clerk of the Legislature's Office

**BILLS ON FINAL READING**

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 385.** With Emergency Clause.

A BILL FOR AN ACT relating to the Cash Reserve Fund; to amend section 84-612, Revised Statutes Cumulative Supplement, 2020; to provide a transfer to the United States Space Command Headquarters Assistance Fund as prescribed; to eliminate obsolete provisions; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 44:

Albrecht	DeBoer	Hansen, B.	Lowe	Sanders
Arch	Dorn	Hansen, M.	McCollister	Slama
Blood	Erdman	Hilgers	McDonnell	Stinner
Bostar	Flood	Hilkemann	McKinney	Vargas
Bostelman	Friesen	Hunt	Morfeld	Walz
Brandt	Geist	Kolterman	Moser	Wayne
Brewer	Gragert	Lathrop	Murman	Williams
Briese	Groene	Lindstrom	Pahls	Wishart
Clements	Halloran	Linehan	Pansing Brooks	

Voting in the negative, 0.

Present and not voting, 1:

Cavanaugh, M.

Excused and not voting, 4:

Aguilar      Cavanaugh, J.      Day      Hughes

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 666.** With Emergency Clause.

A BILL FOR AN ACT relating to claims against the state; to appropriate funds for the payment of certain claims; to provide for payment of the claims; to authorize agencies to write off certain claims as prescribed; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 45:

Albrecht	Clements	Halloran	Linehan	Pansing Brooks
Arch	DeBoer	Hansen, B.	Lowe	Sanders
Blood	Dorn	Hansen, M.	McCollister	Slama
Bostar	Erdman	Hilgers	McDonnell	Stinner
Bostelman	Flood	Hilkemann	McKinney	Vargas
Brandt	Friesen	Hughes	Morfeld	Walz
Brewer	Geist	Kolterman	Moser	Wayne
Briese	Gragert	Lathrop	Murman	Williams
Cavanaugh, J.	Groene	Lindstrom	Pahls	Wishart

Voting in the negative, 0.

Present and not voting, 2:

Cavanaugh, M. Hunt

Excused and not voting, 2:

Aguilar Day

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 386.** With Emergency Clause.

A BILL FOR AN ACT relating to judges' salaries; to amend section 24-201.01, Revised Statutes Cumulative Supplement, 2020; to change judges' salaries; to provide an operative date; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 46:

Aguilar	Cavanaugh, M.	Halloran	Lowe	Slama
Albrecht	Clements	Hansen, B.	McCollister	Stinner
Arch	DeBoer	Hansen, M.	McDonnell	Vargas
Blood	Dorn	Hilgers	McKinney	Walz
Bostar	Erdman	Hilkemann	Morfeld	Williams
Bostelman	Flood	Hughes	Moser	Wishart
Brandt	Friesen	Kolterman	Murman	
Brewer	Geist	Lathrop	Pahls	
Briese	Gragert	Lindstrom	Pansing Brooks	
Cavanaugh, J.	Groene	Linehan	Sanders	

Voting in the negative, 1:

Hunt

Present and not voting, 1:

Wayne

Excused and not voting, 1:

Day

A constitutional two-thirds majority having voted in the affirmative, the bill

was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 386A.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 386, One Hundred Seventh Legislature, First Session, 2021; to provide an operative date; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 46:

Aguilar	Cavanaugh, M.	Halloran	Lowe	Slama
Albrecht	Clements	Hansen, B.	McCollister	Stinner
Arch	DeBoer	Hansen, M.	McDonnell	Vargas
Blood	Dorn	Hilgers	McKinney	Walz
Bostar	Erdman	Hilkemann	Morfeld	Williams
Bostelman	Flood	Hughes	Moser	Wishart
Brandt	Friesen	Kolterman	Murman	
Brewer	Geist	Lathrop	Pahls	
Briese	Gragert	Lindstrom	Pansing Brooks	
Cavanaugh, J.	Groene	Linehan	Sanders	

Voting in the negative, 1:

Hunt

Present and not voting, 1:

Wayne

Excused and not voting, 1:

Day

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 65.**

A BILL FOR AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend section 49-14,103.01, Revised Statutes Cumulative Supplement, 2020; to change provisions relating to a prohibited interest in a contract by an officer; to harmonize provisions; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Aguilar	Cavanaugh, M.	Halloran	Linehan	Sanders
Albrecht	Clements	Hansen, B.	Lowe	Slama
Arch	DeBoer	Hansen, M.	McCollister	Stinner
Blood	Dorn	Hilgers	McDonnell	Vargas
Bostar	Erdman	Hilkemann	McKinney	Walz
Bostelman	Flood	Hughes	Morfeld	Wayne
Brandt	Friesen	Hunt	Moser	Williams
Brewer	Geist	Kolterman	Murman	Wishart
Briese	Gragert	Lathrop	Pahls	
Cavanaugh, J.	Groene	Lindstrom	Pansing Brooks	

Voting in the negative, 0.

Excused and not voting, 1:

Day

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

#### **LEGISLATIVE BILL 105.**

A BILL FOR AN ACT relating to county clerks; to amend section 23-1302, Reissue Revised Statutes of Nebraska; to change dates for certification of unpaid claims of the county; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Aguilar	Cavanaugh, M.	Halloran	Linehan	Sanders
Albrecht	Clements	Hansen, B.	Lowe	Slama
Arch	DeBoer	Hansen, M.	McCollister	Stinner
Blood	Dorn	Hilgers	McDonnell	Vargas
Bostar	Erdman	Hilkemann	McKinney	Walz
Bostelman	Flood	Hughes	Morfeld	Wayne
Brandt	Friesen	Hunt	Moser	Williams
Brewer	Geist	Kolterman	Murman	Wishart
Briese	Gragert	Lathrop	Pahls	
Cavanaugh, J.	Groene	Lindstrom	Pansing Brooks	

Voting in the negative, 0.



Excused and not voting, 1:

Day

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 180.**

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-4603, Reissue Revised Statutes of Nebraska, and section 77-4602, Revised Statutes Cumulative Supplement, 2020; to change provisions relating to certain public statements of the Tax Commissioner and certain estimates of General Fund net receipts; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Aguilar	Cavanaugh, M.	Halloran	Linehan	Sanders
Albrecht	Clements	Hansen, B.	Lowe	Slama
Arch	DeBoer	Hansen, M.	McCollister	Stinner
Blood	Dorn	Hilgers	McDonnell	Vargas
Bostar	Erdman	Hilkemann	McKinney	Walz
Bostelman	Flood	Hughes	Morfeld	Wayne
Brandt	Friesen	Hunt	Moser	Williams
Brewer	Geist	Kolterman	Murman	Wishart
Briese	Gragert	Lathrop	Pahls	
Cavanaugh, J.	Groene	Lindstrom	Pansing Brooks	

Voting in the negative, 0.

Excused and not voting, 1:

Day

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 224.**

A BILL FOR AN ACT relating to county surveyors; to amend section 23-1901.01, Revised Statutes Cumulative Supplement, 2020; to change provisions relating to appointment of a county surveyor in certain counties as prescribed; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Aguilar	Cavanaugh, M.	Halloran	Linehan	Sanders
Albrecht	Clements	Hansen, B.	Lowe	Slama
Arch	DeBoer	Hansen, M.	McCollister	Stinner
Blood	Dorn	Hilgers	McDonnell	Vargas
Bostar	Erdman	Hilkemann	McKinney	Walz
Bostelman	Flood	Hughes	Morfeld	Wayne
Brandt	Friesen	Hunt	Moser	Williams
Brewer	Geist	Kolterman	Murman	Wishart
Briese	Gragert	Lathrop	Pahls	
Cavanaugh, J.	Groene	Lindstrom	Pansing Brooks	

Voting in the negative, 0.

Excused and not voting, 1:

Day

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 265.** With Emergency Clause.

A BILL FOR AN ACT relating to the Property Assessed Clean Energy Act; to amend section 13-3211, Revised Statutes Cumulative Supplement, 2020; to provide an annual report exception; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 48:

Aguilar	Cavanaugh, M.	Halloran	Linehan	Sanders
Albrecht	Clements	Hansen, B.	Lowe	Slama
Arch	DeBoer	Hansen, M.	McCollister	Stinner
Blood	Dorn	Hilgers	McDonnell	Vargas
Bostar	Erdman	Hilkemann	McKinney	Walz
Bostelman	Flood	Hughes	Morfeld	Wayne
Brandt	Friesen	Hunt	Moser	Williams
Brewer	Geist	Kolterman	Murman	Wishart
Briese	Gragert	Lathrop	Pahls	
Cavanaugh, J.	Groene	Lindstrom	Pansing Brooks	

Voting in the negative, 0.

Excused and not voting, 1:

Day

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 312.**

A BILL FOR AN ACT relating to cemeteries; to amend sections 12-501 and 12-502, Revised Statutes Cumulative Supplement, 2020; to change cemetery association membership eligibility and record-keeping requirements; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Aguilar	Cavanaugh, M.	Halloran	Linehan	Sanders
Albrecht	Clements	Hansen, B.	Lowe	Slama
Arch	DeBoer	Hansen, M.	McCollister	Stinner
Blood	Dorn	Hilgers	McDonnell	Vargas
Bostar	Erdman	Hilkemann	McKinney	Walz
Bostelman	Flood	Hughes	Morfeld	Wayne
Brandt	Friesen	Hunt	Moser	Williams
Brewer	Geist	Kolterman	Murman	Wishart
Briese	Gragert	Lathrop	Pahls	
Cavanaugh, J.	Groene	Lindstrom	Pansing Brooks	

Voting in the negative, 0.

Excused and not voting, 1:

Day

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 414.**

A BILL FOR AN ACT relating to the Political Subdivisions Construction Alternatives Act; to amend sections 13-2903 and 13-2904, Reissue Revised Statutes of Nebraska, and section 13-2914, Revised Statutes Cumulative Supplement, 2020; to redefine a term; to require a determination statement in a resolution adopted by the governing body of a political subdivision as prescribed; to change provisions relating to projects included or excluded under the act; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

Aguilar	Cavanaugh, M.	Halloran	Lowe	Slama
Albrecht	Clements	Hansen, B.	McCollister	Stinner
Arch	DeBoer	Hansen, M.	McDonnell	Vargas
Blood	Dorn	Hilgers	McKinney	Walz
Bostar	Erdman	Hughes	Morfeld	Wayne
Bostelman	Flood	Hunt	Moser	Williams
Brandt	Friesen	Kolterman	Murman	Wishart
Brewer	Geist	Lathrop	Pahls	
Briese	Gragert	Lindstrom	Pansing Brooks	
Cavanaugh, J.	Groene	Linehan	Sanders	

Voting in the negative, 0.

Present and not voting, 1:

Hilkemann

Excused and not voting, 1:

Day

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

#### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 385, 666, 386, 386A, 65, 105, 180, 224, 265, 312, and 414.

#### **SELECT FILE**

**LEGISLATIVE BILL 156.** [ER33](#), found on page 796, was adopted.

Senator Wayne withdrew his amendments, [AM918](#) and [AM933](#) found on pages 927 and 951.

Senator Wayne offered his amendment, [AM956](#), found on page 996.

#### **SENATOR HUGHES PRESIDING**

The Wayne amendment was adopted with 43 ayes, 0 nays, and 6 present and not voting.

Senator McKinney withdrew his amendment, [AM985](#), found on page 1010.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 156A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 81.** [ER48](#), found on page 908, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 451.** [ER53](#), found on page 928, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 561.** [ER25](#), found on page 705, was adopted.

Senator Briese withdrew his amendment, [FA13](#), found on page 773.

Senator Briese offered his amendment, [AM863](#), found on page 869.

### **SPEAKER HILGERS PRESIDING**

Senator J. Cavanaugh requested a division of the question on the Briese amendment.

The Chair sustained the division of the question.

The first Briese amendment is as follows:

[AM982](#)

(Amendments to E & R amendments, ER25)

- 1 1. Strike sections 27 to 31.
- 2 9. Renumber the remaining sections, correct internal references, and
- 3 correct the repealer accordingly.

The second Briese amendment is as follows:

[AM983](#)

(Amendments to E & R amendments, ER25)

- 1 2. On page 5, strike lines 22 through 24.
- 2 3. On page 34, strike beginning with "any" in line 5 through
- 3 "participant" in line 7 and insert "a sporting event at the high school
- 4 level or below regardless of the age of any individual participant, or
- 5 any sporting event excluded by the commission".
- 6 4. On page 35, after line 4 insert the following new subsection:
- 7 "(12) Prohibited participant means any individual whose
- 8 participation may undermine the integrity of the wagering or the sporting
- 9 event or any person who is prohibited from sports wagering for other good
- 10 cause shown as determined by the commission, including, but not limited
- 11 to: (a) Any individual placing a wager as an agent or proxy; (b) any
- 12 person who is an athlete, coach, referee, or player in any sporting event
- 13 overseen by the sports governing body of such person based on publicly
- 14 available information; (c) a person who holds a paid position of

15 authority or influence sufficient to exert influence over the  
 16 participants in a sporting event, including, but not limited to, any  
 17 coach, manager, handler, or athletic trainer, or a person with access to  
 18 certain types of exclusive information, on any sporting event overseen by  
 19 the sports governing body of such person based on publicly available  
 20 information; or (d) a person identified as prohibited from sports  
 21 wagering by any list provided by a sports governing body to the  
 22 commission;"; in line 5, strike "(12)" and insert "(13)"; in line 7  
 23 strike "(13)" and insert "(14)"; and strike starting with "or" in line 12  
 24 through line 15 and insert ", (b) placing an in-game wager on any game or  
 25 match of a collegiate sporting event in which a collegiate team from this  
 26 state is participating, (c) placing a wager on the performance or  
 1 nonperformance of any individual athlete under eighteen years of age  
 2 participating in a professional or international sporting event, or (d)  
 3 placing a wager on the performance of athletes in an individual sporting  
 4 event excluded by the commission."  
 5 5. On page 38, strike lines 26 through 28; in line 29 strike "(24)"  
 6 and insert "(23)".  
 7 6. On page 39, line 1, strike "(25)" and insert "(24)"; and in line  
 8 27 after the period insert "The commission shall require an authorized  
 9 gaming operator or applicant for an authorized gaming operator license to  
 10 demonstrate in the license application and internal controls application  
 11 the ability to restrict credit card transactions."  
 12 7. On page 40, after line 25 insert the following new subsection:  
 13 "(4) The commission shall develop policies and procedures to ensure  
 14 a prohibited participant is unable to place a sports wager."  
 15 8. On page 42, line 21, strike the comma and insert "or"; and in  
 16 line 22 strike "or a directive issued by the commission."

The first Briese amendment, [AM982](#), found in this day's Journal, was offered.

Senator Briese moved for a call of the house. The motion prevailed with 29 ayes, 3 nays, and 17 not voting.

Senator Briese requested a roll call vote on the first Briese amendment.

Voting in the affirmative, 22:

Albrecht	Dorn	Gragert	Linehan	Slama
Bostelman	Erdman	Groene	Lowe	Stinner
Brewer	Flood	Halloran	Moser	
Briese	Friesen	Hilgers	Murman	
Clements	Geist	Hughes	Sanders	

Voting in the negative, 11:

Blood	Cavanaugh, J.	Hunt	McKinney
Bostar	Cavanaugh, M.	Lathrop	Pahls
Brandt	Day	McDonnell	

Present and not voting, 16:

Aguilar	Hansen, M.	McCollister	Walz
Arch	Hilkemann	Morfeld	Wayne
DeBoer	Kolterman	Pansing Brooks	Williams
Hansen, B.	Lindstrom	Vargas	Wishart

The first Briese amendment lost with 22 ayes, 11 nays, and 16 present and not voting.

The second Briese amendment, [AM983](#), found in this day's Journal, was offered.

#### **SENATOR HUGHES PRESIDING**

The second Briese amendment was adopted with 39 ayes, 0 nays, 9 present and not voting, and 1 excused and not voting.

Senator Pansing Brooks offered the following amendment:

[AM807](#)

(Amendments to E & R amendments, ER25)

- 1 1. On page 33, line 31, strike the second "a".
- 2 2. On page 34, line 1, strike "collegiate sporting event"; and in
- 3 line 4 after "include" insert "an instate collegiate sporting event".

The Pansing Brooks amendment lost with 18 ayes, 13 nays, 16 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 561A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 17.** [ER55](#), found on page 933, was adopted.

Senator Kolterman offered his amendment, [AM929](#), found on page 957.

Pending.

#### **PRESENTED TO THE GOVERNOR**

Presented to the Governor on April 20, 2021, at 2:20 p.m. were the following: LBs 385e, 666e, 386e, 386Ae, 65, 105, 180, 224, 265e, 312, and 414.

(Signed) Jamie Leishman  
Clerk of the Legislature's Office

**NOTICE OF COMMITTEE HEARING(S)**  
Health and Human Services  
Room 1510

Wednesday, April 28, 2021 12:00 p.m.

LB628

Note: AM 997

(Signed) John Arch, Chairperson

**COMMITTEE REPORT(S)**  
Government, Military and Veterans Affairs

**LEGISLATIVE BILL 557.** Placed on General File with amendment.

[AM1021](#)

1 1. Strike the original sections and insert the following new  
2 sections:  
3 Section 1. Section 81-1454, Revised Statutes Cumulative Supplement,  
4 2020, is amended to read:  
5 81-1454 (1) A body-worn camera policy required by section 81-1453  
6 shall include provisions which govern the use of body-worn cameras by  
7 peace officers and the retention and disposition of recordings created  
8 with such cameras by law enforcement agencies. Such body-worn camera  
9 policy shall include, but not be limited to:  
10 (a) (1) A requirement that training be provided to any peace officer  
11 who will use a body-worn camera and to any other employee who will come  
12 into contact with video or audio data recorded by a body-worn camera;  
13 (b) (2) A requirement that recordings created by body-worn cameras  
14 shall be retained for a minimum period of ninety days from the date of  
15 recording. Such recordings shall be retained for more than ninety days if  
16 required by the following circumstances:  
17 (i) (a) Upon notice to the law enforcement agency of a criminal or  
18 civil court proceeding in which the recording may have evidentiary value  
19 or in which the recording is otherwise involved, the recording shall be  
20 retained until final judgment has been entered in the proceeding;  
21 (ii) (b) Upon notice to the law enforcement agency of a disciplinary  
22 proceeding against an employee of the agency in which the recording may  
23 have evidentiary value or in which the recording is otherwise involved,  
24 the recording shall be retained until a final determination has been made  
25 in such proceeding; and  
26 (iii) (c) If the recording is part of a criminal investigation that  
27 has not resulted in an arrest or prosecution, the recording shall be  
1 retained until the investigation is officially closed or suspended; and  
2 (c) (3) A procedure governing the destruction of recordings after  
3 the retention period described in subdivision (1)(b) (2) of this section  
4 has elapsed.  
5 (2) Following the conclusion of any grand jury impaneled pursuant to  
6 subsection (4) of section 29-1401, recordings created by body-worn  
7 cameras which depict or record circumstances in which a person died while  
8 being apprehended by, or while in the custody of, a law enforcement  
9 officer or detention personnel, including duplicates of such recordings,  
10 are public records under section 84-712.01.  
11 Sec. 2. Section 84-712.05, Revised Statutes Cumulative Supplement,  
12 2020, is amended to read:  
13 84-712.05 The following records, unless publicly disclosed in an  
14 open court, open administrative proceeding, or open meeting or disclosed  
15 by a public entity pursuant to its duties, may be withheld from the



16 public by the lawful custodian of the records:

17 (1) Personal information in records regarding a student, prospective  
18 student, or former student of any educational institution or exempt  
19 school that has effectuated an election not to meet state approval or  
20 accreditation requirements pursuant to section 79-1601 when such records  
21 are maintained by and in the possession of a public entity, other than  
22 routine directory information specified and made public consistent with  
23 20 U.S.C. 1232g, as such section existed on February 1, 2013, and  
24 regulations adopted thereunder;

25 (2) Medical records, other than records of births and deaths and  
26 except as provided in subdivision (5) of this section, in any form  
27 concerning any person; records of elections filed under section 44-2821;  
28 and patient safety work product under the Patient Safety Improvement Act;  
29 (3) Trade secrets, academic and scientific research work which is in  
30 progress and unpublished, and other proprietary or commercial information  
31 which if released would give advantage to business competitors and serve  
1 no public purpose;

2 (4) Records which represent the work product of an attorney and the  
3 public body involved which are related to preparation for litigation,  
4 labor negotiations, or claims made by or against the public body or which  
5 are confidential communications as defined in section 27-503;

6 (5) Records developed or received by law enforcement agencies and  
7 other public bodies charged with duties of investigation or examination  
8 of persons, institutions, or businesses, when the records constitute a  
9 part of the examination, investigation, intelligence information, citizen  
10 complaints or inquiries, informant identification, or strategic or  
11 tactical information used in law enforcement training, except that this  
12 subdivision shall not apply to records so developed or received:

13 (a) Relating to the presence of and amount or concentration of  
14 alcohol or drugs in any body fluid of any person; ~~or~~

15 (b) Relating to the cause of or circumstances surrounding the death  
16 of an employee arising from or related to his or her employment if, after  
17 an investigation is concluded, a family member of the deceased employee  
18 makes a request for access to or copies of such records. This subdivision  
19 does not require access to or copies of informant identification, the  
20 names or identifying information of citizens making complaints or  
21 inquiries, other information which would compromise an ongoing criminal  
22 investigation, or information which may be withheld from the public under  
23 another provision of law. For purposes of this subdivision, family member  
24 means a spouse, child, parent, sibling, grandchild, or grandparent by  
25 blood, marriage, or adoption; or

26 (c) Relating to recordings described in subsection (2) of section  
27 81-1454;

28 (6) Appraisals or appraisal information and negotiation records  
29 concerning the purchase or sale, by a public body, of any interest in  
30 real or personal property, prior to completion of the purchase or sale;  
31 (7) Personal information in records regarding personnel of public

1 bodies other than salaries and routine directory information;  
2 (8) Information solely pertaining to protection of the security of  
3 public property and persons on or within public property, such as  
4 specific, unique vulnerability assessments or specific, unique response  
5 plans, either of which is intended to prevent or mitigate criminal acts  
6 the public disclosure of which would create a substantial likelihood of  
7 endangering public safety or property; computer or communications network  
8 schema, passwords, and user identification names; guard schedules; lock  
9 combinations; or public utility infrastructure specifications or design  
10 drawings the public disclosure of which would create a substantial  
11 likelihood of endangering public safety or property, unless otherwise  
12 provided by state or federal law;

13 (9) Information that relates details of physical and cyber assets of

14 critical energy infrastructure or critical electric infrastructure,  
15 including (a) specific engineering, vulnerability, or detailed design  
16 information about proposed or existing critical energy infrastructure or  
17 critical electric infrastructure that (i) relates details about the  
18 production, generation, transportation, transmission, or distribution of  
19 energy, (ii) could be useful to a person in planning an attack on such  
20 critical infrastructure, and (iii) does not simply give the general  
21 location of the critical infrastructure and (b) the identity of personnel  
22 whose primary job function makes such personnel responsible for (i)  
23 providing or granting individuals access to physical or cyber assets or  
24 (ii) operating and maintaining physical or cyber assets, if a reasonable  
25 person, knowledgeable of the electric utility or energy industry, would  
26 conclude that the public disclosure of such identity could create a  
27 substantial likelihood of risk to such physical or cyber assets.  
28 Subdivision (9)(b) of this section shall not apply to the identity of a  
29 chief executive officer, general manager, vice president, or board member  
30 of a public entity that manages critical energy infrastructure or  
31 critical electric infrastructure. The lawful custodian of the records  
1 must provide a detailed job description for any personnel whose identity  
2 is withheld pursuant to subdivision (9)(b) of this section. For purposes  
3 of subdivision (9) of this section, critical energy infrastructure and  
4 critical electric infrastructure mean existing and proposed systems and  
5 assets, including a system or asset of the bulk-power system, whether  
6 physical or virtual, the incapacity or destruction of which would  
7 negatively affect security, economic security, public health or safety,  
8 or any combination of such matters;  
9 (10) The security standards, procedures, policies, plans,  
10 specifications, diagrams, access lists, and other security-related  
11 records of the Lottery Division of the Department of Revenue and those  
12 persons or entities with which the division has entered into contractual  
13 relationships. Nothing in this subdivision shall allow the division to  
14 withhold from the public any information relating to amounts paid persons  
15 or entities with which the division has entered into contractual  
16 relationships, amounts of prizes paid, the name of the prize winner, and  
17 the city, village, or county where the prize winner resides;  
18 (11) With respect to public utilities and except as provided in  
19 sections 43-512.06 and 70-101, personally identified private citizen  
20 account payment and customer use information, credit information on  
21 others supplied in confidence, and customer lists;  
22 (12) Records or portions of records kept by a publicly funded  
23 library which, when examined with or without other records, reveal the  
24 identity of any library patron using the library's materials or services;  
25 (13) Correspondence, memoranda, and records of telephone calls  
26 related to the performance of duties by a member of the Legislature in  
27 whatever form. The lawful custodian of the correspondence, memoranda, and  
28 records of telephone calls, upon approval of the Executive Board of the  
29 Legislative Council, shall release the correspondence, memoranda, and  
30 records of telephone calls which are not designated as sensitive or  
31 confidential in nature to any person performing an audit of the  
1 Legislature. A member's correspondence, memoranda, and records of  
2 confidential telephone calls related to the performance of his or her  
3 legislative duties shall only be released to any other person with the  
4 explicit approval of the member;  
5 (14) Records or portions of records kept by public bodies which  
6 would reveal the location, character, or ownership of any known  
7 archaeological, historical, or paleontological site in Nebraska when  
8 necessary to protect the site from a reasonably held fear of theft,  
9 vandalism, or trespass. This section shall not apply to the release of  
10 information for the purpose of scholarly research, examination by other  
11 public bodies for the protection of the resource or by recognized tribes,

12 the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or  
13 the federal Native American Graves Protection and Repatriation Act;  
14 (15) Records or portions of records kept by public bodies which  
15 maintain collections of archaeological, historical, or paleontological  
16 significance which reveal the names and addresses of donors of such  
17 articles of archaeological, historical, or paleontological significance  
18 unless the donor approves disclosure, except as the records or portions  
19 thereof may be needed to carry out the purposes of the Unmarked Human  
20 Burial Sites and Skeletal Remains Protection Act or the federal Native  
21 American Graves Protection and Repatriation Act;  
22 (16) Library, archive, and museum materials acquired from  
23 nongovernmental entities and preserved solely for reference, research, or  
24 exhibition purposes, for the duration specified in subdivision (16)(b) of  
25 this section, if:  
26 (a) Such materials are received by the public custodian as a gift,  
27 purchase, bequest, or transfer; and  
28 (b) The donor, seller, testator, or transferor conditions such gift,  
29 purchase, bequest, or transfer on the materials being kept confidential  
30 for a specified period of time;  
31 (17) Job application materials submitted by applicants, other than  
1 finalists or a priority candidate for a position described in section  
2 85-106.06 selected using the enhanced public scrutiny process in section  
3 85-106.06, who have applied for employment by any public body as defined  
4 in section 84-1409. For purposes of this subdivision, (a) job application  
5 materials means employment applications, resumes, reference letters, and  
6 school transcripts and (b) finalist means any applicant who is not an  
7 applicant for a position described in section 85-106.06 and (i) who  
8 reaches the final pool of applicants, numbering four or more, from which  
9 the successful applicant is to be selected, (ii) who is an original  
10 applicant when the final pool of applicants numbers less than four, or  
11 (iii) who is an original applicant and there are four or fewer original  
12 applicants;  
13 (18)(a) Records obtained by the Public Employees Retirement Board  
14 pursuant to section 84-1512 and (b) records maintained by the board of  
15 education of a Class V school district and obtained by the board of  
16 trustees for the administration of a retirement system provided for under  
17 the Class V School Employees Retirement Act pursuant to section 79-989;  
18 (19) Social security numbers; credit card, charge card, or debit  
19 card numbers and expiration dates; and financial account numbers supplied  
20 to state and local governments by citizens;  
21 (20) Information exchanged between a jurisdictional utility and city  
22 pursuant to section 66-1867;  
23 (21) Draft records obtained by the Nebraska Retirement Systems  
24 Committee of the Legislature and the Governor from Nebraska Public  
25 Employees Retirement Systems pursuant to subsection (4) of section  
26 84-1503;  
27 (22) All prescription drug information submitted pursuant to section  
28 71-2454, all data contained in the prescription drug monitoring system,  
29 and any report obtained from data contained in the prescription drug  
30 monitoring system; and  
31 (23) Information obtained by any government entity, whether federal,  
1 state, county, or local, regarding firearm registration, possession,  
2 sale, or use that is obtained for purposes of an application permitted or  
3 required by law or contained in a permit or license issued by such  
4 entity. Such information shall be available upon request to any federal,  
5 state, county, or local law enforcement agency.  
6 Sec. 3. Original sections 81-1454 and 84-712.05, Revised Statutes  
7 Cumulative Supplement, 2020, are repealed.

(Signed) Tom Brewer, Chairperson

**RESOLUTION(S)**

**LEGISLATIVE RESOLUTION 98.** Introduced by Pansing Brooks, 28; Aguilar, 35; Albrecht, 17; Arch, 14; Blood, 3; Bostar, 29; Bostelman, 23; Brandt, 32; Brewer, 43; Briese, 41; Cavanaugh, J., 9; Cavanaugh, M., 6; Day, 49; DeBoer, 10; Dorn, 30; Friesen, 34; Geist, 25; Gragert, 40; Hansen, B., 16; Hansen, M., 26; Hilgers, 21; Hilkemann, 4; Hunt, 8; Kolterman, 24; Lathrop, 12; Lindstrom, 18; Linehan, 39; McCollister, 20; McDonnell, 5; McKinney, 11; Morfeld, 46; Moser, 22; Murman, 38; Pahls, 31; Sanders, 45; Slama, 1; Stinner, 48; Vargas, 7; Walz, 15; Wayne, 13; Williams, 36; Wishart, 27.

WHEREAS, the Nebraska Appleseed Center for Law in the Public Interest was incorporated March 15, 1996, by D. Milo Mumgaard, Jeff Kirkpatrick, and Kathryn Bellman; and

WHEREAS, Nebraska Appleseed celebrated its twenty-fifth anniversary of fighting for justice and opportunity for all Nebraskans on Monday, March 15, 2021; and

WHEREAS, Nebraska Appleseed advocates for people who are paid low wages, youth in foster care, immigrants and refugees, and individuals who lack access to health care; and

WHEREAS, communities receive support from Nebraska Appleseed through targeted litigation, public policy advocacy, education, and engagement to advance justice and opportunity for all; and

WHEREAS, Nebraska Appleseed promotes strong, vibrant, inclusive, and engaged communities where everyone can thrive; and

WHEREAS, Nebraska Appleseed thrives under the leadership of its officers and board of directors: Josh Bartee, Carol Bloch, Beatty Brasch, Stuart Chittenden, Timothy L. Christian, Tim Cuddigan, Terrence J. Ferguson, Herb Friedman, Roger Gonzales, Wanda Gottschalk, Kamron Hasan, Katie A. Joseph, Matthew J. Johnson, Nuzhat Mahmood, M. Dewayne Mays, Randall Moody, Derrick Olivares Martinez, Allen Overcash, Shirley Peng, Garrett Schwindt, John Smolsky, Catherine Wilson, Megan Wright, Patricia Zieg, and Arthur I. Zygielbaum.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SEVENTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes the contributions of Nebraska Appleseed to the State of Nebraska over the last twenty-five years and congratulates Nebraska Appleseed on celebrating twenty-five years of fighting for justice and opportunity.

2. That a copy of this resolution be sent to the Nebraska Appleseed Center for Law in the Public Interest.

Laid over.

**BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 51A.** Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 51, One Hundred Seventh Legislature, First Session, 2021.

**AMENDMENT(S) - Print in Journal**

Senator Morfeld filed the following amendment to LB628:  
AM997

1 1. Strike the original sections and insert the following new  
2 sections:  
3 Section 1. Section 38-1124, Reissue Revised Statutes of Nebraska, is  
4 amended to read:  
5 38-1124 (1) The department, with the recommendation of the board,  
6 shall issue a faculty license to any person who meets the requirements of  
7 subsection (3) or (4) of this section. A faculty licensee may practice  
8 dentistry ~~only~~ as a faculty member at an accredited school or college of  
9 dentistry in the State of Nebraska. A faculty licensee and may also teach  
10 dentistry, conduct research, and participate in an institutionally  
11 administered faculty practice ~~only at such accredited school or college~~  
12 ~~of dentistry.~~ A faculty licensee eligible for licensure under subsection  
13 (4) of this section shall limit ~~his or her~~ practice under such license to  
14 the clinical disciplines discipline in which the licensee ~~he or she~~ has  
15 received ~~postgraduate~~ education at an accredited school or college of  
16 dentistry or, with the approval of the board, the clinical disciplines in  
17 which the licensee has practiced under a license, including a faculty  
18 license or teaching permit, to practice dentistry within the past three  
19 years in another jurisdiction.  
20 (2) Any person who desires a faculty license shall make a written  
21 application to the department. The application shall include information  
22 regarding the applicant's professional qualifications, experience, and  
23 licensure. The application shall be accompanied by a copy of the  
24 applicant's dental degree, any other degrees or certificates for  
25 postgraduate education of the applicant, the required fee, and  
26 certification from the dean of an accredited school or college of  
27 dentistry in the State of Nebraska at which the applicant has a contract  
1 to be employed as a full-time faculty member.  
2 (3) An individual who graduated from an accredited school or college  
3 of dentistry shall be eligible for a faculty license if the individual he  
4 or she:  
5 (a) Has or had a license, including a faculty license or teaching  
6 permit, to practice dentistry within the past three five years in another  
7 jurisdiction some other state in the United States or a Canadian  
8 province; and  
9 (b) ~~Has a contract to be employed as a full-time faculty member at~~  
10 ~~an accredited school or college of dentistry in the State of Nebraska;~~  
11 (b) (e) Passes a jurisprudence examination administered by the  
12 board; ~~and~~  
13 (d) ~~Agrees to demonstrate continuing clinical competency as a~~  
14 ~~condition of licensure if required by the board.~~  
15 (4) An individual who graduated from a nonaccredited school or  
16 college of dentistry shall be eligible for a faculty license if the

17 ~~individual he or she:~~

- 18 ~~(a)(i) Has or had a license, including a faculty license or teaching~~  
 19 ~~permit, to practice dentistry within the past three years in another~~  
 20 ~~jurisdiction;~~  
 21 ~~(ii) (a) Has completed at least two years of postgraduate education~~  
 22 ~~at an accredited school or college of dentistry recognized by the~~  
 23 ~~national commission and received a certificate or degree from such school~~  
 24 ~~or college of dentistry; or~~  
 25 ~~(iii) Has additional education in dentistry at an accredited school~~  
 26 ~~or college of dentistry that is determined by the board to be equivalent~~  
 27 ~~to a program recognized by the national commission, including, but not~~  
 28 ~~limited to, a postgraduate degree in operative dentistry;~~  
 29 ~~(b) Has a contract to be employed as a full-time faculty member at~~  
 30 ~~an accredited school or college of dentistry in the State of Nebraska;~~  
 31 ~~(b) (e) Passes a jurisprudence examination administered by the~~  
 1 ~~board; and~~  
 2 ~~(d) Agrees to demonstrate continuing clinical competency as a~~  
 3 ~~condition of licensure if required by the board; and~~  
 4 ~~(c) (e) Has passed at least one of the following:~~  
 5 ~~(i) Part I and Part II of the National Board Dental Examinations~~  
 6 ~~administered by the joint commission; or its equivalent~~  
 7 ~~(ii) The Integrated National Board Dental Examination administered~~  
 8 ~~by the joint commission;~~  
 9 ~~(iii) A specialty board examination recognized by the national~~  
 10 ~~commission;~~  
 11 ~~(iv) An examination administered by the National Dental Examining~~  
 12 ~~Board of Canada; or~~  
 13 ~~(v) An equivalent examination as determined by the Board of~~  
 14 ~~Dentistry.~~  
 15 ~~(5) A faculty license shall expire at the same time and be subject~~  
 16 ~~to the same renewal requirements as a regular dental license, except that~~  
 17 ~~such license shall remain valid and may only be renewed if the faculty~~  
 18 ~~licensee completes continuing education as required by the rules and~~  
 19 ~~regulations adopted and promulgated under the Dentistry Practice Act and~~  
 20 ~~demonstrates continued employment at an accredited school or college of~~  
 21 ~~dentistry in the State of Nebraska. ;~~  
 22 ~~(6) In order for an applicant to qualify for a faculty license~~  
 23 ~~pursuant to subdivision (4)(a)(iii) of this section, the applicant shall~~  
 24 ~~present, for review by the board, a portfolio which includes, but is not~~  
 25 ~~limited to, academic achievements, credentials and certifications,~~  
 26 ~~letters of recommendation, and a list of publications.~~  
 27 ~~(7) For purposes of this section:~~  
 28 ~~(a) Another jurisdiction means some other state in the United~~  
 29 ~~States, a territory or jurisdiction of the United States, or a Canadian~~  
 30 ~~province;~~  
 31 ~~(b) Joint commission means the American Dental Association Joint~~  
 1 ~~Commission on National Dental Examinations; and~~  
 2 ~~(c) National commission means the National Commission on Recognition~~  
 3 ~~of Dental Specialties and Certifying Boards.~~  
 4 ~~(a) The faculty licensee remains employed as a full-time faculty~~  
 5 ~~member of an accredited school or college of dentistry in the State of~~  
 6 ~~Nebraska; and~~  
 7 ~~(b) The faculty licensee demonstrates continuing clinical competency~~  
 8 ~~if required by the board.~~  
 9 Sec. 2. Original section 38-1124, Reissue Revised Statutes of  
 10 Nebraska, is repealed.

Senator Lowe filed the following amendment to LB273:

AM1003

(Amendments to Standing Committee amendments, AM600)

1 1. Strike sections 3 and 4 and insert the following new sections:

2 Sec. 3. Section 43-407, Revised Statutes Cumulative Supplement,

3 2020, is amended to read:

4 43-407 (1) The Office of Juvenile Services shall design and make  
5 available programs and treatment services through youth rehabilitation  
6 and treatment centers. The programs and treatment services shall be  
7 evidence-based and based upon the individual or family evaluation process  
8 using evidence-based, validated risk and needs assessments to create an  
9 individualized treatment plan. The treatment plan shall be developed  
10 within fourteen days after admission and provided to the committing court  
11 and interested parties. The court may, on its own motion or upon the  
12 motion of an interested party, set a hearing to review the treatment  
13 plan.

14 (2) A juvenile may be committed by a court to the Office of Juvenile  
15 Services for placement at a youth rehabilitation and treatment center  
16 operated and utilized in compliance with state law pursuant to a hearing  
17 described in subdivision (1)(b)(iii) of section 43-286. The office shall  
18 not change a juvenile's placement except as provided in this section. If  
19 a juvenile placed at a youth rehabilitation and treatment center is  
20 assessed as needing inpatient or subacute substance abuse or behavioral  
21 health residential treatment, the Office of Juvenile Services may arrange  
22 for such treatment to be provided at the Hastings Regional Center or may  
23 transition the juvenile to another inpatient or subacute residential  
24 treatment facility licensed as a treatment facility in the State of  
25 Nebraska and shall provide notice of the change in placement pursuant to  
26 subsection (3) of this section. Except in a case requiring emergency  
1 admission to an inpatient facility, the juvenile shall not be discharged  
2 by the Office of Juvenile Services until the juvenile has been returned  
3 to the court for a review of his or her conditions of probation and the  
4 juvenile has been transitioned to the clinically appropriate level of  
5 care. Programs and treatment services shall address:

6 (a) Behavioral impairments, severe emotional disturbances, sex

7 offender behaviors, and other mental health or psychiatric disorders;

8 (b) Drug and alcohol addiction;

9 (c) Health and medical needs;

10 (d) Education, special education, and related services;

11 (e) Individual, group, and family counseling services as appropriate

12 with any treatment plan related to subdivisions (a) through (d) of this  
13 subsection. Services shall also be made available for juveniles who have  
14 been physically or sexually abused;

15 (f) A case management and coordination process, designed to assure  
16 appropriate reintegration of the juvenile to his or her family, school,  
17 and community. This process shall follow individualized planning which  
18 shall begin at intake and evaluation. Structured programming shall be  
19 scheduled for all juveniles. This programming shall include a strong  
20 academic program as well as classes in health education, living skills,  
21 vocational training, behavior management and modification, money  
22 management, family and parent responsibilities, substance abuse  
23 awareness, physical education, job skills training, and job placement  
24 assistance. Participation shall be required of all juveniles if such  
25 programming is determined to be age and developmentally appropriate. The  
26 goal of such structured programming shall be to provide the academic and  
27 life skills necessary for a juvenile to successfully return to his or her  
28 home and community upon release; and

29 (g) The design and delivery of treatment programs through the youth

30 rehabilitation and treatment centers as well as any licensing or

31 certification requirements, and the office shall follow the requirements

1 as stated within Title XIX and Title IV-E of the federal Social Security  
2 Act, as such act existed on January 1, 2020, the Special Education Act,  
3 or other funding guidelines as appropriate. It is the intent of the  
4 Legislature that these funding sources shall be utilized to support  
5 service needs of eligible juveniles.

6 (3) When the Office of Juvenile Services has arranged for treatment  
7 of a juvenile as provided in subsection (2) of this section, the office  
8 shall file a report and notice of placement change with the court and  
9 shall send copies of the notice to all interested parties, including any  
10 parent or guardian of the juvenile, at least seven days before the  
11 placement of the juvenile is changed from the order of the committing  
12 court. The court, on its own motion or upon the filing of an objection to  
13 the change by an interested party, may order a hearing to review such  
14 change in placement and may order the change be stayed until the  
15 completion of the hearing. When filing a report and notice of placement  
16 change pursuant to this subsection, or upon a court order to set a  
17 hearing to review a change in placement or stay a change in placement  
18 pursuant to this subsection, the office may file a motion for immediate  
19 change of placement pursuant to subsection (4) of section 43-408.

20 (4)(a) The Office of Juvenile Services shall provide evidence-based  
21 services and operate the youth rehabilitation and treatment centers in  
22 accordance with evidence-based policies, practices, and procedures. On  
23 December 15 of each year, the office shall electronically submit to the  
24 Governor, the Legislature, and the Chief Justice of the Supreme Court, a  
25 comprehensive report of the evidence-based services, policies, practices,  
26 and procedures by which such centers operate, and efforts the office has  
27 taken to ensure fidelity to evidence-based models. The report may be  
28 attached to preexisting reporting duties. The report shall include at a  
29 minimum:

30 (i) The percentage of juveniles being supervised in accordance with  
31 evidence-based practices;

1 (ii) The percentage of state funds expended by each respective  
2 department for programs that are evidence-based, and a list of all  
3 programs which are evidence-based;

4 (iii) Specification of supervision policies, procedures, programs,  
5 and practices that were created, modified, or eliminated; and  
6 (iv) Recommendations of the office for any additional collaboration  
7 with other state, regional, or local public agencies, private entities,  
8 or faith-based and community organizations.

9 (b) Each report and executive summary shall be available to the  
10 general public on the web site of the office.

11 (c) The Executive Board of the Legislative Council may request the  
12 Consortium for Crime and Justice Research and Juvenile Justice Institute  
13 at the University of Nebraska at Omaha to review, study, and make policy  
14 recommendations on the reports assigned by the executive board.  
15 Sec. 4. Section 43-408, Revised Statutes Cumulative Supplement,  
16 2020, is amended to read:

17 43-408 (1) Whenever any juvenile is committed to the Office of  
18 Juvenile Services, the juvenile shall also be considered committed to the  
19 care and custody of the Department of Health and Human Services for the  
20 purpose of obtaining health care and treatment services.

21 (2) The committing court may order placement at a youth  
22 rehabilitation and treatment center for a juvenile committed to the  
23 Office of Juvenile Services following a commitment hearing pursuant to  
24 subdivision (1)(b)(iii) of section 43-286. The court shall continue to  
25 maintain jurisdiction over any juvenile committed to the Office of  
26 Juvenile Services, and the office shall provide the court and parties of  
27 record with the initial treatment plan and monthly updates regarding the  
28 progress of the juvenile.

29 (3) In addition to the hearings set forth in section 43-285, during



30 a juvenile's term of commitment, any party may file a motion for  
31 commitment review to bring the case before the court for consideration of  
1 the juvenile's commitment to a youth rehabilitation and treatment center.  
2 A hearing shall be scheduled no later than thirty days after the filing  
3 of such motion. No later than five days prior to the hearing, the office  
4 shall provide information to the parties regarding the juvenile's  
5 individualized treatment plan and progress. A representative of the  
6 office or facility shall be physically present at the hearing to provide  
7 information to the court unless the court allows the representative to  
8 appear telephonically or by video. The juvenile and the juvenile's parent  
9 or guardian shall have the right to be physically present at the hearing.  
10 The court may enter such orders regarding the juvenile's care and  
11 treatment as are necessary and in the best interests of the juvenile,  
12 including an order for early discharge from commitment when appropriate.  
13 In entering an order for early discharge from commitment to intensive  
14 supervised probation in the community, the court shall consider to what  
15 extent:  
16 (a) The juvenile has completed the goals of the juvenile's  
17 individualized treatment plan or received maximum benefit from  
18 institutional treatment;  
19 (b) The juvenile would benefit from continued services under  
20 community supervision;  
21 (c) The juvenile can function in a community setting with  
22 appropriate supports; and  
23 (d) There is reason to believe that the juvenile will not commit  
24 further violations of law and will comply with the terms of intensive  
25 supervised probation.  
26 (4) When filing a motion pursuant to subsection (3) of this section,  
27 the office may also file a motion for immediate change of placement to  
28 another youth rehabilitation and treatment center operated and utilized  
29 in compliance with state law. When filing a report and notice of  
30 placement change pursuant to subsection (3) of section 43-407, or upon a  
31 court order to set a hearing to review a change in placement or stay a  
1 change in placement pursuant to subsection (3) of section 43-407, the  
2 office may file a motion for immediate change of placement to the  
3 inpatient or subacute residential treatment facility licensed as a  
4 treatment facility in the State of Nebraska. The motion shall set forth  
5 with reasonable particularity the grounds for an immediate change of  
6 placement. A motion for immediate change of placement under this  
7 subsection shall be heard within twenty-four hours, excluding nonjudicial  
8 days, and may be heard telephonically or by videoconferencing. Prior to  
9 filing a motion for immediate change of placement, the office shall make  
10 a reasonable attempt to provide notice of the motion to the juvenile's  
11 parent or guardian, including notice that the motion will be set for  
12 hearing within twenty-four hours. The court shall promptly provide the  
13 notice of hearing to all parties of record. In advance of the hearing,  
14 the office shall provide to the other parties of record any exhibits it  
15 intends to offer, if any, and the identity of its witnesses. The office  
16 shall provide the juvenile an opportunity before the hearing to consult  
17 with the juvenile's counsel and review the motion and the exhibits and  
18 witnesses. The court shall order the immediate change of placement  
19 pending an order pursuant to subsection (3) of this section or subsection  
20 (3) of section 43-407 if the court determines that an immediate change is  
21 in the best interests of the juvenile and further delay would be contrary  
22 to the juvenile's well-being, physical health, emotional health, or  
23 mental health.  
24 (5) (4) Each juvenile committed to the Office of Juvenile Services  
25 for placement at a youth rehabilitation and treatment center shall also  
26 be entitled to an annual review of such commitment and placement for as  
27 long as the juvenile remains so committed and placed. At an annual review

28 hearing, the court shall consider the factors described in subsection (3)  
 29 of this section to assess the juvenile's progress and determine whether  
 30 commitment remains in the best interests of the juvenile.

31 ~~(6)~~ ~~(5)~~ If a juvenile is placed in detention while awaiting  
 1 placement at a youth rehabilitation and treatment center and the  
 2 placement has not occurred within fourteen days, the committing court  
 3 shall hold a hearing every fourteen days to review the status of the  
 4 juvenile. Placement of a juvenile in detention shall not be considered a  
 5 treatment service.

Senator Hilkemann filed the following amendment to LB408:  
AM1038

(Amendments to AM973)

1 1. On page 7, after line 17 insert the following new subsection:  
 2 "~~(7)~~ The limit in subsection (1) of this section shall not apply to  
 3 a political subdivision that is authorized to exceed its levy limit  
 4 pursuant to section 77-3444."; in line 18 strike "~~(7)~~" and insert "~~(8)~~";  
 5 and in line 26 strike "~~(8)~~" and insert "~~(9)~~".

Senator Lathrop filed the following amendment to LB411:  
AM1043

1 1. Strike the original sections and all amendments thereto and  
 2 insert the following new sections:  
 3 Section 1. Section 81-6,125, Revised Statutes Cumulative Supplement,  
 4 2020, is amended to read:  
 5 81-6,125 (1) The purpose of the Population Health Information Act  
 6 is to designate a health information exchange to provide the data  
 7 infrastructure needed to assist in creating a healthier Nebraska and  
 8 operating the electronic health records initiative.  
 9 (2) The designated health information exchange shall:  
 10 (a) ~~(1)~~ Aggregate clinical information from health care entities  
 11 needed to support the operation of the medical assistance program under  
 12 the Medical Assistance Act;  
 13 (b) ~~(2)~~ Act as the designated entity for purposes of access to and  
 14 analysis of health data;  
 15 (c) ~~(3)~~ Collect and analyze data for purposes of informing the  
 16 Legislature, the department, health care providers, and health care  
 17 entities as to the cost of, access to, and quality of health care in  
 18 Nebraska;  
 19 (d) ~~(4)~~ Act as a collector and reporter of public health data for  
 20 registry submissions, electronic laboratory reporting, immunization  
 21 reporting, and syndromic surveillance from an electronic health record,  
 22 which does not include claims data; and  
 23 (e) ~~(5)~~ Enable any health care provider or health care entity to  
 24 access information available within the designated health information  
 25 exchange to evaluate and monitor care and treatment of a patient in  
 26 accordance with the privacy and security provisions set forth in the  
 27 federal Health Insurance Portability and Accountability Act of 1996,  
 1 Public Law 104-191.  
 2 (3)(a) On or before September 30, 2021, each health care facility  
 3 listed in subdivision (b) of this subsection shall participate in the  
 4 designated health information exchange through sharing of clinical  
 5 information. Such clinical information shall include the clinical data  
 6 that the health care facility captured in its existing electronic health  
 7 record as permitted by state and federal laws, rules, and regulations.  
 8 Any patient health information shared with the designated health  
 9 information exchange as determined by policies adopted by the Health  
 10 Information Technology Board shall be provided in accordance with the  
 11 privacy and security provisions set forth in the federal Health Insurance

12 Portability and Accountability Act of 1996 and regulations adopted under  
13 the act.

14 (b) This subsection applies to an ambulatory surgical center, a  
15 critical access hospital, a general acute hospital, a health clinic, a  
16 hospital, an intermediate care facility, a long-term care hospital, a  
17 mental health substance use treatment center, a PACE center, a pharmacy,  
18 a psychiatric or mental hospital, a public health clinic, or a  
19 rehabilitation hospital, as such terms are defined in the Health Care  
20 Facility Licensure Act, or a diagnostic, laboratory, or imaging center.

21 (c) This subsection does not apply to (i) a state-owned or state-  
22 operated facility or (ii) an assisted-living facility, a nursing  
23 facility, or a skilled nursing facility, as such terms are defined in the  
24 Health Care Facility Licensure Act.

25 (d) Any connection established by July 1, 2021, between a health  
26 care facility and the designated health information exchange to  
27 facilitate such participation shall be at no cost to the participating  
28 health care facility.

29 (e) A health care facility may apply to the board for a waiver from  
30 the requirement to participate under this subsection due to a  
31 technological burden. The board shall review the application and  
1 determine whether to waive the requirement. If the board waives the  
2 requirement for a health care facility, the board shall review the waiver  
3 annually to determine if the health care facility continues to qualify  
4 for the waiver.

5 (f) The board shall not require a health care facility to purchase  
6 or contract for an electronic records management system or service.

7 (4)(a) On or before January 1, 2022, each health insurance plan  
8 shall participate in the designated health information exchange through  
9 sharing of information. Subject to subsection (5) of this section, such  
10 information shall be determined by policies adopted by the Health  
11 Information Technology Board.

12 (b) For purposes of this subsection:

13 (i) Health insurance plan includes any group or individual sickness  
14 and accident insurance policy, health maintenance organization contract,  
15 subscriber contract, employee medical, surgical, or hospital care benefit  
16 plan, or self-funded employee benefit plan to the extent not preempted by  
17 federal law; and

18 (ii) Health insurance plan does not include (A) accident-only,  
19 disability-income, hospital confinement indemnity, dental, hearing,  
20 vision, or credit insurance, (B) coverage issued as a supplement to  
21 liability insurance, (C) insurance provided as a supplement to medicare,  
22 (D) insurance arising from workers' compensation provisions, (E)  
23 automobile medical payment insurance, (F) insurance policies that provide  
24 coverage for a specified disease or any other limited benefit coverage,  
25 or (G) insurance under which benefits are payable with or without regard  
26 to fault and which is statutorily required to be contained in any  
27 liability insurance policy.

28 (5) The designated health information exchange and the department  
29 shall enter into an agreement to allow the designated health information  
30 exchange to collect, aggregate, analyze, report, and release de-  
31 identified data, as defined by the federal Health Insurance Portability  
1 and Accountability Act of 1996, that is derived from the administration  
2 of the medical assistance program. Such written agreement shall be  
3 executed no later than September 30, 2021.

4 (6) In addition to the right to opt out as provided in section  
5 71-2454, an individual shall have the right to opt out of the designated  
6 health information exchange or the sharing of information required under  
7 subsections (3) and (4) of this section. The designated health  
8 information exchange shall adopt a patient opt-out policy consistent with  
9 the federal Health Insurance Portability and Accountability Act of 1996

10 and other applicable federal requirements. Such policy shall not apply to  
 11 mandatory public health reporting requirements.  
 12 Sec. 2. Section 81-6,128, Revised Statutes Cumulative Supplement,  
 13 2020, is amended to read:  
 14 81-6,128 (1) The Health Information Technology Board shall:  
 15 (a) Establish criteria for data collection and disbursement by the  
 16 statewide health information exchange described in section 71-2455 and  
 17 the prescription drug monitoring program created under section 71-2454 to  
 18 improve the quality of information provided to clinicians;  
 19 (b) Evaluate and ensure that the statewide health information  
 20 exchange is meeting technological standards for reporting of data for the  
 21 prescription drug monitoring program, including the data to be collected  
 22 and reported and the frequency of data collection and disbursement;  
 23 (c) Provide the governance oversight necessary to ensure that any  
 24 health information in the statewide health information exchange and the  
 25 prescription drug monitoring program may be accessed, used, or disclosed  
 26 only in accordance with the privacy and security protections set forth in  
 27 the federal Health Insurance Portability and Accountability Act of 1996,  
 28 Public Law 104-191, and regulations promulgated thereunder. All protected  
 29 health information is privileged, is not a public record, and may be  
 30 withheld from the public pursuant to section 84-712.05; and  
 31 (d) Provide recommendations to the statewide health information  
 1 exchange on any other matters referred to the board.  
 2 (2) The board shall adopt policies and procedures necessary to carry  
 3 out its duties.  
 4 (3) The authority of the board to direct the use or release of data  
 5 under this section or section 71-2454 shall apply only to requests  
 6 submitted to the board after September 1, 2021.  
 7 (4) ~~(3)~~ The board may hold meetings by telecommunication or  
 8 electronic communication subject to the Open Meetings Act. Any official  
 9 action or vote of the members of the board shall be preserved in the  
 10 records of the board.  
 11 ~~(5)~~ (4) By November 15, 2021, and November 15 of each year  
 12 thereafter, the board shall develop and submit an annual report to the  
 13 Governor and the Health and Human Services Committee of the Legislature  
 14 regarding considerations undertaken, decisions made, accomplishments, and  
 15 other relevant information. The report submitted to the Legislature shall  
 16 be submitted electronically.  
 17 Sec. 3. Original sections 81-6,125 and 81-6,128, Revised Statutes  
 18 Cumulative Supplement, 2020, are repealed.  
 19 Sec. 4. Since an emergency exists, this act takes effect when  
 20 passed and approved according to law.

### SELECT FILE

**LEGISLATIVE BILL 17.** Senator Kolterman offered his amendment, [AM978](#), found on page 1000, to the Kolterman amendment.

The Kolterman amendment was adopted with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

Senator M. Cavanaugh offered the following amendment to the Kolterman amendment:

[AM900](#)

(Amendments to Standing Committee amendments, AM461)

1 1. Insert the following new section:  
 2 Sec. 2. Section 24-702, Reissue Revised Statutes of Nebraska, is  
 3 amended to read:

4 24-702 (1) There is hereby created in the state treasury a fund to  
 5 be known as the Nebraska Retirement Fund for Judges which shall be  
 6 administered by the board and to which shall be credited all money  
 7 appropriated or transferred by law thereto. The fund is hereby  
 8 appropriated and made available to the board for the uses and purposes  
 9 prescribed by the provisions of the Judges Retirement Act.  
 10 (2) The employer contribution to the fund shall consist of the  
 11 amounts remitted pursuant to subsection (3) of section 24-703.  
 12 (3) The Nebraska Judges Retirement Act Expense Fund is created. The  
 13 fund shall be credited with money from the retirement system assets and  
 14 income sufficient to pay the pro rata share of administrative expenses  
 15 incurred as directed by the board for the proper administration of the  
 16 Judges Retirement Act and necessary in connection with the administration  
 17 and operation of the retirement system.  
 18 (4) On July 1, 2021, or as soon thereafter as administratively  
 19 possible, the State Treasurer shall transfer three million dollars from  
 20 the General Fund to the Nebraska Retirement Fund for Judges.  
 21 2. On page 10, lines 22 through 26, strike the new matter.  
 22 3. Renumber the remaining sections and correct the repealer  
 23 accordingly.

The M. Cavanaugh amendment lost with 2 ayes, 23 nays, 20 present and not voting, and 4 excused and not voting.

The Kolterman amendment, [AM929](#), found on page 957 and considered in this day's Journal, was renewed.

The Kolterman amendment, as amended, was adopted with 35 ayes, 1 nay, 9 present and not voting, and 4 excused and not voting.

Senator M. Cavanaugh requested a machine vote on the advancement of the bill.

Advanced to Enrollment and Review for Engrossment with 32 ayes, 2 nays, 11 present and not voting, and 4 excused and not voting.

### GENERAL FILE

**LEGISLATIVE BILL 485.** Title read. Considered.

### SPEAKER HILGERS PRESIDING

Committee [AM764](#), found on page 802, was offered.

Senator DeBoer offered the following amendment to the committee amendment:

[AM1057](#)

(Amendments to Standing Committee amendments, AM764)

1 1. On page 3, line 7, after the last period insert "No General Funds  
 2 shall be used to pay the costs to the state resulting from the income  
 3 eligibility changes made in subdivisions (2)(a) and (b) of this section  
 4 by this legislative bill for fiscal years 2021-22 through 2023-24.".

The DeBoer amendment was adopted with 40 ayes, 0 nays, 5 present and not voting, and 4 excused and not voting.

The committee amendment, as amended, was adopted with 42 ayes, 0 nays, 3 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 31 ayes, 7 nays, 7 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 2.** Title read. Considered.

Committee [AM638](#), found on page 671, was offered.

Senator Briese withdrew his amendment, [FA15](#), found on page 854.

Senator Briese offered his amendment, [AM868](#), found on page 874, to the committee amendment.

### SENATOR HUGHES PRESIDING

Pending.

#### COMMITTEE REPORT(S) Enrollment and Review

**LEGISLATIVE BILL 271A.** Placed on Select File.

**LEGISLATIVE BILL 57.** Placed on Select File.

**LEGISLATIVE BILL 275.** Placed on Select File with amendment.

#### [ER62](#)

1 1. Strike the original sections and insert the following new  
2 sections:  
3 Section 1. (1) The Semiquincentennial Commission is created. The  
4 commission shall be housed within the Nebraska State Historical Society  
5 for administrative and budgetary purposes.  
6 (2) The commission shall consist of seventeen members.  
7 (3) The Legislature intends for the commission to include members  
8 from all regions of the state, representing all major interests and a  
9 diverse array of industries.  
10 (4) The commission shall include the following members:  
11 (a) The Director of the Nebraska State Historical Society or the  
12 designee of the director, who shall serve as the chairperson;  
13 (b) The Director of Economic Development or the designee of such  
14 person;  
15 (c) The Commissioner of Education or the designee of such person;  
16 and  
17 (d) The President of the University of Nebraska or the designee of  
18 such person;  
19 (5) The commission shall include at least one member from each of  
20 the following subdivisions to be appointed by the Governor before  
21 September 1, 2021:  
22 (a) A Native American from a federally recognized Indian tribe, as  
23 of January 1, 2021, residing within the State of Nebraska. Such member  
24 shall be appointed from a list of five nominees submitted by the  
25 Commission on Indian Affairs;

26 (b) An African American who is a legal resident of the State of  
 27 Nebraska. Such member shall be appointed from a list of five nominees  
 1 submitted by the Commission on African American Affairs;  
 2 (c) A Latino-American who is a legal resident of the State of  
 3 Nebraska. Such member shall be appointed from a list of five nominees  
 4 submitted by the Commission on Latino-Americans;  
 5 (d) A curator or director of a private cultural institution as  
 6 defined in section 58-807.01 or a professional historian;  
 7 (e) A member of the Nebraska Tourism Commission;  
 8 (f) A representative from the Nebraska Humanities Council;  
 9 (g) A legal resident of the first congressional district;  
 10 (h) A legal resident of the second congressional district; and  
 11 (i) A legal resident of the third congressional district.  
 12 (6) The same individual shall not fulfill the requirements of more  
 13 than one subdivision of subsections (4) and (5) of this section.  
 14 (7) No more than eight of the members shall be affiliated with the  
 15 same political party.  
 16 (8) Any vacancy on the commission of an appointed member occurring  
 17 after the initial appointment of members shall be filled by the Governor  
 18 by appointment.  
 19 (9) The commission shall terminate on June 30, 2027.  
 20 Sec. 2. (1) The Semiquincentennial Commission shall hold its first  
 21 meeting no later than September 1, 2022.  
 22 (2) The members shall select a vice-chairperson and a secretary.  
 23 (3) Members shall receive no compensation for the performance of  
 24 their duties as members of the commission, except that such members shall  
 25 receive reimbursement for expenses as provided in sections 81-1174 to  
 26 81-1177.  
 27 (4) The commission may employ personnel and contract for services  
 28 and shall remit any gifts, grants, or donations to the State Treasurer  
 29 for credit to the Semiquincentennial Commission Fund. The commission  
 30 shall expend and allocate any appropriations authorized by the  
 31 Legislature to carry out the purposes of the commission.  
 1 Sec. 3. (1) The Semiquincentennial Commission is the point of  
 2 contact for state and national organizations and events related to the  
 3 Semiquincentennial of the United States and may also seek the guidance  
 4 and support of any party.  
 5 (2) The Semiquincentennial Commission shall develop programs and  
 6 plans for the official observance of the two hundred fiftieth anniversary  
 7 of the founding of the United States, as marked by the Declaration of  
 8 Independence in 1776.  
 9 (3) The commission shall cooperate with the United States  
 10 Semiquincentennial Commission and various state agencies, boards,  
 11 commissions, departments, and political subdivisions in order to execute  
 12 commemorative events and to implement educational activities, events, and  
 13 celebrations related to the Semiquincentennial of the United States.  
 14 (4) The commission shall promote under-represented groups from the  
 15 American Revolutionary War, including, but not limited to, women,  
 16 American Indians, and persons of color.  
 17 Sec. 4. (1) The Semiquincentennial Commission Fund is created. Such  
 18 fund shall consist of money appropriated by the Legislature and gifts,  
 19 grants, or donations from any source, including federal, state, public,  
 20 and private sources.  
 21 (2) The Semiquincentennial Commission Fund shall be utilized for the  
 22 purpose of administering the Semiquincentennial Commission and executing  
 23 commemorative activities and implementing educational activities, events,  
 24 and celebrations related to the Semiquincentennial of the United States.  
 25 (3) Money received by the Semiquincentennial Commission shall be  
 26 remitted to the State Treasurer for credit to the Semiquincentennial  
 27 Commission Fund. Any money in the Semiquincentennial Commission Fund

28 available for investment shall be invested by the state investment  
 29 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska  
 30 State Funds Investment Act.  
 31 (4)(a) The State Treasurer shall transfer the unobligated balance in  
 1 the Semiquincentennial Commission Fund to the Historical Society Fund on  
 2 June 1, 2027.  
 3 (b) The Semiquincentennial Commission Fund terminates on June 30,  
 4 2027, and the State Treasurer shall transfer any money in the fund on  
 5 such date to the Historical Society Fund.  
 6 Sec. 5. Since an emergency exists, this act takes effect when  
 7 passed and approved according to law.  
 8 2. On page 1, line 4, after the semicolon insert "to create a  
 9 fund;"

**LEGISLATIVE BILL 275A.** Placed on Select File.  
**LEGISLATIVE BILL 355.** Placed on Select File.  
**LEGISLATIVE BILL 261.** Placed on Select File.

(Signed) Terrell McKinney, Chairperson

#### AMENDMENT(S) - Print in Journal

Senator Walz filed the following amendment to LB408:  
[AM1022](#)

(Amendments to AM973)

1 1. On page 7, after line 17 insert the following new subsection:  
 2 "(7) The limit in subsection (1) of this section shall not apply to  
 3 that portion of a political subdivision's property tax request that will  
 4 be used for special education expenditures."; in line 18 strike "(7)" and  
 5 insert "(8)"; and in line 26 strike "(8)" and insert "(9)".

#### UNANIMOUS CONSENT - Add Cointroducer(s)

Unanimous consent to add Senator(s) as cointroducer(s). No objections. So ordered.

Senator Pansing Brooks name added to LB147.

#### VISITOR(S)

The Doctor of the Day was Dr. Sean C. Flor of Lincoln.

#### ADJOURNMENT

At 7:01 p.m., on a motion by Senator Williams, the Legislature adjourned until 9:00 a.m., Wednesday, April 21, 2021.

Patrick J. O'Donnell  
 Clerk of the Legislature