

SIXTY-NINTH DAY - APRIL 27, 2023

LEGISLATIVE JOURNAL

**ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION**

SIXTY-NINTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, April 27, 2023

PRAYER

The prayer was offered by Sean Dougherty, First Baptist, Kearney.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was offered by Senator DeKay.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Dorn presiding.

The roll was called and all members were present except Senators Bostar, Conrad, Day, B. Hansen, Hunt, Linehan, Slama, Wayne, and Wishart who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the sixty-eighth day was approved.

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of April 26, 2023, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Brandon Metzler
Clerk of the Legislature

Bohlmeyer, Katie
Lincoln Independent Business Association (LIBA)
(Withdrawn 04/26/2023)
Catalyst Public Affairs
Jasper Stone Partners LLC

Hendrickson, Ashlee
 Nebraska Realtors Association
 Hruska, Elizabeth
 Catalyst Public Affairs

REPORTS

Agency reports electronically filed with the Legislature can be found on the [Nebraska Legislature's website](#).

SELECT FILE

LEGISLATIVE BILL 191. [ER29](#), found on page 1245, was adopted.

Senator Riepe withdrew [AM1363](#), found on page 1147.

Senator Riepe withdrew [AM1373](#), found on page 1145.

Senator Riepe offered [AM1514](#), found on page 1284.

The Riepe amendment was adopted with 37 ayes, 0 nays, 4 present and not voting, and 8 excused and not voting.

Senator Riepe offered [FA70](#), found on page 1286.

The Riepe amendment lost with 24 ayes, 8 nays, 10 present and not voting, and 7 excused and not voting.

Senator Riepe withdrew [FA71](#), found on page 1286.

Senator Riepe withdrew [FA72](#), found on page 1286.

Senator McDonnell offered the following amendment:
[AM1520](#)

(Amendments to Standing Committee amendments, AM1330)

- 1 1. Insert the following new sections:
- 2 Sec. 16. Section 48-3502, Reissue Revised Statutes of Nebraska, is
- 3 amended to read:
- 4 48-3502 For purposes of the Workplace Privacy Act:
- 5 (1) Adverse action means the discharge of an employee, a threat
- 6 against an employee, or any other act against an employee that negatively
- 7 affects the employee's employment;
- 8 (2) Applicant means a prospective employee applying for employment;
- 9 (3) Electronic communication device means a cellular telephone,
- 10 personal digital assistant, electronic device with mobile data access,
- 11 laptop computer, pager, broadband personal communication device, two-way
- 12 messaging device, electronic game, or portable computing device;
- 13 (4) Employee means an individual employed by an employer;
- 14 (5) Employer means (a) a public or nonpublic entity or an individual
- 15 engaged in a business, an industry, a profession, a trade, or other
- 16 enterprise in the state, including any agent, representative, or designee
- 17 acting directly or indirectly in the interest of such an employer; (b) a
- 18 subcontractor of such an employer; and (c) a customer of such an
- 19 employer; and

20 (6)(a) Personal Internet account means an individual's online
 21 account that requires login information in order to access or control the
 22 account.
 23 (b) Personal Internet account does not include:
 24 (i) An online account that an employer or educational institution
 25 supplies or pays for, except when the employer or educational institution
 26 pays only for additional features or enhancements to the online account;
 1 or
 2 (ii) An online account that is used exclusively for a business
 3 purpose of the employer.
 4 Sec. 17. Section 48-3503, Reissue Revised Statutes of Nebraska, is
 5 amended to read:
 6 48-3503 (1) No employer shall:
 7 (a) ~~(+) Require or request that an employee or applicant provide or~~
 8 ~~disclose any user name or password or any other related account~~
 9 ~~information in order to gain access to the employee's or applicant's~~
 10 ~~personal Internet account by way of an electronic communication device;~~
 11 (b) ~~(2) Require or request that an employee or applicant log into a~~
 12 ~~personal Internet account by way of an electronic communication device in~~
 13 ~~the presence of the employer in a manner that enables the employer to~~
 14 ~~observe the contents of the employee's or applicant's personal Internet~~
 15 ~~account or provides the employer access to the employee's or applicant's~~
 16 ~~personal Internet account;~~
 17 (c) ~~(3) Require an employee or applicant to add anyone, including~~
 18 ~~the employer, to the list of contacts associated with the employee's or~~
 19 ~~applicant's personal Internet account or require or otherwise coerce an~~
 20 ~~employee or applicant to change the settings on the employee's or~~
 21 ~~applicant's personal Internet account which affects the ability of others~~
 22 ~~to view the content of such account; or~~
 23 (d) Require an employee to wear an electronic communication device
 24 to track the employee's location or travel patterns or to confirm
 25 contacts with other employees, unless the Governor proclaims a state of
 26 emergency for a pandemic pursuant to section 81-829.40 and the following
 27 conditions are met:
 28 (i) The state of emergency proclamation permits an employer to use
 29 an electronic communication device for contact tracing purposes only;
 30 (ii) The contact tracing is permitted only on the employer's
 31 premises during employee work hours; and
 1 (iii) The data collected during the contact tracing is not included
 2 in the employee's personnel files and is destroyed within forty-eight
 3 hours after the expiration of any tracing period recommended by the
 4 Centers for Disease Control and Prevention; or
 5 (e) ~~(4) Take adverse action against, fail to hire, or otherwise~~
 6 ~~penalize an employee or applicant for failure to provide or disclose any~~
 7 ~~of the information or to take any of the actions specified in~~
 8 ~~subdivisions (a) (+) through (d) (3) of this subsection section.~~
 9 ~~(2) Except as provided in subdivision (1)(d) of this section,~~
 10 ~~nothing in this section shall prohibit an employer from utilizing an~~
 11 ~~electronic communication device for legitimate business purposes~~
 12 ~~disclosed to the employee. Legitimate business purposes include~~
 13 ~~controlling access to secure locations, equipment, or information.~~
 14 ~~(3) Nothing in this section shall prohibit an employer from tracking~~
 15 ~~the location of property owned by the employer.~~
 16 ~~(4) Nothing in this section shall prohibit an employer from~~
 17 ~~monitoring the use of employer property for productivity or other job-~~
 18 ~~related metrics so long as the property and employee possessing or using~~
 19 ~~the property are not associated in the data collected.~~
 20 2. Renumber the remaining sections and correct the repealer
 21 accordingly.

The McDonnell amendment was withdrawn.

Senator Halloran offered the following amendment:

AM1507

(Amendments to Standing Committee amendments, AM1330)

1 1. Insert the following new sections:

2 Section 1. Sections 1 to 10 of this act shall be known and may be

3 cited as the Health Care Staffing Agency Registration Act.

4 Sec. 2. For purposes of the Health Care Staffing Agency

5 Registration Act:

6 (1) Commissioner means the Commissioner of Labor;

7 (2) Department means the Department of Labor;

8 (3)(a) Direct services means services provided to consumers through

9 person-to-person contact; and

10 (b) Direct services does not mean:

11 (i) Services performed by an individual in a health care entity that

12 do not involve the provision of any direct service or treatment to a

13 consumer of a health care entity;

14 (ii) The practice of medicine and surgery or osteopathic medicine

15 and surgery by an individual licensed under the Medicine and Surgery

16 Practice Act; or

17 (iii) The practice of nursing by a nurse practitioner licensed under

18 the Nurse Practitioner Practice Act;

19 (4) Health care entity means a health care facility or a health care

20 service;

21 (5) Health care facility has the same meaning as in section 71-413;

22 (6) Health care service has the same meaning as in section 71-415;

23 (7) Health care staffing agency means an individual, a trust, a

24 partnership, a corporation, a limited liability partnership, a limited

25 liability company, or any other business entity that provides one or more

26 temporary staff workers to a separate, third-party health care entity.

1 Health care staffing agency includes a health care technology platform;

2 (8) Health care technology platform means an individual, a trust, a

3 partnership, a corporation, a limited liability partnership, a limited

4 liability company, or any other business entity that operates, offers, or

5 maintains a system or technology that provides an Internet-based or

6 application-based marketplace where staff workers, as independent

7 contractors, in their sole discretion, choose when and how often to

8 utilize the platform to apply to work open shifts for rates that are

9 established directly between health care entities and the staff workers;

10 (9)(a) Nursing services means services that may be provided only by

11 or under the supervision of a nurse; and

12 (b) Nursing services does not mean the practice of nursing by a

13 nurse practitioner licensed under the Nurse Practitioner Practice Act;

14 and

15 (10) Staff worker means an individual who contracts with or is

16 employed by a health care staffing agency or a health care technology

17 platform to provide direct services or nursing services for a health care

18 entity.

19 Sec. 3. (1) A health care staffing agency operating in the state

20 shall register annually with the department. As a condition of

21 eligibility for registration, the applicant shall certify that the health

22 care staffing agency will not enforce any noncompete clause in any

23 contract existing prior to registration with any health care entity or

24 staff worker that restricts in any manner the employment opportunities of

25 a staff worker.

26 (2) An applicant for registration and renewal of registration shall,

27 for each separate location at which the applicant intends to operate as a

28 health care staffing agency in Nebraska or for the state generally if the

29 applicant is a health care technology platform operating in Nebraska that

30 does not maintain a physical location in Nebraska, file an application in

31 a form prescribed by the department and pay an annual registration fee of

1 one thousand dollars to the department. An application for the renewal of

2 a registration shall be made at least sixty days prior to the expiration

3 of the then-current registration period. As applicable, the department

4 shall issue the applicant a separate certification of registration for

5 each location at which the applicant intends to operate as a health care
6 staffing agency in Nebraska upon approval of registration and payment of
7 the fee. The application shall include appropriate evidence of ability to
8 comply with the requirements of section 4 of this act. The department
9 shall remit the fees to the State Treasurer for credit to the General
10 Fund.
11 (3) If the commissioner denies an application for registration or
12 renewal of registration of a health care staffing agency, the
13 commissioner shall issue a notice of denial. The health care staffing
14 agency may file an appeal with the commissioner within twenty days after
15 the date of mailing of the notice of denial. Except as otherwise provided
16 in the Health Care Staffing Agency Registration Act, an appeal under this
17 section shall be governed by the Administrative Procedure Act.
18 Sec. 4. (1) A health care staffing agency shall:
19 (a) Ensure that each staff worker complies with all applicable
20 requirements relating to the health requirements and qualifications for
21 personnel providing direct services or nursing services in a health care
22 entity;
23 (b) Document that each staff worker meets the minimum licensing,
24 certification, training, and health requirements as applicable for the
25 staff worker's position in the health care entity;
26 (c) Maintain a record for each staff worker and report, file, or
27 otherwise provide any required documentation to any external party or
28 regulator if such duties would otherwise be the responsibility of the
29 health care entity if the staff worker was an employee of the health care
30 entity; and
31 (d) Maintain or require the staff worker to maintain professional
1 and general liability insurance coverage with minimum per occurrence
2 coverage of one million dollars and aggregate coverage of three million
3 dollars to insure against loss, damage, or expense incident to a claim
4 arising out of the death or injury of any individual as the result of
5 negligence or malpractice in the provision of services by the health care
6 staffing agency or a staff worker of the agency.
7 (2) A health care staffing agency shall submit a report to the
8 department on a quarterly basis, in the form and manner prescribed by the
9 commissioner, for each health care entity participating in medicare or
10 medicaid and contracting with the agency, that includes the following
11 information by provider type:
12 (a) A detailed list of the average amount charged to the health care
13 entity for each category of staff worker in Nebraska, including any
14 ancillary charges or fees; and
15 (b) A detailed list by licensing category of the average amount paid
16 by the agency to staff workers in Nebraska.
17 (3) Information contained in quarterly reports shall not be subject
18 to public disclosure but shall be accessible to the Division of Medicaid
19 and Long-Term Care of the Department of Health and Human Services and the
20 Department of Labor for use in reporting as required in section 9 of this
21 act.
22 (4) A health care staffing agency shall provide the department with
23 (a) proof of a certificate or policy of insurance written by an insurance
24 carrier duly authorized to do business in this state which gives the
25 effective dates of workers' compensation insurance coverage indicating
26 that it is in force, (b) proof of a certificate evidencing approval of
27 self-insurance privileges as provided by the Nebraska Workers'
28 Compensation Court pursuant to section 48-145, or (c) a signed statement
29 indicating that the health care staffing agency is not required to carry
30 workers' compensation insurance pursuant to the Nebraska Workers'
31 Compensation Act.
1 (5) A health care staffing agency that ceases to engage in the
2 business of or act as a health care staffing agency shall advise the
3 department as to the disposition of all files and other records relating
4 to its business as a health care staffing agency.
5 Sec. 5. (1) A health care staffing agency shall not:
6 (a) Include in any contract with a staff worker or a health care

7 entity a noncompete clause restricting in any manner the employment
8 opportunities of a staff worker; or
9 (b) In any contract with a staff worker or a health care entity,
10 require payment of liquidated damages, employment fees, or other
11 compensation if the staff worker is subsequently hired as a permanent
12 employee of the health care entity.
13 (2) Any clause of a contract that violates this section is void.
14 Sec. 6. (1) If the commissioner determines that a health care
15 staffing agency (a) failed to register as required by the Health Care
16 Staffing Agency Registration Act, (b) violated section 4 or 5 of this
17 act, (c) failed to provide documentation or evidence pursuant to section
18 7 of this act, or (d) knowingly provided to a health care entity a staff
19 worker who has an illegally or fraudulently obtained or issued diploma,
20 registration, license, certification, or background check, the
21 commissioner may take one or more of the following actions:
22 (i) Assess a civil penalty of not more than five hundred dollars for
23 a first offense and five thousand dollars for each subsequent offense;
24 and
25 (ii) Revoke the registration for a period of one calendar year. This
26 revocation shall apply to all locations of the health care staffing
27 agency.
28 (2) If the commissioner determines that a civil penalty or
29 revocation is warranted under this section, the commissioner shall issue
30 a notice of citation that notifies the health care staffing agency of the
31 proposed civil penalty or revocation. The notice of citation shall be
1 sent by certified mail or any other manner of delivery by which the
2 United States Postal Service can verify delivery.
3 (3) A health care staffing agency may appeal any notice of citation
4 by filing an appeal with the commissioner within twenty days after the
5 date of mailing of the notice of citation. Except as otherwise provided
6 in the Health Care Staffing Agency Registration Act, an appeal under this
7 subsection shall be governed by the Administrative Procedure Act.
8 (4) No penalty or revocation shall become effective until the later
9 of the day following expiration of the appeal period or thirty days after
10 a decision on appeal has become final. Once a revocation becomes
11 effective, it is effective for one calendar year and applies to revoke
12 any then-current registration for all locations of the health care
13 staffing agency and to preclude the health care staffing agency for
14 applying for a new registration for any location during the revocation
15 period. A health care staffing agency that has substantially common
16 ownership or management as a health care staffing agency whose
17 registration has been revoked under this section shall not be eligible
18 for registration during the revocation period.
19 (5) In any civil action to enforce the Health Care Staffing Agency
20 Registration Act, the commissioner and the state may be represented by
21 any qualified attorney who is employed by the commissioner and is
22 designated by the commissioner for this purpose or, at the commissioner's
23 request, by the Attorney General.
24 Sec. 7. (1) The commissioner shall establish a system for the
25 public to report complaints against a health care staffing agency or
26 staff worker regarding compliance with the Health Care Staffing Agency
27 Registration Act. The commissioner shall investigate any complaint
28 received.
29 (2) The commissioner may investigate to determine if a health care
30 staffing agency is in compliance with the Health Care Staffing Agency
31 Registration Act and shall conduct random audits of health care staffing
1 agencies with staff workers in Nebraska. Any investigation or audit shall
2 take place at such times and places as the commissioner directs. An
3 investigation or audit may be conducted without prior notice.
4 (3) For purposes of any investigation or audit under this section,
5 the commissioner or any officer designated by the commissioner may
6 administer oaths and affirmations, subpoena witnesses and compel their
7 attendance, receive evidence, and require the production of any books,
8 papers, correspondence, memoranda, agreements, or other documents or

9 records that the commissioner deems relevant or material to the
10 investigation.

11 (4) In case of contumacy by or refusal to obey a subpoena issued to
12 any person, any court of competent jurisdiction, upon application by the
13 commissioner, may issue to such person an order requiring such person to
14 appear before the commissioner or the officer designated by the
15 commissioner and produce documentary evidence, if so ordered, or give
16 evidence affecting the matter under investigation or in question. Any
17 failure to obey the order of the court may be punished by the court as
18 contempt.

19 Sec. 8. (1) The department shall create a database of health care
20 staffing agencies registered under the Health Care Staffing Agency
21 Registration Act. The department shall make the database accessible to
22 the public on its website.

23 (2) The database shall include, but not be limited to, the following
24 information:

25 (a) The name, telephone number, and address of the health care
26 staffing agency;

27 (b) The name of each owner, member, officer, and partner;

28 (c) The date of registration approval for the health care staffing
29 agency; and

30 (d) The date of expiration or revocation of the registration of the
31 health care staffing agency.

1 Sec. 9. The department shall prepare and submit an annual report, no
2 later than December 31 of each year, using the reported data pursuant to
3 subsection (2) of section 4 of this act. The report shall contain
4 aggregate data, by county in which the direct services were performed,
5 the average amount charged to the health care facilities by nurse
6 agencies for each individual staff worker category, and the average
7 amount paid to each individual staff worker category. The report shall be
8 submitted electronically to the Clerk of the Legislature, the Health and
9 Human Services Committee of the Legislature, and the Appropriations
10 Committee of the Legislature.

11 Sec. 10. The department may adopt and promulgate rules and
12 regulations to carry out the Health Care Staffing Agency Registration
13 Act.

14 Sec. 29. Section 81-401, Revised Statutes Cumulative Supplement,
15 2022, is amended to read:

16 81-401 The Governor, through the agency of the Department of Labor
17 created by section 81-101, shall have power:

18 (1) To foster, promote, and develop the welfare of wage earners;

19 (2) To improve working conditions;

20 (3) To advance opportunities for profitable employment;

21 (4) To collect, collate, assort, systematize, and report statistical
22 details relating to all departments of labor, especially in its relation
23 to commercial, industrial, social, economic, and educational conditions
24 and to the permanent prosperity of the manufacturing and productive
25 industries;

26 (5) To acquire and distribute useful information on subjects
27 connected with labor in the most general and comprehensive sense of the
28 word;

29 (6) To acquire and distribute useful information concerning the
30 means of promoting the material, social, intellectual, and moral
31 prosperity of laboring men and women;

1 (7) To acquire and distribute information as to the conditions of
2 employment and such other facts as may be deemed of value to the
3 industrial interests of the state;

4 (8) To acquire and distribute information in relation to the
5 prevention of accidents, occupational diseases, and other related
6 subjects;

7 (9) To acquire and distribute useful information regarding the role
8 of the part-time labor force and the manner in which such labor force
9 affects the economy and citizens of the state; and

10 (10) To administer and enforce all of the provisions of the

11 Employment Security Law, the Farm Labor Contractors Act, the Health Care
 12 Staffing Agency Registration Act, and the Wage and Hour Act and Chapter
 13 48, articles 2, 3, 4, and 5, and for that purpose there is imposed upon
 14 the Commissioner of Labor the duty of executing all of the provisions of
 15 such acts, law, and articles.
 16 Sec. 32. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 29, and 34 of this
 17 act become operative on January 1, 2024. The other sections of this act
 18 become operative on their effective date.
 19 Sec. 34. Original section 81-401, Revised Statutes Cumulative
 20 Supplement, 2022, is repealed.
 21 2. Renumber the remaining sections and correct internal references
 22 accordingly.

The Halloran amendment was withdrawn.

Senator M. Cavanaugh offered [AM1404](#), found on page 1202.

PRESIDENT KELLY PRESIDING

The M. Cavanaugh amendment was withdrawn.

Senator McDonnell withdrew [AM1411](#), found on page 1204.

Senator M. Cavanaugh offered [MO355](#), found on page 939, to bracket until June 2, 2023.

Senator M. Cavanaugh withdrew her motion to bracket.

Senator M. Cavanaugh withdrew [MO354](#), found on page 939, to recommit to committee.

Senator M. Cavanaugh withdrew [MO353](#), found on page 939, to indefinitely postpone.

Advanced to Enrollment and Review for Engrossment.

AMENDMENT - Print in Journal

Senator von Gillern filed the following amendment to [LB705](#):
[AM1503](#)

(Amendments to Standing Committee amendments, AM1468)

1 1. Insert the following new sections:
 2 Sec. 108. (1) For purposes of this section:
 3 (a) School has the same meaning as in section 79-101;
 4 (b) School district has the same meaning as in section 79-101; and
 5 (c) Youth organization means a corporation chartered by Congress and
 6 listed in 36 U.S.C. Subtitle II, Part B, as of January 1, 2023.
 7 (2)(a) Each school district shall, upon request, allow a
 8 representative of any youth organization to provide (i) oral or written
 9 information to the students of such school district regarding the youth
 10 organization and how such youth organization furthers the educational
 11 interests and civic involvement of students in a manner consistent with
 12 good citizenship and (ii) services and activities to any student of such
 13 school district who is a member of such youth organization.

14 (b) Each requesting youth organization shall be permitted to provide
 15 such information, services, and activities in a school building or on the
 16 school grounds of a school in each school district at least once during
 17 each school year.

18 (3) Each school district shall make a good faith effort to select a
 19 date, time, and location for each requesting youth organization to
 20 provide such information, services, or activities that is mutually
 21 agreeable to the school district and to the youth organization.

22 (4) Prior to allowing a representative of a youth organization to
 23 provide information, services, or activities at a school pursuant to this
 24 section, such representative shall be subject to a background check.

25 Except as otherwise provided by this section or by the rules and
 26 regulations of the Nebraska State Patrol, the parameters of the
 1 background check shall be determined by the relevant school district. A
 2 school district may prohibit any representative of a youth organization
 3 that has been convicted of a felony from providing information, services,
 4 or activities pursuant to this section at any school in such school
 5 district. Each representative of a youth organization is responsible for
 6 all costs associated with obtaining such background check.

7 Sec. 118. The following section is outright repealed: Section
 8 79-2,103, Reissue Revised Statutes of Nebraska.

9 2. Correct the operative date section so that the sections added by
 10 this amendment become operative three calendar months after the
 11 adjournment of this legislative session.

12 3. Renumber the remaining sections accordingly.

RESOLUTIONS

LEGISLATIVE RESOLUTION 115. Introduced by McKinney, 11.

WHEREAS, the career of University of Nebraska at Omaha and Maryville University wrestling coach Mike Denney spans over fifty years; and

WHEREAS, Coach Denney rose through the ranks to become one of the greatest wrestling coaches in Division II of the National Collegiate Athletic Association (NCAA), a multiple national champion, and one of the most prominent figures in the history of the sport; and

WHEREAS, Coach Denney began his remarkable collegiate coaching tenure in the 1979-80 season and has compiled a 386-164-5 dual record; and

WHEREAS, Coach Denney coached seven NCAA Championship teams and is a three-time NCAA Division II National Wrestling Coach of the Year from 1981, 1991, and 2009; and

WHEREAS, Coach Denney directed the University of Nebraska at Omaha wrestling team for thirty-two years and won three consecutive NCAA Division II National Championships and six of the last eight championships before the university eliminated the wrestling program on March 12, 2011, after sixty-three years of competition; and

WHEREAS, Coach Denney was voted 2011 InterMat Coach of the Year, which recognizes the top college wrestling coaches across all NCAA divisions and claimed seven national titles in 1991, 2004 through 2006, and 2009 through 2011; and

WHEREAS, the University of Nebraska at Omaha finished in the NCAA Division II top-ten ranked teams for all but one season during Coach Denney's tenure; and

WHEREAS, Coach Denney was named the inaugural head coach for Maryville University on June 1, 2011; and

WHEREAS, during his tenure at Maryville University, Coach Denney coached two NCAA Division II National Champions, Matt Baker and Nate Rodriguez, led Maryville to be ranked the number one team in the nation many times over, spearheaded Maryville to a pair of third-place finishes in the Division II national championships in 2014 and 2015 and a pair of Super Regional titles in 2015 and 2016, won four consecutive National Wrestling Coaches Association Team Academic National Championships from 2017-18 through 2020-21, and directed Maryville's efforts as the host institution for three NCAA Division II Wrestling National Championships; and

WHEREAS, Coach Denney coached two hundred ninety-four NCAA Nationals qualifiers, two hundred seven All-Americans, and thirty-five national champions; and

WHEREAS, Coach Denney announced his retirement from coaching on April 12, 2023.

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

1. That the Legislature congratulates former University of Nebraska at Omaha and Maryville University wrestling coach Mike Denney on his retirement after a long outstanding career of success, excellence, character, and commitment to the education of such student-athletes.

2. That a copy of this resolution be sent to Mike Denney.

Laid over.

LEGISLATIVE RESOLUTION 116. Introduced by Hansen, B., 16.

WHEREAS, Fred Christensen, a native Nebraskan, was the fourth generation to farm his family's land in Burt County; and

WHEREAS, Fred's over fifty years of extraordinary public service is worthy of recognition by the State of Nebraska; and

WHEREAS, Fred was a representative serving on the Nebraska Public Power District Board of Directors, the Burt County Public Power District Board, Logan East Water Board, and the United States Department of Agriculture State Farm Service Agency State Committee, and as the National President of the National Association of Farmer Elected Committees; and

WHEREAS, Fred helped lead community members through farm crises, updated outdated infrastructure, supported new development, and served as a vital leader in the community; and

WHEREAS, Fred's family has offered generations of leadership to their communities including his great uncle Dudley Beck who was the first manager of the Burt County Public Power District, his wife Sandi Christensen who was a tremendous supporting force, and his sons Graham Christensen and Max Christensen who serve on a number of community organizations; and

WHEREAS, Fred was a bear of a man, barrel-bodied and grizzled, but was also soft-spoken, with the patient cadence of a teacher, who cared deeply for his community and God's creation; and

WHEREAS, Fred passed away on March 31, 2023.

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

1. That the Legislature recognizes and honors Fred Christensen for his service to Nebraska farmers and his community.
2. That the Legislature offers its condolences to the family of Fred Christensen.
3. That a copy of this resolution be sent to Fred Christensen's wife Sandi Christensen.

Laid over.

SELECT FILE

LEGISLATIVE BILL 626. Senator Hunt offered [MO741](#), found on page 968, to bracket until June 2, 2023.

Senator Hunt withdrew her motion to bracket.

Senator Hunt withdrew [MO740](#), found on page 968, to recommit to committee.

[ER24](#), found on page 1164, was offered.

Senator Riepe offered the following amendment to [ER24](#):
[AM1527](#)

(Amendments to E & R amendments, ER24)

- 1 1. Strike the original sections and all amendments thereto and
- 2 insert the following new sections:
- 3 Section 1. Section 28-347, Revised Statutes Cumulative Supplement,
- 4 2022, is amended to read:
- 5 28-347 (1) It shall be unlawful for any person to purposely perform
- 6 or attempt to perform a dismemberment abortion and thereby kill an unborn
- 7 child unless a dismemberment abortion is necessary due to a medical
- 8 emergency as defined in ~~subdivision (4)~~ of section 28-3,103.
- 9 (2) A person accused in any proceeding of unlawful conduct under
- 10 subsection (1) of this section may seek a hearing before the Board of
- 11 Medicine and Surgery on whether the performance of a dismemberment
- 12 abortion was necessary due to a medical emergency as defined in
- 13 ~~subdivision (4)~~ of section 28-3,103. The board's findings are admissible
- 14 on that issue at any trial in which such unlawful conduct is alleged.
- 15 Upon a motion of the person accused, the court shall delay the beginning
- 16 of the trial for not more than thirty days to permit such a hearing to
- 17 take place.
- 18 (3) No woman upon whom an abortion is performed or attempted to be
- 19 performed shall be liable for performing or attempting to perform a
- 20 dismemberment abortion. No nurse, secretary, receptionist, or other
- 21 employee or agent who is not a physician, but who acts at the direction
- 22 of a physician, shall be liable for performing or attempting to perform a

23 dismemberment abortion. No pharmacist or other individual who is not a
 24 physician, but who fills a prescription or provides instruments or
 25 materials used in an abortion at the direction of or to a physician,
 26 shall be liable for performing or attempting to perform a dismemberment
 1 abortion.

2 Sec. 2. Section 28-3,102, Reissue Revised Statutes of Nebraska, is
 3 amended to read:

4 28-3,102 Sections 28-3,102 to 28-3,111 shall be known and may be
 5 cited as the ~~Pain-Capable~~ Unborn Child Protection Act.

6 Sec. 3. Section 28-3,103, Reissue Revised Statutes of Nebraska, is
 7 amended to read:

8 28-3,103 For purposes of the ~~Pain-Capable~~ Unborn Child Protection
 9 Act:

10 (1) Abortion means the use or prescription of any instrument,
 11 medicine, drug, or other substance or device to terminate the pregnancy
 12 of a woman known to be pregnant with an intention other than to increase
 13 the probability of a live birth, to preserve the life or health of the
 14 child after live birth, or to remove a dead unborn child who died as the
 15 result of natural causes in utero, accidental trauma, or a criminal
 16 assault on the pregnant woman or her unborn child, and which causes the
 17 premature termination of the pregnancy;

18 (2) Attempt to perform or induce an abortion means an act, or an
 19 omission of a statutorily required act, that, under the circumstances as
 20 the actor believes them to be, constitutes a substantial step in a course
 21 of conduct planned to culminate in the performance or induction of an
 22 abortion in this state in violation of the ~~Pain-Capable~~ Unborn Child
 23 Protection Act;

24 (3) Fertilization means the fusion of a human spermatozoon with a
 25 human ovum;

26 (4) Fetal anomaly incompatible with life means a fetal anomaly
 27 diagnosed before birth that will with reasonable certainty result in the
 28 death of the unborn child within three months. Fetal anomaly incompatible
 29 with life does not include a condition which can be treated;

30 (5) (4) Medical emergency means a condition which, in reasonable
 31 medical judgment, so complicates the medical condition of the pregnant
 1 woman as to necessitate the immediate abortion of her pregnancy to avert
 2 her death or for which a delay will create a serious risk of substantial
 3 and irreversible physical impairment of a major bodily function. No
 4 condition shall be deemed a medical emergency if based on a claim or
 5 diagnosis that the woman will engage in conduct which would result in her
 6 death or in substantial and irreversible physical impairment of a major
 7 bodily function;

8 (6) (5) Postfertilization age means the age of the unborn child as
 9 calculated from the fertilization of the human ovum;

10 (7) (6) Reasonable medical judgment means a medical judgment that
 11 would be made by a reasonably prudent physician, knowledgeable about the
 12 case and the treatment possibilities with respect to the medical
 13 conditions involved;

14 (8) (7) Physician means any person licensed to practice medicine and
 15 surgery or osteopathic medicine under the Uniform Credentialing Act;

16 (9) (8) Probable postfertilization age of the unborn child means
 17 what, in reasonable medical judgment, will with reasonable probability be
 18 the postfertilization age of the unborn child at the time the abortion is
 19 planned to be performed;

20 (10) (9) Unborn child or fetus each mean an individual organism of
 21 the species homo sapiens from fertilization until live birth; and

22 (11) (10) Woman means a female human being whether or not she has
 23 reached the age of majority.

24 Sec. 4. Section 28-3,106, Reissue Revised Statutes of Nebraska, is
 25 amended to read:

26 28-3,106 (1) Except as provided in subsection (2) of this section,
 27 ~~no~~ person shall perform or induce or attempt to perform or induce an
 28 abortion upon a woman when it has been determined, by the physician
 29 performing or inducing the abortion or by another physician upon whose
 30 determination that physician relies, that the probable postfertilization
 31 age of the woman's unborn child is ~~twelve~~ twenty or more weeks.

1 (2) Subsection (1) of this section does not apply if:

2 (a) ~~In~~ unless, in reasonable medical judgment:

3 (i) ~~The woman (4) she~~ has a condition which so complicates her
 4 medical condition as to necessitate the abortion of her pregnancy to
 5 avert her death or to avert serious risk of substantial and irreversible
 6 physical impairment of a major bodily function ~~or (2) it is necessary to~~
 7 ~~preserve the life of an unborn child.~~ No such condition shall be deemed
 8 to exist if it is based on a claim or diagnosis that the woman will
 9 engage in conduct which would result in her death or in substantial and
 10 irreversible physical impairment of a major bodily function; -

11 (ii) An abortion is necessary to preserve the life of another unborn
 12 child; or

13 (iii) There is a fetal anomaly incompatible with life; or

14 (b) The woman informs the physician that the pregnancy resulted from
 15 a sexual assault as defined in section 28-319 or 28-319.01 or incest as
 16 defined in section 28-703. No person shall perform or induce or attempt
 17 to perform or induce an abortion upon a woman under this subdivision (2)
 18 (b) when it has been determined, by the physician performing or inducing
 19 the abortion or by another physician upon whose determination that
 20 physician relies, that the probable postfertilization age of the woman's
 21 unborn child is twenty or more weeks.

22 (3) If a physician performs or induces or attempts to perform or
 23 induce an abortion pursuant to:

24 (a) Subdivision (2)(a) of this section, the physician shall certify
 25 in writing the reason for the abortion; or

26 (b) Subdivision (2)(b) of this section, the physician shall comply
 27 with section 28-902 and shall certify in writing the reason for the
 28 abortion and the physician's compliance with such section.

29 (4) The physician shall include any certification made under
 30 subsection (3) of this section in the woman's medical records.

31 (5) If an abortion is necessary under subdivision (2)(a)(i) of this
 1 section in such a case, the physician shall terminate the pregnancy in
 2 the manner which, in reasonable medical judgment, provides the best
 3 opportunity for the unborn child to survive, unless, in reasonable
 4 medical judgment, termination of the pregnancy in that manner would pose
 5 a greater risk either of the death of the pregnant woman or of the
 6 substantial and irreversible physical impairment of a major bodily
 7 function of the woman than would another available method. No such
 8 greater risk shall be deemed to exist if it is based on a claim or
 9 diagnosis that the woman will engage in conduct which would result in her
 10 death or in substantial and irreversible physical impairment of a major
 11 bodily function.

12 Sec. 5. Section 28-3,107, Reissue Revised Statutes of Nebraska, is
 13 amended to read:

14 28-3,107 (1) Any physician who performs or induces or attempts to
 15 perform or induce an abortion shall report to the Department of Health
 16 and Human Services, on a schedule and in accordance with forms and rules
 17 and regulations adopted and promulgated by the department:

18 (a) If a determination of probable postfertilization age was made,
 19 the probable postfertilization age determined and the method and basis of
 20 the determination;

21 (b) If a determination of probable postfertilization age was not
 22 made, the basis of the determination that a medical emergency existed;

23 (c) If the probable postfertilization age was determined to be

24 ~~twelve~~ twenty or more weeks, the basis of the determination that an
 25 abortion was necessary for a reason provided in subsection (2) of section
 26 ~~28-3,106~~ the pregnant woman had a condition which so complicated her
 27 medical condition as to necessitate the abortion of her pregnancy to
 28 avert her death or to avert serious risk of substantial and irreversible
 29 physical impairment of a major bodily function, or the basis of the
 30 determination that it was necessary to preserve the life of an unborn
 31 child; and

1 (d) The method used for the abortion and, in the case of an abortion
 2 performed pursuant to subdivision (2)(a)(i) of section 28-3,106 when the
 3 probable postfertilization age was determined to be twenty or more weeks,
 4 whether the method of abortion used was one that, in reasonable medical
 5 judgment, provided the best opportunity for the unborn child to survive
 6 or, if such a method was not used, the basis of the determination that
 7 termination of the pregnancy in that manner would pose a greater risk
 8 either of the death of the pregnant woman or of the substantial and
 9 irreversible physical impairment of a major bodily function of the woman
 10 than would other available methods.

11 (2) By June 30 of each year, the department shall issue a public
 12 report providing statistics for the previous calendar year compiled from
 13 all of the reports covering that year submitted in accordance with this
 14 section for each of the items listed in subsection (1) of this section.
 15 Each such report shall also provide the statistics for all previous
 16 calendar years during which this section was in effect, adjusted to
 17 reflect any additional information from late or corrected reports. The
 18 department shall take care to ensure that none of the information
 19 included in the public reports could reasonably lead to the

20 identification of any pregnant woman upon whom an abortion was performed.
 21 (3) Any physician who fails to submit a report by the end of thirty
 22 days following the due date shall be subject to a late fee of five
 23 hundred dollars for each additional thirty-day period or portion of a
 24 thirty-day period the report is overdue. Any physician required to report
 25 in accordance with the ~~Pain-Capable~~ Unborn Child Protection Act who has
 26 not submitted a report, or has submitted only an incomplete report, more
 27 than one year following the due date, may, in an action brought in the
 28 manner in which actions are brought to enforce the Uniform Credentialing
 29 Act pursuant to section 38-1,139, be directed by a court of competent
 30 jurisdiction to submit a complete report within a time period stated by
 31 court order or be subject to civil contempt. Failure by any physician to
 1 conform to any requirement of this section, other than late filing of a
 2 report, constitutes unprofessional conduct pursuant to section 38-2021.
 3 Failure by any physician to submit a complete report in accordance with a
 4 court order constitutes unprofessional conduct pursuant to section
 5 38-2021. Intentional or reckless falsification of any report required
 6 under this section is a Class V misdemeanor.

7 (4) ~~The~~ Within ninety days after October 15, 2010, the department
 8 ~~may~~ shall adopt and promulgate rules and regulations to carry out assist
 9 ~~in compliance with~~ this section.

10 Sec. 6. Section 28-3,108, Reissue Revised Statutes of Nebraska, is
 11 amended to read:

12 28-3,108 ~~No woman upon whom an abortion is attempted, induced, or~~
 13 ~~performed shall be liable for a violation of the Unborn Child Protection~~
 14 ~~Act. Any person who intentionally or recklessly performs or attempts to~~
 15 ~~perform an abortion in violation of section 28-3,106 is guilty of a Class~~
 16 ~~IV felony. No penalty shall be assessed against the woman upon whom the~~
 17 ~~abortion is performed or attempted to be performed.~~

18 Sec. 7. Section 28-3,111, Reissue Revised Statutes of Nebraska, is
 19 amended to read:

20 28-3,111 If any one or more provisions, sections, subsections,
 21 sentences, clauses, phrases, or words of the ~~Pain-Capable~~ Unborn Child

22 Protection Act or the application thereof to any person or circumstance
23 is found to be unconstitutional, the same is hereby declared to be
24 severable and the balance of the ~~Pain-Capable~~ Unborn Child Protection Act
25 shall remain effective notwithstanding such unconstitutionality. The
26 Legislature hereby declares that it would have passed the ~~Pain-Capable~~
27 Unborn Child Protection Act, and each provision, section, subsection,
28 sentence, clause, phrase, or word thereof, irrespective of the fact that
29 any one or more provisions, sections, subsections, sentences, clauses,
30 phrases, or words of the ~~Pain-Capable~~ Unborn Child Protection Act, or the
31 application of the ~~Pain-Capable~~ Unborn Child Protection Act, would be
1 declared unconstitutional.

2 Sec. 8. Section 38-178, Revised Statutes Cumulative Supplement,
3 2022, is amended to read:

4 38-178 Except as otherwise provided in sections 38-1,119 to
5 38-1,123, a credential to practice a profession may be issued subject to
6 discipline, denied, refused renewal, or have other disciplinary measures
7 taken against it in accordance with section 38-183, 38-185, or 38-186 on
8 any of the following grounds:

9 (1) Misrepresentation of material facts in procuring or attempting
10 to procure a credential;

11 (2) Immoral or dishonorable conduct evidencing unfitness to practice
12 the profession in this state;

13 (3) Abuse of, dependence on, or active addiction to alcohol, any
14 controlled substance, or any mind-altering substance;

15 (4) Failure to comply with a treatment program or an aftercare
16 program, including, but not limited to, a program entered into under the
17 Licensee Assistance Program established pursuant to section 38-175;

18 (5) Conviction of (a) a misdemeanor or felony under Nebraska law or
19 federal law, or (b) a crime in any jurisdiction which, if committed
20 within this state, would have constituted a misdemeanor or felony under
21 Nebraska law and which has a rational connection with the fitness or
22 capacity of the applicant or credential holder to practice the
23 profession;

24 (6) Practice of the profession (a) fraudulently, (b) beyond its
25 authorized scope, (c) with gross incompetence or gross negligence, or (d)
26 in a pattern of incompetent or negligent conduct;

27 (7) Practice of the profession while the ability to practice is
28 impaired by alcohol, controlled substances, drugs, mind-altering
29 substances, physical disability, mental disability, or emotional
30 disability;

31 (8) Physical or mental incapacity to practice the profession as
1 evidenced by a legal judgment or a determination by other lawful means;

2 (9) Illness, deterioration, or disability that impairs the ability
3 to practice the profession;

4 (10) Permitting, aiding, or abetting the practice of a profession or
5 the performance of activities requiring a credential by a person not
6 credentialed to do so;

7 (11) Performing or offering to perform scleral tattooing as defined
8 in section 38-10,172 by a person not credentialed to do so;

9 (12) Having had his or her credential denied, refused renewal,
10 limited, suspended, revoked, or disciplined in any manner similar to
11 section 38-196 by another state or jurisdiction based upon acts by the
12 applicant or credential holder similar to acts described in this section;

13 (13) Use of untruthful, deceptive, or misleading statements in
14 advertisements, including failure to comply with section 38-124;

15 (14) Conviction of fraudulent or misleading advertising or
16 conviction of a violation of the Uniform Deceptive Trade Practices Act;

17 (15) Distribution of intoxicating liquors, controlled substances, or
18 drugs for any other than lawful purposes;

19 (16) Violations of the Uniform Credentialing Act or the rules and

20 regulations relating to the particular profession;
21 (17) Unlawful invasion of the field of practice of any profession
22 regulated by the Uniform Credentialing Act which the credential holder is
23 not credentialed to practice;
24 (18) Violation of the Uniform Controlled Substances Act or any rules
25 and regulations adopted pursuant to the act;
26 (19) Failure to file a report required by section 38-1,124,
27 38-1,125, or 71-552;
28 (20) Failure to maintain the requirements necessary to obtain a
29 credential;
30 (21) Violation of an order issued by the department;
31 (22) Violation of an assurance of compliance entered into under
1 section 38-1,108;
2 (23) Failure to pay an administrative penalty;
3 (24) Unprofessional conduct as defined in section 38-179;
4 (25) Violation of the Automated Medication Systems Act; ~~or~~
5 (26) Failure to comply with section 38-1,147; ~~or~~ ~~or~~
6 (27) Violation of the Unborn Child Protection Act.
7 Sec. 9. Section 38-179, Revised Statutes Cumulative Supplement,
8 2022, is amended to read:
9 38-179 For purposes of section 38-178, unprofessional conduct means
10 any departure from or failure to conform to the standards of acceptable
11 and prevailing practice of a profession or the ethics of the profession,
12 regardless of whether a person, consumer, or entity is injured, or
13 conduct that is likely to deceive or defraud the public or is detrimental
14 to the public interest, including, but not limited to:
15 (1) Receipt of fees on the assurance that an incurable disease can
16 be permanently cured;
17 (2) Division of fees, or agreeing to split or divide the fees,
18 received for professional services with any person for bringing or
19 referring a consumer other than (a) with a partner or employee of the
20 applicant or credential holder or his or her office or clinic, (b) with a
21 landlord of the applicant or credential holder pursuant to a written
22 agreement that provides for payment of rent based on gross receipts, or
23 (c) with a former partner or employee of the applicant or credential
24 holder based on a retirement plan or separation agreement;
25 (3) Obtaining any fee for professional services by fraud, deceit, or
26 misrepresentation, including, but not limited to, falsification of third-
27 party claim documents;
28 (4) Cheating on or attempting to subvert the credentialing
29 examination;
30 (5) Assisting in the care or treatment of a consumer without the
31 consent of such consumer or his or her legal representative;
1 (6) Use of any letters, words, or terms, either as a prefix, affix,
2 or suffix, on stationery, in advertisements, or otherwise, indicating
3 that such person is entitled to practice a profession for which he or she
4 is not credentialed;
5 (7) Performing, procuring, or aiding and abetting in the performance
6 or procurement of a criminal abortion;
7 (8) Knowingly disclosing confidential information except as
8 otherwise permitted by law;
9 (9) Commission of any act of sexual abuse, misconduct, or
10 exploitation related to the practice of the profession of the applicant
11 or credential holder;
12 (10) Failure to keep and maintain adequate records of treatment or
13 service;
14 (11) Prescribing, administering, distributing, dispensing, giving,
15 or selling any controlled substance or other drug recognized as addictive
16 or dangerous for other than a medically accepted therapeutic purpose;
17 (12) Prescribing any controlled substance to (a) oneself or (b)

18 except in the case of a medical emergency (i) one's spouse, (ii) one's
19 child, (iii) one's parent, (iv) one's sibling, or (v) any other person

20 living in the same household as the prescriber;

21 (13) Failure to comply with any federal, state, or municipal law,
22 ordinance, rule, or regulation that pertains to the applicable
23 profession;

24 (14) Disruptive behavior, whether verbal or physical, which
25 interferes with consumer care or could reasonably be expected to
26 interfere with such care; ~~and~~

27 (15) Violation of the Unborn Child Protection Act; and

28 (16) ~~(15)~~ Such other acts as may be defined in rules and
29 regulations.

30 Nothing in this section shall be construed to exclude determination
31 of additional conduct that is unprofessional by adjudication in
1 individual contested cases.

2 Sec. 10. Section 38-192, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 38-192 (1) If the director determines upon completion of a hearing
5 under section 38-183 or 38-186 that a violation has occurred, the
6 director may, at his or her discretion, consult with the appropriate
7 board concerning sanctions to be imposed or terms and conditions of the
8 sanctions. When the director consults with a board, the credential holder
9 and the Attorney General shall be provided with a copy of the director's
10 request, the recommendation of the board, and an opportunity to respond
11 in such manner as the director determines.

12 (2) Except as provided in subsection (3) of this section, the The
13 director shall have the authority through entry of an order to exercise
14 in his or her discretion any or all of the sanctions authorized under
15 subsection (1) of section 38-196.

16 (3) If the director determines upon completion of a hearing under
17 section 38-183 or 38-186 that a licensee has performed or induced or
18 attempted to perform or induce an abortion in violation of the Unborn
19 Child Protection Act, the director shall enter an order imposing a
20 sanction authorized under subdivision (2) of section 38-196.

21 Sec. 11. Section 38-193, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 38-193 (1) If the petition is brought with respect to subdivision
24 (3) of section 38-2021, the director shall make findings as to whether
25 the licensee's conduct was necessary to save the life of a mother whose
26 life was endangered by a physical disorder, physical illness, or physical
27 injury, including a life-endangering physical condition caused by or
28 arising from the pregnancy itself. The director shall have the authority
29 through entry of an order to exercise in his or her discretion any or all
30 of the sanctions authorized under section 38-196, irrespective of the
31 petition.

1 (2) If the petition is brought with respect to subdivision (4) of
2 section 38-2021, the director shall make findings as to whether the
3 licensee performed or induced or attempted to perform or induce an
4 abortion in violation of the Unborn Child Protection Act. If the director
5 finds such a violation, the director shall enter an order revoking the
6 licensee's credential to practice pursuant to the Uniform Credentialing
7 Act in the State of Nebraska in accordance with subsection (2) of section
8 38-196 and section 38-1,100.

9 Sec. 12. Section 38-196, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 38-196 (1) Except as provided in subsection (2) of this section,
12 upon Upon the completion of any hearing held regarding discipline of a
13 credential, the director may dismiss the action or impose any of the
14 following sanctions:

15 (a) ~~(1)~~ Censure;

16 ~~(b)~~ ~~(2)~~ Probation;
 17 ~~(c)~~ ~~(3)~~ Limitation;
 18 ~~(d)~~ ~~(4)~~ Civil penalty;
 19 ~~(e)~~ ~~(5)~~ Suspension; or
 20 ~~(f)~~ ~~(6)~~ Revocation.

21 ~~(2) Upon completion of any hearing regarding discipline of a~~
 22 ~~credential for performing or inducing or attempting to perform or induce~~
 23 ~~an abortion in violation of the Unborn Child Protection Act, if the~~
 24 ~~director determines that such violation occurred, the director shall~~
 25 ~~impose a sanction of revocation in accordance with section 38-1.100.~~

26 Sec. 13. Section 38-2021, Revised Statutes Cumulative Supplement,
 27 2022, is amended to read:

28 38-2021 Unprofessional conduct means any departure from or failure
 29 to conform to the standards of acceptable and prevailing practice of
 30 medicine and surgery or the ethics of the profession, regardless of
 31 whether a person, patient, or entity is injured, or conduct that is
 1 likely to deceive or defraud the public or is detrimental to the public
 2 interest, including, but not limited to:

3 (1) Performance by a physician of an abortion as defined in
 4 subdivision (1) of section 28-326 under circumstances when he or she will
 5 not be available for a period of at least forty-eight hours for
 6 postoperative care unless such postoperative care is delegated to and
 7 accepted by another physician;

8 (2) Performing an abortion upon a minor without having satisfied the
 9 requirements of sections 71-6901 to 71-6911;

10 (3) The intentional and knowing performance of a partial-birth
 11 abortion as defined in subdivision (8) of section 28-326, unless such
 12 procedure is necessary to save the life of the mother whose life is
 13 endangered by a physical disorder, physical illness, or physical injury,
 14 including a life-endangering physical condition caused by or arising from
 15 the pregnancy itself; and

16 (4) ~~Performing or inducing or attempting to perform or induce~~
 17 ~~Performance by a physician of an abortion in violation of the Pain-~~
 18 ~~Capable Unborn Child Protection Act.~~

19 Sec. 14. Section 38-2894, Revised Statutes Cumulative Supplement,
 20 2022, is amended to read:

21 38-2894 (1) A registration to practice as a pharmacy technician may
 22 be denied, refused renewal, removed, or suspended or have other
 23 disciplinary measures taken against it by the department, with the
 24 recommendation of the board, for failure to meet the requirements of or
 25 for violation of any of the provisions of subdivisions (1) through (18)
 26 and (20) through ~~(27)~~ ~~(26)~~ of section 38-178 and sections 38-2890 to
 27 38-2897 or the rules and regulations adopted under such sections.

28 (2) If the department proposes to deny, refuse renewal of, or remove
 29 or suspend a registration, it shall send the applicant or registrant a
 30 notice setting forth the action to be taken and the reasons for the
 31 determination. The denial, refusal to renew, removal, or suspension shall
 1 become final thirty days after mailing the notice unless the applicant or
 2 registrant gives written notice to the department of his or her desire
 3 for an informal conference or for a formal hearing.

4 (3) Notice may be served by any method specified in section
 5 25-505.01, or the department may permit substitute or constructive
 6 service as provided in section 25-517.02 when service cannot be made with
 7 reasonable diligence by any of the methods specified in section
 8 25-505.01.

9 (4) Pharmacy technicians may participate in the Licensee Assistance
 10 Program described in section 38-175.

11 Sec. 15. If any section in this act or any part of any section is
 12 declared invalid or unconstitutional, the declaration shall not affect
 13 the validity or constitutionality of the remaining portions.

14 Sec. 16. Original sections 28-3,102, 28-3,103, 28-3,106, 28-3,107,
 15 28-3,108, 28-3,111, 38-192, 38-193, and 38-196, Reissue Revised Statutes
 16 of Nebraska, and sections 28-347, 38-178, 38-179, 38-2021, and 38-2894,
 17 Revised Statutes Cumulative Supplement, 2022, are repealed.
 18 Sec. 17. The following sections are outright repealed: Sections
 19 28-3,104, 28-3,109, and 28-3,110, Reissue Revised Statutes of Nebraska.
 20 Sec. 18. Since an emergency exists, this act takes effect when
 21 passed and approved according to law.

Senator Riepe moved the previous question. The question is, "Shall the debate now close?"

The Chair ruled there had not been a full and fair debate, pursuant to Rule 7, Sec. 4, on the Riepe amendment.

Senator Albrecht offered the following motion:

[MO996](#)

Invoke cloture pursuant to Rule 7, Sec. 10.

Senator Albrecht moved for a call of the house. The motion prevailed with 40 ayes, 1 nay, and 8 not voting.

Senator Albrecht requested a roll call vote on the motion to invoke cloture.

Voting in the affirmative, 32:

Aguilar	Brandt	Erdman	Jacobson	Murman
Albrecht	Brewer	Halloran	Kauth	Sanders
Arch	Briese	Hansen	Linehan	Slama
Armendariz	Clements	Hardin	Lippincott	von Gillern
Ballard	DeKay	Holdcroft	Lowe	
Bosn	Dorn	Hughes	McDonnell	
Bostelman	Dover	Ibach	Moser	

Voting in the negative, 15:

Blood	Cavanaugh, M.	DeBoer	Hunt	Vargas
Bostar	Conrad	Dungan	McKinney	Walz
Cavanaugh, J.	Day	Fredrickson	Raybould	Wishart

Present and not voting, 2:

Riepe Wayne

The Albrecht motion to invoke cloture failed with 32 ayes, 15 nays, and 2 present and not voting.

The Chair declared the call raised.

COMMITTEE REPORT

Enrollment and Review

LEGISLATIVE BILL 565A. Placed on Final Reading.
LEGISLATIVE BILL 753A. Placed on Final Reading.
LEGISLATIVE BILL 799. Placed on Final Reading.
LEGISLATIVE BILL 815. Placed on Final Reading.
LEGISLATIVE BILL 816. Placed on Final Reading.

LEGISLATIVE BILL 138A. Placed on Select File.
LEGISLATIVE BILL 243A. Placed on Select File.
LEGISLATIVE BILL 254A. Placed on Select File.
LEGISLATIVE BILL 583A. Placed on Select File.
LEGISLATIVE BILL 683A. Placed on Select File.
LEGISLATIVE BILL 754A. Placed on Select File.

(Signed) Beau Ballard, Chairperson

AMENDMENTS - Print in Journal

Senator Riepe filed the following amendment to LB282:
[AM1354](#) is available in the Bill Room.

Senator Riepe filed the following amendment to LB626:
[AM1407](#) is available in the Bill Room.

Senator Murman filed the following amendment to LB705:
[AM1528](#)

(Amendments to Standing Committee amendments, AM1468)

1 1. Insert the following new sections:
2 Sec. 65. Section 79-2,144, Revised Statutes Cumulative Supplement,
3 2022, is amended to read:
4 79-2,144 The state school security director appointed pursuant to
5 section 79-2,143 shall be responsible for providing leadership and
6 support for safety and security for the public schools. Duties of the
7 director include, but are not limited to:
8 (1) Collecting safety and security plans, required pursuant to rules
9 and regulations of the State Department of Education relating to
10 accreditation of schools, and other school security information from each
11 school system in Nebraska. School districts shall provide the state
12 school security director with the safety and security plans of the school
13 district and any other security information requested by the director,
14 but any plans or information submitted by a school district may be
15 withheld by the department pursuant to subdivision (9) of section
16 84-712.05;
17 (2) Recommending minimum standards for school security on or before
18 January 1, 2016, to the State Board of Education;
19 (3) Conducting an assessment of the security of each public school
20 building, which assessment shall be completed by August 31, 2019;
21 (4) Identifying deficiencies in school security based on the minimum
22 standards adopted by the State Board of Education and making
23 recommendations to school boards for remedying such deficiencies;
24 (5) Establishing security awareness and preparedness tools and
25 training programs for public school staff;
26 (6) Establishing research-based model instructional programs for

1 staff, students, and parents to address the underlying causes for violent
2 attacks on schools;
3 (7) Overseeing behavioral and mental health training, with a focus
4 on suicide awareness and prevention training in public schools pursuant
5 to section 79-2,146;
6 (8) Establishing tornado preparedness standards which shall include,
7 but not be limited to, ensuring that every school conducts at least two
8 tornado drills per year;
9 (9) Responding to inquiries and requests for assistance relating to
10 school security from private, denominational, and parochial schools;
11 (10) Recommending curricular and extracurricular materials to assist
12 school districts in preventing and responding to cyberbullying and
13 digital citizenship issues; and
14 (11) Carrying out the department's responsibilities under the School
15 Safety and Security Reporting System Act.
16 Sec. 66. Section 79-2,146, Reissue Revised Statutes of Nebraska, is
17 amended to read:
18 79-2,146 (1) Beginning in school year 2023-24 ~~2015-16~~, all public
19 school ~~employees who interact with students nurses, teachers, counselors,~~
20 ~~school psychologists, administrators, school social workers, and any~~
21 ~~other appropriate personnel, as determined by the school superintendent,~~
22 shall receive at least one hour of behavioral and mental health training
23 with a focus on suicide awareness and prevention training each year. Such
24 training may include, but need not be limited to, topics such as
25 identification of early warning signs and symptoms of behavioral and
26 mental health issues in students, appropriate and effective responses for
27 educators to student behavioral and mental health issues, trauma-informed
28 care, and procedures for making students and parents and guardians aware
29 of services and supports for behavioral and mental health issues. This
30 training shall be provided within the framework of existing inservice
31 training programs offered by the State Department of Education or as part
1 of required professional development activities.
2 (2) The department, in consultation with organizations including,
3 but not limited to, the Nebraska State Suicide Prevention Coalition, the
4 Nebraska chapter of the American Foundation for Suicide Prevention, the
5 Behavioral Health Education Center of Nebraska, the National Alliance on
6 Mental Illness Nebraska, and other organizations and professionals with
7 expertise in behavioral and mental health and suicide prevention, shall
8 develop a list of approved training materials to fulfill the requirements
9 of subsection (1) of this section. Such materials shall include training
10 on how to identify appropriate mental health services, both within the
11 school and also within the larger community, and when and how to refer
12 youth and their families to those services. Such materials may include
13 programs that can be completed through self-review of suitable behavioral
14 and mental health and suicide prevention materials.
15 (3) The department may adopt and promulgate rules and regulations to
16 carry out this section.
17 2. Correct the operative date and repealer sections so the sections
18 added by this amendment become operative three calendar months after the
19 adjournment of this legislative session.
20 3. Renumber the remaining sections and correct internal references
21 accordingly.

Senator Walz filed the following amendment to LB705:

FA78

Strike Section 1.

RESOLUTION

LEGISLATIVE RESOLUTION 117. Introduced by Sanders, 45.

WHEREAS, the Nebraska National Guard is a central part of our communities in Nebraska; and

WHEREAS, the Nebraska National Guard guided the state through historic flooding in 2019 and a worldwide pandemic in 2020; and

WHEREAS, the 2nd Battalion, 134th Infantry Regiment of the Nebraska National Guard was activated on November 2, 2019; and

WHEREAS, the 2nd Battalion, 134th Infantry Regiment was the first infantry battalion established by the Nebraska National Guard in two decades; and

WHEREAS, the unit will be deployed overseas in the Horn of Africa for approximately nine months; and

WHEREAS, on April 16, a farewell ceremony was held to celebrate the commitment and sacrifice of the members of the Nebraska National Guard.

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

1. That the Legislature congratulates the 2nd Battalion, 134th Infantry Regiment of the Nebraska National Guard on its accomplishments and its overseas deployment representing Nebraska across the world.

2. That a copy of this resolution be sent to the 2nd Battalion, 134th Infantry Regiment of the Nebraska National Guard.

Laid over.

UNANIMOUS CONSENT - Add Cointroducer

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

Senator Blood name added to LB480.

VISITORS

Visitors to the Chamber were elementary students and teachers from Creighton; sponsor, students and teachers from North Star High School, Lincoln; Mary von Gillern, Omaha; Larissa Schultz, Saunders County; students and teachers from Skutt High School, Omaha; Amy Van Kat, Omaha; students from Pius X High School, Lincoln.

The Doctor of the Day was Dr. Dave Hoelting of Pender.

ADJOURNMENT

At 3:09 p.m., on a motion by Senator Vargas, the Legislature adjourned until 9:00 a.m., Tuesday, May 2, 2023.

Brandon Metzler
Clerk of the Legislature