

# LEGISLATIVE BULLETIN

## LEAGUE OF NEBRASKA MUNICIPALITIES

108th Legislature, First Session

June 2, 2023 - Bulletin 22



### ITEMS OF INTEREST TO MUNICIPALITIES

- On June 1, the Legislature adjourned sine die, day 88 of a 90-day session. Due to filibustering throughout the session on LB 574, Speaker Arch encouraged committee chairs to include numerous bills in Committee Priority Bills; each committee is allowed to have two priority bills. Typically, only those bills unanimously supported by the committee were included in the committee's package of bills. **Fifty-six bills passed in the 2023 legislative session; although it is reported that there are 291 separate bills incorporated in these 56 bills, the Clerk of the Legislature's Office is in the process of confirming this number.** Unfortunately, some important bills that were unanimously advanced from committee were not included in any of the committee packages.
- **LB 531E:** Urban Affairs Committee package of bills passed on Final Reading with the emergency clause (37-8-4)
- **LB 727E:** Revenue Committee package of bills passed on Final Reading with the emergency clause (46-0-3)
- **LB 814E:** On May 31, the only successful veto override was to provide additional funding (\$1.2 million over two years) for the State Auditor's Office to increase salaries and add two positions; the motion supported by the League, NEDA, and others to override \$40 million for workforce housing was not successful

NOT ALL ITEMS OF INTEREST ARE INCLUDED ON THIS LIST.  
ALSO SEE THE REMAINDER OF THE LEGISLATIVE BULLETIN.

**The 108th Legislature, first session  
has adjourned sine die**



*The first session of the 108th Legislature adjourned sine die June 1, the 88th day of the scheduled 90-day session. The second session of the 108th Legislature is scheduled to convene Jan. 3, 2024.*

**2023  
LEGISLATIVE  
SESSION**



**LB 531E: Urban Affairs  
Committee package of bills  
passed on Final Reading with  
the emergency clause (37-8-4)**

**O**n June 1, LB 531E passed on Final Reading with 37 ayes, incorporating 12 other bills plus provisions added by AM1771 on Select File. The following eight Senators voted no: Albrecht, Bostelman, Clements, Erdman, Halloran, Hardin, Ibach, and Lowe; Sens. Riepe and Wayne were “present and not voting;” and Sens. Day and Hunt were “excused and not voting.” **The following 12 bills were incorporated into LB 531E: LBs 33, 45, 98, 170, 223, 329, 342, 346, 462, 474, 532, and 629.** In addition, AM1771, introduced by Omaha Sen. Mike McDonnell on Select File, amended

*Continued on page 3 / See LB 531*

**LB 727E: Revenue Committee package of bills passed  
on Final Reading with the emergency clause (46-0-3)**

**O**n June 1, the last day of the legislative session, LB 727E passed on Final Reading with the emergency clause with 46 ayes, Bennington Sen. Wendy DeBoer “present and not voting,” and Omaha Sens. Jen Day and Megan Hunt “excused and not voting.” **Gov. Pillen referenced passage and support for LB 727E in his closing remarks to the Legislature on June 1. In a written message to the Legislature on June 1, the Governor confirmed, “all bills presently on my desk will become law without my objections in the coming days.”**

LB 727 is a Revenue Committee Priority Bill which includes numerous bills supported by the Committee on an 8-0 vote. **Thanks to Elkhorn Sen. Lou Ann Linehan, Chair of the Revenue Committee, and other members of the Committee for including several League-supported bills into LB 727 with adoption of various amendments.**

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*Sen. Eliot Bostar  
District 29*



*Sen. Lou Ann Linehan  
District 39*

## LB 814E: On May 31, the only successful veto override was to provide additional funding (\$1.2 million over two years) for the State Auditor's Office to increase salaries and add two positions

The motion supported by the League, NEDA, and others to override \$40 million for workforce housing was not successful

**I**t takes 30 Senators voting in the affirmative to override a Governor's veto. On May 31, the only successful veto override was to provide additional funding (\$1.2 million over two years) for the State Auditor's Office to increase salaries and add two positions. Sens. Steve Erdman of Bayard and Wendy DeBoer of Bennington explained that staffing at the State Auditor's Office was reduced from about 60 to 40 individuals in recent years; in addition, State Auditor Mike Foley emphasized that his auditor's were going to other state agencies which could offer \$20,000-\$30,000 more per year due to a 22 percent pay increase for state employees effective July 1.

**Unfortunately, the motion supported by the League, NEDA, and other organizations to override the Governor's line-item veto of \$40 million for Workforce Housing Projects in rural and urban Nebraska was not suc-**

**cessful.** Thanks to the following 25 Senators who voted in support of this motion: Aguilar, Blood, Bostar, Brandt, J. Cavanaugh, M. Cavanaugh, Conrad, Day, DeBoer, Dorn, Dungan, Fredrickson, Hardin, Hughes, Hunt, Lippincott, McDonnell, McKinney, Raybould, Riepe, Slama, Vargas, Walz, Wayne, and Wishart. All other Senators voted in opposition to the override motion except for Norfolk Sen. Rob Dover, who was present and not voting.

**A special thanks to Sens. Aguilar, Blood, Brandt, Hughes, Ibach, Lippincott, McDonnell, Raybould, Vargas, and Walz** who presented excellent information and compelling arguments in support of the motion to override the Governor's veto relating to workforce housing. **Thanks to the many municipal officials who took time from their busy schedules to contact their Senator(s) on short notice asking them to support this override motion.**

### BACKGROUND

As reported in *Bulletin 21*, the Appropriations Committee  
*Continued on page 6 / See LB 814*

## LB 531

*Continued from page 2*

Section 84-12,221 relating to the Shovel-Ready Capital Recovery and Investment Act; AM1771 was not a separate bill. **In a written message to the Legislature on June 1, the Governor confirmed, "all bills presently on my desk will become law without my objections in the coming days."**

LB 531, introduced by Omaha **Sen. Terrell McKinney**, Chair of the Urban Affairs Committee, allocates over \$300 million to entities in North and South Omaha to respond to the negative impact of the COVID-19 public health emergency and to "build resilient and innovative communities." LB 531 cleans up language in the Economic Recovery Act (LB 1024 (2022)) by removing certain requirements relating to coordinated plans and directing

direct investment to the fund after July 1, 2023.

As passed on Final Reading, LB 531 amends numerous provisions to create the Revitalize Rural Nebraska Grant Program and the Revitalize Rural Nebraska Fund and provide powers and duties for the Department of Environment and Energy; to change provisions relating to voting powers of mayors of cities of the first class and cities of the second class; to change provisions relating to extremely blighted areas, substandard and blighted areas, redevelopment projects and plans, reports, housing studies, allocation of funds, and expedited reviews and provide for designation reviews and removals under the Community Development Law; to redefine terms under the Local Option Municipal Economic Development



*Sen. Terrell McKinney  
District 11*

Act and the Nebraska Investment Finance Authority Act; to change and provide reporting requirements under the Municipal Density and Missing Middle Housing Act; to change provisions of the Perkins County Canal Project Fund and the Nebraska Capital Construction Fund relating to investment earnings; to provide a state building code

*Continued on page 7 / See LB 531*



**LB 727***Continued from page 2*

Thanks again to Lincoln **Sen. Eliot Bostar** and other members of the Revenue Committee who voted on April 17 to include in AM1396 (*Amendments to the Standing Committee Amendments adopted on General File*) the provisions of a negotiated agreement between the League and the Nebraska Arts Council to provide maximum flexibility to the Nebraska Arts Council in distributing funds from state turnback tax to municipalities with “certified creative districts,” including the Civic and Community Center Financing Fund (CCCCF) grants in FY 23-24. Due to passage of LB 927 in the 2022 session, only municipalities with “certified creative districts” are eligible to receive CCCFF grants in FY 23-24; this eligibility requirement for CCCFF grants relating to “certified creative districts” will not apply after FY 23-24. In addition to cities of the first class, the amendments also expand municipalities eligible to receive funds under the *Support the Arts Cash Fund* to include cities of the second class and villages.

**BACKGROUND**

When LB 727 was considered on **General File on May 16**, **there were 20 bills incorporated into LB 727 with adoption of AM1152 (the Standing Committee Amendments) and provisions of another eight bills incorporated into LB 727 with adoption of AM1396 (Amendments to the Standing Committee Amendments).** On May 16, LB 727 as amended on General File was then advanced to “Enrollment and Review Initial” with 44 votes. LB 727 was placed on **Select File on May 18** (with Enrollment and Review Amendments/ER34). **ER34 is 175 pages which includes AM1152 (the Standing Committee Amendments which are 139 pages) as amended by AM1396 adopted on General File on May 16. (AM1396 is 51 pages.) On May 23, the Legislature debated LB 727 (ER34) on Select File.** Following adoption of ER34, AM1905 (*which is 152 pages*), filed by Sen. Linehan, was adopted amending ER34 by striking the original sections and amendments and inserting essentially a “white copy” of LB 727 which Sen. Linehan referred to as a “slimmed-down version” of the bill to reduce the fiscal note. Before LB 727 advanced to Final Reading on a voice vote, Omaha **Sen. Christy Armendariz** also successfully

amended ER34 with AM1942, a two-page amendment relating to American Rescue Plan (ARP) Act grants in the City of Omaha.

**These are the 20 bills included in LB 727 with adoption of AM1152 (the Standing Committee Amendments adopted on General File) also included in AM1905 adopted on Select File: LBs 74, 96, 100, 118, 165, 180, 300, 344, 384, 407, 447, 491, 495, 580, 584, 692, 697, 704, 706, and 732. The following bills are League supported or of interest to municipalities:**

**LB 100** (Erdman) amends the **Imagine Nebraska Act** to include locations when the primary business activities are waste treatment and disposal; this bill was introduced by Sen. Erdman on behalf of the City of Kimball and Kimball County.

**LB 384** (Bostar) creates, funds, and regulates the spending of a newly formed **Department of Transportation Aeronautics Capital Improvement Fund**. The bill turns back sales taxes relating to aeronautics sales; LB 384 was supported by the City of Blair, Blair Airport Authority, Nebraska Aeronautics Commission, and others.

**LB 447** (Bostar) amends current law to allow retired firefighters **a deduction for health insurance premiums paid and to allow for tuition waivers for firefighters and dependents of law enforcement officers and firefighters.** LB 447 was introduced on behalf of the Nebraska Professional Fire Fighters Association, Nebraska Sheriffs Association, Police Chiefs Association of Nebraska, Police Officers Association of Nebraska, the League of Nebraska Municipalities, Nebraska Association of County Officials, and several other organizations.

**LB 580** (Holdcroft) as amended by AM634 eliminates **special requirements for agricultural or horticultural land of five acres or more** in sanitary improvement districts (SIDs), cities, or villages required to receive special valuation under the statutes; AM634 adds an effective date retroactive to Jan. 1, 2023.

**LB 692** (Linehan) as amended by AM1012 creates the **Good Life Transformational Projects Act**, establishing a new statutory system to allow for a reduced state sales tax rate on any transactions occurring within a “good life district” that meet certain benchmarks. At the March

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**LB 727***Continued from page 4*

8 hearing before the Revenue Committee on LB 692, AM1012 replaced the original bill, keeping the concept of “good life districts” and adding a revised schedule of required investments, requiring new jobs, and requiring apparent sales from outside the state for different municipalities as shown below: **Project eligibility** is contingent on the following: **Development costs:** (i) \$1 billion if the project will be located in a city of the metropolitan class; (ii) \$750 million if the project will be located in a city of the primary class; (iii) \$500 million if the project will be located in a city of the first class, city of the second class, or village within a county with a population of 100,000 inhabitants or more; or (iv) \$100 million if the project will be located in a city of the first class, city of the second class, or village within a county with a population of less than 100,000 inhabitants. **Jobs created:** (i) 1,000 new jobs if the project will be located in a city of the metropolitan class; (ii) 500 new jobs if the project will be located in a city of the primary class; (iii) 250 new jobs if the project will be located in a city of the first class, city of the second class, or village within a county with a population of 100,000 inhabitants or more; or (iv) 50 new jobs if the project will be located in a city of the first class, city of the second class, or village within a county with a population of less than 100,000 inhabitants. *The League testified in a neutral capacity on LB 692. Representatives of the City of Gretna, Sarpy County, and others testified in support. No one testified in opposition to LB 692.*

**LB 697** (Conrad) as amended by the Committee would amend provisions of the **Nebraska Job Creation and Mainstreet Revitalization Act**. The bill redefines historically significant real property to include at-grade or above ground structures. The bill redefines improvement to include projects with a total cost which equals or exceeds \$5,000. LB 697 also seeks to change the amount of nonrefundable credits being equal to 20% of eligible expenditures up to a maximum credit of \$1 million to the following: For historically significant real property located in a county that includes a city of the metropolitan class or a city of the primary class, the credit would be equal to 25% of eligible expenditures. For historically significant real property located in any other county, the credit would be equal to 30% of eligible expenditures. In all cases, the maximum credit allocated to any one project would be \$2 million.

**LB 706** (Moser) as amended by AM692 creates new statutes under the **Build Nebraska Act to allow the state to issue bonds up to \$450 million**, with a provision for \$35 million

annually for debt service, for new roads projects, and harmonizes corresponding statutes to reflect the new sections. AM692 added a provision to extend the sunset date of the Build Nebraska Act to match with the sunset date of the new bonding under LB 706.

*As noted above, on May 16, AM1152 (the Standing Committee Amendments) as amended by AM1396 (Amendments to the Standing Committee Amendments adopted on General File) incorporated some provisions of an additional eight bills: LBs 4, 97, 505, 529, 622, 623, 732, and 809. The following bills are League supported or of interest to municipalities:*

**LB 732** (Bostar) as amended changes the **Convention Center Facility Financing Assistance Act** to extend the date for applications for assistance under the Act from Dec. 31, 2012, to Dec. 31, 2030; this provision relates to a proposed convention center in Lincoln. An amendment also was adopted to incorporate some of the provisions of LB 797, introduced by Sen. Wayne on behalf of the City of Omaha, to include the definition of “nearby retailer” to collect receipts within 600 yards of a “program area”; the amendment also defines a “program area” by a map or maps submitted with an application, applying such changes for collection of such state sales tax. *(AM1905 adopted on Select File requires Omaha and Lincoln to file applications to collect such receipts of “nearby retailers”; consequently, LB 732 has no fiscal note.)*

**Some provisions of LB 622** (McDonnell) **and LB 623** (McDonnell) are included in the amendment to change the **Sports Arena Facility Financing Assistance Act**. *(LB 622 as amended by AM755 and LB 623 as amended by AM824 include a few key provisions of LB 803 (von Gillern).)* Provisions of LB 622 relating to turnback tax for “Union Omaha” for a soccer complex were NOT INCLUDED in any amendments adopted to LB 727; however, **Sections 1, 5, and 6 of AM755 to LB 622 include the negotiated agreement between the League and the Nebraska Arts Council supported by the Revenue Committee and included in AM1396 (Amendments to the Standing Committee Amendments) adopted on General File as well as AM1905 adopted on Select File.** At the hearing on LB 623 on March 16, Sen. McDonnell offered AM824 to LB 623 supported by the Committee for “Steelhouse Omaha,” and other privately owned music venues, to authorize municipalities to use state turnback tax ONLY for grants promoting

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## LB 814

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**on a 5-4 vote decided to try to override the following budget vetoes:** 1) rate increases of more than \$45 million for hospitals and nursing homes that provide Medicaid; 2) \$40 million for Workforce Housing Projects in rural and urban Nebraska; and 3) \$1.2 million over two years for salary increases and two additional staff members in State Auditor Mike Foley's office. The Appropriations Committee decided not to pursue overrides on Gov. Pillen's other budget line-item vetoes. **Although unsuccessful, other Senators filed numerous motions to try to override other line-item vetoes.**

On May 24, Gov. Pillen sent a letter to the President, Speaker and Members of the Legislature outlining his **line-item vetoes relating to the state budget**. [Click here](#) for the letter. **Please note the following paragraph included in his letter:** "To preserve our Cash Reserve Fund, I have vetoed \$10 million cash fund appropriation in FY 2023-24 and FY 2024-25 for **Rural Workforce Housing** and \$10 million cash fund appropriation in FY 2023-24 and FY 2024-25 for **Middle Income Housing**. This will preserve our reserve funds and avoid flooding the housing market with government subsidization. We have invested more than \$200 million in affordable housing over the past three years and Nebraska housing developers are busy leveraging this substantial investment to build up our supply of affordable housing in the State of Nebraska." ■



Sen. Raymond Aguilar  
District 35



Sen. Mike McDonnell  
District 5



Sen. Loren Lippincott  
District 34



Sen. Jane Raybould  
District 28

## LB 727

*Continued from page 5*

the arts and cultural events open to the general public, but NOT for any capital improvements since it is privately owned; such state turnback tax could also be used for any "nearby parking facility" that is PUBLICLY OWNED. The Cities of Omaha and La Vista likely will be two of the first municipalities applying for turnback tax pursuant to these provisions which expand the definition of eligible sports arena facility to include a privately owned concert venue for funding grants to promote the arts and cultural events open to the general public or "nearby parking facilities" that are publicly owned. *(Although the definition of political subdivision in AM1396 was expanded to include a joint entity formed under the Interlocal Cooperation Act to include a city, village, or county as a member, these provisions were stricken from LB 727 with adoption of*

*AM1905 on Select File.)*

**LB 529** (Hansen) as amended changes the **Property Tax Request Act** (*sometimes referred to as the "postcard bill"*). At least one elected official from the municipality must attend the joint hearing and that elected official may be the designated representative. If the city has a quorum of elected officials present at the joint hearing, it does not violate the Open Meetings Act. The joint hearing will be held on or after September 14 and prior to September 24. If a city is participating in a joint public hearing, it is required to send information electronically to the county assessor by September 4. Each city is required to maintain a "prominently displayed and easily accessible link" on its website of its proposed budget. This requirement does not apply to a city with a population of less than 1,000 inhabitants. ■



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**LB 531**

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exception under the Building Construction Act; to change home inspection provisions as prescribed; to redefine terms and change provisions relating to grant qualifications, fund use, duties, and Department of Economic Development powers under the Middle Income Workforce Housing Investment Act; to change provisions relating to iHub applications, designations, and locations under the Nebraska Innovation Hub Act; to change project and matching funds provisions under the Nebraska Rural Projects Act; to redefine a term, change provisions relating to grant application, approval, and acceptance requirements, and restate legislative intent for funding under the Shovel-Ready Capital Recovery and Investment Act; to define a term and create the North and South Omaha Recovery Grant Program under the Economic Recovery Act; to change provisions of the Economic Recovery Act relating to powers and duties of the Economic Recovery and Incentives Division of the Department of Economic Development, allocation and use of grant funds, legislative intent for appropriations, and credits and transfers to the Economic Recovery Contingency Fund; to transfer funds from the Cash Reserve Fund; to require the Game and Parks Commission to construct, develop, and manage a Chief Standing Bear museum and visitor center and acquire, rehabilitate, and manage the Mayhew Cabin historical site.

**BACKGROUND**

**On General File**, two bills of interest to municipalities were attached to LB 531 through AM1222. One bill was **LB 506** which appropriates \$180 million to the Nebraska Department of Natural Resources to assist the city of Lincoln in securing their second water source. Lincoln Sen. Eliot Bostar introduced LB 506 to help pay for costs such as a water treatment plan; water treatment, transmission, and distribution in furtherance of supplying additional water; land acquisition; permitting; wellfield; and pumping and transportation of water over 25 miles for the purpose of providing potable water. Sen. Bostar has indicated that other municipalities have expressed interest in joining in this project to create a regional water supply network. **LB 769**, introduced by Bellevue Sen. Rick Holdcroft, also was amended into LB 531 on the first round of debate. LB 769 provides grants to an entity formed under the Interlocal Cooperation Act to

fund a portion of the cost of constructing a wastewater system. The amendment appropriates \$15 million to the Shovel-Ready Capitol Recovery and Investment Fund for funding to construct such a project. **These two bills were deleted from LB 531 by AM1880 adopted on Select File; LB 769 was amended into LB 814 and LB 506 was NOT amended into another bill but the funding is included in the state budget package of bills.**

**On Select File**, the additional amendments were filed to LB 531 that included the following bills of interest to municipalities:

**LB 33 (Jacobson):** Under the provisions of LB 33, a mayor in a city of the first class or a city of the second class can vote on any matter that requires either a majority of the city council or a majority vote of all the elected members of the city council if: (a) The mayor's vote is required due to the city council being equally divided (in other words, when there is a tie) or (b) A majority of the city council or majority of all the elected members cannot be reached due to absence, vacancy, or abstention of one or more city council members.

**LB 45 (Dorn):** LB 45 establishes the Revitalize Rural Nebraska Grant Program. Cities of the first class, second class, and villages may apply for a grant with the Department of Environment and Energy to demolish dilapidated commercial property, with priority given to cities of the second class and villages. The amendment allocates \$1 million for fiscal year 2023-24.

**LB 98 (Jacobson):** The provisions of LB 98 focus on micro-TIF and include changes relating to substandard and blighted declarations, allowing municipalities to establish an annual limit on the number of micro-TIF plans approved, removing the requirement that building permits be submitted with the micro-TIF application, allowing the governing body to determine whether to approve or deny the micro-TIF application, outlining reasons to deny a micro-TIF application, changing provisions relating to indebtedness, and allowing a city to revoke the resolution approving micro-TIF.

**LB 170 (McKinney):** LB 170 redefines blighted area under the Nebraska Investment Finance Authority Act with the same definition included in the Community Development Law.

**LB 223 (McKinney):** LB 223 concerns the Municipal Density and Missing Middle Housing Act. It requires

*Continued on page 8 / See LB 531*

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**LB 531**

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each city that adopts an affordable housing action plan to electronically submit their plan to the Urban Affairs Committee. The bill also requires cities to include in their report efforts to implement an affordable housing action after such plan is adopted.

**LB 346 (Brandt):** This bill amends the Local Option Municipal Economic Development Act (LB 840 plans). Under current law, if a municipality is under 2,500 in population, the definition of qualifying business is much broader to include a business that derives its principal source of income from activities other than those specifically listed in the Act. LB 346 increases that number from 2,500

or less inhabitants to 5,000 or less inhabitants.

**LB 532 (McKinney):** LB 532, as amended, includes provisions relating to: designation of an extremely blighted area to be valid for no less than 25 years; allowing cities or authorities to develop guidelines for the consideration of redevelopment projects; including in the report to the governing body information on the estimated amount of outstanding indebtedness for each redevelopment project and the estimated date it will be paid in full; providing that TIF funds in a city of the metropolitan class used for new construction of housing for households below the median income within 600 yards of a streetcar or for single-family

housing or condominiums are deemed related to the redevelopment project; outlining the process for “de-blighting” an area that has been declared substandard and blighted or extremely blighted; and beginning Jan. 1, 2026, prohibiting new redevelopment plans in an area declared substandard and blighted for more than 30 years unless the city conducts a new study or analysis to determine if the area continues to qualify as substandard and blighted or extremely blighted. Also included in LB 532 is a provision that for cities other than Omaha, the housing study required to use TIF to construct workforce housing must be current within 60 months. Omaha will still need a housing study within 24 months. ■