

# LEGISLATIVE BULLETIN

## LEAGUE OF NEBRASKA MUNICIPALITIES

108th Legislature, First Session

May 26, 2023 - Bulletin 21



### ITEMS OF INTEREST TO MUNICIPALITIES

- **LB 814e and LB 818e:** 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.”*

**On a 5-4 vote, the Appropriations Committee 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) funding for 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. Speaker Arch said the veto overrides will be considered on May 31.

- **2023 interim study resolutions of interest to municipalities**
- **LB 565: Natural Resources Committee Christmas tree bill adopted**
- **LB 683: Broadband Office bill adopted with one-call and more**

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

## LB 727: Revenue Committee package of bills advanced to Final Reading

On May 23, LB 727 was considered on Select File and advanced to Final Reading on a voice vote following adoption of ER34, AM1905, and AM1942. 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.**

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**

*Continued on page 6 / See LB 727*



*Sen. Lou Ann Linehan  
District 39*



*Sen. Eliot Bostar  
District 29*

## LB 565: Natural Resources Committee Christmas tree bill adopted

On May 23, the Legislature adopted and presented to the Governor **LB 565**. Numerous bills that were heard before the Natural Resources Committee were amended into LB 565 which was named a Natural Resources Committee priority bill. The original LB 565 would fund steps necessary to continue forward with competition for designation by the U.S. Department of Energy as one of four regional locations sought for a clean hydrogen hub.

Among the amendments to LB 565 was the contents of LB 289 which would authorize the Municipal Energy Agency of

*Continued on page 6 / See Resources*

## 2023 LEGISLATIVE SESSION



## 2023 interim study resolutions of interest to municipalities

Last week was the deadline for Senators to file interim study resolutions. Many interim studies introduced relate to municipalities. For example, there are studies relating to entertainment districts, affordable housing, wildfires, retirement systems for firefighters of cities of the first class, municipal solid waste, occupation taxes imposed on wireless telecommunication services, broadband and potholes.

After the Legislature adjourns in June, standing committees will begin to hold meetings and public hearings on these interim studies. The League will keep municipalities updated on when those hearings are scheduled.

Below is a list of interim studies that may be of interest to municipalities. To review all the interim study resolutions introduced, please visit the Unicameral's website at [nebraskalegislature.gov](http://nebraskalegislature.gov).

**LR 103 (Lowe)** Interim study to examine entertainment district licenses issued under the Nebraska Liquor Control Act

**LR 123 (Banking, Commerce and Insurance Committee)** Interim study to examine the economic impact of manufacturing and processing in Nebraska and to examine the role advanced manufacturing and smart technologies can play in increasing productivity and economic growth

**LR 124 (Conrad)** Interim study to examine the scope of collateral consequences

*Continued on page 4 / See Studies*

# LB 683: Broadband Office bill adopted with one-call and more

On May 23, **LB 683** originally introduced by Senator Suzanne Geist of Lincoln to create the Broadband Office within the Department of Transportation was adopted by the Legislature and presented to the Governor for his signature. **Sen. Mike Moser** of Columbus took over management of the bill upon Senator Geist's resignation.

The purpose of 683 is to create the Broadband Office within the Department of Transportation with the Director to be appointed by

the Governor and approved by the Legislature.

The Broadband Office is to:

- Engage in outreach and collaborate with all interested parties;
- Develop a broadband strategic plan for the state;
- Coordinate the broadband activity of all state entities that maximizes all public and private resources and encourages innovative models of infrastructure ownership;
- Coordinate state agencies on



*Sen. Mike Moser  
District 22*

policy matters affecting the use of federal and state funding for broadband purposes;

- Provide state advocacy of broadband issues on the federal level;
- Ensure funding is utilized in a cost effective manner;

*Continued on page 5 / See Broadband*

## 2023 Legislative Session\*

Sun	Mon	Tue	Wed	Thur	Fri	Sat
<b>May</b>						
	1 RECESS	2 DAY 70	3 DAY 71	4 DAY 72	5 DAY 73	6
7	8 DAY 74	9 DAY 75	10 DAY 76	11 DAY 77	12 RECESS	13
14	15 RECESS	16 DAY 78	17 DAY 79	18 DAY 80	19 DAY 81	20
21	22 DAY 82	23 DAY 83	24 DAY 84	25 DAY 85	26 RECESS	27
28	29 HOLIDAY	30 DAY 86	31 DAY 87			
<b>Legislative Recess Days</b>						
February 6, 17, 27						
March 10, 17, 20, 27						
April 7, 10, 21, 24						
May 1, 12, 15, 26						
June 5, 6, 7, 8						

Sun	Mon	Tue	Wed	Thur	Fri	Sat
<b>June</b>						
				1 DAY 88	2 DAY 89	3
4	5 RECESS	6 RECESS	7 RECESS	8 RECESS	9 DAY 90	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	
<b>Federal &amp; State Holidays</b>						
January 16 – Martin Luther King Jr. Day						
February 20 – Presidents' Day						
April 28 – Arbor Day						
May 29 – Memorial Day						

\* The Speaker reserves the right to revise the session calendar.

## Studies

*Continued from page 2*

of criminal law violations in Nebraska in employment, housing, licensure, and other categories

**LR 130 (Ballard)** Interim study to examine the potential construction of the proposed East Beltway administered jointly by the City of Lincoln and Lancaster County

**LR 138 (McKinney)** Interim study to examine the meaning of affordable housing in Nebraska

**LR 141 (McKinney)** Interim study to examine the reports received under the Municipal Density and Missing Middle Housing Act

**LR 156 (McDonnell)** Interim study to examine the firefighting response to wildfires in Nebraska

**LR 158 (McDonnell)** Interim study to carry out the provisions of section 13-2402, which requires the Nebraska Retirement Systems Committee to monitor underfunded defined benefit plans

**LR 159 (McDonnell)** Interim study to examine the retirement system for firefighters of cities of the first class and the creation of a cash balance retirement system

**LR 160 (McDonnell)** Interim study to examine the retirement system for firefighters of cities of the first class and the changes proposed in LB 406, 2023

**LR 163 (Hughes)** Interim study to examine opportunities to increase recycling of municipal solid waste

**LR 172 (Vargas)** Interim study to examine the occupation taxes imposed on wireless telecommunications services

**LR 178 (Brewer)** Interim study to create a Select Committee to examine the feasibility of constructing and operating small modular nuclear reactors to generate electric power in Nebraska

**LR 184 (Moser)** Interim study to examine the deployment of broadband services within the State of Nebraska

**LR 189 (Day)** Interim study to examine issues regarding potholes and road maintenance in Nebraska municipalities

**LR 193 (McDonnell)** Interim study to research and

explore employee privacy concerns related to digital tracking in nonemergency situations

**LR 195 (McDonnell)** Interim study to conduct a comprehensive examination of Nebraska's state highway system and the priorities and resource allocation methods for the system

**LR 197 (McDonnell)** Interim study to conduct a comprehensive examination of the need for Nebraska to foster development of large industrial and commercial business sites

**LR 198 (McDonnell)** Interim study to explore support and supplemental funding for public and nonprofit providers of emergency medical services

**LR 203 (Dorn)** Interim study to review how the State of Nebraska can ensure it has effective emergency

medical services in rural communities

**LR 238 (McDonnell)** Interim study to examine the location of recreational vehicle parks, entertainment venues, and other recreational development and the impact of zoning regulations related to flooding on locating such facilities

**LR 239 (McDonnell)** Interim study to explore the feasibility and benefits of requiring wireless interconnected fire alarms in residential dwellings, similar to an ordinance passed by the City of Norfolk, to enhance fire safety and early warning systems for residents

**LR 242 (Jacobson)** Interim study to examine methods to promote the development of a competitive electric vehicle charging market in Nebraska and the creation of electric infrastructure to support such market

**LR 247 (Cavanaugh, J)** Interim study to examine issues raised in LB 133, 2023, relating to laws regarding the use of eminent domain by state agencies, boards, commissions, and other political subdivisions

**LR 248 (Cavanaugh, J)** Interim study to survey Nebraska's small public electric utilities, municipalities, and electric cooperatives relating to rate classifications and equipment

**LR 250 (McDonnell)** Interim study to consider changes to the Property Assessed Clean Energy Act and to property assessed clean energy financing for real estate development projects ■





## Broadband

*Continued from page 3*

- Oversee the coordination of programs for schools and libraries and digital inclusion and equity projects; and
- Provide public information and resources.

LB 683 was supported by the League because of the possibility of expanded technical assistance for villages and cities that want to improve local broadband. LB 683 also was supported by the Nebraska Department of Transportation, the Nebraska Rural Broadband Alliance, the Nebraska Farm Bureau, the Nebraska Cattlemen, the Nebraska Corn Growers Association, the Nebraska Pork Producers Association, the Nebraska Soybean Association, the Nebraska State Dairy Association, the Nebraska Wheat Growers Association, Renewable Fuels Nebraska and others.

The amended LB 683 also contains an amended version of LB 122 related to the one-call system. The amendment has two main concepts. First, the amendment attempts to address the issue of repeat locate requests. The amendment would make it a violation of the act to request a locate if work cannot be commenced within 17 days, or request a relocate if work cannot be commenced within 14 days. This was put in at the request of the League, the Rural Electric Association, OPPD, the gas companies and many others.

The second concept forms what is being called the “One-Call Hit Court” that will have authority to deal with small one-call disputes when infrastructure is damaged.

The amendment creates the Underground Excavation Safety Committee (the Hit Court) comprised of five members:

- State Fire Marshal (or designee)
- Two Operators (underground facility owners)
- Two Excavators

The duty of the Committee will be to review complaints of One-Call Act violations, determine if violations have occurred, and determine if a civil penalty should be assessed when a violation has occurred.

If the recommended civil penalty is less than \$10,000, a process is initiated where the party can pay the fine or request a hearing under the APA, etc. The Committee can require continuing education for a violator.

If the recommended civil penalty exceeds \$10,000, the matter shall be referred to the Attorney General for prosecution.

The amended LB 683 also contains the substantially amended contents of LB 63, introduced by Sen. Eliot Bostar from Lincoln. LB 63 prohibits a telecommunication company from receiving support from the Nebraska Universal Service Fund if said company is using or providing any communications equipment, or service deemed to pose a threat to national security according to the Public Safety and Homeland Security Bureau of the Federal Communications Commission. The amended version adds that when the removing, discontinuing, or replacing the identified security threat communications equipment the company does not need to obtain any additional permits from any state agency or political subdivision if the state agency or political subdivision is properly notified of the necessary replacements and the replacement of any communications equipment is similar to the existing commu-

nications equipment. Sen. Bostar indicated in his testimony that the term “similar” meant at a minimum that the equipment could not be larger or heavier. Thus, if the equipment is larger, heavier, or dissimilar in other ways, the company can be required to obtain permits. Senator Bostar also indicated that it appears that only one company in Nebraska currently has any equipment deemed to pose a threat to national security.

The amended LB 683 also contains the provisions of LB 155 supported by the City of Omaha and the League. LB 155 clarifies that a fiber optic project in Omaha does not fall under the provisions of the Small Wireless Facilities Deployment Act.

The amended LB 683 also contains the provisions of LB 722 supported by the League and others. LB 722 would clarify that the Public Service Commission has authority to oversee the smooth transition of services to telecommunications ratepayers and broadband customers when a telecommunications carrier that wants to provide service in the territory of another provider purchases the infrastructure to serve those customers.

The amended LB 683 also contains the provisions of LB 359 which changes some of the deadlines in the Broadband Bridge Act.

The amended LB 683 now contains the provisions of the original LB 412 which provides clarification on how the Public Service Commission can distribute broadband grants to areas surrounding cities of the second class and villages. There was some confusion created by the language in LB 1024 from last year’s legislative session. ■

## LB 727

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**the Civic and Community Center Financing Fund (CCCFF) 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.

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.

### BACKGROUND

**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:**

*Continued on page 7 / See LB 727*

## Resources

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Nebraska (MEAN) to provide service to members such as advanced metering and cybersecurity. MEAN was formed under the Municipal Cooperative Financing Act and in order to provide these services to municipalities, MEAN needed specific statutory authority. A city or village already has the authority to provide these services on their own but many cities and villages want to participate and manage these services on a cooperative basis through MEAN.

The language of LB 289 now amended into LB 565 was supported by NMPP Energy, Crete City Administrator Tom Ourada, the League of Nebraska

Municipalities, and the Nebraska Power Association. There were no opponents to LB 289.

Also, among the amendments to LB 565 was the language of the original LB 567 which would strike the prohibition on a high-level manager employed by a public power district from serving as a member of the board of directors of another public power district. A high-level manager is defined as a person employed by a district who serves in a high-level managerial position, including chief executive officer, president, vice president, chief financial officer, chief operations officer, general manager, or assistant general manager. The original LB 567 also adds a definition of reliable

or reliability. This definition does not constitute a new standard for an electric supplier. Finally, the bill would add language regarding information that may be requested by the Nebraska Power Review Board for the annual load and capability report that is submitted to the Power Review Board on behalf of the electric suppliers in the state.

Also among the amendments was the language of the original LB 217 which would extend the sunset date for new scrap tire projects for the purposes of disbursing grants from the Waste Reduction and Recycling Incentive Fund from 2024 to 2029. ■

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**LB 727**

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**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 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*

*Continued on page 8 / See LB 727*

**LB 727***Continued from page 7*

*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 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. ■