

FORTIETH DAY - MARCH 12, 2020**LEGISLATIVE JOURNAL****ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION****FORTIETH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, March 12, 2020

PRAYER

The prayer was offered by Dr. Barry Kennard, Lakeside Community Church of the Nazarene, Hastings.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Foley presiding.

The roll was called and all members were present except Senators Blood, Brewer, DeBoer, Erdman, Gragert, and Groene who were excused; and Senators Cavanaugh, B. Hansen, M. Hansen, Morfeld, Pansing Brooks, and Scheer who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-ninth day was approved.

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of March 11, 2020, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Radcliffe, Walter H. of Radcliffe Gilbertson & Brady
CIOX Health, LLC c/o MultiState Associates, Inc.

REPORTS

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

RESOLUTION(S)

Pursuant to Rule 4, Sec. 5(b), LRs 334, 335, and 336 were adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 334, 335, and 336.

GENERAL FILE

LEGISLATIVE BILL 911A. Title read. Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 3 present and not voting, and 12 excused and not voting.

LEGISLATIVE BILL 965A. Title read. Considered.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 1 present and not voting, and 12 excused and not voting.

LEGISLATIVE BILL 1185A. Title read. Considered.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 2 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 1008. Title read. Considered.

Committee [AM2737](#), found on page 887, was offered.

Senator Stinner offered the following amendment to the committee amendment:

[AM2911](#)

(Amendments to Standing Committee amendments, AM2737)

1 1. On page 7, line 26, strike "equally".

2 2. On page 14, line 16, strike "15,001,413" and insert "15,051,574".

SENATOR HUGHES PRESIDING

Pending.

COMMITTEE REPORT(S)
Enrollment and Review

LEGISLATIVE BILL 911A. Placed on Select File.
LEGISLATIVE BILL 965A. Placed on Select File.
LEGISLATIVE BILL 1185A. Placed on Select File.

(Signed) Julie Slama, Chairperson

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

Monday, March 23, 2020 1:00 p.m.

Sandra Torres - Nebraska Rural Health Advisory Commission
Martin L. Fattig - Nebraska Rural Health Advisory Commission
April J. Dexter - Nebraska Rural Health Advisory Commission

Tuesday, March 24, 2020 1:00 p.m.

Lynette Kramer - Nebraska Rural Health Advisory Commission
Jessye A. Goertz - Nebraska Rural Health Advisory Commission
Carolyn Petersen - Board of Emergency Medical Services

Wednesday, March 25, 2020 1:00 p.m.

Stephanie Beasley - Division of Children and Family Services

(Signed) Sara Howard, Chairperson

COMMITTEE REPORT(S)
Health and Human Services

LEGISLATIVE BILL 783. Placed on General File with amendment.
[AM2775](#)

1 1. Strike the original sections and insert the following new
2 sections:
3 Section 1. Section 38-2025, Revised Statutes Cumulative Supplement,
4 2018, is amended to read:
5 38-2025 The following classes of persons shall not be construed to
6 be engaged in the unauthorized practice of medicine:
7 (1) Persons rendering gratuitous services in cases of emergency;
8 (2) Persons administering ordinary household remedies;
9 (3) The members of any church practicing its religious tenets,
10 except that they shall not prescribe or administer drugs or medicines,
11 perform surgical or physical operations, nor assume the title of or hold
12 themselves out to be physicians, and such members shall not be exempt
13 from the quarantine laws of this state;
14 (4) Students of medicine who are studying in an accredited school or
15 college of medicine and who gratuitously prescribe for and treat disease
16 under the supervision of a licensed physician;
17 (5) Physicians who serve in the armed forces of the United States or
18 the United States Public Health Service or who are employed by the United

19 States Department of Veterans Affairs or other federal agencies, if their
20 practice is limited to that service or employment;

21 (6) Physicians who are licensed in good standing to practice
22 medicine under the laws of another state when incidentally called into
23 this state or contacted via electronic or other medium for consultation
24 with a physician licensed in this state. For purposes of this
25 subdivision, consultation means evaluating the medical data of the
26 patient as provided by the treating physician and rendering a
27 recommendation to such treating physician as to the method of treatment
1 or analysis of the data. The interpretation of a radiological image by a
2 physician who specializes in radiology is not a consultation;

3 (7) Physicians who are licensed in good standing to practice
4 medicine in another state but who, from such other state, order
5 diagnostic or therapeutic services on an irregular or occasional basis,
6 to be provided to an individual in this state, if such physicians do not
7 maintain and are not furnished for regular use within this state any
8 office or other place for the rendering of professional services or the
9 receipt of calls;

10 (8) Physicians who are licensed in good standing to practice
11 medicine in another state and who, on an irregular and occasional basis,
12 are granted temporary hospital privileges to practice medicine and
13 surgery at a hospital or other medical facility licensed in this state;

14 (9) Persons providing or instructing as to use of braces, prosthetic
15 appliances, crutches, contact lenses, and other lenses and devices
16 prescribed by a physician licensed to practice medicine while working
17 under the direction of such physician;

18 (10) Dentists practicing their profession when licensed and
19 practicing in accordance with the Dentistry Practice Act;

20 (11) Optometrists practicing their profession when licensed and
21 practicing under and in accordance with the Optometry Practice Act;

22 (12) Osteopathic physicians practicing their profession if licensed
23 and practicing under and in accordance with sections 38-209 to 38-2033;

24 (13) Chiropractors practicing their profession if licensed and
25 practicing under the Chiropractic Practice Act;

26 (14) Podiatrists practicing their profession when licensed to
27 practice in this state and practicing under and in accordance with the
28 Podiatry Practice Act;

29 (15) Psychologists practicing their profession when licensed to
30 practice in this state and practicing under and in accordance with the
31 Psychology Interjurisdictional Compact or the Psychology Practice Act;

1 (16) Advanced practice registered nurses practicing in their
2 clinical specialty areas when licensed under the Advanced Practice
3 Registered Nurse Practice Act and practicing under and in accordance with
4 their respective practice acts;

5 (17) Surgical first assistants practicing in accordance with the
6 Surgical First Assistant Practice Act;

7 (18) Persons licensed or certified under the laws of this state to
8 practice a limited field of the healing art, not specifically named in
9 this section, when confining themselves strictly to the field for which
10 they are licensed or certified, not assuming the title of physician,
11 surgeon, or physician and surgeon, and not professing or holding
12 themselves out as qualified to prescribe drugs in any form or to perform
13 operative surgery;

14 (19) Persons obtaining blood specimens while working under an order
15 of or protocols and procedures approved by a physician, registered nurse,
16 or other independent health care practitioner licensed to practice by the
17 state if the scope of practice of that practitioner permits the
18 practitioner to obtain blood specimens;

19 (20) Physicians who are licensed in good standing to practice
20 medicine under the laws of another state or jurisdiction who accompany an

21 athletic team or organization into this state for an event from the state
22 or jurisdiction of licensure. This exemption is limited to treatment
23 provided to such athletic team or organization while present in Nebraska;
24 and

25 (21) Persons who are not licensed, certified, or registered under
26 the Uniform Credentialing Act, to whom are assigned tasks by a physician
27 or osteopathic physician licensed under the Medicine and Surgery Practice
28 Act, if such assignment of tasks is in a manner consistent with accepted
29 medical standards and appropriate to the skill and training, on the job
30 or otherwise, of the persons to whom the tasks are assigned. For purposes
31 of this subdivision, assignment of tasks means the routine care,
1 activities, and procedures that (a) are part of the routine functions of
2 such persons who are not so licensed, certified, or registered, (b)
3 reoccur frequently in the care of a patient or group of patients, (c) do
4 not require such persons who are not so licensed, certified, or
5 registered to exercise independent clinical judgment, (d) do not require
6 the performance of any complex task, (e) have results which are
7 predictable and have minimal potential risk, and (f) utilize a standard
8 and unchanging procedure; and

9 (22) (21) Other trained persons employed by a licensed health care
10 facility or health care service defined in the Health Care Facility
11 Licensure Act or clinical laboratory certified pursuant to the federal
12 Clinical Laboratories Improvement Act of 1967, as amended, or Title XVIII
13 or XIX of the federal Social Security Act to withdraw human blood for
14 scientific or medical purposes.

15 Any person who has held or applied for a license to practice
16 medicine and surgery in this state, and such license or application has
17 been denied or such license has been refused renewal or disciplined by
18 order of limitation, suspension, or revocation, shall be ineligible for
19 the exceptions described in subdivisions (5) through (8) of this section
20 until such license or application is granted or such license is renewed
21 or reinstated. Every act or practice falling within the practice of
22 medicine and surgery as defined in section 38-2024 and not specially
23 excepted in this section shall constitute the practice of medicine and
24 surgery and may be performed in this state only by those licensed by law
25 to practice medicine in Nebraska.

26 Sec. 2. Section 71-405, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 71-405 (1) Ambulatory surgical center means a facility (a) where
29 surgical services are provided to persons not requiring hospitalization
30 who are ~~admitted to and discharged from such facility within twenty-three~~
31 ~~hours and fifty-nine minutes from the time of admission the same working~~
1 ~~day and are not permitted to stay overnight at such facility,~~ (b) which
2 meets all applicable requirements for licensure as a health clinic under
3 the Health Care Facility Licensure Act, and (c) which has qualified for a
4 written agreement with the Health Care Financing Administration of the
5 United States Department of Health and Human Services or its successor to
6 participate in medicare as an ambulatory surgical center as defined in 42
7 C.F.R. 416 et seq. or which receives other third-party reimbursement for
8 such services.

9 (2) Ambulatory surgical center does not include an office or clinic
10 used solely by a practitioner or group of practitioners in the practice
11 of medicine, dentistry, or podiatry.

12 Sec. 3. Section 71-7910.01, Revised Statutes Supplement, 2019, is
13 amended to read:

14 71-7910.01 Professional health care service entity means an entity
15 which is organized under the Nebraska Nonprofit Corporation Act, ~~for~~
16 ~~purposes of rendering professional services pursuant to the Nebraska~~
17 ~~Professional Corporation Act, the Nebraska Uniform Limited Liability~~
18 ~~Company Act, or the Uniform Partnership Act of 1998 and which renders~~

19 health care services through individuals credentialed under the Uniform
 20 Credentialing Act.
 21 Sec. 4. Original section 71-405, Reissue Revised Statutes of
 22 Nebraska, section 38-2025, Revised Statutes Cumulative Supplement, 2018,
 23 and section 71-7910.01, Revised Statutes Supplement, 2019, are repealed.

LEGISLATIVE BILL 956. Placed on General File with amendment.

AM2827

1 1. Strike the original sections and insert the following new
 2 sections:
 3 Section 1. Section 68-901, Revised Statutes Supplement, 2019, is
 4 amended to read:
 5 68-901 Sections 68-901 to 68-994 and section 2 of this act shall be
 6 known and may be cited as the Medical Assistance Act.
 7 Sec. 2. (1) For purposes of this section:
 8 (a)(i) Material change means a change to a provider contract, the
 9 occurrence and timing of which is not otherwise clearly identified in the
 10 provider contract, that decreases the provider's payment or compensation
 11 for services to be provided or changes the administrative procedures in a
 12 way that may reasonably be expected to significantly increase the
 13 provider's administrative expense, including altering an existing prior
 14 authorization, precertification, or notification.
 15 (ii) Material change does not include a change implemented as a
 16 result of a requirement of state law, rules and regulations adopted and
 17 promulgated or policies established by the Department of Health and Human
 18 Services, or policies or regulations of the federal Centers for Medicare
 19 and Medicaid Services of the United States Department of Health and Human
 20 Services; and
 21 (b) Provider means a provider that has entered into a provider
 22 contract with a managed care organization to provide health care services
 23 under the medical assistance program.
 24 (2) Each managed care organization shall establish procedures for
 25 changing an existing provider contract with a provider that include the
 26 requirements of this section.
 27 (3) If a managed care organization makes any material change to a
 1 provider contract, the managed care organization shall provide the
 2 provider with at least sixty days' notice of the material change. The
 3 notice of a material change required under this section shall include:
 4 (a) The effective date of the material change;
 5 (b) A description of the material change;
 6 (c) The name, business address, telephone number, and electronic
 7 mail address of a representative of the managed care organization to
 8 discuss the material change, if requested by the provider;
 9 (d) Notice of the opportunity for a meeting using real-time
 10 communication to discuss the proposed changes if requested by the
 11 provider, including any mode of telecommunications in which all users can
 12 exchange information instantly such as the use of traditional telephone,
 13 mobile telephone, teleconferencing, and videoconferencing. If requested
 14 by the provider, the opportunity to communicate to discuss the proposed
 15 changes may occur via electronic mail instead of real-time communication;
 16 and
 17 (e) Notice that upon three material changes in a twelve-month
 18 period, the provider may request a copy of the provider contract with
 19 material changes consolidated into a single document. The provision of
 20 the copy of the provider contract with the material changes incorporated
 21 by the managed care organization (i) shall be for informational purposes
 22 only, (ii) shall have no effect on the terms and conditions of the
 23 provider contract, and (iii) shall not be construed as the creation of a
 24 new contract.
 25 (4) Any notice required to be delivered pursuant to this section

26 shall be sent to the provider's point of contact as set forth in the
27 provider contract and shall be clearly and conspicuously marked "contract
28 change". If no point of contact is set forth in the provider contract,
29 the insurer shall send the requisite notice to the provider's place of
30 business addressed to the provider.

31 Sec. 3. Section 68-914, Reissue Revised Statutes of Nebraska, is
1 amended to read:

2 68-914 (1) An applicant for medical assistance shall file an
3 application with the department in a manner and form prescribed by the
4 department. The department shall process each application to determine
5 whether the applicant is eligible for medical assistance. The department
6 shall provide a determination of eligibility for medical assistance in a
7 timely manner in compliance with 42 C.F.R. 435.911, including, but not
8 limited to, a timely determination of eligibility for coverage of an
9 emergency medical condition, such as labor and delivery.

10 (2) The department shall notify an applicant for or recipient of
11 medical assistance of any decision of the department to deny or
12 discontinue eligibility or to deny or modify medical assistance. Except
13 in the case of an emergency, the notice shall be mailed on the same day
14 as or the day after the decision is made. In addition to mailing the
15 notice, the department may also deliver the notice by any form of
16 electronic communication if the department has the agreement of the
17 recipient to receive such notice by means of such form of electronic
18 communication. Decisions of the department, including the failure of the
19 department to act with reasonable promptness, may be appealed, and the
20 appeal shall be in accordance with the Administrative Procedure Act.

21 (3) Notice of a decision to discontinue eligibility or to modify
22 medical assistance shall include an explanation of the proposed action,
23 the reason for the proposed action, the information used to make the
24 decision including specific regulations or laws requiring such action,
25 contact information for personnel of the department to address questions
26 regarding the action, information on the right to appeal, and an
27 explanation of the availability of continued benefits pending such
28 appeal.

29 Sec. 4. Section 68-973, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 68-973 (1) The Legislature finds that the medical assistance
1 program would benefit from increased efforts to (a) ~~(1)~~ prevent improper
2 payments to service providers, including, but not limited to, enforcement
3 of eligibility criteria for recipients of benefits, enforcement of
4 enrollment criteria for providers of benefits, determination of third-
5 party liability for benefits, review of claims for benefits prior to
6 payment, and identification of the extent and cause of improper payment,
7 (b) ~~(2)~~ identify and recoup improper payments, including, but not limited
8 to, identification and investigation of questionable payments for
9 benefits, administrative recoupment of payments for benefits, and
10 referral of cases of fraud to the state medicaid fraud control unit for
11 prosecution, and (c) ~~(3)~~ collect postpayment reimbursement, including,
12 but not limited to, maximizing prescribed drug rebates and maximizing
13 recoveries from estates for paid benefits.

14 (2) The Legislature further finds that (a) the medical assistance
15 program was established under Title XIX of the federal Social Security
16 Act and is a joint federal-state-funded health insurance program that is
17 the primary source of medical assistance for low-income, disabled, and
18 elderly Nebraskans and (b) the federal government establishes minimum
19 requirements for the medical assistance program and the state designs,
20 implements, administers, and oversees the medical assistance program.

21 (3) It is the intent of the Legislature to establish and maintain
22 integrity procedures and guidelines for the medical assistance program
23 that meet minimum federal requirements and that coordinate with federal

24 program integrity efforts in order to provide a system that encourages
25 efficient and effective provision of services by Nebraska providers for
26 the medical assistance program.
27 Sec. 5. Section 68-974, Revised Statutes Supplement, 2019, is
28 amended to read:
29 68-974 (1) ~~One~~ The department may contract with one or more program
30 integrity recovery audit contractors may be used to promote the integrity
31 of the medical assistance program, and to assist with investigations and
1 audits, or to investigate the occurrence of fraud, waste, or abuse cost-
2 containment efforts and recovery audits. The contract or contracts may
3 include services for (a) cost-avoidance through identification of third-
4 party liability, (b) cost recovery of third-party liability through
5 postpayment reimbursement, (c) casualty recovery of payments by
6 identifying and recovering costs for claims that were the result of an
7 accident or neglect and payable by a casualty insurer, and (d) reviews of
8 claims submitted by providers of services or other individuals furnishing
9 items and services for which payment has been made to determine whether
10 providers have been underpaid or overpaid, and to take actions to recover
11 any overpayments identified or make payment for any underpayment
12 identified.
13 (2) Notwithstanding any other provision of law, all program
14 integrity recovery audit contractors retained by the department when
15 conducting a program integrity recovery audit, investigation, or review
16 shall:
17 (a) Review claims within four ~~two~~ years from the date of the
18 payment;
19 (b) Send a determination letter concluding an audit within one
20 hundred eighty sixty days after receipt of all requested material from a
21 provider;
22 (c) In any records request to a provider, furnish information
23 sufficient for the provider to identify the patient, procedure, or
24 location;
25 (d) Develop and implement with the department a procedure in which
26 an improper payment identified by an audit may be resubmitted as a claims
27 adjustment, including (i) the resubmission of claims denied as a result
28 of an interpretation of scope of services not previously held by the
29 department, (ii) the resubmission of documentation when the document
30 provided is incomplete, illegible, or unclear, and (iii) the resubmission
31 of documentation when clerical errors resulted in a denial of claims for
1 services actually provided. If a service was provided and sufficiently
2 documented but denied because it was determined by the department or the
3 contractor that a different service should have been provided, the
4 department or the contractor shall disallow the difference between the
5 payment for the service that was provided and the payment for the service
6 that should have been provided;
7 (e) Utilize a licensed health care professional from the specialty
8 area of practice being audited to establish relevant audit methodology
9 consistent with (i) established practice guidelines, standards of care,
10 and state-issued medicaid provider handbooks and (ii) established
11 clinical practice guidelines and acceptable standards of care established
12 by professional or specialty organizations responsible for setting such
13 standards of care;
14 (f) Provide a written notification and explanation of an adverse
15 determination that includes the reason for the adverse determination, the
16 medical criteria on which the adverse determination was based, an
17 explanation of the provider's appeal rights, and, if applicable, the
18 appropriate procedure to submit a claims adjustment in accordance with
19 subdivision (2)(d) of this section; and
20 (g) Schedule any onsite audits with advance notice of not less than
21 ten business days and make a good faith effort to establish a mutually

22 agreed upon time and date for the onsite audit.

23 (3) A program integrity contractor retained by the department or the
24 federal Centers for Medicare and Medicaid Services shall work with the
25 department at the start of a recovery audit to review this section and
26 section 68-973 and any other relevant state policies, procedures,
27 regulations, and guidelines regarding program integrity audits. The
28 program integrity contractor shall comply with this section regarding
29 audit procedures. A copy of the statutes, policies, and procedures shall
30 be specifically maintained in the audit records to support the audit
31 findings.

1 (4) The department shall exclude from the scope of review of
2 recovery audit contractors any claim processed or paid through a
3 capitated medicaid managed care program. ~~(3)~~ The department shall exclude
4 the following from the scope of review of program integrity recovery
5 audit contractors: (a) Claims processed or paid through a capitated
6 medicaid managed care program; and (b) any claims that are currently
7 being audited or that have already been audited by a program integrity
8 the recovery audit contractor, by the department, or currently being
9 audited by another entity. Claims processed or paid through a capitated
10 medicaid managed care program shall be coordinated between the
11 department, the contractor, and the managed care organization. All such
12 audits shall be coordinated as to scope, method, and timing. The
13 contractor and the department shall avoid duplication or simultaneous
14 audits. No payment shall be recovered in a medical necessity review in
15 which the provider has obtained prior authorization for the service and
16 the service was performed as authorized.

17 (5) Extrapolated overpayments are not allowed under the Medical
18 Assistance Act without evidence of a sustained pattern of error, an
19 excessively high error rate, or the agreement of the provider.

20 (6) (4) The department may contract with one or more persons to
21 support a health insurance premium assistance payment program.

22 (7) ~~(5)~~ The department may enter into any other contracts deemed to
23 increase the efforts to promote the integrity of the medical assistance
24 program.

25 (8) ~~(6)~~ Contracts entered into under the authority of this section
26 may be on a contingent fee basis. Contracts entered into on a contingent
27 fee basis shall provide that contingent fee payments are based upon
28 amounts recovered, not amounts identified. Whether the contract is a
29 contingent fee contract or otherwise, the contractor shall not recover
30 overpayments by the department until all appeals have been completed
31 unless there is a credible allegation of fraudulent activity by the
1 provider, the contractor has referred the claims to the department for
2 investigation, and an investigation has commenced. In that event, the
3 contractor may recover overpayment prior to the conclusion of the appeals
4 process. In any contract between the department and a program integrity
5 recovery audit contractor, the payment or fee provided for identification
6 of overpayments shall be the same provided for identification of
7 underpayments. Contracts shall be in compliance with federal law and
8 regulations when pertinent, including a limit on contingent fees of no
9 more than twelve and one-half percent of amounts recovered, and initial
10 contracts shall be entered into as soon as practicable under such federal
11 law and regulations.

12 (9) ~~(7)~~ All amounts recovered and savings generated as a result of
13 this section shall be returned to the medical assistance program.

14 (10) ~~(8)~~ Records requests made by a program integrity recovery audit
15 contractor in any one-hundred-eighty-day period shall be limited to not
16 more than five percent of the number of claims filed by the provider for
17 the specific service being reviewed, not to exceed two hundred records
18 for the specific service being reviewed. The contractor shall allow a
19 provider no less than forty-five days to respond to and comply with a

20 ~~records record~~ request. If the contractor can demonstrate a significant
 21 provider error rate relative to an audit of records, the contractor may
 22 make a request to the department to initiate an additional records
 23 request regarding the subject under review for the purpose of further
 24 review and validation. The contractor shall not make the request until
 25 the time period for the appeals process has expired.

26 ~~(11) (9)~~ On an annual basis, the department shall require the
 27 recovery audit contractor to compile and publish on the department's
 28 Internet web site metrics related to the performance of each recovery
 29 audit contractor. Such metrics shall include: (a) The number and type of
 30 issues reviewed; (b) the number of medical records requested; (c) the
 31 number of overpayments and the aggregate dollar amounts associated with
 1 the overpayments identified by the contractor; (d) the number of
 2 underpayments and the aggregate dollar amounts associated with the
 3 identified underpayments; (e) the duration of audits from initiation to
 4 time of completion; (f) the number of adverse determinations and the
 5 overturn rating of those determinations in the appeal process; (g) the
 6 number of appeals filed by providers and the disposition status of such
 7 appeals; (h) the contractor's compensation structure and dollar amount of
 8 compensation; and (i) a copy of the department's contract with the
 9 recovery audit contractor.

10 ~~(12) (40)~~ The program integrity recovery audit contractor, in
 11 conjunction with the department, shall perform educational and training
 12 programs ~~annually~~ for providers that encompass a summary of audit
 13 results, a description of common issues, problems, and mistakes
 14 identified through audits and reviews, and opportunities for improvement.

15 ~~(13) (41)~~ Providers shall be allowed to submit records requested as
 16 a result of an audit in electronic format, including compact disc,
 17 digital versatile disc, or other electronic format deemed appropriate by
 18 the department or via facsimile transmission, at the request of the
 19 provider.

20 ~~(14)(a) (12)(a)~~ A provider shall have the right to appeal a
 21 determination made by the program integrity recovery audit contractor.
 22 (b) The contractor shall establish an informal consultation process
 23 to be utilized prior to the issuance of a final determination. Within
 24 thirty days after receipt of notification of a preliminary finding from
 25 the contractor, the provider may request an informal consultation with
 26 the contractor to discuss and attempt to resolve the findings or portion
 27 of such findings in the preliminary findings letter. The request shall be
 28 made to the contractor. The consultation shall occur within thirty days
 29 after the provider's request for informal consultation, unless otherwise
 30 agreed to by both parties.

31 (c) Within thirty days after notification of an adverse
 1 determination, a provider may request an administrative appeal of the
 2 adverse determination as set forth in the Administrative Procedure Act.

3 ~~(15) (43)~~ The department shall by December 1 of each year report to
 4 the Legislature the status of the contracts, including the parties, the
 5 programs and issues addressed, the estimated cost recovery, and the
 6 savings accrued as a result of the contracts. Such report shall be filed
 7 electronically.

8 ~~(16) (44)~~ For purposes of this section:

9 (a) Adverse determination means any decision rendered by a program
 10 integrity contractor or ~~the~~ recovery audit contractor that results in a
 11 payment to a provider for a claim for service being reduced or rescinded;

12 (b) Extrapolated overpayment means an overpayment amount obtained by
 13 calculating claims denials and reductions from a medical records review
 14 based on a statistical sampling of a claims universe;

15 (c) ~~(b)~~ Person means bodies politic and corporate, societies,
 16 communities, the public generally, individuals, partnerships, limited
 17 liability companies, joint-stock companies, and associations; ~~and~~

18 (d) Program integrity audit means an audit conducted by the federal
 19 Centers for Medicare and Medicaid Services, the department, or the
 20 federal Centers for Medicare and Medicaid Services with the coordination
 21 and cooperation of the department;
 22 (e) Program integrity contractor means private entities with which
 23 the department or the federal Centers for Medicare and Medicaid Services
 24 contracts to carry out integrity responsibilities under the medical
 25 assistance program, including, but not limited to, recovery audits,
 26 integrity audits, and unified program integrity audits, in order to
 27 identify underpayments and overpayments and recoup overpayments; and
 28 (f) ~~(e)~~ Recovery audit contractor means private entities with which
 29 the department contracts to audit claims for medical assistance, identify
 30 underpayments and overpayments, and recoup overpayments.
 31 Sec. 6. Original sections 68-914 and 68-973, Reissue Revised
 1 Statutes of Nebraska, and sections 68-901 and 68-974, Revised Statutes
 2 Supplement, 2019, are repealed.

LEGISLATIVE BILL 1053. Placed on General File with amendment.
[AM2806](#) is available in the Bill Room.

LEGISLATIVE BILL 1158. Placed on General File with amendment.
[AM2851](#)

1 1. Strike original sections 1 and 3 and insert the following new
 2 sections:
 3 Section 1. Section 68-901, Revised Statutes Supplement, 2019, is
 4 amended to read:
 5 68-901 Sections 68-901 to 68-994 and sections 2 to 4 of this act
 6 shall be known and may be cited as the Medical Assistance Act.
 7 Sec. 2. Section 71-831, Reissue Revised Statutes of Nebraska, is
 8 amended to read:
 9 ~~71-831~~ All contracts and agreements relating to the medical
 10 assistance program governing at-risk managed care service delivery for
 11 ~~behavioral~~ health services entered into by the department and existing on
 12 or after July 1, 2020 ~~21, 2016~~, shall:
 13 (1) Provide a definition and cap on administrative spending such
 14 that (a) administrative expenditures do not include profit greater than
 15 the contracted amount, (b) any administrative spending is necessary to
 16 improve the health status of the population to be served, and (c)
 17 administrative expenditures do not include contractor incentives.
 18 Administrative spending shall not under any circumstances exceed twelve
 19 percent. Such spending shall be tracked by the contractor and reported ~~to~~
 20 ~~the department~~ quarterly to the department and electronically to the
 21 Clerk of the Legislature;
 22 (2) Provide a definition of annual contractor profits and losses and
 23 restrict such profits and losses under the contract so that profit shall
 24 not exceed a percentage specified by the department but not more than
 25 three percent per year as a percentage of the aggregate of all income and
 26 revenue earned by the contractor and related parties, including parent
 27 and subsidiary companies and risk-bearing partners, under the contract;
 1 (3) Provide for return investment of (a) any remittance if the
 2 contractor does not meet the minimum medical loss ratio, (b) ~~performance~~
 3 ~~contingencies imposed by the department, and (c) any unearned incentive~~
 4 funds, and (c) any other funds in excess of the contractor limitations
 5 identified in state or federal statute or contract to the State Treasurer
 6 for credit to the Medicaid Managed Care Excess Profit Fund to fund
 7 additional health services for children, families, and adults according
 8 to a plan developed with input from stakeholders and approved by the
 9 department. Such plan shall address the health needs of adults and
 10 children, including filling service gaps and providing system

11 ~~improvements;~~

12 (4) Provide for a minimum medical loss ratio of eighty-five percent
13 of the aggregate of all income and revenue earned by the contractor and
14 related parties under the contract;

15 (5) Provide that contractor incentives, in addition to potential
16 profit, be up to two percent of the aggregate of all income and revenue
17 earned by the contractor and related parties under the contract; and

18 (6) Be reviewed and awarded competitively and in full compliance
19 with the procurement requirements of the State of Nebraska.

20 Sec. 3. The Medicaid Managed Care Excess Profit Fund is created.

21 The fund shall contain money returned to the State Treasurer pursuant to
22 subdivision (3) of section 2 of this act. The fund shall first be used to
23 offset any losses under subdivision (2) of section 2 of this act and then
24 to provide for services addressing the health needs of adults and
25 children under the Medical Assistance Act, including filling service
26 gaps, providing system improvements, and sustaining access to care as
27 determined by the Legislature. The fund shall only be used for the
28 purposes described in this section. Any money in the fund available for
29 investment shall be invested by the state investment officer pursuant to
30 the Nebraska Capital Expansion Act and the Nebraska State Funds
31 Investment Act.

1 Sec. 4. (1) Beginning October 1, 2021, the Department of Health and
2 Human Services shall inform each adult applicant for medical assistance
3 about job-skills programs within the Department of Health and Human
4 Services, the Department of Labor, or other skill-based programs that
5 could assist the applicant for medical assistance in obtaining job skills
6 or training, employment, higher-paying jobs, or related skills. The
7 Department of Health and Human Services shall connect interested
8 applicants to such job-skills programs. The job-skills programs may be
9 utilized on a voluntary basis by applicants for medical assistance or
10 recipients of medical assistance. The job-skills programs do not affect
11 the receipt of services provided under the Medical Assistance Act.

12 (2) Beginning February 1, 2022, and within thirty days of the
13 expiration of each subsequent calendar quarter within the years 2022 and
14 2023, the Department of Health and Human Services shall report
15 electronically to the Clerk of the Legislature on the total number of
16 applicants for medical assistance who were referred to job-skills
17 programs under this section and any job-skills services received as a
18 result of this section by applicants for medical assistance.

19 (3) Beginning January 1, 2022, through December 31, 2023, the
20 Department of Labor shall report quarterly to the Department of Health
21 and Human Services the number of applicants for medical assistance who
22 were referred to job-skills programs under this section, the number of
23 applicants for medical assistance who received help obtaining job skills
24 or training, employment, higher-paying jobs, or related skills under this
25 section, and the types of job-skills services received as a result of
26 this section.

27 (4) The Department of Health and Human Services and the Department
28 of Labor shall administer this section.

29 Sec. 5. Section 71-801, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 71-801 Sections 71-801 to 71-830 ~~71-831~~ shall be known and may be
1 cited as the Nebraska Behavioral Health Services Act.

2 Sec. 6. Original sections 71-801 and 71-831, Reissue Revised
3 Statutes of Nebraska, and section 68-901, Revised Statutes Supplement,
4 2019, are repealed.

5 Sec. 7. Since an emergency exists, this act takes effect when
6 passed and approved according to law.

(Signed) Sara Howard, Chairperson

GENERAL FILE

LEGISLATIVE BILL 1008. The Stinner amendment, [AM2911](#), found in this day's Journal, to the committee amendment, was renewed.

The Stinner amendment was adopted with 32 ayes, 0 nays, 10 present and not voting, and 7 excused and not voting.

Senator Linehan offered the following amendment to the committee amendment:

[AM2916](#)

(Amendments to Standing Committee amendments, AM2737)

1 1. Insert the following new section:

2 Sec. 46. It is the intent of the Legislature to appropriate

3 \$130,000,000 in FY2020-21 for property tax relief and state aid to

4 schools.

5 2. Renumber the remaining sections accordingly.

Senator Chambers offered the following motion:

[MO169](#)

Recommit to Appropriations Committee.

Senator Chambers withdrew his motion to recommit to committee.

Senator Linehan withdrew her amendment.

Senator Scheer offered the following amendment to the committee amendment:

[FA110](#)

Amend AM2737

Strike sections 45, 66, 59, 60, 64 and 56.

Senator Wayne offered the following motion:

[MO170](#)

Recommit to the Appropriations Committee.

Senator Wayne withdrew his motion to recommit to committee.

Senator Chambers offered the following motion:

[MO171](#)

Bracket until April 22, 2020.

SPEAKER SCHEER PRESIDING

SENATOR HILGERS PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with 16 ayes, 3 nays, and 30 not voting.

Senator Chambers requested a roll call vote on the motion to bracket.

Voting in the affirmative, 0.

Voting in the negative, 36:

Albrecht	Dorn	Howard	McDonnell	Vargas
Arch	Friesen	Hughes	Morfeld	Walz
Bolz	Geist	Hunt	Moser	Williams
Bostelman	Halloran	Kolterman	Pansing Brooks	Wishart
Brandt	Hansen, B.	La Grone	Quick	
Briese	Hansen, M.	Lathrop	Scheer	
Clements	Hilgers	Linehan	Slama	
Crawford	Hilkemann	McCollister	Stinner	

Present and not voting, 4:

Cavanaugh	Chambers	Kolowski	Wayne
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Excused and not voting, 9:

Blood	DeBoer	Gragert	Lindstrom	Murman
Brewer	Erdman	Groene	Lowe	

The Chambers motion to bracket failed with 0 ayes, 36 nays, 4 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

Pending.

RESOLUTION(S)

LEGISLATIVE RESOLUTION 344. Introduced by Kolterman, 24.

WHEREAS, over 1.2 million people living in the United States are infected with Human Immunodeficiency Virus (HIV), and one in eight is unaware of the infection; and

WHEREAS, there are nearly 2,100 people living with HIV in Nebraska, and 88 people were newly diagnosed in 2017; and

WHEREAS, the Centers for Disease Control (CDC) recommends that everyone between the ages of 13 and 64 get tested for HIV at least once as part of routine health care, and for those with specific risk factors, the CDC recommends getting tested at least once a year; and

WHEREAS, significant advances in antiretroviral therapy for HIV have made it possible to reduce transmission rates, avoid over 862,000 premature deaths, gain over 27 million life-years, and gain \$615 billion in economic value over the cost of HIV treatment in the United States alone; and

WHEREAS, the movement of U = U, or Undetectable = Untransmittable, is a scientific breakthrough that confirms HIV treatment also offers the benefit of preventing HIV transmission, and provides education to help reduce stigma and discrimination; and

WHEREAS, forty percent of people living with HIV receive care through the medicaid program; and

WHEREAS, Nebraska could begin to better engage those people living with HIV who are not virally suppressed and report to the U.S. Department of Health and Human Services the viral loads of people receiving medical assistance; and

WHEREAS, the U.S. Department of Health and Human Services has made ending the HIV epidemic a national priority and has focused substantial new resources through its plan called Ending the HIV Epidemic: A Plan for America.

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

1. That the Legislature recognizes that collaboration by the U.S. Department of Health and Human Services and Nebraska Department of Health and Human Services with stakeholders, including patients, physicians, and public health experts, will raise awareness and reduce stigma and discrimination for those living with HIV and that such collaboration will help prevent and reduce new HIV cases.

Laid over.

LEGISLATIVE RESOLUTION 345. Introduced by McDonnell, 5.

PURPOSE: The purpose of this interim study is to examine efforts to protect Nebraska's archeological and paleontological resources and promote cooperation between governmental agencies, tribal governments, and other stakeholders regarding the discovery and the removal or borrowing of archaeological or paleontological resources from all lands in the state.

Nebraska led the original efforts to protect these spaces and resources from destruction and pilfering in 1937 with establishment of the Nebraska Standard Specifications for Highway Construction and again in 1959 by authorizing the Department of Roads, now the Department of Transportation, to enter into agreements with state agencies to remove and preserve archaeological, paleontological, and historical remains.

With more than 10,600 archeology sites with 21 sites on the National Register of Historical Places, Nebraska is home to one of the best records of geological and geoscience history in the United States, second only to the American Museum of Natural History, and Nebraska has a potential abundance of available sources to study.

Nebraska can again lead the nation in protecting this natural record of history, as well as the remains of earlier human impacts in what is now Nebraska, by assuring that discoverers of archeological or paleontological resources discovered on tribal, public, or private property being used for public or state uses shall coordinate with the interested stakeholders, such as

adjacent landowners, tribal governments and councils, or other individuals and agencies.

The issues to be addressed by this interim study shall include, but not be limited to:

(1) Best practices utilized when archaeological or paleontological resources are discovered;

(2) How other states regulate archaeological or paleontological discoveries;

(3) Methods to prevent any government agency or any private entity or individual from entering onto lands and removing archaeological or paleontological resources without permission or without cooperating with interested stakeholders; and

(4) Improvements that can be made in statute to promote cooperation between all stakeholders in the handling of archaeological or paleontological resources.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

AMENDMENT(S) - Print in Journal

Senator Crawford filed the following amendment to [LB790](#):
[AM2922](#)

(Amendments to E&R amendments, ER178)

1 1. Insert the following new section:

2 Sec. 5. Section 81-829.42, Revised Statutes Supplement, 2019, is
3 amended to read:

4 81-829.42 (1) The Legislature recognizes that, while appropriations
5 are adequate to meet the normal needs, the necessity exists for
6 anticipating and making advance provision to care for the unusual and
7 extraordinary burdens imposed on the state and its political subdivisions
8 by disasters, emergencies, or civil defense emergencies. To meet such
9 situations, it is the intention of the Legislature to confer emergency
10 powers on the Governor, acting through the Adjutant General and the
11 Nebraska Emergency Management Agency, and to vest him or her with
12 adequate power and authority within the limitation of available funds
13 appropriated to the Governor's Emergency Program to meet any disaster,
14 emergency, or civil defense emergency.

15 (2) There is hereby established the Governor's Emergency Program.
16 Funds appropriated to the program shall be expended, upon direction of
17 the Governor, for any state of emergency. The state of emergency
18 proclamation shall set forth the emergency and shall state that it
19 requires the expenditure of public funds to furnish immediate aid and
20 relief. The Adjutant General shall administer the funds appropriated to
21 the program.

22 (3) It is the intent of the Legislature that the first recourse
23 shall be to funds regularly appropriated to state and local agencies. If
24 the Governor finds that the demands placed upon these funds are
25 unreasonably great, he or she may make funds available from the
26 Governor's Emergency Program. Expenditures may be made upon the direction
1 of the Governor for any or all emergency management functions or to meet
2 the intent of the state emergency operations plans as outlined in section
3 81-829.41. Expenditures may also be made to state and federal agencies to
4 meet the matching requirement of any applicable assistance programs.
5 (4) Assistance shall be provided from the funds appropriated to the
6 Governor's Emergency Program to political subdivisions of this state
7 which have suffered from a disaster, emergency, or civil defense
8 emergency to such an extent as to impose a severe financial burden
9 exceeding the ordinary capacity of the subdivision affected. Applications
10 for aid under this section shall be made to the Nebraska Emergency
11 Management Agency on such forms as shall be prescribed and furnished by
12 the agency. The forms shall require the furnishing of sufficient
13 information to determine eligibility for aid and the extent of the
14 financial burden incurred. The agency may call upon other agencies of the
15 state in evaluating such applications. The Adjutant General shall review
16 each application for aid under this section and recommend its approval or
17 disapproval, in whole or in part, to the Governor. If the Governor
18 approves, he or she shall determine and certify to the Adjutant General
19 the amount of aid to be furnished. The Adjutant General shall thereupon
20 issue his or her voucher to the Director of Administrative Services who
21 shall issue his or her warrants therefor to the applicant.
22 (5) When a state of emergency has been proclaimed by the Governor,
23 the Adjutant General, upon order of the Governor, shall have authority to
24 expend funds for purposes, including, but not limited to:
25 (a) The purposes of the Emergency Management Act, including
26 emergency management functions and the responsibilities of the Governor
27 as outlined in the act;
28 (b) Employing for the duration of the state of emergency additional
29 personnel and contracting or otherwise procuring all necessary
30 appliances, supplies, and equipment;
31 (c) Performing services for and furnishing materials and supplies to
1 state government agencies and local governments with respect to
2 performance of any duties enjoined by law upon such agencies and local
3 governments which they are unable to perform because of extreme climatic
4 phenomena and receiving reimbursement in whole or in part from such
5 agencies and local governments able to pay therefor under such terms and
6 conditions as may be agreed upon by the Adjutant General and any such
7 agency or local government;
8 (d) Performing services for and furnishing materials to any
9 individual in connection with alleviating hardship and distress growing
10 out of extreme climatic phenomena and receiving reimbursement in whole or
11 in part from such individual under such terms as may be agreed upon by
12 the Adjutant General and such individual;
13 (e) Opening up, repairing, and restoring roads and highways;
14 (f) Repairing and restoring bridges;
15 (g) Furnishing transportation for supplies to alleviate suffering
16 and distress;
17 (h) Restoring means of communication;
18 (i) Furnishing medical services and supplies to prevent the spread
19 of disease and epidemics;
20 (j) Quelling riots and civil disturbances;
21 (k) Training individuals or governmental agencies for the purpose of
22 perfecting the performance of emergency management duties as provided in
23 the Nebraska emergency operations plans;
24 (l) Procurement and storage of special emergency supplies or

25 equipment, determined by the Adjutant General to be required to provide
 26 rapid response by state government to assist local governments in
 27 impending or actual disasters, emergencies, or civil defense emergencies;
 28 (m) Clearing or removing debris and wreckage which may threaten
 29 public health or safety from publicly owned or privately owned land or
 30 water; ~~and~~

31 (n) Paid sick and family leave for any private or public employee
 1 who is unable to work due to being diagnosed with an infectious disease,
 2 due to being quarantined or secluded for suspected infectious disease, or
 3 due to caring for a family member diagnosed with an infectious disease or
 4 quarantined or secluded for suspected infectious disease. For purposes of
 5 this subdivision, family member means (i) a biological, adopted, or
 6 foster child, a stepchild, or a legal ward of an employee or the
 7 employee's spouse or a person to whom the employee or the employee's
 8 spouse stood in loco parentis when such person was a minor child,
 9 regardless of the age or dependency status of such child, stepchild,
 10 legal ward, or person, (ii) a biological, adoptive, or foster parent, a
 11 stepparent, or a legal guardian of an employee or the employee's spouse
 12 or a person who stood in loco parentis to the employee or the employee's
 13 spouse when the employee or the employee's spouse was a minor child,
 14 (iii) an employee's spouse, or (iv) a grandparent, grandchild, or sibling
 15 of the employee or the employee's spouse, whether such relationship is a
 16 biological, adoptive, foster, or step relationship; and
 17 (o) ~~(n)~~ Such other measures as are customarily necessary to furnish
 18 adequate relief in cases of disaster, emergency, or civil defense
 19 emergency.

20 (6) If response to a disaster or emergency is immediately required,
 21 the Adjutant General may make expenditures of up to twenty-five thousand
 22 dollars per event without a state of emergency proclamation issued by the
 23 Governor. Such expenditures shall be used for the purposes as provided in
 24 subsection (5) of this section.

25 (7) The Governor may receive such voluntary contributions as may be
 26 made from any nonfederal source to aid in carrying out the purposes of
 27 this section and shall credit the same to the Governor's Emergency Cash
 28 Fund.

29 (8) All obligations and expenses incurred by the Governor in the
 30 exercise of the powers and duties vested in the Governor by this section
 31 shall be paid by the State Treasurer out of available funds appropriated
 1 to the Governor's Emergency Program, and the Director of Administrative
 2 Services shall draw his or her warrants upon the State Treasurer for the
 3 payment of such sum, or so much thereof as may be required, upon receipt
 4 by him or her of proper vouchers duly approved by the Adjutant General.
 5 (9) This section shall be liberally construed in order to accomplish
 6 the purposes of the Emergency Management Act and to permit the Governor
 7 to adequately cope with any disaster, emergency, or civil defense
 8 emergency which may arise, and the powers vested in the Governor by this
 9 section shall be construed as being in addition to all other powers
 10 presently vested in him or her and not in derogation of any existing
 11 powers.

12 (10) Such funds as may be made available by the government of the
 13 United States for the purpose of alleviating distress from disasters,
 14 emergencies, and civil defense emergencies may be accepted by the State
 15 Treasurer and shall be credited to a separate and distinct fund unless
 16 otherwise specifically provided in the act of Congress making such funds
 17 available or as otherwise allowed and provided by state law.

18 (11) It is the intent of the Legislature that the four million
 19 dollars saved due to the elimination of funding for the Angel Investment
 20 Tax Credit Act be used to increase the appropriation to the Military
 21 Department for the Governor's Emergency Program by four million dollars
 22 for fiscal year 2020-21.

23 2. Renumber the remaining sections and correct the repealer
24 accordingly.

Senator La Grone filed the following amendment to LB1008:
AM2929

(Amendments to Standing Committee amendments, AM2737)

1 1. On page 2, lines 18 and 19, strike "57,000" and insert "57,001".

COMMITTEE REPORT(S)
Health and Human Services

LEGISLATIVE BILL 1002. Placed on General File with amendment.
AM2774 is available in the Bill Room.

(Signed) Sara Howard, Chairperson

SENATOR WILLIAMS PRESIDING

GENERAL FILE

LEGISLATIVE BILL 1008. Senator Chambers offered the following
motion:

MO172

Reconsider the vote on the bracket motion.

Senator Chambers asked unanimous consent to withdraw his motion to
reconsider.

Senator Kolowski objected.

The Chambers motion to reconsider failed with 1 aye, 30 nays, 10 present
and not voting, and 8 excused and not voting.

Senator Chambers offered the following motion:

MO173

Recommit to Appropriations Committee.

Senator Scheer offered the following motion:

MO174

Invoke cloture pursuant to Rule 7, Sec. 10.

Senator Scheer moved for a call of the house. The motion prevailed with 22
eyes, 2 nays, and 25 not voting.

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

Voting in the affirmative, 40:

Albrecht	Dorn	Howard	Linehan	Quick
Arch	Friesen	Hughes	Lowe	Scheer
Bolz	Geist	Hunt	McCollister	Slama
Bostelman	Halloran	Kolowski	McDonnell	Stinner
Brandt	Hansen, B.	Kolterman	Morfeld	Vargas
Briese	Hansen, M.	La Grone	Moser	Walz
Clements	Hilgers	Lathrop	Murman	Williams
Crawford	Hilkemann	Lindstrom	Pansing Brooks	Wishart

Voting in the negative, 3:

Cavanaugh Chambers Wayne

Excused and not voting, 6:

Blood	DeBoer	Gragert
Brewer	Erdman	Groene

The Scheer motion to invoke cloture prevailed with 40 ayes, 3 nays, and 6 excused and not voting.

Senator Chambers requested a roll call vote on the motion to recommit to committee.

Voting in the affirmative, 2:

Chambers Wayne

Voting in the negative, 41:

Albrecht	Dorn	Hughes	McCollister	Stinner
Arch	Friesen	Hunt	McDonnell	Vargas
Bolz	Geist	Kolowski	Morfeld	Walz
Bostelman	Halloran	Kolterman	Moser	Williams
Brandt	Hansen, B.	La Grone	Murman	Wishart
Briese	Hansen, M.	Lathrop	Pansing Brooks	
Cavanaugh	Hilgers	Lindstrom	Quick	
Clements	Hilkemann	Linehan	Scheer	
Crawford	Howard	Lowe	Slama	

Excused and not voting, 6:

Blood	DeBoer	Gragert
Brewer	Erdman	Groene

The Chambers motion to recommit to committee failed with 2 ayes, 41 nays, and 6 excused and not voting.

Senator Scheer requested a roll call vote, in reverse order, on his amendment, FA110, to the committee amendment.

Voting in the affirmative, 2:

Chambers Wayne

Voting in the negative, 38:

Albrecht	Dorn	Hughes	McCollister	Slama
Arch	Friesen	Hunt	McDonnell	Stinner
Bolz	Geist	Kolowski	Morfeld	Vargas
Bostelman	Halloran	Kolterman	Moser	Walz
Brandt	Hansen, B.	La Grone	Murman	Williams
Briese	Hilgers	Lathrop	Pansing Brooks	Wishart
Clements	Hilkemann	Lindstrom	Quick	
Crawford	Howard	Lowe	Scheer	

Present and not voting, 3:

Cavanaugh Hansen, M. Linehan

Excused and not voting, 6:

Blood	DeBoer	Gragert
Brewer	Erdman	Groene

The Scheer amendment lost with 2 ayes, 38 nays, 3 present and not voting, and 6 excused and not voting.

Senator Chambers requested a roll call vote on the committee amendment, as amended.

Voting in the affirmative, 41:

Albrecht	Dorn	Hughes	McCollister	Stinner
Arch	Friesen	Hunt	McDonnell	Vargas
Bolz	Geist	Kolowski	Morfeld	Walz
Bostelman	Halloran	Kolterman	Moser	Williams
Brandt	Hansen, B.	La Grone	Murman	Wishart
Briese	Hansen, M.	Lathrop	Pansing Brooks	
Cavanaugh	Hilgers	Lindstrom	Quick	
Clements	Hilkemann	Linehan	Scheer	
Crawford	Howard	Lowe	Slama	

Voting in the negative, 2:

Chambers Wayne

Excused and not voting, 6:

Blood	DeBoer	Gragert
Brewer	Erdman	Groene

The committee amendment, as amended, was adopted with 41 ayes, 2 nays, and 6 excused and not voting.

Senator Chambers requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 41:

Albrecht	Dorn	Hughes	McCollister	Stinner
Arch	Friesen	Hunt	McDonnell	Vargas
Bolz	Geist	Kolowski	Morfeld	Walz
Bostelman	Halloran	Kolterman	Moser	Williams
Brandt	Hansen, B.	La Grone	Murman	Wishart
Briese	Hansen, M.	Lathrop	Pansing Brooks	
Cavanaugh	Hilgers	Lindstrom	Quick	
Clements	Hilkemann	Linehan	Scheer	
Crawford	Howard	Lowe	Slama	

Voting in the negative, 2:

Chambers	Wayne
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Excused and not voting, 6:

Blood	DeBoer	Gragert
Brewer	Erdman	Groene

Advanced to Enrollment and Review Initial with 41 ayes, 2 nays, and 6 excused and not voting.

The Chair declared the call raised.

COMMITTEE REPORT(S)
Urban Affairs

LEGISLATIVE BILL 866. Placed on General File with amendment.
[AM2913](#) is available in the Bill Room.

(Signed) Justin Wayne, Chairperson

AMENDMENT(S) - Print in Journal

Senator Wayne filed the following amendments to LB1008:

AM2900

(Amendments to Standing Committee amendments, AM2737)

- 1 1. On page 35, strike beginning with "an" in line 3 through
- 2 "failure" in line 5 and insert "a public power and irrigation district to
- 3 repair irrigation diversion structures that were destroyed by bridge and
- 4 levee damage that occurred during the 2019 flood event"; and in line 6
- 5 strike "an irrigation district" and insert "a grantee".

AM2901

(Amendments to Standing Committee amendments, AM2737)

- 1 1. On page 35, strike beginning with "an" in line 3 through
- 2 "failure" in line 5 and insert "a community with a population between
- 3 three thousand and four thousand residents to carry out repairs on
- 4 drinking water facilities that were damaged as a result of a levee breach
- 5 that occurred during the 2019 flood event"; and in line 6 strike "an
- 6 irrigation district" and insert "a grantee".

AM2902

(Amendments to Standing Committee amendments, AM2737)

- 1 1. On page 35, strike beginning with "an" in line 3 through
- 2 "failure" in line 5 and insert "a community with a population of less
- 3 than one thousand residents to carry out repairs on drinking water
- 4 facilities that were damaged as a result of a levee breach that occurred
- 5 during the 2019 flood event"; and in line 6 strike "an irrigation
- 6 district" and insert "a grantee".

AM2903

(Amendments to Standing Committee amendments, AM2737)

- 1 1. Strike sections 59 and 64.
- 2 2. On page 35, line 26, strike "7,593,430" and insert "11,593,430";
- 3 and in line 29 strike "20,948,302" and insert "24,948,302".
- 4 3. On page 36, line 6, strike "\$7,593,430" and insert "\$11,593,430".
- 5 4. On page 39, strike lines 26 through 28; and in line 30 strike
- 6 "616,435,633" and insert "614,435,633".
- 7 5. On page 40, line 1, strike "616,435,633" and insert
- 8 "614,435,633".
- 9 6. Strike beginning with line 23 on page 43 through line 18 on page
- 10 45.
- 11 7. Renumber the remaining sections accordingly.

AM2904

(Amendments to Standing Committee amendments, AM2737)

- 1 1. On page 13, line 20, strike "Rural Workforce Housing Investment"
- 2 and insert "Affordable Housing Trust".
- 3 2. On page 48, after line 7, insert:
- 4 "There is included in the amount shown for FY2020-21 \$10,000,000
- 5 Cash Funds to provide funding from the Affordable Housing Trust Fund to
- 6 carry out grants for projects related to the development of affordable
- 7 workforce housing in a municipality in a county with a population of at
- 8 least one hundred thousand inhabitants as determined by the most recent
- 9 federal decennial census".

AM2905

(Amendments to Standing Committee amendments, AM2737)

- 1 1. Strike section 26 and insert the following new section:
- 2 Sec. 26. AGENCY NO. 29 — DEPARTMENT OF NATURAL RESOURCES

3 Program No. 334 - Soil and Water Conservation

4	<u>FY2019-20</u>	<u>FY2020-21</u>
5	<u>GENERAL FUND</u>	<u>500,000</u>
	<u>-0-</u>	
6	<u>CASH FUND</u>	<u>425,000</u>
	<u>175,000</u>	
7	<u>PROGRAM TOTAL</u>	<u>925,000</u>
	<u>175,000</u>	

8 There is included in the appropriation to this program for FY2019-209 \$-0- General Funds for state aid, which shall only be used for such10 purpose. There is included in the appropriation to this program for11 FY2020-21 \$500,000 General Funds for state aid, which shall only be used
12 for such purpose.13 There is included in the appropriation to this program for FY2020-2114 \$500,000 General Funds to provide a grant to a city with a population15 between three thousand and four thousand residents that experienced16 extensive flooding and damage to drinking water treatment facilities as a17 result of levee damage that occurred as a result of the 2019 flood event.18 2. On page 39, line 30, strike "616,435,633" and insert19 "615,935,633".20 3. On page 40, line 1, strike "616,435,633" and insert21 "615,935,633".

22 4. On page 41, strike lines 5 through 8.

Senator M. Hansen filed the following amendment to LB1016:[FA112](#)

On page 2, line 25, strike "31" and insert "30".

GENERAL FILE**LEGISLATIVE BILL 1009.** Title read. Considered.Committee [AM2738](#), found on page 887, was offered.

Senator Wayne offered the following amendment to the committee amendment:

[FA113](#)

Amend AM2738

1. On page 5, strike beginning with the first "to" in line 26 through "failure" in line 28 and insert "to provide a grant to a community with a population between three thousand and four thousand residents to carry out repairs on drinking water facilities.".**SPEAKER SCHEER PRESIDING**

Senator Wayne moved for a call of the house. The motion prevailed with 8 ayes, 2 nays, and 39 not voting.

Senator Wayne requested a roll call vote on his amendment.

Voting in the affirmative, 5:

Cavanaugh Chambers Hansen, M. Pansing Brooks Wayne

Voting in the negative, 24:

Arch	Clements	Hilkemann	Lindstrom	Quick
Bolz	Crawford	Howard	McCollister	Scheer
Bostelman	Dorn	Hunt	McDonnell	Stinner
Brandt	Friesen	Kolowski	Moser	Williams
Briese	Geist	Kolterman	Murman	

Present and not voting, 11:

Halloran	Lathrop	Morfeld	Walz
Hansen, B.	Linehan	Slama	Wishart
La Grone	Lowe	Vargas	

Excused and not voting, 9:

Albrecht	Brewer	Erdman	Groene	Hughes
Blood	DeBoer	Gragert	Hilgers	

The Wayne amendment lost with 5 ayes, 24 nays, 11 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

Senator Wayne offered the following amendment to the committee amendment:

[AM2919](#)

(Amendments to Standing Committee amendments, AM2738)

1 1. On page 5, strike beginning with the first "to" in line 26
 2 through "failure" in line 28 and insert "to provide a grant to a public
 3 power and irrigation district to repair irrigation diversion structures
 4 that were destroyed by bridge and levee damage that occurred during the
 5 2019 flood event".

SENATOR WILLIAMS PRESIDING

Senator Chambers offered the following motion:

[MO175](#)

Bracket until April 22, 2020.

Senator Scheer offered the following motion:

[MO176](#)

Invoke cloture pursuant to Rule 7, Sec. 10.

Senator Scheer moved for a call of the house. The motion prevailed with 19 ayes, 2 nays, and 28 not voting.

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

Voting in the affirmative, 38:

Arch	Friesen	Hunt	McCollister	Slama
Bolz	Geist	Kolowski	McDonnell	Stinner
Bostelman	Halloran	Kolterman	Morfeld	Vargas
Brandt	Hansen, B.	La Grone	Moser	Walz
Briese	Hansen, M.	Lathrop	Murman	Williams
Clements	Hilgers	Lindstrom	Pansing Brooks	Wishart
Crawford	Hilkemann	Linehan	Quick	
Dorn	Howard	Lowe	Scheer	

Voting in the negative, 2:

Chambers Wayne

Present and not voting, 1:

Cavanaugh

Excused and not voting, 8:

Albrecht	Brewer	Erdman	Groene
Blood	DeBoer	Gragert	Hughes

The Scheer motion to invoke cloture prevailed with 38 ayes, 2 nays, 1 present and not voting, and 8 excused and not voting.

The Chambers motion to bracket failed with 2 ayes, 39 nays, and 8 excused and not voting.

Senator Wayne requested a roll call vote on his amendment, AM2919, to the committee amendment.

Voting in the affirmative, 3:

Chambers Pansing Brooks Wayne

Voting in the negative, 22:

Arch	Clements	Halloran	Lindstrom	Stinner
Bolz	Crawford	Hilgers	McCollister	Williams
Bostelman	Dorn	Hilkemann	McDonnell	
Brandt	Friesen	Kolowski	Murman	
Briese	Geist	Kolterman	Scheer	

Present and not voting, 16:

Cavanaugh	Hunt	Lowe	Slama
Hansen, B.	La Grone	Morfeld	Vargas
Hansen, M.	Lathrop	Moser	Walz
Howard	Linehan	Quick	Wishart

Excused and not voting, 8:

Albrecht	Brewer	Erdman	Groene
Blood	DeBoer	Gragert	Hughes

The Wayne amendment lost with 3 ayes, 22 nays, 16 present and not voting, and 8 excused and not voting.

Senator Wayne requested a roll call vote, in reverse order, on the committee amendment.

Voting in the affirmative, 38:

Arch	Friesen	Hunt	McCollister	Slama
Bolz	Geist	Kolowski	McDonnell	Stinner
Bostelman	Halloran	Kolterman	Morfeld	Vargas
Brandt	Hansen, B.	La Grone	Moser	Walz
Briese	Hansen, M.	Lathrop	Murman	Williams
Clements	Hilgers	Lindstrom	Pansing Brooks	Wishart
Crawford	Hilkemann	Linehan	Quick	
Dorn	Howard	Lowe	Scheer	

Voting in the negative, 2:

Chambers Wayne

Present and not voting, 1:

Cavanaugh

Excused and not voting, 8:

Albrecht	Brewer	Erdman	Groene
Blood	DeBoer	Gragert	Hughes

The committee amendment was adopted with 38 ayes, 2 nays, 1 present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 1 nay, and 8 excused and not voting.

The Chair declared the call raised.

AMENDMENT(S) - Print in Journal

Senator Quick filed the following amendment to LB840:
AM2925

(Amendments to E & R amendments, ER180)

1 1. Strike sections 4 and 5 and insert the following new sections:
2 Sec. 4. Electronic smoking device means an electronic nicotine
3 delivery system as defined in section 28-1418.01. The term includes any
4 such device regardless of whether it is manufactured, distributed,
5 marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape
6 pen or under any other product name or descriptor. The term also includes
7 any substance that is used in an electronic smoking device. The term does
8 not include a diffuser, humidifier, prescription inhaler, or similar
9 device.
10 Sec. 5. (1) Electronic smoking device retail outlet means a store
11 that:
12 (a) Is licensed as provided under sections 28-1421 and 28-1422;
13 (b) Sells electronic smoking devices and products directly related
14 to electronic smoking devices;
15 (c) Does not sell alcohol or gasoline;
16 (d) Derives no more than twenty percent of its revenue from the sale
17 of food and food ingredients as defined in section 77-2704.24; and
18 (e) Prohibits persons under twenty-one years of age from entering
19 the store in accordance with subsection (2) of this section.
20 (2)(a) Prior to January 1, 2022, an electronic smoking device retail
21 outlet shall not allow a person under twenty-one years of age to enter
22 the store but may allow an employee who is under twenty-one years of age
23 to work in the store.
24 (b) On and after January 1, 2022, an electronic smoking device
25 retail outlet shall not allow a person under twenty-one years of age to
26 enter the store and shall not allow an employee who is under twenty-one
1 years of age to work in the store.

Senator Stinner filed the following amendment to LB1008:
AM2936

(Amendments to Standing Committee amendments, AM2737)

1 1. On page 7, lines 20 and 21 strike "-0-" and insert "10,000,000";
2 and after line 24 insert:
3 "There is included in the appropriation to this program for
4 FY2019-20 \$10,000,000 General Funds for public health emergency response
5 to the Coronavirus Disease 2019 (COVID-19). The funding shall be
6 distributed based on activities or areas of the state where there is a
7 need to prevent or contain or otherwise respond to needs related to the
8 disease. Funding may be distributed to public health departments that
9 develop partnerships with federally qualified health centers. Funding
10 provided shall only be used for activities relating to the emergency
11 response to the disease. Any funding not needed for the emergency
12 response shall lapse to the General Fund on June 30, 2021. On December 1,
13 2020, the department shall provide a report to the Legislature's Health
14 and Human Services and Appropriations Committees regarding use of such
15 funds."
16 2. On page 9, lines 17 and 18 strike "55,240,974" and insert
17 "65,240,974"; and after line 26 insert:
18 "There is included in the appropriation to this program for
19 FY2019-20 \$10,000,000 General Funds for state aid for the state's
20 response and recovery to the Coronavirus Disease 2019 (COVID-19)."

Senator Quick filed the following amendment to LB424:

[AM2847](#)

(Amendments to AM2122)

- 1 1. On page 2, after line 3 insert the following new subdivision:
- 2 "(3) Immediate family has the same meaning as in section 49-1425;";
- 3 in line 4 strike "(3)" and insert "(4)"; in line 6 strike "(4)" and
- 4 insert "(5)"; and in line 10 strike "(5)" and insert "(6)".
- 5 2. On page 7, line 8, strike "14,".
- 6 3. On page 10, line 22, after "Act" insert ", except that a land
- 7 bank shall not issue any bonds on or after the effective date of this
- 8 act".
- 9 4. On page 11, line 14, after "money" insert ", except that a land
- 10 bank shall not invest its money in any instrument, obligation, security,
- 11 or property that is owned by a member of the board or an employee of the
- 12 land bank, by a board member's or an employee's immediate family, or by a
- 13 business or entity in which a board member or an employee has an
- 14 ownership interest".
- 15 5. On page 12, line 8, after "to" insert "(a)" and after "taxes"
- 16 insert "or (b) receive property tax revenue from a political subdivision
- 17 pursuant to an agreement entered into under the Joint Public Agency Act".
- 18 6. On page 16, line 11, strike "A", show as stricken, and insert
- 19 "Subject to subsection (7) of this section, a".
- 20 7. On page 17, after line 19 insert the following new subsection:
- 21 "(7) A land bank shall not issue any bonds on or after the effective
- 22 date of this act".
- 23 8. On page 18, strike beginning with "by" in line 8 through line 10,
- 24 show as stricken, and insert "in accordance with this section. For a land
- 25 bank created pursuant to subsection (1) of section 4 of this act, the
- 26 resolution of dissolution must be approved by two-thirds of the members
- 1 of the governing body of the municipality that created the land bank. For
- 2 a land bank created pursuant to subsection (2) or (3) of section 4 of
- 3 this act, the resolution of dissolution must be approved by a majority of
- 4 the members of the governing body of each municipality that created the
- 5 land bank. A governing body"; and in line 27 after the period insert "No
- 6 member of the board or employee of a land bank shall have any interest,
- 7 direct or indirect, in any investment of the land bank. The restrictions
- 8 in this subsection shall also apply to a board member's or employee's
- 9 immediate family and to any business or entity in which the board member
- 10 or employee has an ownership interest".

Senator Hilgers filed the following amendment to LB1186:

[AM2887](#)

- 1 1. On page 2, line 14, after "seven" insert "calendar"; in line 16
- 2 after "Act" insert ", except that no additional compensation shall be
- 3 paid to an employee for any day for which such employee has already been
- 4 paid for injury leave pursuant to this section"; and in line 22 after
- 5 "leave" insert ", and such school district may withhold injury leave
- 6 until such confirmation is provided".

UNANIMOUS CONSENT - Add Cointroducer(s)

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

Senator M. Hansen name added to LB43.
 Senator M. Hansen name added to LB283.
 Senator Chambers name added to LB918.

Senator Blood name added to LB918.
Senator Chambers name added to LB962.
Senator Chambers name added to LB1060.
Senator M. Hansen name added to LB1089.
Senator Cavanaugh name added to LB1218.
Senator M. Hansen name added to LB1218.

VISITOR(S)

Visitors to the Chamber were members of Leadership Nebraska City Class 15; ASSE exchange students from Georgia, Poland, and Spain; and students from Walnut Creek Elementary, Papillion.

The Doctor of the Day was Dr. Dale Michels from Walton.

ADJOURNMENT

At 5:37 p.m., on a motion by Speaker Scheer, the Legislature adjourned until 9:00 a.m., Tuesday, March 17, 2020, or at the call of the Speaker.

Patrick J. O'Donnell
Clerk of the Legislature