

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 254

FINAL READING

Introduced by Brewer, 43; Lippincott, 34; Conrad, 46; Hardin, 48; Hunt, 8; Aguilar, 35; Fredrickson, 20; von Gillern, 4; Clements, 2; Murman, 38; Holdcroft, 36; Cavanaugh, J., 9.

Read first time January 10, 2023

Committee: Executive Board

1 A BILL FOR AN ACT relating to the Legislature; to amend sections 50-114,
2 50-402, 50-1209, 79-1312, 79-1313, and 79-1316, Reissue Revised
3 Statutes of Nebraska, and section 50-702, Revised Statutes
4 Cumulative Supplement, 2022; to require the Legislative Council,
5 through the Executive Board of the Legislative Council, to develop
6 and maintain a publicly accessible, digital Internet archive of
7 closed-captioned video coverage of the Legislature as prescribed; to
8 change provisions relating to the Legislative Mental Health Care
9 Capacity Strategic Planning Committee; to change provisions relating
10 to tax incentive performance audits conducted by the office of
11 Legislative Audit; to redefine terms; to change provisions of the
12 Nebraska Educational Telecommunications Act; to change powers and
13 duties of the Nebraska Educational Telecommunications Commission; to
14 harmonize provisions; to provide a duty for the Revisor of Statutes;
15 to repeal the original sections; and to declare an emergency.
16 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) The Legislative Council, through the Executive Board
2 of the Legislative Council, shall develop and maintain a publicly
3 accessible, digital Internet archive of closed-captioned video coverage
4 of the Legislature, including floor debate and public committee hearings
5 indexed by legislative bill or resolution number or by date, beginning
6 with the coverage of the One Hundred Ninth Legislature, First Session, in
7 January 2025 or as soon as live, closed-captioned video coverage of the
8 Legislature is available for use, whichever is sooner, as provided in
9 section 79-1316. Closed-captioned video coverage shall include closed
10 captioning in both English and Spanish.

11 (2) Applicable historical video coverage of the Legislature shall be
12 collected and added to the digital archive as available. Applicable
13 historical video coverage shall only consist of video coverage of the
14 Legislature captured by the Nebraska Educational Telecommunications
15 Commission and closed-captioned prior to January 1, 2025.

16 (3) Such archive is intended solely for educational and
17 informational purposes and to enhance access for the public, in keeping
18 with the Legislature's commitment to transparency in state government.

19 (4) Audio and video recordings of the proceedings of the Legislature
20 or of a committee or division of the Legislature are not official records
21 of such proceedings and shall not be admissible in any proceeding as
22 evidence of legislative history, action, or intent.

23 (5) The Executive Board of the Legislative Council shall develop
24 policies and procedures surrounding the creation and ongoing usage of the
25 publicly accessible, indexed, digital Internet archive of closed-
26 captioned video coverage of the Legislature developed pursuant to this
27 section. Such policies shall include, but not be limited to:

28 (a) The usage of archived video recordings for purposes other than
29 legislative purposes;

30 (b) A determination regarding which committee hearings and committee
31 briefings shall be recorded and added to the digital archive;

1 (c) Parameters surrounding long-term storage of archived video
2 recordings; and

3 (d) Management of costs in relation to supporting public
4 accessibility of archived video recordings.

5 Sec. 2. Section 50-114, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 50-114 (1) It shall be the duty of the Clerk of the Legislature to
8 attend the sessions of the Legislature, to call the roll, to read the
9 journals, bills, memorials, resolutions, petitions, and all other papers
10 or documents necessary to be read in the Legislature, to keep a correct
11 journal of the proceedings in the Legislature, and to do and perform such
12 other duties as may be imposed upon the clerk ~~him~~ by the Legislature or
13 by the Executive Board of the Legislative Council.

14 (2) The records of floor debate and committee hearings as prepared
15 and permanently maintained by the Clerk of the Legislature are the
16 official records of the Legislature.

17 (3) Any government website offering access to audio and video
18 recordings of the proceedings of the Legislature or of a committee or
19 division of the Legislature shall require notification to any website
20 user, using appropriate technology, that such recordings shall not be
21 used, reproduced, or redistributed without express permission by the
22 Legislative Council and in accordance with the policies developed by the
23 Executive Board of the Legislative Council pursuant to section 1 of this
24 act.

25 Sec. 3. Section 50-402, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 50-402 The Legislative Council shall occupy and maintain offices in
28 the State Capitol.

29 It shall be the duty of the council:

30 (1) To collect information concerning the government and general
31 welfare of the state;

1 (2) To examine the effects of previously enacted statutes and
2 recommend amendments thereto;

3 (3) To deal with important issues of public policy and questions of
4 statewide interest;

5 (4) To prepare a legislative program in the form of bills or
6 otherwise as in its opinion the welfare of the state may require, to be
7 presented at the next session of the Legislature;

8 (5) To study federal aid to the state and its political subdivisions
9 and advise the Legislature of money, land, or buildings available from
10 the federal government, matching funds necessary, grants and aids, and
11 what new legislation will be needed;

12 (6) To establish and maintain a complete and efficient bill drafting
13 service for the purpose of aiding and assisting members of the
14 Legislature and the executive departments of the state in the preparation
15 of bills, resolutions, and measures and in drafting the same in proper
16 form, and for this purpose there shall be assigned to the council for
17 such work, rooms in the State Capitol conveniently situated in reference
18 to the legislative chamber;

19 (7) To provide, through the Revisor of Statutes, for the publication
20 of supplements and replacement volumes of the statutes of Nebraska; ~~and~~

21 (8) To provide, through the Executive Board of the Legislative
22 Council, for the development and maintenance of a publicly accessible,
23 indexed, digital Internet archive of closed-captioned video coverage of
24 the Legislature as provided in section 1 of this act; and

25 (9) {8} To set up subcommittees within the executive board to carry
26 out functions such as investigation of any area which it may decide is in
27 the public interest with power to employ such additional personnel as may
28 be needed to carry out the intent and activities of the executive board
29 or the Legislature.

30 Sec. 4. Section 50-702, Revised Statutes Cumulative Supplement,
31 2022, is amended to read:

1 50-702 (1) The Legislative Mental Health Care Capacity Strategic
2 Planning Committee is established. The committee shall consist of the
3 following members: (a) The chairperson of the Judiciary Committee of the
4 Legislature or his or her designee, (b) the chairperson of the Health and
5 Human Services Committee of the Legislature or his or her designee, (c)
6 the chairperson of the Appropriations Committee of the Legislature or his
7 or her designee, and (d) four senators selected by the chairperson of the
8 Executive Board of the Legislative Council. The committee shall select a
9 chairperson and vice-chairperson from among its members.

10 (2)(a) No later than November 1, ~~2023~~ ~~2022~~, the Legislative Mental
11 Health Care Capacity Strategic Planning Committee shall contract with an
12 independent consultant with expertise in inpatient mental health care
13 delivery. The contract shall be awarded based on competitive bids and be
14 subject to the approval of the Executive Board of the Legislative Council
15 upon a recommendation of a majority of the committee. The consultant
16 shall assist the committee in determining the necessary capacity for
17 inpatient mental health care beds for both state-operated and privately
18 owned facilities based on best practices in mental health care. The
19 consultant shall provide recommendations to achieve the necessary
20 capacity if the current state inpatient mental health bed capacity is
21 insufficient.

22 (b) On or before November 1, ~~2024~~ ~~2023~~, the consultant shall provide
23 a written report of its findings and recommendations to the Legislative
24 Mental Health Care Capacity Strategic Planning Committee.

25 (3) This section terminates on November 1, ~~2025~~ ~~2024~~.

26 Sec. 5. Section 50-1209, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 50-1209 (1) Tax incentive performance audits shall be conducted by
29 the office pursuant to this section on the following tax incentive
30 programs:

31 (a) The Beginning Farmer Tax Credit Act;

- 1 (b) The Imagine Nebraska Act;
- 2 ~~(c) The Nebraska Advantage Act;~~
- 3 (c) ~~(d)~~ The Nebraska Advantage Microenterprise Tax Credit Act;
- 4 (d) ~~(e)~~ The Nebraska Advantage Research and Development Act;
- 5 (e) ~~(f)~~ The Nebraska Advantage Rural Development Act;
- 6 (f) ~~(g)~~ The Nebraska Job Creation and Mainstreet Revitalization Act;
- 7 (g) ~~(h)~~ The New Markets Job Growth Investment Act;
- 8 (h) ~~(i)~~ The Urban Redevelopment Act; and
- 9 (i) ~~(j)~~ Any other tax incentive program created by the Legislature

10 for the purpose of recruitment or retention of businesses in Nebraska. In
11 determining whether a future tax incentive program is enacted for the
12 purpose of recruitment or retention of businesses, the office shall
13 consider legislative intent, including legislative statements of purpose
14 and goals, and may also consider whether the tax incentive program is
15 promoted as a business incentive by the Department of Economic
16 Development or other relevant state agency.

17 (2) The office shall develop a schedule for conducting tax incentive
18 performance audits and shall update the schedule annually. The schedule
19 shall ensure that each tax incentive program is reviewed at least once
20 every five years.

21 (3) Each tax incentive performance audit conducted by the office
22 pursuant to this section shall include the following:

23 (a) An analysis of whether the tax incentive program is meeting the
24 following goals:

25 (i) Strengthening the state's economy overall by:

26 (A) Attracting new business to the state;

27 (B) Expanding existing businesses;

28 (C) Increasing employment, particularly employment of full-time
29 workers. The analysis shall consider whether the job growth in those
30 businesses receiving tax incentives is at least ten percent above
31 industry averages;

1 (D) Creating high-quality jobs; and

2 (E) Increasing business investment;

3 (ii) Revitalizing rural areas and other distressed areas of the
4 state;

5 (iii) Diversifying the state's economy and positioning Nebraska for
6 the future by stimulating entrepreneurial firms, high-tech firms, and
7 renewable energy firms; and

8 (iv) Any other program-specific goals found in the statutes for the
9 tax incentive program being evaluated;

10 (b) An analysis of the economic and fiscal impacts of the tax
11 incentive program. The analysis may take into account the following
12 considerations in addition to other relevant factors:

13 (i) The costs per full-time worker. When practical and applicable,
14 such costs shall be considered in at least the following two ways:

15 (A) By an estimation including the minimum investment required to
16 qualify for benefits; and

17 (B) By an estimation including all investment;

18 (ii) The extent to which the tax incentive changes business
19 behavior;

20 (iii) The results of the tax incentive for the economy of Nebraska
21 as a whole. This consideration includes both direct and indirect impacts
22 generally and any effects on other Nebraska businesses; and

23 (iv) A comparison to the results of other economic development
24 strategies with similar goals, other policies, or other incentives;

25 (c) An assessment of whether adequate protections are in place to
26 ensure the fiscal impact of the tax incentive does not increase
27 substantially beyond the state's expectations in future years;

28 (d) An assessment of the fiscal impact of the tax incentive on the
29 budgets of local governments, if applicable; and

30 (e) Recommendations for any changes to statutes or rules and
31 regulations that would allow the tax incentive program to be more easily

1 evaluated in the future, including changes to data collection, reporting,
2 sharing of information, and clarification of goals.

3 (4) For purposes of this section:

4 (a) Distressed area means an area of substantial unemployment as
5 determined by the Department of Labor pursuant to the Nebraska Workforce
6 Innovation and Opportunity Act;

7 (b) Full-time worker means an individual (i) who usually works
8 thirty-five hours per week or more, (ii) whose employment is reported to
9 the Department of Labor on two consecutive quarterly wage reports, and
10 (iii) who earns wages equal to or exceeding the state minimum wage;

11 (c) High-quality job means a job that:

12 (i) Averages at least thirty-five hours of employment per week;

13 (ii) Is reported to the Department of Labor on two consecutive
14 quarterly wage reports; and

15 (iii) Earns wages that are at least ten percent higher than the
16 statewide industry sector average and that equal or exceed:

17 (A) One hundred ten percent of the Nebraska average weekly wage if
18 the job is in a county with a population of less than one hundred
19 thousand inhabitants; or

20 (B) One hundred twenty percent of the Nebraska average weekly wage
21 if the job is in a county with a population of one hundred thousand
22 inhabitants or more;

23 (d) High-tech firm means a person or unitary group that has a
24 location with any of the following four-digit code designations under the
25 North American Industry Classification System as assigned by the
26 Department of Labor: ~~2111, 3254,~~ 3341, 3342, 3344, 3345, 3364, 5112,
27 ~~5173, 5179,~~ 5182, 5191, 5413, 5415, or 5417;

28 (e) Nebraska average weekly wage means the most recent average
29 weekly wage paid by all employers in all counties in Nebraska as reported
30 by the Department of Labor by October 1 of each year;

31 (f) New business means a person or unitary group participating in a

1 tax incentive program that did not pay income taxes or wages in the state
2 more than two years prior to submitting an application under the tax
3 incentive program. For any tax incentive program without an application
4 process, new business means a person or unitary group participating in
5 the program that did not pay income taxes or wages in the state more than
6 two years prior to the first day of the first tax year for which a tax
7 benefit was earned;

8 (g) Renewable energy firm means a person or unitary group that has a
9 location with any of the following six-digit code designations under the
10 North American Industry Classification System as assigned by the
11 Department of Labor: 111110, 111150, 111199, 111930, 111991, 113310,
12 221111, 221113, 221114, 221115, 221116, 221117, 221118, 221121, 221122,
13 221330, 237130, 237990, 325193, 331511, 331512, 331513, 331523, 331524,
14 331529, 332111, 332112, 333511, 333611, 333612, 333613, 334519, 423830,
15 482111, 484230, 488510, 541360, 541370, 541620, 541690, 541714, or 541715
16 ~~111110, 111120, 111130, 111140, 111150, 111160, 111191, 111199, 111211,~~
17 ~~111219, 111310, 111320, 111331, 111332, 111333, 111334, 111335, 111336,~~
18 ~~111339, 111411, 111419, 111930, 111991, 113310, 221111, 221113, 221114,~~
19 ~~221115, 221116, 221117, 221118, 221330, 237130, 237210, 237990, 325193,~~
20 ~~325199, 331512, 331513, 331523, 331524, 331529, 332111, 332112, 333414,~~
21 ~~333415, 333511, 333611, 333612, 333613, 334519, 485510, 541330, 541360,~~
22 ~~541370, 541620, 541690, 541713, 541714, 541715, 561730, or 562213;~~

23 (h) Rural area means any village or city of the second class in this
24 state or any county in this state with fewer than twenty-five thousand
25 residents; and

26 (i) Unitary group has the same meaning as in section 77-2734.04.

27 Sec. 6. Section 79-1312, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 79-1312 Sections 79-1312 to 79-1322 and section 9 of this act shall
30 be known and may be cited as the Nebraska Educational Telecommunications
31 Act.

1 Sec. 7. Section 79-1313, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 79-1313 The Nebraska Educational Telecommunications Act creates the
4 Nebraska Educational Telecommunications Commission for the purpose of (1)
5 promoting and establishing noncommercial educational telecommunications
6 facilities within the State of Nebraska, (2) providing noncommercial
7 educational telecommunications programs throughout the State of Nebraska
8 by digital broadcast, by closed-circuit transmission, by Internet-based
9 delivery, or by other telecommunications technology distribution systems,
10 ~~and~~ (3) operating statewide educational and public radio and television
11 networks, facilities, and services, and (4) providing closed-captioned
12 live video coverage of the Legislature as provided in section 79-1316.
13 The commission shall seek funding from federal, state, foundation, and
14 private sources for capital construction and annual operations.

15 Sec. 8. Section 79-1316, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 79-1316 The powers and duties of the Nebraska Educational
18 Telecommunications Commission are:

19 (1) To promote and sponsor a noncommercial educational television
20 network to serve a series of interconnecting units throughout the State
21 of Nebraska;

22 (2) To promote and support locally operated or state-operated
23 noncommercial educational radio stations with satellite receiving
24 capabilities and improved transmitter coverage;

25 (3) To apply for and to receive and hold such authorizations,
26 licenses, and assignments of channels from the Federal Communications
27 Commission as may be necessary to conduct such educational
28 telecommunications programs by standard radio and television broadcast or
29 by other telecommunications technology broadcast systems and to prepare,
30 file, and prosecute before the Federal Communications Commission all
31 applications, reports, or other documents or requests for authorization

1 of any kind necessary or appropriate to achieve the purposes set forth in
2 the Nebraska Educational Telecommunications Act;

3 (4) To receive gifts and contributions from public and private
4 sources to be expended in providing educational telecommunications
5 facilities and programs;

6 (5) To acquire real estate and other property as an agency of the
7 State of Nebraska and to hold and use the same for educational
8 telecommunications purposes;

9 (6) To contract for the construction, repair, maintenance, and
10 operation of telecommunications facilities;

11 (7) To contract with common carriers, qualified under the laws of
12 the State of Nebraska, to provide interconnecting channels or satellite
13 facilities in support of radio, television, and other telecommunications
14 technology services unless it is first determined by the Nebraska
15 Educational Telecommunications Commission that state-owned
16 interconnecting channels can be constructed and operated that would
17 furnish a comparable quality of service at a cost to the state that would
18 be less than if such channels were provided by qualified common carriers;

19 (8) To provide for programming for the visually impaired, other
20 print-handicapped persons, and the deaf and hard of hearing as authorized
21 by the Federal Communications Commission under subsidiary communications
22 authority rules, through contracts with appropriate nonprofit
23 corporations or organizations which have been created for such purpose;

24 (9) To arrange for the operation of statewide educational
25 telecommunications networks, as directed by the Nebraska Educational
26 Telecommunications Commission, consistent with the provisions of the
27 federal Communications Act of 1934, as amended, and applicable rules and
28 regulations, with policies of the Federal Communications Commission, in
29 cooperation with the State Board of Education insofar as elementary and
30 secondary education programs are concerned, and in cooperation with the
31 Coordinating Commission for Postsecondary Education insofar as

1 postsecondary education programs are concerned;

2 (10) After taking into consideration the needs of the entire state,
3 to establish and maintain general policies relating to the nature and
4 character of educational telecommunications broadcasts or transmissions;

5 (11) To review, or cause to be reviewed by a person designated by
6 the Nebraska Educational Telecommunications Commission ~~commission~~, all
7 programs presented on the network prior to broadcast or transmission to
8 insure that the programs are suitable for viewing and listening. Such
9 suitability shall be determined by evaluating the content of the program,
10 and screening the programs if necessary, as to their educational value
11 and whether they enhance the cultural appreciation of the viewer and
12 listener and do not appeal to his or her prurient interest. When it is
13 obvious from an examination of the descriptive program materials that a
14 program is suitable for presenting on the network, no further review
15 shall be required;

16 (12) To cooperate with federal or state agencies for the purpose of
17 obtaining matching federal or state funds and providing educational
18 telecommunications facilities of all types throughout the state and to
19 make such reports as may be required of recipients of matching funds;

20 (13) To arrange for and provide digital radio and television
21 broadcast and other telecommunications technology transmissions of
22 noncommercial educational telecommunications programs to Nebraska
23 citizens and institutions, but no tax funds shall be used for program
24 advertising which may only be financed out of funds received from
25 foundations or individual gifts;

26 (14) To coordinate with Nebraska agencies that deal with
27 telecommunications activities and are supported in whole or in part by
28 public funds;

29 (15) To adopt bylaws for the conduct of its affairs;

30 (16) To make certain that the facilities are not used for any
31 purpose which is contrary to the United States Constitution or the

1 Constitution of Nebraska or for broadcasting propaganda or attempting to
2 influence legislation;

3 (17) To publish such informational material as it deems necessary
4 and it may, at its discretion, charge appropriate fees therefor. The
5 proceeds of all such fees shall be remitted to the State Treasurer for
6 credit to the State Educational Telecommunications Fund and shall be used
7 by the commission solely for publishing such informational material. The
8 commission shall provide to newspapers, radio stations, and other news
9 media program schedules informing the public of programs approved by the
10 commission;~~and~~

11 (18) To maintain a digital archive of programs and educational
12 content containing stories, events, individuals, and performances which
13 are significant or prominent in Nebraska history; and -

14 (19) Subject to policies and procedures developed by the Executive
15 Board of the Legislative Council pursuant to section 1 of this act, to
16 provide live, closed-captioned video coverage of the Legislature,
17 including floor debate and public committee hearings, beginning with
18 coverage of the One Hundred Ninth Legislature, First Session, in January
19 2025 or as soon as the commission has closed-captioning capabilities,
20 whichever is sooner. Closed-captioned video coverage shall include closed
21 captioning in both English and Spanish.

22 Sec. 9. Nothing in the Nebraska Educational Telecommunications Act
23 shall be construed to require the Nebraska Educational Telecommunications
24 Commission to post or distribute any work in a manner that would
25 constitute a violation of federal copyright law.

26 Sec. 10. The Revisor of Statutes shall assign section 1 of this act
27 to Chapter 50.

28 Sec. 11. Original sections 50-114, 50-402, 50-1209, 79-1312,
29 79-1313, and 79-1316, Reissue Revised Statutes of Nebraska, and section
30 50-702, Revised Statutes Cumulative Supplement, 2022, are repealed.

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

1 passed and approved according to law.