

FORTY-EIGHTH DAY - MARCH 22, 2023**LEGISLATIVE JOURNAL****ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION****FORTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 22, 2023

PRAYER

The prayer was offered by Senator DeBoer.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was offered by Sergeant Tom Brown, Marine Corps, Fort Calhoun.

ROLL CALL

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

The roll was called and all members were present except Senator Aguilar who was excused; and Senators Bostar, Brewer, J. Cavanaugh, Day, B. Hansen, Vargas, Walz, Wayne, and Wishart who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-seventh day was approved.

ATTORNEY GENERAL'S OPINIONOpinion 23-003

SUBJECT: Authority of the Legislature to change the location of the headquarters of the Nebraska Game and Parks Commission (LB 397).

REQUESTED BY: Senator Steve Erdman
Nebraska Legislature

WRITTEN BY: Mike Hilgers, Attorney General
Carlton W. Wiggam, Assistant Attorney General

INTRODUCTION

You have requested our opinion concerning the Legislature's authority to change a statute which specifies the location of a state office. Specifically, you ask whether the Legislature may change the location of the headquarters for the Nebraska Game and Parks Commission (the "Commission") by statute or if such change is prohibited by the Nebraska Constitution. Neb. Rev. Stat. § 37-104 (2016) provides, in part, that the Commission may enter into an agreement with the city of Lincoln for a headquarters building, and other related facilities, to be located at described property within Lincoln. LB 397 would amend § 37-104 to provide that, beginning on January 1, 2025, the location of the Commission headquarters will be in Sidney, Nebraska, and that all Commission regular meetings will be held in Sidney. The bill would authorize the Commission to enter into an agreement with the city of Sidney for a headquarters building and other related facilities.

As a preliminary note, § 37-104 is not the only statutory section which describes the location of the Commission headquarters as being in the city of Lincoln. Neb. Rev. Stat. § 37-328 (2016) provides that the Commission may "acquire a site in Lincoln and erect thereon one or more buildings to serve the commission as a state headquarters." To avoid a potential conflict between the two statutory provisions, § 37-328 would also need to be amended to account for the change in location of the Commission headquarters.

ANALYSIS

We begin with an examination of the authority the Legislature has and, thus, what it may change via the legislative process. Neb. Const., art. III, § 1,

vests complete legislative authority of the state in the Legislature, subject only to the rights of initiative and referendum reserved by the constitution to the people and to any specific restrictions on the legislative authority found in the constitution itself. In other words, the Legislature has plenary legislative authority limited only by the state and federal Constitutions. The Nebraska Constitution is not a grant, but, rather, a restriction on legislative power, and the Legislature may legislate on any subject not inhibited by the constitution. Consequently, courts can enforce only those limitations which the Nebraska Constitution imposes.

State ex rel. Peterson v. Shively, 310 Neb. 1, 11, 963 N.W.2d 508, 516-17 (2021). The Legislature has the authority to legislate on any subject not specifically restricted by the Nebraska Constitution. Given these boundaries, we turn to the Nebraska Constitution to determine what, if any, restrictions

would prohibit the Legislature from statutorily changing the location of the Commission headquarters.

The Nebraska Constitution does not provide any restrictions explicitly preventing the relocation of the Commission headquarters from Lincoln to Sidney. However, Article III, § 18, of the Nebraska Constitution does provide a general restriction against local or special laws. Article III, § 18, contains a list of specific cases where the Legislature is prohibited from passing local or special laws, none of which are applicable to the present legislation. In addition to the list of specific restrictions, Article III, § 18, provides a more general restriction that the Legislature "shall not pass local or special laws in any of the following cases.... Granting to any corporation, association, or individual any special or exclusive privileges, immunity, or franchise whatever.... In all other cases where a general law can be made applicable no special law shall be enacted." Unlike the specific prohibitions contained in Article III, § 18, the general restriction does not completely prohibit special legislation. The Nebraska Supreme Court has stated:

[i]f ... the section in question is special legislation, still it is within the power of the Legislature to enact such special legislation covering the matters ... where, in its judgment, the subject or matters sought to be remedied could not be properly remedied by a general law, and where the Legislature has a reasonable basis for the enactment of the special law.

State ex rel. Spillman v. Wallace, 117 Neb. 588, 594, 221 N.W. 712, 713-14 (1928). Thus, we must examine LB 397 to determine if it is special legislation, and if it is, whether such special legislation is permissible.

In *Yant v. City of Grand Island*, 279 Neb. 935, 784 N.W.2d 101 (2010), the Nebraska Supreme Court addressed a similar question to the one presented by your request. In *Yant*, the Legislature had changed a statute from providing that the State Fair must be located in or near the city of Lincoln to the city of Grand Island. *Id.* at 937, 784 N.W.2d at 105. Plaintiffs sued on the basis that this move constituted impermissible special legislation because it provided a specific city for the location of the State Fair rather than a broad framework for determining where the State Fair should be located. *Id.* at 940-44, 784 N.W.2d at 106-109. To determine whether the legislative act constituted special legislation, the Court examined two issues: (1) whether it created a permanently closed class and (2) whether it created an arbitrary and unreasonable method of classification. *Id.* at 940, 784 N.W.2d at 106. First, the Court concluded that it was not a permanently closed class because many other areas of statute specify locations of state offices, facilities, and infrastructure. The Court also concluded the location of state facilities are for a public purpose which is not a special privilege even though cities where these facilities are located may receive incidental benefits. *Id.* at 940-43, 784 N.W.2d at 106-107. Second, the Court concluded designating one city was not an unreasonable and arbitrary classification because there is only one State Fair, which "necessarily requires selecting one location." *Id.* at 943-44, 784 N.W.2d at

108-110. In addition, the Court noted the Legislature had not randomly picked a location on the map, rather the decision was the culmination of three years of studies, public hearings and, ultimately, discussion at the committee hearing and during floor debate of the bill. *Id.* at 944, 784 N.W.2d at 108. Based on these facts, the Court concluded that the Legislature's decision to relocate the State Fair and its choice of location was not arbitrary and unreasonable. Thus, the Court held the move was not unconstitutional special legislation. *Id.*, 784 N.W.2d at 108-109.

LB 397 presents facts similar to *Yant* as to the question of creating a permanently closed class. The Legislature previously made similar designations and it is not granting a special privilege to the city of Sidney because monetary benefits are incidental to the public benefits expressed in the committee hearing of LB 397 held on February 9, 2023. As to the question of whether such legislation is arbitrary and unreasonable, we note that while the fact that there can only be one location for the Commission headquarters is identical to moving the State Fair, the Court in *Yant* focused on the process that was followed in making the determination for the new location of a state facility. From the facts presented in your letter and the testimony offered at the committee hearing on February 9, 2023, we cannot say whether, if LB 397 were enacted, the process for its adoption would satisfy a court that the legislation was not arbitrary and unreasonable. However, what is clear is that the more public input that is generated in deciding a legislative proposal like LB 397, the more likely a court will be to determine that the resulting decision was not arbitrary or unreasonable.

CONCLUSION

In summary, based on *Yant*, it is permissible for the Legislature to pass a bill which relocates state government infrastructure, such as the Commission headquarters, to a particular city so long as there is an express public purpose for the move and the determination of the location is not arbitrary or unreasonable. While LB 397 satisfies the first of these requirements, it is uncertain from the record presented whether the second requirement would be met. Thus, we conclude that LB 397 is not on its face unconstitutional special legislation. We are unable, however, to reach a conclusion as to whether a court would consider the decision to move the Commission headquarters arbitrary and unreasonable.

Sincerely,
MICHAEL T. HILGERS
Attorney General
(Signed) Carlton W. Wiggam
Assistant Attorney General

pc. Brandon Metzler
Clerk of the Nebraska Legislature

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 769A. Introduced by Holdcroft, 36.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 769, One Hundred Eighth Legislature, First Session, 2023; and to declare an emergency.

RESOLUTION

LEGISLATIVE RESOLUTION 64. Introduced by Holdcroft, 36.

WHEREAS, on January 6, 2023, in its thirty-eighth year of honoring the nation's best athletes, Gatorade announced senior quarterback Zane Flores of Gretna High School as the 2022-23 Gatorade Nebraska Football Player of the Year; and

WHEREAS, the Gatorade Player of the Year program annually recognizes one winner in each of the fifty states and the District of Columbia that sanction high school football, girls volleyball, boys and girls cross country, boys and girls basketball, boys and girls soccer, baseball, softball, and boys and girls track and field, and also recognizes one National Player of the Year in each sport; and

WHEREAS, this award, which recognizes not only outstanding athletic excellence but also high standards of academic achievement and exemplary character demonstrated on and off the field, distinguishes Flores as Nebraska's best high school football player; and

WHEREAS, Flores is the first Gatorade Nebraska Football Player of the Year to be chosen from Gretna High School; and

WHEREAS, Flores, who was also recognized as MaxPreps Nebraska Player of the Year, led the Gretna Dragons to a 12-1 record and a berth in the Class A state championship game; and

WHEREAS, Flores completed 235 of 359 passes, a 65.5 completion percentage, for 3,117 yards and 31 touchdowns with 7 interceptions and he added 79 carries for 262 yards and 10 touchdowns on the ground. He concluded his high school career with 9,163 career passing yards and 724 completions, the most in both categories in Class A history; and

WHEREAS, Flores has volunteered locally as a coach and referee for a fourth-grade flag football team every Sunday during football season. He also has donated his time organizing youth football and track summer camps; and

WHEREAS, Flores has maintained a 3.97 GPA in the classroom. Taking advantage of NCAA early signing rules, Flores signed a financial-aid agreement that paved the way for him to enroll early at Oklahoma State University, where he will play football. He graduated from high school in December 2022 and will attend classes at Oklahoma State during this spring's semester; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

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

1. That the Legislature congratulates Zane Flores on being named the 2022-23 Gatorade Nebraska Football Player of the Year.
2. That a copy of this resolution be sent to Zane Flores.

Laid over.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 60, 61, 62, and 63 were adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 60, 61, 62, and 63.

GENERAL FILE

LEGISLATIVE BILL 574. Senator Hunt offered [MO87](#), found on page 815, to reconsider the vote taken on MO9.

Senator Hunt withdrew her motion to reconsider.

Pending.

COMMITTEE REPORTS

Government, Military and Veterans Affairs

LEGISLATIVE BILL 190. Placed on General File.

LEGISLATIVE BILL 474. Placed on General File.

LEGISLATIVE BILL 637. Placed on General File.

LEGISLATIVE BILL 390. Placed on General File with amendment. [AM233](#) is available in the Bill Room.

LEGISLATIVE BILL 514. Placed on General File with amendment. [AM853](#) is available in the Bill Room.

(Signed) Tom Brewer, Chairperson

Transportation and Telecommunications

LEGISLATIVE BILL 61. Placed on General File.

LEGISLATIVE BILL 155. Placed on General File.

LEGISLATIVE BILL 359. Placed on General File.

LEGISLATIVE BILL 122. Placed on General File with amendment.
[AM647](#) is available in the Bill Room.

LEGISLATIVE BILL 412. Placed on General File with amendment.
[AM868](#) is available in the Bill Room.

LEGISLATIVE BILL 722. Placed on General File with amendment.
[AM789](#)

1 1. Strike the original section and insert the following new
 2 sections:

3 Section 1. Sections 1 to 7 of this act shall be known and may be
 4 cited as the Rural Communications Sustainability Act.

5 Sec. 2. It is hereby declared to be the policy of this state to
 6 ensure that all Nebraskans have access to affordable and reliable
 7 communications services in rural high-cost areas, and to ensure the long-
 8 term sustainability of infrastructure necessary to preserve such access.

9 Sec. 3. For purposes of the Rural Communications Sustainability
 10 Act:

11 (1) Broadband deployment program means a federal or state program
 12 authorizing payment of public funds for the purpose of deployment of
 13 communications infrastructure;

14 (2) Commission means the Public Service Commission;

15 (3) Communications infrastructure means infrastructure, facilities,
 16 and equipment capable of providing broadband or telecommunications
 17 services;

18 (4) Competitive provider means a communications provider as defined
 19 in section 86-125, including, but not limited to, lawfully franchised
 20 cable providers and competitive providers in a local exchange area;
 21 (5) Deployment project area means a contiguous geographic area
 22 consisting of locations serviceable by broadband or telecommunications
 23 services determined by the granting agency for a project funded under a
 24 broadband deployment program. A deployment project area may consist of
 25 geographical areas in more than one local exchange area;

26 (6) Eligible telecommunications carrier has the same meaning as in
 27 section 86-134;

1 (7) Granting agency means any state agency or political subdivision
 2 of the state which has authority to award, grant, direct, or redirect
 3 public funds under a broadband deployment program;

4 (8) Incumbent carrier means an incumbent carrier in a local exchange
 5 area as defined by rules and regulations adopted and promulgated by the
 6 commission; and

7 (9) Local exchange area has the same meaning as in section 86-115.

8 Sec. 4. When determining a deployment project area, the granting
 9 agency shall collaborate with the Nebraska Broadband Office and the
 10 commission to ensure compliance with the Rural Communications
 11 Sustainability Act.

12 Sec. 5. After a granting agency makes final payment of public funds
 13 under a broadband deployment program to a competitive provider in a
 14 deployment project area that is part of a local exchange area served by
 15 an incumbent carrier, upon request by the incumbent carrier the
 16 commission shall:

17 (1) Upon finding that the granting agency has determined the
 18 competitive provider is in compliance with all requirements of the
 19 broadband deployment program, relieve the incumbent carrier of eligible
 20 telecommunications carrier obligations and carrier of last resort
 21 obligations in the deployment project area;

22 (2) Consistent with rules of procedure adopted and promulgated by

23 the commission, make determinations related to allocations and
 24 distributions of support from the Nebraska Telecommunications Universal
 25 Service Fund for the deployment project area; and
 26 (3) In coordination with the Federal Communications Commission, and
 27 in consultation with the incumbent carrier and the competitive provider,
 28 determine whether eligible telecommunications carrier and carrier of last
 29 resort obligations corresponding with support from the Nebraska
 30 Telecommunications Universal Service Fund in the deployment project area
 31 should be transferred to the competitive provider.
 1 Sec. 6. In carrying out the Rural Communications Sustainability
 2 Act, the commission shall not:
 3 (1) Require a competitive provider to accept or receive support from
 4 the Nebraska Telecommunications Universal Service Fund;
 5 (2) Impose eligible telecommunications carrier responsibilities or
 6 carrier of last resort obligations relating to the Nebraska
 7 Telecommunications Universal Service Fund Act on a competitive provider
 8 in any deployment project area where the incumbent carrier or competitive
 9 provider is not actually receiving support from the Nebraska
 10 Telecommunications Universal Service Fund; or
 11 (3) Impose eligible telecommunications carrier responsibilities or
 12 carrier of last resort obligations on an incumbent carrier that are not
 13 in existence as of the date of final payment made pursuant to section 5
 14 of this act.
 15 Sec. 7. The commission may adopt and promulgate rules and
 16 regulations as necessary to carry out the Rural Communications
 17 Sustainability Act.

(Signed) Suzanne Geist, Chairperson

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 123A. Introduced by Fredrickson, 20.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 123, One Hundred Eighth Legislature, First Session, 2023.

LEGISLATIVE BILL 81A. Introduced by Lippincott, 34.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 81, One Hundred Eighth Legislature, First Session, 2023.

AMENDMENTS - Print in Journal

Senator Dungan filed the following amendment to LB14:

[AM946](#)

1 1. On page 12, line 15, strike "individual", show as stricken, and
 2 insert "personal".

Senator Dungan filed the following amendment to LB14:

[AM947](#)

1 1. On page 13, line 9, strike "he or she", show as stricken, and
 2 insert "the young adult".

RESOLUTIONS**LEGISLATIVE RESOLUTION 65.** Introduced by Albrecht, 17.

WHEREAS, Jack Schlickbernd of Wayne, Nebraska, a member of Wayne Boy Scout Troop 174 and son of Mike and Sara Schlickbernd, completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Throughout their scouting experience, these young men and women have learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn twenty-one merit badges, thirteen of which are in required areas, and complete an approved community service project; and

WHEREAS, for his community service project, Jack was inspired by his love of baseball and his desire to honor veterans and chose to install a Prisoner of War/Missing in Action Seat of Honor and other major league stadium seats at Paul Eaton Field in Wakefield, Nebraska; and

WHEREAS, Jack has served his Boy Scout troop as Senior Patrol Leader, Assistant Senior Patrol Leader, Troop Guide, Quartermaster, Historian, and Librarian; and

WHEREAS, Jack is the 150th scout from Troop 174 to earn the rank of Eagle Scout; and

WHEREAS, Jack's father Mike also attained the rank of Eagle Scout during his days with the Boy Scout troop of Tekamah, Nebraska, making Jack a second-generation Eagle Scout; and

WHEREAS, Jack, through his hard work and perseverance, has joined other high achievers who are Eagle Scouts, including astronauts, leaders of government and industry, artists, scientists, and athletes.

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

1. That the Legislature congratulates Jack Schlickbernd on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Jack Schlickbernd.

Laid over.

LEGISLATIVE RESOLUTION 66. Introduced by Albrecht, 17.

WHEREAS, a few years ago, the teachers of South Sioux City Middle School in South Sioux City, Nebraska, began applying a new method of teaching called well made schools; and

WHEREAS, due to the hard work and dedication of the students, teachers, and community of South Sioux City Middle School, the new method of teaching has achieved outstanding results; and

WHEREAS, The New Teacher Project is a nonprofit organization using data from the Stanford Educational Data Archive to study South Sioux City Middle School along with other schools that have accelerated learning programs for students who come to school behind grade level; and

WHEREAS, according to The New Teacher Project, students at South Sioux City Middle School who enter their first tested grade below grade level grow their learning by 1.43 grade levels per year which is faster than students at 98% of other schools; and

WHEREAS, the success of South Sioux City Middle School in the advancement of education in Nebraska is a model for the state.

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

1. That the Legislature congratulates South Sioux City Middle School in South Sioux City, Nebraska, on the outstanding success in applying the well made schools method of teaching to advance and grow the education of students.

2. That a copy of this resolution be sent to South Sioux City Middle School.

Laid over.

LEGISLATIVE RESOLUTION 67. Introduced by Albrecht, 17.

WHEREAS, the 2023 Nebraska School Activities Association Class C-2 Girls State Basketball Championship was held on March 4, 2023, at Pinnacle Bank Arena in Lincoln, Nebraska; and

WHEREAS, the Pender Public Schools girls basketball team won the 2023 Class C-2 Girls State Basketball Championship; and

WHEREAS, Pender defeated Oakland-Craig in the championship game by a score of 45-42; and

WHEREAS, this is a first state championship for the Pender girls basketball team since 2013; and

WHEREAS, this achievement is the culmination of years of dedication, determination, and hard work by the members of the Pender girls basketball team; and

WHEREAS, the Pender girls basketball team has been competing at a high level for well over a decade, including four consecutive appearances in the state basketball tournament from 2011 through 2014; and

WHEREAS, the hard work, dedication, commitment, passion, and care for each other of the members of the Pender girls basketball team is the root of their success; and

WHEREAS, the members of the 2023 Class C-2 State Championship Basketball team are seniors Jacie Bonneau, Rylie Bonneau, Isabelle Felber, Kirsten Frey, Breanna Kruger, Olyvia Nelson, and Lillie Timm, junior Avery Wegner, sophomore Maya Dolliver, freshmen Madalyn Dolliver, Allie Rutar, and Hadley Walsh, student managers Megan Breitbarth, Giselle Leggett, Myra Hansen, Samantha Kinning, Adelyn Kneifl, Matti Trimble,

and Mayci Dolliver, and coaches Jason Dolliver, Payton Blanke, Melissa Hansen, and Liz Hoffman; and

WHEREAS, such a team achievement is made possible through the support of parents, teachers, administrators, classmates, and the community; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

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

1. That the Legislature congratulates Pender Public Schools girls basketball team on winning the 2023 Class C-2 Girls State Basketball Championship.

2. That copies of this resolution be sent to the Pender Public Schools girls basketball team.

Laid over.

LEGISLATIVE RESOLUTION 68. Introduced by McDonnell, 5.

WHEREAS, Robert McDonnell was hired by the Omaha Fire Department on February 1, 1993; and

WHEREAS, Robert was promoted to Captain on January 15, 2001; and

WHEREAS, Robert was promoted to Battalion Chief on August 24, 2008; and

WHEREAS, Robert retired after thirty years with the Omaha Fire Department on February 10, 2023.

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

1. That the Legislature congratulates and thanks Battalion Chief Robert McDonnell for thirty years of service and dedication as a firefighter with the city of Omaha.

2. That a copy of this resolution be sent to Robert McDonnell.

Laid over.

LEGISLATIVE RESOLUTION 69. Introduced by Walz, 15.

WHEREAS, all individuals possess the basic human right to the preservation of personal dignity; and

WHEREAS, all individuals deserve the investment of every possible resource to maintain their lasting physical, mental, and emotional well-being; and

WHEREAS, post-traumatic stress can result from any number of stressors including combat, interpersonal violence, severe impact collisions, natural disasters, and exposure to the suffering of others; and

WHEREAS, the diagnosis known as Post-Traumatic Stress Disorder was initially formulated in 1980 by the American Psychiatric Association to

commonly describe and categorize the psychological aftermath of severe traumatic distress; and

WHEREAS, post-traumatic stress has historically been unjustly portrayed as a mental illness caused by a preexisting flaw of character or ability, and association with the term "disorder" generates a stigma that perpetuates this misconception; and

WHEREAS, electro-magnetic imaging now shows that severe post-traumatic stress causes physical changes within the brain which are more accurately described as an injury than a disorder; and

WHEREAS, referring to post-traumatic stress as a disorder can disparage the injured and discourage them from seeking timely care for their behavioral health needs; and

WHEREAS, post-traumatic stress injury that is consistent with the description of post-traumatic stress disorder in section 309.81 criteria A through H of the Diagnostic Statistical Manual of Mental Disorders deserves equal compensation strictly matching that currently allowed under the law for post-traumatic stress disorder; and

WHEREAS, all individuals suffering from post-traumatic stress injury deserve our compassion and consideration and the brave men and women who received these wounds while risking their lives to protect our freedom, health, and welfare deserve special recognition of their gallantry, commitment, devotion, and sacrifice; and

WHEREAS, timely access to appropriate treatment of post-traumatic stress injury can diminish complications and prevent suicide.

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

1. That the Legislature recognizes June 2023 as Post-Traumatic Stress Injury Awareness Month and June 27, 2023, as Post-Traumatic Stress Injury Awareness Day in Nebraska.

2. That the Legislature encourages the Division of Public Health of the Department of Health and Human Services and the Nebraska Department of Veterans' Affairs to continue working to educate victims of interpersonal violence, combat, life-threatening accidents, and natural disasters, their families, and the general public about the causes, symptoms, and treatment of post-traumatic stress injury.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 574. Senator M. Cavanaugh offered [MO83](#), found on page 814, to recommit to the Health and Human Services Committee.

Pending.

COMMITTEE REPORT

Transportation and Telecommunications

LEGISLATIVE BILL 63. Placed on General File with amendment.**AM869**

1 1. Strike the original sections and insert the following new
2 sections:
3 Section 1. Section 86-125, Reissue Revised Statutes of Nebraska, is
4 amended to read:
5 86-125 Notwithstanding the provisions of section 86-124:
6 (1) ~~Any~~ All communications ~~provider~~ providers providing service in
7 Nebraska shall file a registration form with and pay a registration fee
8 to the Public Service Commission. ~~A communications provider which~~
9 ~~provides such service prior to August 1, 2007, and which continues to~~
10 ~~provide such service on and after August 1, 2007, shall register with the~~
11 ~~commission no later than January 1, 2008.~~ Any communications provider
12 ~~which begins to provide service in Nebraska on or after August 1, 2007,~~
13 shall register with the commission prior to providing such service. ~~The~~
14 ~~commission shall prescribe the registration form to be filed pursuant to~~
15 ~~this section;~~
16 (2) A communications provider providing the services described in
17 ~~The commission shall prescribe the registration form to be filed pursuant~~
18 ~~to this section. Communications providers as defined in subdivision (7)~~
19 (a) ~~(8)(a)~~ of this section shall provide the commission with the ~~:(a)~~
20 The name, address, telephone number, and email address of a contact
21 person concerning:
22 (a) ~~The the~~ Nebraska Telecommunications Universal Service Fund Act
23 and related surcharges, if applicable;
24 (b) ~~The name, address, telephone number, and email address of a~~
25 ~~contact person concerning the Telecommunications Relay System Act and~~
26 related surcharges, if applicable;
27 (c) ~~The name, address, telephone number, and email address of a~~
28 ~~contact person concerning the Enhanced Wireless 911 Services Act and~~
29 related surcharges, if applicable; and
30 (d) ~~Consumer The name, address, telephone number, and email address~~
31 ~~of a contact person concerning consumer complaints and inquiries;~~
32 (3) A communications provider providing the services described in
33 ~~Communications providers as defined in subdivision (7)(b) (8)(b) of this~~
34 section shall provide the commission with the name, address, telephone
35 number, and email address of a person with managerial responsibility for
36 Nebraska operations;
37 (4) ~~A~~ The communications provider shall:
38 (a) ~~Submit~~ submit a registration fee at the time of submission of
39 the registration form. The commission shall set the fee in an amount
40 sufficient to cover the costs of administering the registration process
41 but not to exceed fifty dollars;
42 (b) ~~Keep~~ (5) ~~The communications provider shall keep~~ the information
43 required by this section current and shall notify the commission of any
44 changes to such information within sixty days after the change; and
45 (c) ~~Certify to the commission by January 1 each year that such~~
46 ~~communications provider does not use or provide any communications~~
47 ~~equipment or service deemed to pose a threat to national security~~
48 ~~identified on the Covered List developed pursuant to 47 C.F.R. 1.50002,~~
49 ~~as such regulation existed on January 1, 2023, and published by the~~
50 ~~Public Safety and Homeland Security Bureau of the Federal Communications~~
51 ~~Commission pursuant to the federal Secure and Trusted Communications~~
52 ~~Networks Act of 2019, 47 U.S.C. 1601 et seq., as such act existed on~~
53 ~~January 1, 2023, and the rules adopted pursuant to such act by the~~
54 ~~Federal Communications Commission on November 11, 2022, in its Report and~~
55 ~~Order FCC 22-84;~~
56 (5) (6) The commission may, pursuant to section 75-156,
57 administratively fine pursuant to section 75-156 any communications
58 provider which violates this section;
59 (6) (7) This section applies to all communications providers
60 providing service in Nebraska except for those communications providers
61 otherwise regulated under the Nebraska Telecommunications Regulation Act;
62 and

5 (7) (8) For purposes of this section, communications provider means
6 any entity that:

7 (a) Uses telephone numbers or Internet protocol addresses or their
8 functional equivalents or successors to provide information of a user's
9 choosing by aid of wire, cable, wireless, satellite, or other like
10 connection, whether part of a bundle of services or offered separately,
11 (i) which provides or enables real-time or interactive voice
12 communications and (ii) in which the voice component is the primary
13 function; or
14 (b) Provides any service, whether part of a bundle of services or
15 offered separately, used for transmission of information of a user's
16 choosing regardless of the transmission medium or technology employed,
17 that connects to a network that permits the end user to engage in
18 electronic communications, including, but not limited to, service
19 provided directly (i) to the public or (ii) to such classes of users as
20 to be effectively available directly to the public.

21 Sec. 2. Section 86-324, Revised Statutes Cumulative Supplement,
22 2022, is amended to read:

23 86-324 (1) The Nebraska Telecommunications Universal Service Fund is
24 hereby created. The fund shall provide the assistance necessary to make
25 universal access to telecommunications services available to all persons
26 in the state consistent with the policies set forth in the Nebraska
27 Telecommunications Universal Service Fund Act. Only eligible
28 telecommunications companies designated by the commission shall be
29 eligible to receive support to serve high-cost areas from the fund. A
30 telecommunications company that receives such support shall use that
31 support only for the provision, maintenance, and upgrading of facilities
1 and services for which the support is intended. Any such support should
2 be explicit and sufficient to achieve the purpose of the act.

3 (2) Notwithstanding the provisions of section 86-124, in addition to
4 other provisions of the act, and to the extent not prohibited by federal
5 law, the commission:

6 (a) Shall have authority and power to subject eligible
7 telecommunications companies to service quality, customer service, and
8 billing regulations. Such regulations shall apply only to the extent of
9 any telecommunications services or offerings made by an eligible
10 telecommunications company which are eligible for support by the fund.
11 The commission shall be reimbursed from the fund for all costs related to
12 drafting, implementing, and enforcing the regulations and any other
13 services provided on behalf of customers pursuant to this subdivision;
14 (b) Shall have authority and power to issue orders carrying out its
15 responsibilities and to review the compliance of any eligible
16 telecommunications company receiving support for continued compliance
17 with any such orders or regulations adopted pursuant to the act;
18 (c) May withhold all or a portion of the funds to be distributed
19 from any telecommunications company failing to continue compliance with
20 the commission's orders or regulations;

21 (d)(i) Shall withhold support distributed from the fund from any
22 telecommunications company using or providing any communications
23 equipment or service deemed to pose a threat to national security
24 identified on the Covered List developed pursuant to 47 C.F.R. 1.50002,
25 as such regulation existed on January 1, 2023, and published by the
26 Public Safety and Homeland Security Bureau of the Federal Communications
27 Commission pursuant to the federal Secure and Trusted Communications
28 Networks Act of 2019, 47 U.S.C. 1601 et seq., as such act existed on
29 January 1, 2023, and the rules adopted pursuant to such act by the
30 Federal Communications Commission on November 11, 2022, in its Report and
31 Order FCC 22-84.

1 (ii) Any telecommunications company that removes, discontinues, or
2 replaces any communications equipment or service identified on the
3 Covered List described in subdivision (2)(d)(i) of this section in
4 compliance with federal law shall not be required to obtain any
5 additional permits or authorization from any state agency or political
6 subdivision in the removal, discontinuance, or replacement of such

7 communications equipment or service:

8 (e) ~~(d)~~ Shall require every telecommunications company to contribute
9 to any universal service mechanism established by the commission pursuant
10 to state law. The commission shall require, as reasonably necessary, an
11 annual audit of any telecommunications company to be performed by a
12 third-party certified public accountant to insure the billing,
13 collection, and remittance of a surcharge for universal service. The
14 costs of any audit required pursuant to this subdivision shall be paid by
15 the telecommunications company being audited;

16 ~~(f)~~ (e) Shall require an audit of information provided by a
17 telecommunications company to be performed by a third-party certified
18 public accountant for purposes of calculating universal service fund
19 payments to such telecommunications company. The costs of any audit
20 required pursuant to this subdivision shall be paid by the
21 telecommunications company being audited; and

22 ~~(g)~~ (f) May administratively fine pursuant to section 75-156 any
23 person who violates the Nebraska Telecommunications Universal Service
24 Fund Act.

25 (3) Any money in the fund available for investment shall be invested
26 by the state investment officer pursuant to the Nebraska Capital
27 Expansion Act and the Nebraska State Funds Investment Act.

28 (4) Transfers may be made from earnings on the Nebraska
29 Telecommunications Universal Service Fund to the 211 Cash Fund at the
30 direction of the Legislature. The State Treasurer shall transfer nine
31 hundred fifty-five thousand dollars on July 1 beginning in 2022 from the
1 earnings on the Nebraska Telecommunications Universal Service Fund to the
2 211 Cash Fund.

3 Sec. 3. Section 86-328, Revised Statutes Cumulative Supplement,
4 2022, is amended to read:

5 86-328 (1) Annually the commission shall hold a public hearing to
6 determine the level of the fund necessary to carry out the Nebraska
7 Telecommunications Universal Service Fund Act. The commission shall
8 publish notice of the hearing in at least one newspaper of general
9 circulation in the state at least once each week for two consecutive
10 weeks before the hearing. After the hearing, the commission shall
11 determine the amount of the fund for the following year, including a
12 reasonable reserve. In the initial year of the fund's operation, the
13 commission shall determine the amount of the fund to be equivalent to the
14 amount which, in the commission's judgment, after careful analysis, is
15 necessary to keep approximately ninety-six percent of Nebraska households
16 subscribed to local telecommunications service.

17 (2) In an emergency as determined by the commission, the commission
18 may adjust the level of the fund, but only after a public hearing for
19 such purpose.

20 (3) For purposes of service by a prepaid wireless telecommunications
21 service provider, universal service fund contribution and surcharge
22 obligations shall be governed by the Prepaid Wireless Surcharge Act,
23 except that a prepaid wireless telecommunications service provider shall
24 continue to be subject to the audit requirements in subdivision ~~(2)~~(e)
25 ~~(2)~~(d) of section 86-324.

26 Sec. 4. Section 86-1304, Revised Statutes Cumulative Supplement,
27 2022, is amended to read:

28 86-1304 (1)(a) A provider, a cooperative, a political subdivision,
29 or an Indian tribe may apply to the commission for a grant on forms
30 provided by the commission. The grant shall only be used for development
31 costs for a qualifying project. The application shall indicate the
1 project area. The applicant shall provide matching funds equal to fifty
2 percent of the total development costs of the project if located outside
3 a high-cost area, or twenty-five percent of the total development costs
4 of the project if located inside a high-cost area, as such areas are
5 determined by the commission. The matching funds requirement in this
6 subdivision shall not apply to any portion of a grant comprised of
7 federal funds. In order to qualify, the project is required to provide
8 broadband Internet service scalable to one hundred megabits per second

9 for downloading and one hundred megabits per second for uploading, or
 10 greater. Applications shall be submitted on or before July 1 for each
 11 fiscal year.

12 (b) An application from a political subdivision or an Indian tribe
 13 shall be made as part of a public-private partnership with a provider.

14 (2)(a) As part of the application, the applicant shall agree to

15 complete the project within eighteen months after the date the grant is
 16 awarded. The commission may permit extensions upon request and for good
 17 cause shown.

18 (b) If a grant recipient fails to complete the project by the agreed
 19 or extended deadline, as the case may be, the recipient shall repay the
 20 grant as provided in this subdivision. If no extension is permitted, ten
 21 percent of the grant shall be repaid for each month that the project is
 22 not complete after the eighteen-month period, up to one hundred percent
 23 of the grant. If an extension is permitted, twenty percent of the grant
 24 shall be repaid for each month that the project is not complete after the
 25 extension period, up to one hundred percent of the grant.

26 (3)(a) As part of the application, the applicant shall agree to
 27 submit the broadband network completed as a result of the grant to speed
 28 tests as determined by the commission. The grant recipient shall conduct
 29 the speed tests and submit the results to the commission. The speed tests
 30 shall be conducted for one week using a random sample of locations of
 31 consumers who subscribe to the network completed as a result of the
 1 grant.

2 (b) If the broadband network does not provide service at the speeds
 3 required pursuant to subdivision (1)(a) of this section according to the
 4 speed tests under subdivision (3)(a) of this section, the grant recipient
 5 shall be allowed a reasonable time to address the speed deficiencies and
 6 conduct a second set of speed tests as described in subdivision (3)(a) of
 7 this section. If the broadband network does not provide service at the
 8 speeds required pursuant to subdivision (1)(a) of this section according
 9 to the second set of speed tests, the grant recipient shall repay the
 10 grant.

11 (4) No applicant shall be eligible to receive a grant if such
 12 applicant uses or provides any communications equipment or service deemed
 13 to pose a threat to national security identified on the Covered List
 14 developed pursuant to 47 C.F.R. 1.50002, as such regulation existed on
 15 January 1, 2023, and published by the Public Safety and Homeland Security
 16 Bureau of the Federal Communications Commission pursuant to the federal
 17 Secure and Trusted Communications Networks Act of 2019, 47 U.S.C. 1601 et
 18 seq., as such act existed on January 1, 2023, and the rules adopted
 19 pursuant to such act by the Federal Communications Commission on November
 20 11, 2022, in its Report and Order FCC 22-84.

21 Sec. 5. Original section 86-125, Reissue Revised Statutes of
 22 Nebraska, and sections 86-324, 86-328, and 86-1304, Revised Statutes
 23 Cumulative Supplement, 2022, are repealed.

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

(Signed) Suzanne Geist, Chairperson

AMENDMENT - Print in Journal

Senator Hunt filed the following amendment to [LB574](#):
[AM945](#)

(Amendments to AM901)

1 1. Insert the following new section:

2 Sec. 2. The Legislature finds that:

3 (1) The state has a compelling government interest in protecting the
 4 health and safety of its citizens, especially vulnerable children;

5 (2) Genital and nongenital altering surgeries are rarely performed
 6 on youth, and no gender-affirming medical interventions are offered until

- 7 puberty;
 8 (3) Under established medical and mental health standards of care,
 9 providers generally encourage caregivers to focus on acceptance and
 10 affirmation of youth experiencing gender dysphoria; and
 11 (4) If a transgender youth is started on puberty blockers, such
 12 youth's puberty is temporarily stalled, and the effects of such
 13 medications are completely reversible.
 14 2. On page 2, line 28, strike "2" and insert "3".
 15 3. Renumber the remaining sections accordingly.

NOTICE OF COMMITTEE HEARING

Health and Human Services
 Room 1510 1:00 PM

Wednesday, March 29, 2023

April Dexter - Nebraska Rural Health Advisory Commission
 Martin Fattig - Nebraska Rural Health Advisory Commission
 Katherine Kusek - Nebraska Rural Health Advisory Commission
 Kate Hesser - Nebraska Rural Health Advisory Commission
 Linda L. Jensen - Board of Emergency Medical Services
 Jonathan L. Kilstrom - Board of Emergency Medical Services
 Karen Bowlin - Board of Emergency Medical Services
 Prince Harrison - Board of Emergency Medical Services
 Ryan K. Batenhorst - Board of Emergency Medical Services
 Brent E. Lottman - Board of Emergency Medical Services
 Leslie L. Vaughn, Jr. - Board of Emergency Medical Services
 Myra Stoney - Nebraska Rural Health Advisory Commission
 James Smith - Board of Emergency Medical Services

(Signed) Ben Hansen, Chairperson

UNANIMOUS CONSENT - Add Cointroducers

Unanimous consent to add Senators as cointroducers. No objections. So ordered.

Senator Albrecht name added to LB736.
 Senator DeKay name added to LR63.

VISITORS

Visitors to the Chamber were Black Hills Energy employees from across the state.

The Doctor of the Day was Dr. George Voigtlander of Lincoln.

ADJOURNMENT

At 12:02 p.m., on a motion by Senator Dungan, the Legislature adjourned until 9:00 a.m., Thursday, March 23, 2023.

Brandon Metzler
 Clerk of the Legislature

