

**THIRTY-THIRD DAY - MARCH 3, 2020****LEGISLATIVE JOURNAL****ONE HUNDRED SIXTH LEGISLATURE  
SECOND SESSION****THIRTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, March 3, 2020

**PRAYER**

The prayer was offered by Pastor Jason Dowell, Freedom Baptist Church, Stamford.

**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 M. Hansen, Pansing Brooks, Slama, and Wayne who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-second day was approved.

**GENERAL FILE**

**LEGISLATIVE BILL 1131.** Title read. Considered.

Committee [AM2456](#), found on page 689, was offered.

Senator Crawford offered her amendment, [AM2638](#), found on page 750, to the committee amendment.

The Crawford amendment was adopted with 41 ayes, 0 nays, 3 present and not voting, and 5 excused and not voting.

Senator Groene withdrew his amendment, [AM2671](#), found on page 786.

Senator Chambers offered the following amendment to the committee amendment:

[FA104](#)

In line 20 after "Holocaust" put a comma; in line 21 strike "and"; after "genocide" strike the period and put a comma; add "slavery, lynching, and racial massacres in America.".

Pending.

**COMMITTEE REPORT(S)**

Health and Human Services

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Candice Arteaga - Commission for the Deaf and Hard of Hearing  
Robert J. Feit - Commission for the Deaf and Hard of Hearing  
Jonathan Scherling - Commission for the Deaf and Hard of Hearing

Aye: 7. Arch, Cavanaugh, Hansen, B., Howard, Murman, Walz, Williams.  
Nay: 0. Absent: 0. Present and not voting: 0.

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Michael Allen Christopher Greene - Nebraska Rural Health Advisory Commission

Aye: 7. Arch, Cavanaugh, Hansen, B., Howard, Murman, Walz, Williams.  
Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Sara Howard, Chairperson

**COMMITTEE REPORT(S)**

Health and Human Services

**LEGISLATIVE BILL 1124.** Placed on General File.

**LEGISLATIVE BILL 1185.** Placed on General File with amendment.

[AM2668](#)

1 1. Strike original section 3 and insert the following new sections:  
2 Sec. 3. Section 71-1912, Revised Statutes Supplement, 2019, is  
3 amended to read:  
4 71-1912 (1) Before issuance of a license, the department shall  
5 investigate or cause an investigation to be made, when it deems  
6 necessary, to determine if the applicant or person in charge of the  
7 program meets or is capable of meeting the physical well-being, safety,  
8 and protection standards and the other rules and regulations of the  
9 department adopted and promulgated under the Child Care Licensing Act.  
10 The department may investigate the character of applicants and licensees,

11 any member of the applicant's or licensee's household, and the staff and  
12 employees of programs. The department may at any time inspect or cause an  
13 inspection to be made of any place where a program is operating to  
14 determine if such program is being properly conducted.

15 (2) All inspections by the department shall be unannounced except  
16 for initial licensure visits and consultation visits. Initial licensure  
17 visits are announced visits necessary for a provisional license to be  
18 issued to a family child care home I, family child care home II, child  
19 care center, or school-age-only or preschool program. Consultation visits  
20 are announced visits made at the request of a licensee for the purpose of  
21 consulting with a department specialist on ways of improving the program.

22 (3) An unannounced inspection of any place where a program is  
23 operating shall be conducted by the department or the city, village, or  
24 county pursuant to subsection (2) of section 71-1914 at least annually  
25 for a program licensed to provide child care for fewer than thirty  
26 children and at least twice every year for a program licensed to provide  
27 child care for thirty or more children.

1 (4) Whenever an inspection is made, the findings shall be recorded  
2 in a report designated by the department. The public shall have access to  
3 the results of these inspections upon a written or oral request to the  
4 department. The request must include the name and address of the program.  
5 Additional unannounced inspections shall be performed as often as is  
6 necessary for the efficient and effective enforcement of the Child Care  
7 Licensing Act.

8 (5)(a) A person applying for a license as a child care provider or a  
9 licensed child care provider under the Child Care Licensing Act shall  
10 submit a request for a national criminal history record information check  
11 for each child care staff member, including a prospective child care  
12 staff member of the child care provider, at the applicant's or licensee's  
13 expense, as set forth in this section. Beginning on October 1, 2019, a  
14 prospective child care staff member shall submit to a national criminal  
15 history record information check (i) prior to employment, except as  
16 otherwise permitted under 45 C.F.R. 98.43, as such regulation existed on  
17 January 1, 2019, or (ii) prior to residing in a family child care home. A  
18 child care staff member who was employed by a child care provider prior  
19 to October 1, 2019, or who resided in a family child care home prior to  
20 October 1, 2019, shall submit to a national criminal history record  
21 information check by October 1, 2021, unless the child care staff member  
22 ceases to be a child care staff member prior to such date.

23 (b) A child care staff member shall be required to undergo a  
24 national criminal history record information check not less than once  
25 during each five-year period. A child care staff member shall submit a  
26 complete set of his or her fingerprints to the Nebraska State Patrol. The  
27 Nebraska State Patrol shall transmit a copy of the child care staff  
28 member's fingerprints to the Federal Bureau of Investigation for a  
29 national criminal history record information check. The national criminal  
30 history record information check shall include information concerning  
31 child care staff members from federal repositories of such information  
1 and repositories of such information in other states, if authorized by  
2 federal law for use by the Nebraska State Patrol. The Nebraska State  
3 Patrol shall issue a report to the department that includes the  
4 information collected from the national criminal history record  
5 information check concerning child care staff members. The department  
6 shall seek federal funds, if available, to assist child care providers  
7 and child care staff members with the costs of the fingerprinting and  
8 national criminal history record information check. If the department  
9 does not receive sufficient federal funds to assist child care providers  
10 and staff members with such costs, then the A child care staff member  
11 being screened, applicant for a license, or licensee shall pay the actual  
12 cost of the fingerprinting and national criminal history record

13 information check, ~~except that the department may pay all or part of the~~  
14 ~~cost if funding becomes available.~~ The department and the Nebraska State  
15 Patrol may adopt and promulgate rules and regulations concerning the  
16 costs associated with the fingerprinting and the national criminal  
17 history record information check. The department may adopt and promulgate  
18 rules and regulations implementing national criminal history record  
19 information check requirements for child care providers and child care  
20 staff members.

21 (c) A child care staff member shall also submit to the following  
22 background checks at his or her expense not less than once during each  
23 five-year period:

24 (i) A search of the National Crime Information Center's National Sex  
25 Offender Registry; and

26 (ii) A search of the following registries, repositories, or data  
27 bases in the state where the child care provider is located or where the  
28 child care staff member resides and each state where the child care  
29 provider was located or where the child care staff member resided during  
30 the preceding five years:

31 (A) State criminal registries or repositories;  
1 (B) State sex offender registries or repositories; and  
2 (C) State-based child abuse and neglect registries and data bases.

3 (d) Any individual shall be ineligible for employment by a child  
4 care provider if such individual:

5 (i) Refuses to consent to the national criminal history record  
6 information check or a background check described in this subsection;  
7 (ii) Knowingly makes a materially false statement in connection with  
8 the national criminal history record information check or a background  
9 check described in this subsection;

10 (iii) Is registered, or required to be registered, on a state sex  
11 offender registry or repository or the National Sex Offender Registry; or  
12 (iv) Has been convicted of a crime of violence, a crime of moral  
13 turpitude, or a crime of dishonesty.

14 (e) The department may adopt and promulgate rules and regulations  
15 ~~for purposes of this section prohibiting the employment of any child care~~  
16 ~~staff member with one or more criminal convictions as the department~~  
17 ~~deems necessary to protect the health and safety of children receiving~~  
18 ~~child care.~~

19 (f) A child care provider shall be ineligible for a license under  
20 the Child Care Licensing Act and shall be ineligible to participate in  
21 the child care subsidy program if the provider employs a child care staff  
22 member who is ineligible for employment under subdivisions (d) or (e) of  
23 this subsection.

24 (g) National criminal history record information and information  
25 from background checks described in this subsection subject to state or  
26 federal confidentiality requirements may only be used for purposes of  
27 granting a child care license or approving a child care provider for  
28 participation in the child care subsidy program.

29 (h) For purposes of this subsection:

30 (i) Child care provider means a child care program required to be  
31 licensed under the Child Care Licensing Act; and

1 (ii) Child care staff member means an individual who is not related  
2 to all of the children for whom child care services are provided and:

3 (A) Who is employed by a child care provider for compensation,  
4 including contract employees or self-employed individuals;

5 (B) Whose activities involve the care or supervision of children for  
6 a child care provider or unsupervised access to children who are cared  
7 for or supervised by a child care provider; or

8 (C) Who is residing in a family child care home and who is eighteen  
9 years of age or older.

10 Sec. 5. Section 71-1928.01, Revised Statutes Supplement, 2019, is

11 amended to read:

12 71-1928.01 (1) Any individual eighteen years of age or older working  
 13 in a residential child-caring agency shall be required to undergo a  
 14 national criminal history record information check not less than once  
 15 during each five-year period that he or she is working in such an agency.  
 16 The individual shall submit a complete set of his or her fingerprints to  
 17 the Nebraska State Patrol. The Nebraska State Patrol shall transmit a  
 18 copy of the individual's fingerprints to the Federal Bureau of  
 19 Investigation for a national criminal history record information check.  
 20 The national criminal history record information check shall include  
 21 information concerning the individual from federal repositories of such  
 22 information and repositories of such information in other states, if  
 23 authorized by federal law for use by the Nebraska State Patrol. The  
 24 Nebraska State Patrol shall issue a report to the department that  
 25 includes the information collected from the national criminal history  
 26 record information check concerning the individual. The department shall  
 27 seek federal funds, if available, to assist residential child-caring  
 28 agencies and individuals working in a residential child-caring agency  
 29 with the costs of the fingerprinting and national criminal history record  
 30 information check. If the department does not receive sufficient federal  
 31 funds to assist residential child-caring agencies and individuals working  
 1 in a residential child-caring agency with such costs, then the ~~The~~  
 2 individual being screened ~~or the residential child-caring agency shall~~  
 3 pay the actual cost of the fingerprinting and national criminal history  
 4 record information check, except that the department may pay all or part  
 5 of the cost if funding becomes available. The department and the Nebraska  
 6 State Patrol may adopt and promulgate rules and regulations concerning  
 7 the costs associated with the fingerprinting and the national criminal  
 8 history record information check. The department may adopt and promulgate  
 9 rules and regulations implementing national criminal history record  
 10 information check requirements for residential child-caring agencies.  
 11 (2) An individual eighteen years of age or older working in a  
 12 residential child-caring agency shall also submit to the following  
 13 background checks not less than once during each five-year period: A  
 14 search of the following registries, repositories, or data bases in the  
 15 state where the individual resides and each state where the individual  
 16 resided during the preceding five years:  
 17 (a) State criminal registries or repositories;  
 18 (b) State sex offender registries or repositories; and  
 19 (c) State-based child abuse and neglect registries and data bases.  
 20 2. On page 9, line 31, strike "and 71-1912" and insert "71-1912, and  
 21 71-1928.01".  
 22 3. Renumber the remaining section accordingly.

(Signed) Sara Howard, Chairperson

General Affairs

**LEGISLATIVE BILL 1056.** Placed on General File with amendment.  
[AM2595](#) is available in the Bill Room.

(Signed) Tom Briese, Chairperson

**RESOLUTION(S)**

**LEGISLATIVE RESOLUTION 329.** Introduced by Howard, 9; Albrecht, 17; Arch, 14; Blood, 3; Bolz, 29; Bostelman, 23; Brandt, 32; Brewer, 43; Briese, 41; Cavanaugh, 6; Chambers, 11; Clements, 2; Crawford, 45; DeBoer, 10; Dorn, 30; Erdman, 47; Friesen, 34; Geist, 25; Gragert, 40; Groene, 42; Halloran, 33; Hansen, B., 16; Hansen, M., 26; Hilgers, 21; Hilkemann, 4; Hughes, 44; Hunt, 8; Kolowski, 31; Kolterman, 24; La Grone, 49; Lathrop, 12; Lindstrom, 18; Linehan, 39; Lowe, 37; McCollister, 20; McDonnell, 5; Morfeld, 46; Moser, 22; Murman, 38; Pansing Brooks, 28; Quick, 35; Scheer, 19; Slama, 1; Stinner, 48; Vargas, 7; Walz, 15; Wayne, 13; Williams, 36; Wishart, 27.

WHEREAS, multiple sclerosis (MS) is an unpredictable, often disabling disease of the central nervous system that interrupts the flow of information between the brain and the body, and for which there is no cure; and

WHEREAS, although significant progress has been made in MS research, there are only sixteen disease-modifying treatments for the relapsing-remitting form of the disease and only one treatment for the primary-progressive form; and

WHEREAS, it is estimated that more than 2.3 million people in the world are currently living with MS; and

WHEREAS, it is estimated that more than 900,000 people in the United States are living with MS, including more than 4,000 people in Nebraska; and

WHEREAS, the National Multiple Sclerosis Society exists to help each person address the challenges of living with MS by funding cutting-edge research, facilitating professional education, and providing programs and services that help people with MS and their families move their lives forward; and

WHEREAS, MS Awareness Month is recognized annually in March to unite people in Nebraska, the United States, and worldwide in the fight to end MS, to create connections stronger than the ones MS destroys, and to educate people about MS and what they can do to make a difference.

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

1. That the Legislature recognizes March 2020 as MS Awareness Month in Nebraska.

2. That a copy of this resolution be sent to the National Multiple Sclerosis Society - Mid America Chapter.

Laid over.

**LEGISLATIVE RESOLUTION 330.** Introduced by Hilkemann, 4.

WHEREAS, in Nebraska there are individuals and families who are adversely affected by gambling addiction; and

WHEREAS, Nebraska allocates funds to provide education, counseling, and assistance to individuals and families affected by gambling addiction; and

WHEREAS, the key to recognizing gambling addiction is awareness; and

WHEREAS, educating citizens about gambling and the risks of gambling addiction is crucial to prevent problems that result from unrestrained gambling.

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

1. That the Legislature recognizes March 2020 as Problem Gambling Awareness Month in Nebraska.
2. That a copy of this resolution be sent to the National Council on Problem Gambling, the Nebraska Council on Problem Gambling, and the Nebraska Commission on Problem Gambling.

Laid over.

### **BILL ON FIRST READING**

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

**LEGISLATIVE BILL 780A.** Introduced by Stinner, 48.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2019, LB294, section 213; to appropriate funds to aid in carrying out the provisions of Legislative Bill 780, One Hundred Sixth Legislature, Second Session, 2020; to change appropriations as prescribed; to repeal the original section; and to declare an emergency.

### **GENERAL FILE**

**LEGISLATIVE BILL 1131.** The Chambers amendment, [FA104](#), found in this day's Journal, to the committee amendment, was renewed.

Senator Chambers moved for a call of the house. The motion prevailed with 14 ayes, 1 nay, and 34 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 34:

Arch	Crawford	Howard	Linehan	Slama
Blood	DeBoer	Hunt	McCollister	Vargas
Bolz	Dorn	Kolowski	McDonnell	Walz
Brandt	Friesen	Kolterman	Morfeld	Wayne
Brewer	Geist	La Grone	Pansing Brooks	Williams
Cavanaugh	Hansen, M.	Lathrop	Quick	Wishart
Chambers	Hilkemann	Lindstrom	Scheer	

Voting in the negative, 3:

Albrecht	Clements	Groene
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Present and not voting, 11:

Bostelman	Gragert	Hilgers	Moser
Briese	Halloran	Hughes	Murman
Erdman	Hansen, B.	Low	

Excused and not voting, 1:

Stinner

The Chambers amendment was adopted with 34 ayes, 3 nays, 11 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Pending.

### RESOLUTION(S)

Pursuant to Rule 4, Sec. 5(b), LRs 326 and 327 were adopted.

### PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 288, 326, and 327.

### GENERAL FILE

**LEGISLATIVE BILL 1131.** Senator Groene offered the following amendment to the committee amendment:

[FA105](#)

Amend AM2456

On pg. 57, strike lines 15-22.

Senator Chambers moved for a call of the house. The motion prevailed with 29 ayes, 2 nays, and 18 not voting.

### SPEAKER SCHEER PRESIDING

Senator Groene requested a roll call vote on his amendment.

Voting in the affirmative, 10:

Albrecht	Clements	Friesen	Halloran	Murman
Brewer	Erdman	Groene	Hansen, B.	Scheer

Voting in the negative, 10:

Blood	Chambers	Kolowski	Morfeld	Wayne
Cavanaugh	Hunt	La Grone	Pansing Brooks	Wishart

Present and not voting, 27:

Arch	DeBoer	Howard	McCollister	Vargas
Bolz	Dorn	Hughes	McDonnell	Walz
Bostelman	Geist	Kolterman	Moser	Williams
Brandt	Gragert	Lathrop	Quick	
Briese	Hilgers	Lindstrom	Slama	
Crawford	Hilkemann	Lowe	Stinner	

Absent and not voting, 1:

Hansen, M.

Excused and not voting, 1:

Linehan

The Groene amendment lost with 10 ayes, 10 nays, 27 present and not voting, 1 absent and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Committee [AM2456](#), found on page 689 and considered in this day's Journal, as amended, was renewed.

The committee amendment, as amended, was adopted with 38 ayes, 1 nay, 7 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 931.** Title read. Considered.

Committee [AM2128](#), found on page 725, was adopted with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 4 present and not voting, and 4 excused and not voting.

**COMMITTEE REPORT(S)**  
Government, Military and Veterans Affairs

**LEGISLATIVE BILL 1110.** Placed on General File.

**LEGISLATIVE BILL 1121.** Placed on General File.

**LEGISLATIVE BILL 1122.** Placed on General File.

**LEGISLATIVE BILL 752.** Placed on General File with amendment.

[AM2727](#)

1 1. Strike the original sections and insert the following new  
2 section:  
3 Section 1. The Department of Health and Human Services and  
4 Department of Veterans' Affairs shall work jointly to encourage service  
5 providers in their respective departments and in other state and local  
6 agencies and departments to ask the question "Have you or a family member  
7 ever served in the military?". The question should be included in intake  
8 forms and interviews where appropriate, including, but not limited to, at  
9 hospitals, mental health care centers, senior centers, employment  
10 offices, courts, and schools and in encounters with law enforcement.

(Signed) Tom Brewer, Chairperson

**AMENDMENT(S) - Print in Journal**

Senator Lathrop filed the following amendment to LB1148:

[AM2666](#)

(Amendments to AM2637)

1 1. Insert the following new section:  
2 Sec. 11. Section 43-2,108.01, Revised Statutes Supplement, 2019, is  
3 amended to read:  
4 43-2,108.01 (1) Sections 43-2,108.01 to 43-2,108.05 apply only to  
5 persons who were under the age of eighteen years when the offense took  
6 place and, after being taken into custody, arrested, cited in lieu of  
7 arrest, or referred for prosecution without citation, the county attorney  
8 or city attorney:  
9 (a) Declined to file a juvenile petition or criminal complaint;  
10 (b) Offered juvenile pretrial diversion, mediation, or restorative  
11 justice to the juvenile under the Nebraska Juvenile Code;  
12 (c) Filed a juvenile court petition describing the juvenile as a  
13 juvenile described in subdivision (1), (2), (3)(b), or (4) of section  
14 43-247;  
15 (d) Filed a criminal complaint in county court against the juvenile  
16 under state statute or city or village ordinance for misdemeanor or  
17 infraction possession of marijuana or misdemeanor or infraction  
18 possession of drug paraphernalia;  
19 (e) Filed a criminal complaint in county court against the juvenile  
20 for any other misdemeanor or infraction under state statute or city or  
21 village ordinance, other than for a traffic offense, when all offenses in  
22 the case are waiveable offenses; or  
23 (f) Filed a criminal complaint in county or district court for a  
24 felony offense under state law or a city or village ordinance that was  
25 subsequently transferred to juvenile court for ongoing jurisdiction.  
26 (2) The changes made by Laws 2019, LB354, to the relief set forth in

- 1 sections 43-2,108.03 to 43-2,108.05 shall apply to all persons described  
 2 in this section, as amended by Laws 2019, LB354, and this legislative  
 3 bill, for offenses occurring prior to, on, or after September 1, 2019.  
 4 2. On page 2, lines 7 and 19; and page 4, lines 26 and 27, strike  
 5 "federal or state law" and insert "state law, federal law, federal  
 6 regulation, or applicable federal program provisions".  
 7 3. On page 25, line 31; and page 26, line 12, after "Center-Geneva"  
 8 insert "or another facility being used as a youth rehabilitation and  
 9 treatment center and operating pursuant to state law".  
 10 4. On page 34, line 31, strike "section 43-286" and insert "sections  
 11 43-286 and 43-2,108.01".  
 12 5. Renumber the remaining sections accordingly.

**COMMITTEE REPORT(S)**  
 Enrollment and Review

**LEGISLATIVE BILL 344.** Placed on Select File with amendment.

[ER181](#)

- 1 1. In the Standing Committee amendments, AM2486:  
 2 a. On page 4, strike lines 14 and 15 and insert "of any animals,  
 3 affected animals, or suspected affected animals or any premises, affected  
 4 premises, or suspected affected premises";  
 5 b. On page 5, line 8, strike "Protection" and insert "Inspection";  
 6 and in line 15 strike "Agriculture" and insert "agriculture";  
 7 c. On page 9, line 22, after the second comma insert "or";  
 8 d. On page 11, line 5, strike "manager" and insert "managers"; and  
 9 in line 9 strike "landowner or land manager" and insert "landowners or  
 10 land managers";  
 11 e. On page 13, line 14, strike "anthrax infected" and insert  
 12 "anthrax-infected"; in line 25 strike "direct" and insert "directly"; in  
 13 lines 25, 27, and 29 strike "part"; and in line 26 strike "slaughter" and  
 14 insert "slaughtering";  
 15 f. On page 14, line 30, strike "regulation" and insert  
 16 "regulations";  
 17 g. On page 16, lines 9 and 15, strike the semicolon and insert an  
 18 underscored period; in line 18, strike "; and" and insert an underscored  
 19 period; in line 23 strike "is" and insert "are";  
 20 h. On page 20, line 4, after the second comma insert "or" and strike  
 21 the third comma; in line 26 after "or" insert "a"; and in line 27 strike  
 22 "or" and insert an underscored comma; and  
 23 i. On page 21, line 15, after "Animal" insert "Health".  
 24 2. On page 1, line 4, after the fourth comma insert "54-7,105,".  
 25 3. On page 2, line 3, strike "54-744.01,"; in line 4 after the first  
 26 comma insert "54-753.01, 54-753.04,"; and in line 30 strike beginning  
 27 with "and" through "54-703," and insert "sections 54-701.03,".  
 1 4. On page 3, line 1, after "2018" insert ", and sections 54-703 and  
 2 54-744.01, Revised Statutes Supplement, 2019".

**LEGISLATIVE BILL 870.** Placed on Select File.

**LEGISLATIVE BILL 963.** Placed on Select File with amendment.

[ER179](#)

- 1 1. On page 1, line 9, strike "provide and eliminate definitions" and  
 2 insert "define and redefine terms".

**LEGISLATIVE BILL 963A.** Placed on Select File.

**LEGISLATIVE BILL 840.** Placed on Select File with amendment.**ER180**

1 1. Strike the original sections and all amendments thereto and

2 insert the following new sections:

3 Section 1. Section 71-5716, Reissue Revised Statutes of Nebraska, is

4 amended to read:

5 71-5716 Sections 71-5716 to 71-5735 and sections 4 and 5 of this act  
6 shall be known and may be cited as the Nebraska Clean Indoor Air Act.

7 Sec. 2. Section 71-5717, Reissue Revised Statutes of Nebraska, is

8 amended to read:

9 71-5717 The purpose of the Nebraska Clean Indoor Air Act is to  
10 protect the public health and welfare by prohibiting smoking in public  
11 places and places of employment with limited exceptions for guestrooms  
12 and suites, research, tobacco retail outlets, electronic smoking device  
13 retail outlets, and cigar shops. The limited exceptions permit smoking in  
14 public places where the public would reasonably expect to find persons  
15 smoking, including guestrooms and suites which are subject to  
16 expectations of privacy like private residences, institutions engaged in  
17 research related to smoking, and tobacco retail outlets, electronic  
18 smoking device retail outlets, and cigar shops which provide the public  
19 legal retail outlets to sample, use, and purchase tobacco products and  
20 products related to smoking. The act shall not be construed to prohibit  
21 or otherwise restrict smoking in outdoor areas. The act shall not be  
22 construed to permit smoking where it is prohibited or otherwise  
23 restricted by other applicable law, ordinance, or resolution. The act  
24 shall be liberally construed to further its purpose.

25 Sec. 3. Section 71-5718, Reissue Revised Statutes of Nebraska, is

26 amended to read:

27 71-5718 For purposes of the Nebraska Clean Indoor Air Act, the  
1 definitions found in sections 71-5719 to 71-5728 and sections 4 and 5 of

2 this act apply.

3 Sec. 4. Electronic smoking device means an electronic nicotine

4 delivery system as defined in section 28-1418.01. The term includes any

5 such device regardless of whether it is manufactured, distributed,

6 marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape

7 pen or under any other product name or descriptor.

8 Sec. 5. Electronic smoking device retail outlet means a store that

9 is licensed as provided under sections 28-1421 and 28-1422, that sells

10 only electronic smoking devices and products directly related to

11 electronic smoking devices, and that does not allow a person under the

12 age of twenty-one years to enter such store. Products directly related to

13 electronic smoking devices do not include alcohol, coffee, soft drinks,

14 candy, groceries, or gasoline.

15 Sec. 6. Section 71-5727, Reissue Revised Statutes of Nebraska, is

16 amended to read:

17 71-5727 Smoke or smoking means inhaling, exhaling, burning, or

18 carrying any lighted or heated cigar, cigarette, pipe, hookah, or any

19 other lighted or heated tobacco or plant product intended for inhalation,

20 whether natural or synthetic, in any manner or in any form. The term

21 includes the use of an electronic smoking device which creates an aerosol

22 or vapor, in any manner or in any form ~~the lighting of any cigarette,~~

23 cigar, pipe, or other smoking material or the possession of any lighted

24 cigarette, cigar, pipe, or other smoking material, regardless of its

25 composition.

26 Sec. 7. Section 71-5730, Reissue Revised Statutes of Nebraska, is

27 amended to read:

28 71-5730 (1) The following indoor areas are exempt from section

29 71-5729:

30 (a) Guestrooms and suites that are rented to guests and that are

31 designated as smoking rooms, except that not more than twenty percent of

1 rooms rented to guests in an establishment may be designated as smoking  
2 rooms. All smoking rooms on the same floor shall be contiguous, and smoke  
3 from such rooms shall not infiltrate into areas where smoking is  
4 prohibited under the Nebraska Clean Indoor Air Act;

5 (b) Indoor areas used in connection with a research study on the  
6 health effects of smoking conducted in a scientific or analytical  
7 laboratory under state or federal law or at a college or university  
8 approved by the Coordinating Commission for Postsecondary Education;  
9 (c) Tobacco retail outlets; and

10 (d) Cigar shops as defined in section 53-103.08.

11 (2) Electronic smoking device retail outlets are exempt from section  
12 71-5729 as it relates to the use of electronic smoking devices only.

13 (3)(a) (2)(a) The Legislature finds that allowing smoking in tobacco  
14 retail outlets as a limited exception to the Nebraska Clean Indoor Air  
15 Act does not interfere with the original intent that the general public  
16 and employees not be unwillingly subjected to second-hand smoke since the  
17 general public does not frequent tobacco retail outlets and should  
18 reasonably expect that there would be second-hand smoke in tobacco retail  
19 outlets and could choose to avoid such exposure. The products that  
20 tobacco retail outlets sell are legal for customers who meet the age  
21 requirement. Customers should be able to try them within the tobacco  
22 retail outlet, especially given the way that tobacco customization may  
23 occur in how tobacco is blended and cigars are produced. The Legislature  
24 finds that exposure to second-hand smoke is inherent in the selling and  
25 sampling of cigars and pipe tobacco and that this exposure is  
26 inextricably connected to the nature of selling this legal product,  
27 similar to other inherent hazards in other professions and employment.

28 (b) It is the intent of the Legislature to allow cigar and pipe  
29 smoking in tobacco retail outlets that meet specific statutory criteria  
30 not inconsistent with the fundamental nature of the business. This  
31 exception to the Nebraska Clean Indoor Air Act is narrowly tailored in  
1 accordance with the intent of the act to protect public places and places  
2 of employment.

3 (4)(a) (3)(a) The Legislature finds that allowing smoking in cigar  
4 shops as a limited exception to the Nebraska Clean Indoor Air Act does  
5 not interfere with the original intent that the general public and  
6 employees not be unwillingly subjected to second-hand smoke. This  
7 exception poses a de minimis restriction on the public and employees  
8 given the limited number of cigar shops compared to other businesses that  
9 sell alcohol, cigars, and pipe tobacco, and any member of the public  
10 should reasonably expect that there would be second-hand smoke in a cigar  
11 shop given the nature of the business and could choose to avoid such  
12 exposure.

13 (b) The Legislature finds that (i) cigars and pipe tobacco have  
14 different characteristics than other forms of tobacco such as cigarettes,  
15 (ii) cigars are customarily paired with various spirits such as cognac,  
16 single malt whiskey, bourbon, rum, rye, port, and others, and (iii)  
17 unlike cigarette smokers, cigar and pipe smokers may take an hour or  
18 longer to enjoy a cigar or pipe while cigarettes simply serve as a  
19 mechanism for delivering nicotine. Cigars paired with selected liquor  
20 creates a synergy unique to the particular pairing similar to wine paired  
21 with particular foods. Cigars are a pure, natural product wrapped in a  
22 tobacco leaf that is typically not inhaled in order to enjoy the taste of  
23 the smoke, unlike cigarettes that tend to be processed with additives and  
24 wrapped in paper and are inhaled. Cigars have a different taste and smell  
25 than cigarettes due to the fermentation process cigars go through during  
26 production. Cigars tend to cost considerably more than cigarettes, and  
27 their quality and characteristics vary depending on the type of tobacco  
28 plant, the geography and climate where the tobacco was grown, and the  
29 overall quality of the manufacturing process. Not only does the

30 customized blending of the tobacco influence the smoking experience, so  
 31 does the freshness of the cigars, which is dependent on how the cigars  
 1 were stored and displayed. These variables are similar to fine wines,  
 2 which can also be very expensive to purchase. It is all of these  
 3 variables that warrant a customer wanting to sample the product before  
 4 making such a substantial purchase.

5 (c) The Legislature finds that exposure to second-hand smoke is  
 6 inherent in the selling and sampling of cigars and pipe tobacco and that  
 7 this exposure is inextricably connected to the nature of selling this  
 8 legal product, similar to other inherent hazards in other professions and  
 9 employment.

10 (d) It is the intent of the Legislature to allow cigar and pipe  
 11 smoking in cigar shops that meet specific statutory criteria not  
 12 inconsistent with the fundamental nature of the business. This exception  
 13 to the Nebraska Clean Indoor Air Act is narrowly tailored in accordance  
 14 with the intent of the act to protect public places and places of  
 15 employment.

16 Sec. 8. Section 71-5735, Reissue Revised Statutes of Nebraska, is  
 17 amended to read:

18 71-5735 (1) The owner of a tobacco retail outlet shall post a sign  
 19 on all entrances to the tobacco retail outlet, on the outside of each  
 20 door, in a conspicuous location slightly above or next to the door, with  
 21 the following statement: SMOKING OF CIGARS AND PIPES IS ALLOWED INSIDE  
 22 THIS BUSINESS. SMOKING OF CIGARETTES AND ELECTRONIC SMOKING DEVICES IS  
 23 NOT ALLOWED.

24 (2) Beginning November 1, 2015, the owner shall provide to the  
 25 Division of Public Health a copy of a waiver signed prior to employment  
 26 by each employee on a form prescribed by the division. The waiver shall  
 27 expressly notify the employee that he or she will be exposed to second-  
 28 hand smoke, and the employee shall acknowledge that he or she understands  
 29 the risks of exposure to second-hand smoke.

30 (3) The owner shall not allow cigarette smoking or the use of an  
 31 electronic smoking device in the tobacco retail outlet.

1 Sec. 9. Original sections 71-5716, 71-5717, 71-5718, 71-5727,  
 2 71-5730, and 71-5735, Reissue Revised Statutes of Nebraska, are repealed.

3 2. On page 1, strike lines 2 through 5 and insert "sections 71-5716,  
 4 71-5717, 71-5718, 71-5727, 71-5730, and 71-5735, Reissue Revised Statutes  
 5 of Nebraska; to exempt electronic smoking device retail outlets; to  
 6 define and redefine terms; to prohibit the use of electronic smoking  
 7 devices as prescribed; to harmonize provisions; and to repeal the  
 8 original sections."

(Signed) Julie Slama, Chairperson

#### **UNANIMOUS CONSENT - Add Cointroducer(s)**

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

Senator M. Hansen name added to LB848.

Senator M. Hansen name added to LB911.

Senator M. Hansen name added to LB963.

Senator Hunt name added to LB1001.

Senator M. Hansen name added to LB1155.

**VISITOR(S)**

Visitors to the Chamber were students from Hartington-Newcastle, Hartington; Leonard, Larry, and Lu Ann Mozer from Lincoln; students from Linden Elementary, Fremont; and students from Diller-Odell Elementary, Diller.

**RECESS**

At 11:52 a.m., on a motion by Senator Wishart, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Hilgers presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Chambers, Groene, Hughes, McCollister, Morfeld, Pansing Brooks, Stinner, and Wayne who were excused until they arrive.

**SPEAKER SCHEER PRESIDING****GENERAL FILE**

**LEGISLATIVE BILL 461.** Title read. Considered.

Committee [AM2205](#), found on page 548, was offered.

Senator Friesen offered the following amendment to the committee amendment:

[AM2716](#) is available in the Bill Room.

The Friesen amendment was adopted with 37 ayes, 0 nays, 4 present and not voting, and 8 excused and not voting.

Senator Friesen offered the following amendment to the committee amendment:

[AM2730](#)

(Amendments to the Friesen amendment, AM2716)

- 1 1. On page 14, line 5, after "the" insert "principal place of
- 2 business of the applicant in the State of Nebraska is identified and
- 3 the".
- 4 2. On page 15, line 10, after the first "the" insert "principal
- 5 place of business of the applicant in the State of Nebraska is identified
- 6 and the".

The Friesen amendment was adopted with 39 ayes, 0 nays, 6 present and not voting, and 4 excused and not voting.

The committee amendment, as amended, was adopted with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 6 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 1042.** Title read. Considered.

Committee [AM2181](#), found on page 693, was adopted with 40 ayes, 0 nays, 8 present and not voting, and 1 excused and not voting.

Senator Morfeld offered his amendment, [AM2592](#), found on page 750.

Senator Pansing Brooks offered her amendment, [AM2685](#), found on page 786, to the Morfeld amendment.

The Pansing Brooks amendment was adopted with 36 ayes, 1 nay, and 12 present and not voting.

The Morfeld amendment, as amended, was adopted with 32 ayes, 0 nays, 16 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 42 ayes, 0 nays, 5 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 1042A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 42 ayes, 0 nays, 5 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 803.** Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 803A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 43.** Title read. Considered.

Committee [AM2037](#), found on page 557, was offered.

Senator Albrecht offered the following amendment to the committee amendment:

[FA107](#)

Amend AM2037

Pg. 4, line 2 strike gender and insert sex.

**SENATOR HUGHES PRESIDING**

**SPEAKER SCHEER PRESIDING**

Senator Albrecht moved for a call of the house. The motion prevailed with 27 ayes, 1 nay, and 21 not voting.

Senator Albrecht requested a roll call vote on her amendment.

Voting in the affirmative, 17:

Albrecht	Briese	Groene	Hughes	Murman
Arch	Clements	Halloran	Lowe	
Bostelman	Erdman	Hansen, B.	McDonnell	
Brewer	Gragert	Hilgers	Moser	

Voting in the negative, 22:

Blood	DeBoer	Lathrop	Scheer	Williams
Bolz	Hansen, M.	McCollister	Stinner	Wishart
Cavanaugh	Howard	Morfeld	Vargas	
Chambers	Hunt	Pansing Brooks	Walz	
Crawford	Kolowski	Quick	Wayne	

Present and not voting, 9:

Brandt	Friesen	Hilkemann	La Grone	Slama
Dorn	Geist	Kolterman	Lindstrom	

Excused and not voting, 1:

Linehan

The Albrecht amendment lost with 17 ayes, 22 nays, 9 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

The committee amendment was adopted with 41 ayes, 1 nay, and 7 present and not voting.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 7 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 755.** Title read. Considered.

Committee [AM2480](#), found on page 747, was adopted with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 899.** Title read. Considered.

Committee [AM2487](#), found on page 691, was adopted with 40 ayes, 0 nays, 5 present and not voting, and 4 excused and not voting.

Pending.

### AMENDMENT(S) - Print in Journal

Senator Lindstrom filed the following amendment to [LB1155](#):  
[AM2691](#) is available in the Bill Room.

Senator Quick filed the following amendment to [LB424](#):  
[AM2686](#)

(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 16, line 11, strike "A", show as stricken, and insert
- 16 "Subject to subsection (7) of this section, a".
- 17 6. On page 17, after line 19 insert the following new subsection:
- 18 "(7) A land bank shall not issue any bonds on or after the effective
- 19 date of this act".
- 20 7. On page 18, strike beginning with "by" in line 8 through line 10,
- 21 show as stricken, and insert "in accordance with this section. For a land
- 22 bank created pursuant to subsection (1) of section 4 of this act, the
- 23 resolution of dissolution must be approved by two-thirds of the members
- 24 of the governing body of the municipality that created the land bank. For
- 25 a land bank created pursuant to subsection (2) or (3) of section 4 of
- 26 this act, the resolution of dissolution must be approved by a majority of
- 1 the members of the governing body of each municipality that created the
- 2 land bank. A governing body"; and in line 27 after the period insert "No
- 3 member of the board or employee of a land bank shall have any interest,
- 4 direct or indirect, in any investment of the land bank. The restrictions
- 5 in this subsection shall also apply to a board member's or employee's

<sup>6</sup> immediate family and to any business or entity in which the board member  
<sup>7</sup> or employee has an ownership interest."

### RESOLUTION(S)

**LEGISLATIVE RESOLUTION 331.** Introduced by Brewer, 43; Gragert, 40; McDonnell, 5; Walz, 15.

WHEREAS, the diagnosis known as post-traumatic stress disorder was initially formulated in 1980 by the American Psychiatric Association to more accurately assess and assist veterans who had endured severe combat stress in Vietnam; and

WHEREAS, combat stress is an invisible wound that has historically been unjustly portrayed as a mental illness caused by a preexisting flaw of character or ability, and that the word "disorder" carries a stigma that perpetuates this misconception; and

WHEREAS, electromagnetic brain imaging now shows previously invisible wounds, physical changes to the brain more accurately described as an injury than as a disorder; and

WHEREAS, referring to invisible wounds as a disorder can discourage the injured from seeking proper and timely medical treatment; and

WHEREAS, referring to such wounds as post-traumatic stress injury (PTSI) is less stigmatizing and viewed as more honorable, influencing those affected to seek treatment without fear of retribution or shame; and

WHEREAS, post-traumatic stress injury can occur following exposure to extremely traumatic events other than combat, such as, but not exclusive to, interpersonal violence, life-threatening accidents, and natural disasters; and

WHEREAS, all citizens suffering from post-traumatic stress injury deserve compassion and consideration, and those brave men and women of the United States Armed Forces who have endured these wounds in operational action especially deserve our respect and recognition; and

WHEREAS, timely and appropriate treatment of post-traumatic stress injury can diminish complications, avert further victimization, and reduce the number of related suicides.

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

1. That the Legislature recognizes June 2020 as Post-Traumatic Stress Injury Awareness Month in Nebraska, and June 27, 2020, as Post-Traumatic Stress Injury Awareness Day in Nebraska.

2. That the Legislature encourages the Department of Health and Human Services and the Department of Veterans' Affairs to continue working to educate victims and their families, as well as the general public, about the causes, symptoms, and treatment of post-traumatic stress injury.

Laid over.

**GENERAL FILE**

**LEGISLATIVE BILL 899.** Senator Wayne offered the following motion:

[MO160](#)

Recommit to Natural Resources Committee.

Pending.

**UNANIMOUS CONSENT - Add Cointroducer(s)**

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

Senator Wishart name added to LB1155.

Senator McDonnell name added to LB1155.

**VISITOR(S)**

The Doctor of the Day was Dr. David Hoelting from Pender.

**ADJOURNMENT**

At 4:58 p.m., on a motion by Senator Murman, the Legislature adjourned until 9:00 a.m., Wednesday, March 4, 2020.

Patrick J. O'Donnell  
Clerk of the Legislature