

SEVENTY-FOURTH DAY - MAY 7, 2021**LEGISLATIVE JOURNAL****ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION****SEVENTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska
Friday, May 7, 2021

PRAYER

The prayer was offered by Senator Lowe.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was offered by Senator Albrecht.

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 Bostar, Briese, Day, Erdman, M. Hansen, Pansing Brooks, and Vargas who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the seventy-third day was approved.

COMMITTEE REPORT(S)

Enrollment and Review

LEGISLATIVE BILL 131. Placed on Select File with amendment.

[ER89](#) is available in the Bill Room.

LEGISLATIVE BILL 131A. Placed on Select File with amendment.

[ER88](#)

1 1. On page 1, line 3, after the semicolon insert "to transfer funds
2 as prescribed;".

LEGISLATIVE BILL 241. Placed on Select File with amendment.

[ER86](#)

1 1. In the Vargas amendment, AM1163, on page 4, line 3, strike "test"

2 and insert "vaccine".

LEGISLATIVE BILL 132. Placed on Select File.

LEGISLATIVE BILL 132A. Placed on Select File with amendment.

[ER87](#)

1 1. On page 1, line 3, strike the second "and" and insert "an".

(Signed) Terrell McKinney, Chairperson

COMMITTEE REPORT(S)

Enrollment and Review

LEGISLATIVE BILL 411A. Placed on Final Reading.

LEGISLATIVE BILL 485A. Placed on Final Reading.

(Signed) Terrell McKinney, Chairperson

REPORTS

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

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of May 6, 2021, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

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

Houghton Bradford Whitted PC, LLO

City of Ralston

Joslyn Art Museum

Omaha Performing Arts

Lautenbaugh, Scott

Nebraska Vape Vendors Association

Neilan Strategy Group

Independent Insurance Agents of Nebraska

O'Hara Lindsay & Associates, Inc.

Aunt Bertha

SPEAKER'S ANNOUNCEMENT

Pursuant to Rule 4, Section 8, LR128 was referred to the Reference Committee.

GENERAL FILE

LEGISLATIVE BILL 496. Senator Hunt renewed her amendment, [AM1289](#), found on page 1292 and considered on page 1297, to the committee amendment.

SPEAKER HILGERS PRESIDING

Senator Hunt moved for a call of the house. The motion prevailed with 23 ayes, 4 nays, and 22 not voting.

Senator Hunt requested a roll call vote on her amendment.

Voting in the affirmative, 2:

Cavanaugh, J. Cavanaugh, M.

Voting in the negative, 40:

Aguilar	Clements	Halloran	Lindstrom	Murman
Albrecht	DeBoer	Hansen, B.	Linehan	Pansing Brooks
Arch	Dorn	Hansen, M.	Lowe	Sanders
Bostar	Flood	Hilgers	McCollister	Slama
Bostelman	Friesen	Hilkemann	McDonnell	Stinner
Brandt	Geist	Hughes	McKinney	Walz
Brewer	Gragert	Kolterman	Morfeld	Williams
Briese	Groene	Lathrop	Moser	Wishart

Present and not voting, 5:

Blood Day Hunt Pahls Wayne

Excused and not voting, 2:

Erdman Vargas

The Hunt amendment lost with 2 ayes, 40 nays, 5 present and not voting, and 2 excused and not voting.

Pending.

The Chair declared the call raised.

AMENDMENT(S) - Print in Journal

Senator Brewer filed the following amendment to [LB285](#):
[AM1299](#)

(Amendments to AM1133)

1 1. Insert the following new sections:

2 Sec. 3. Section 16-404, Revised Statutes Cumulative Supplement,
3 2020, is amended to read:

4 16-404 (1) All ordinances and resolutions or orders for the
5 appropriation or payment of money in a city of the first class shall
6 require for their passage or adoption the concurrence of a majority of
7 all members elected to the city council. The mayor may vote on any such
8 matter when his or her vote will provide the additional vote required to
9 create a number of votes equal to a majority of the number of members
10 elected to the city council, and the mayor shall, for the purpose of such
11 vote, be deemed to be a member of the city council.

12 ~~(2)(a)~~ ~~(2)~~ Ordinances of a general or permanent nature in a city of
13 the first class shall be read by title on three different days unless
14 three-fourths of the city council members vote to suspend this
15 requirement, except that in a city having a commission plan of government
16 such requirement may be suspended by a three-fifths majority vote.

17 ~~(b)~~ Regardless of the form of government, such requirement shall not
18 be suspended for any ordinance for the annexation of territory or the
19 redrawing of boundaries for city council election districts or wards
20 except as otherwise provided in subsection (4) of this section.

21 ~~(c)~~ In case such requirement is suspended, the ordinances shall be
22 read by title or number and then moved for final passage.

23 ~~(d)~~ Three-fourths of the city council members may require a reading
24 of any such ordinance in full before enactment under either procedure set
25 out in this section, except that in a city having a commission plan of
26 government, such reading may be required by a three-fifths majority vote.

1 (3) Ordinances in a city of the first class shall contain no subject
2 which is not clearly expressed in the title, and, except as provided in
3 section 19-915, no ordinance or section thereof shall be revised or
4 amended unless the new ordinance contains the entire ordinance or section
5 as revised or amended and the ordinance or section so amended is
6 repealed, except that:

7 (a) For an ordinance revising all the ordinances of a city of the
8 first class, the only title necessary shall be An ordinance of the city
9 of, revising all the ordinances of the city. Under such title
10 all the ordinances may be revised in sections and chapters or otherwise,
11 may be corrected, added to, and any part suppressed, and may be repealed
12 with or without a saving clause as to the whole or any part without other
13 title; and

14 (b) For an ordinance used solely to revise ordinances or code
15 sections or to enact new ordinances or code sections in order to adopt
16 statutory changes made by the Legislature which are specific and
17 mandatory and bring the ordinances or code sections into conformance with
18 state law, the title need only state that the ordinance revises those
19 ordinances or code sections affected by or enacts ordinances or code
20 sections generated by legislative changes. Under such title, all such
21 ordinances or code sections may be revised, repealed, or enacted in
22 sections and chapters or otherwise by a single ordinance without other
23 title.

24 (4) Following the release of the 2020 Census of Population data by
25 the United States Department of Commerce, Bureau of the Census, as
26 required by Public Law 94-171, the city council of any city of the first
27 class requesting the adjustment of the boundaries of election districts
28 shall provide to the election commissioner or county clerk (a) written
29 notice of the need and necessity of his or her office to perform such
30 adjustments and (b) a revised election district boundary map that has
31 been approved by the requesting city council and subjected to all public
1 review and challenge ordinances of the city by December 30, 2021. The
2 revised election district boundary map shall be adopted by ordinance.
3 Such ordinance shall be read by title on three different days unless
4 three-fourths of the city council members vote to suspend this

5 requirement.

6 Sec. 4. Section 17-614, Revised Statutes Cumulative Supplement,
7 2020, is amended to read:

8 17-614 (1)(a) (+) All ordinances and resolutions or orders for the
9 appropriation or payment of money shall require for their passage or
10 adoption the concurrence of a majority of all members elected to the city
11 council in a city of the second class or village board of trustees. The
12 mayor of a city of the second class may vote when his or her vote would
13 provide the additional vote required to attain the number of votes equal
14 to a majority of the number of members elected to the city council, and
15 the mayor shall, for the purpose of such vote, be deemed to be a member
16 of the city council.

17 (b) Ordinances of a general or permanent nature shall be read by
18 title on three different days unless three-fourths of the city council or
19 village board of trustees vote to suspend this requirement. ~~Such~~ ~~except~~
20 ~~that such~~ requirement shall not be suspended for any ordinance for the
21 annexation of territory or the redrawing of boundaries for city council
22 or village board of trustees election districts or wards except as
23 otherwise provided in subsection (3) of this section.

24 (c) In case such requirement is suspended, the ordinances shall be
25 read by title and then moved for final passage.

26 (d) Three-fourths of the city council or village board of trustees
27 may require a reading of any such ordinance in full before enactment
28 under either procedure set out in this section.

29 (2) Ordinances shall contain no subject which is not clearly
30 expressed in the title, and, except as provided in section 19-915, no
31 ordinance or section of such ordinance shall be revised or amended unless
1 the new ordinance contains the entire ordinance or section as revised or
2 amended and the ordinance or section so amended is repealed, except that:

3 (a) For an ordinance revising all the ordinances of the city of the
4 second class or village, the title need only state that the ordinance
5 revises all the ordinances of the city or village. Under such title all
6 the ordinances may be revised in sections and chapters or otherwise, may
7 be corrected, added to, and any part suppressed, and may be repealed with
8 or without a saving clause as to the whole or any part without other
9 title; and

10 (b) For an ordinance used solely to revise ordinances or code
11 sections or to enact new ordinances or code sections in order to adopt
12 statutory changes made by the Legislature which are specific and
13 mandatory and bring the ordinances or code sections into conformance with
14 state law, the title need only state that the ordinance revises those
15 ordinances or code sections affected by or enacts ordinances or code
16 sections generated by legislative changes. Under such title, all such
17 ordinances or code sections may be revised, repealed, or enacted in
18 sections and chapters or otherwise by a single ordinance without other
19 title.

20 (3) Following the release of the 2020 Census of Population data by
21 the United States Department of Commerce, Bureau of the Census, as
22 required by Public Law 94-171, the city council of any city of the second
23 class or village board of trustees requesting the adjustment of the
24 boundaries of election districts shall provide to the election
25 commissioner or county clerk (a) written notice of the need and necessity
26 of his or her office to perform such adjustments and (b) a revised
27 election district boundary map that has been approved by the requesting
28 city council or village board of trustees and subjected to all public
29 review and challenge ordinances of the city or village by December 30,
30 2021. The revised election district boundary map shall be adopted by
31 ordinance. Such ordinance shall be read by title on three different days
1 unless three-fourths of the members of the city council or village board
2 of trustees vote to suspend this requirement.

- 3 2. On page 2, line 12; page 4, line 17; page 5, line 22; page 7,
 4 line 22; page 10, line 19; and page 12, line 23, after "Census," insert
 5 "as required by Public Law 94-171,".
 6 3. Renumber the remaining sections accordingly.

Senator Brewer filed the following amendment to LB285:
AM1300

1 1. Insert the following new sections:

2 Sec. 12. Section 32-716, Reissue Revised Statutes of Nebraska, is
 3 amended to read:

4 32-716 (1) Any person, group, or association desiring to form a new
 5 political party shall present to the Secretary of State petitions
 6 containing signatures totaling not less than one percent of the total
 7 votes cast for Governor at the most recent general election for such
 8 office. The signatures of registered voters on such petitions shall be so
 9 distributed as to include registered voters totaling at least one percent
 10 of the votes cast for Governor in the most recent gubernatorial election
 11 in each of the three congressional districts in this state. Petition
 12 signers and petition circulators shall conform to the requirements of
 13 sections 32-629 and 32-630. The petitions shall be filed with the
 14 Secretary of State no later than January 15 ~~February 1~~ before any
 15 statewide primary election for the new political party to be entitled to
 16 have ballot position in the primary election of that year. If the new
 17 political party desires to be established and have ballot position for
 18 the general election and not in the primary election of that year, the
 19 petitions shall be filed with the Secretary of State on or before July 15
 20 ~~August 1~~ of that year. Prior to the circulation of petitions to form a
 21 new political party, a sample copy of the petitions shall be filed with
 22 the Secretary of State by the person, group, or association seeking to
 23 establish the new party. The sample petition shall be accompanied by the
 24 name and address of the person or the names and addresses of the members
 25 of the group or association sponsoring the petition to form a new
 26 political party. The sponsor or sponsors of the petition shall file, as
 27 one instrument, all petition papers comprising a new political party
 1 petition for signature verification with the Secretary of State. All
 2 signed petitions in circulation but not filed with the Secretary of State
 3 shall become invalid after July 15 in the year of the statewide general
 4 election.

5 (2) The petition shall conform to the requirements of section
 6 32-628. The Secretary of State shall prescribe the form of the petition
 7 for the formation of a new political party. The petition shall be
 8 addressed to and filed with the Secretary of State and shall state its
 9 purpose and the name of the party to be formed. Such name shall not be or
 10 include the name of any political party then in existence or any word
 11 forming any part of the name of any political party then in existence,
 12 and in order to avoid confusion regarding party affiliation of a
 13 candidate or registered voter, the name of the party to be formed shall
 14 not include the word "independent" or "nonpartisan". The petition shall
 15 contain a statement substantially as follows:

16 We, the undersigned registered voters of the State of Nebraska and
 17 the county of, being severally qualified to sign this
 18 petition, respectfully request that the above-named new political party
 19 be formed in the State of Nebraska, and each for himself or herself says:
 20 I have personally signed this petition on the date opposite my name; I am
 21 a registered voter of the State of Nebraska and county of
 22 and am qualified to sign this petition; and my date of birth and city,
 23 village, or post office address and my street and number or voting
 24 precinct are correctly written after my name.

25 Sec. 13. Section 32-717, Reissue Revised Statutes of Nebraska, is
 26 amended to read:

27 32-717 Within ~~twenty business~~ ten days after all the petitions to
 28 form a new political party which contain signatures are filed with the
 29 Secretary of State, he or she shall determine the validity and
 30 sufficiency of such petitions and signatures. Clerical and technical
 31 errors in a petition shall be disregarded if the forms prescribed by the
 1 Secretary of State are substantially followed. If the petitions are
 2 determined to be sufficient and valid, the Secretary of State shall issue
 3 a certification establishing the new political party. Copies of such
 4 certification shall be issued to the person, group, or association
 5 forming the new political party. Within twenty days after the
 6 certification of establishment of the new political party by the
 7 Secretary of State, the person, group, or association forming the new
 8 political party or its new officers shall file with the Secretary of
 9 State the constitution and bylaws of such party along with a certified
 10 list of the names and addresses of the officers of the new political
 11 party.
 12 2. On page 6, after line 27 insert the following new subsection:
 13 "(7) Nothing in this section shall prevent a political party or
 14 candidate from using the list of registered voters for campaign
 15 activities.".
 16 3. Renumber the remaining sections and correct the repealer
 17 accordingly.

RESOLUTION(S)

LEGISLATIVE RESOLUTION 129. Introduced by Wishart, 27;
 McDonnell, 5; Stinner, 48.

PURPOSE: The purpose of this interim study is to review and examine staffing at the Department of Correctional Services, including, but not limited to, staff recruitment, staff retention, staffing levels, and wage compression at individual facilities, as well as the effects of reduced staffing on the operations of these facilities and offender outcomes.

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

1. That the Appropriations Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

GENERAL FILE

LEGISLATIVE BILL 496. Senator Hunt offered her amendment, [AM1288](#), found on page 1293, to the committee amendment.

PRESIDENT FOLEY PRESIDING

Senator Hilkemann offered the following motion:

[MO63](#)

Invoke cloture pursuant to Rule 7, Section 10.

Senator Hilkemann moved for a call of the house. The motion prevailed with 23 ayes, 2 nays, and 24 not voting.

Senator Hilkemann requested a roll call vote, in reverse order, on the motion to invoke cloture.

Voting in the affirmative, 33:

Aguilar	DeBoer	Hilgers	McCollister	Slama
Albrecht	Dorn	Hilkemann	McDonnell	Stinner
Arch	Erdman	Hughes	Morfeld	Walz
Bostelman	Geist	Kolterman	Moser	Williams
Brandt	Gragert	Lathrop	Murman	Wishart
Brewer	Halloran	Lindstrom	Pahls	
Clements	Hansen, B.	Lowe	Sanders	

Voting in the negative, 8:

Bostar	Cavanaugh, M.	Hansen, M.	McKinney
Cavanaugh, J.	Flood	Hunt	Wayne

Present and not voting, 6:

Blood	Day	Linehan
Briese	Friesen	Pansing Brooks

Excused and not voting, 2:

Groene	Vargas
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The Hilkemann motion to invoke cloture prevailed with 33 ayes, 8 nays, 6 present and not voting, and 2 excused and not voting.

Senator Hunt requested a roll call vote on her amendment.

Voting in the affirmative, 0.

Voting in the negative, 41:

Aguilar	DeBoer	Hansen, M.	McCollister	Stinner
Albrecht	Dorn	Hilgers	McDonnell	Walz
Arch	Erdman	Hilkemann	McKinney	Wayne
Bostar	Flood	Hughes	Morfeld	Williams
Bostelman	Friesen	Kolterman	Moser	Wishart
Brandt	Geist	Lathrop	Murman	
Brewer	Gragert	Lindstrom	Pansing Brooks	
Briese	Halloran	Linehan	Sanders	
Clements	Hansen, B.	Lowe	Slama	

Present and not voting, 6:

Blood	Cavanaugh, M.	Hunt
Cavanaugh, J.	Day	Pahls

Excused and not voting, 2:

Groene	Vargas
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The Hunt amendment lost with 0 ayes, 41 nays, 6 present and not voting, and 2 excused and not voting.

The committee amendment, as amended, was adopted with 38 ayes, 3 nays, 6 present and not voting, and 2 excused and not voting.

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

Voting in the affirmative, 30:

Aguilar	Clements	Hilgers	Lowe	Sanders
Albrecht	Dorn	Hilkemann	McCollister	Slama
Arch	Erdman	Hughes	McDonnell	Stinner
Bostelman	Geist	Kolterman	Morfeld	Walz
Brandt	Gragert	Lathrop	Moser	Williams
Brewer	Halloran	Lindstrom	Murman	Wishart

Voting in the negative, 11:

Bostar	Day	Hansen, M.	Pansing Brooks
Cavanaugh, J.	Flood	Hunt	Wayne
Cavanaugh, M.	Friesen	McKinney	

Present and not voting, 6:

Blood	DeBoer	Linehan
Briese	Hansen, B.	Pahls

Excused and not voting, 2:

Groene Vargas

Advanced to Enrollment and Review Initial with 30 ayes, 11 nays, 6 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 496A. Title read. Considered.

Pending.

ANNOUNCEMENT

Senator Arch announced the Health and Human Services Committee will hold an executive session Monday, May 10, 2021, at 9:30 a.m., in Room 2022.

AMENDMENT(S) - Print in Journal

Senator Hunt filed the following amendment to LB496:
AM1304

(Amendments to Standing Committee amendments, AM1054)

1 1. Insert the following new sections:

2 Sec. 7. Section 29-4603, Reissue Revised Statutes of Nebraska, is

3 amended to read:

4 29-4603 In order to recover under the Nebraska Claims for Wrongful

5 Conviction and Imprisonment Act, the claimant shall prove each of the

6 following by clear and convincing evidence:

7 (1) That he or she either:

8 (a) Was convicted of one or more felony crimes and subsequently

9 sentenced to a term of imprisonment for such felony crime or crimes and

10 has served all or any part of the sentence; or

11 (b) Had a DNA sample collected pursuant to subsection (3) of section

12 29-4106 and was detained or imprisoned on the charge or charges which

13 provided the authority for obtaining such sample;

14 (2) With respect to a the crime or crimes under subdivision (1)(a)

15 (1) of this section, that the Board of Pardons has pardoned the claimant,

16 that a court has vacated the conviction of the claimant, or that the

17 conviction was reversed and remanded for a new trial and no subsequent

18 conviction was obtained;

19 (3) With respect to a charge or charges under subdivision (1)(b) of

20 this section, that such charge or charges were later dismissed;

21 (4) (3) That he or she was innocent of the crime or crimes under

22 subdivision (1) of this section; and

23 (5) (4) That he or she did not commit or suborn perjury, fabricate

24 evidence, or otherwise make a false statement to cause or bring about

25 such conviction or the conviction of another, with respect to the crime

26 or crimes under subdivision (1) of this section, except that a guilty

1 plea, a confession, or an admission, coerced by law enforcement and later

2 found to be false, does not constitute bringing about his or her own

3 conviction of such crime or crimes.

4 Sec. 8. Section 29-4604, Reissue Revised Statutes of Nebraska, is

5 amended to read:

6 29-4604 (1) A claimant under the Nebraska Claims for Wrongful

7 Conviction and Imprisonment Act shall recover damages found to
8 proximately result from the wrongful conviction or collection of a DNA
9 sample and detention or imprisonment and that have been proved based upon
10 a preponderance of the evidence.
11 (2) The following costs shall not offset damages:
12 (a) Costs of imprisonment; and
13 (b) Value of any care or education provided to the claimant while he
14 or she was imprisoned.
15 (3) No damages shall be payable to the claimant for any period of
16 time during which he or she was concurrently imprisoned for any unrelated
17 criminal offense.
18 (4) In no case shall damages awarded under the act exceed five
19 hundred thousand dollars per claimant per occurrence.
20 (5) A claimant's cause of action under the act shall not be
21 assignable and shall not survive the claimant's death.
22 Sec. 9. Section 29-4605, Reissue Revised Statutes of Nebraska, is
23 amended to read:
24 29-4605 If the court finds that any property of the claimant was
25 subjected to a lien to recover costs of defense services rendered by the
26 state to defend the claimant in connection with the criminal case that
27 resulted in his or her wrongful conviction or collection of a DNA sample
28 and detention or imprisonment, the court shall extinguish the lien.
29 2. Renumber the remaining sections and correct the repealer
30 accordingly.

Senator Wayne filed the following amendment to [LB496](#):

[FA44](#)

Strike section one.

ADJOURNMENT

At 11:55 a.m., on a motion by Senator B. Hansen, the Legislature adjourned until 10:00 a.m., Monday, May 10, 2021.

Patrick J. O'Donnell
Clerk of the Legislature

