



AGC
NEBRASKA BUILDING CHAPTER
THE CONSTRUCTION ASSOCIATION

SESSION OVERVIEW

The 2023 session was indeed one for the record books marked by a months-long filibuster that extended debate into a record number of late nights and resulted in much fewer (but much bigger) bills being considered. While only 33 bills were passed, many were omnibus packages with many measures amended in. The packaging of bills resulted in passage of nearly 300 of the 812 bills introduced, a number more in line with past legislative sessions. Unless otherwise noted below, new laws will become effective September 2, 2023.

The first session of the 108th Nebraska Legislature adjourned sine die on June 1, 2023. The second session of 108th Legislature will convene on January 3, 2024. There are 60 scheduled legislative days in the second year of the biennial session.

BILLS OF INTEREST

The AGC Nebraska Building Chapter tracked 29 bills and took positions on three bills, (LB205 (S), LB471 (O) and LB563 (S).)

What Passed

LB92 (Slama) Banking, Commerce, and Insurance Omnibus bill

- Amends laws regarding banking, commerce, insurance, housing, and taxation – includes provisions of 17 other bills.
- Includes LB617 (McDonnell) to authorize CHIPS for America legislation, intended to attract semiconductor chip manufacturers to locate in Nebraska using both federal and state incentive funds. Became effective June 6, 2023. – Supporting

LB191 (Halloran) Business & Labor Omnibus bill

- LB249 (Briese) Makes several changes to the Rural Workforce Housing Investment Act, including removing the limit of one application per organization per cycle, increasing the grant maximum from \$1 million to \$5 million, allowing funding to be used for sewer and water infrastructure extension. (Unfortunately, the \$20 million funding proposed by the bill was not included and such funding was ultimately vetoed from the budget.) – Supporting
- LB671 (Hansen, at the request of Governor) Expands the allowable uses of funds available in the Nebraska Worker Training and Support Cash Fund to allow funds to be granted to employers for the retention of existing workers, not just for training and recruiting new workers. \$10 million is included in the budget for this fund.

LB243 (Briese) School District Property Tax Limitation Act

- LB783 (Murman) related to levy authority for community colleges as amended by AM949; restores the levying authority for capital improvement funds and additional levying authority, if authorized by the community college board of governors, to allow additional funding, beyond what the State of Nebraska provides, to fully fund the community college if the State of Nebraska fails to fully fund a community college in a given year.
- LB90 (Dorn) to remove two acts that are past their sunset date from the list of tax incentive programs to be regularly audited by the Legislative Auditor.

LB531 (McKinney) Changes to the Economic Recovery Act. Passed with an emergency clause making it effective June 6, 2023.

- Creates and outlines administration of the North and South Omaha grant program. The bill also includes \$11 million for projects in western Nebraska, including adding site acquisition, preparation, and rail spur construction within 30 miles of the state’s largest reservoir as a qualified use of an iHub grant.
- LB506 (Bostar) to provide a \$180 million grant to Lincoln to fund costs associated with securing a second water source.
- LB45 (Dorn) which creates the Revitalize Rural Nebraska Grant Fund for first and second class cities and villages and provides \$1 million in general funds for grants to demolish dilapidated commercial property. – Supporting
- LB98 (Jacobson) to make changes to “micro” tax-increment financing projects by allowing limits on the number of expedited reviews of redevelopment plans, denial of redevelopment plans, and an optional resolution before an area is declared substandard and blighted. – Supporting
- LB629 (McKinney) to update the Middle Income Workforce Housing Investment Act and the Economic Recovery Act. Allow the Act’s projects awarded pre-2020 to be used in QCT-adjacent areas in cities of the primary class. Becomes effective September 2, 2023. – Supporting
- LB223 (McKinney) to require all cities that adopt an affordable housing action plan to submit their plan to the Urban Affairs Committee electronically and provide an option in the report to show effort toward an affordable housing action plan or to implement such a plan after it is adopted.
- LB462 (Conrad) to update qualifications for owner-occupied housing units under the Middle Income Workforce Housing Investment Act, increasing the qualifying cost to total construction costs of no more than \$330,000.
- LB532 (McKinney) to make a number of changes to the state’s Community Development Law, including requiring an “extremely blighted” designation to last for at least 25 years; extending the deadline from 24 months to 60 months for housing studies in all but metropolitan class cities; and placing limits on creation of new redevelopment plans in areas already designated as blighted.

LB565 (Bostelman) Natural Resources Omnibus Package. Passed with the emergency clause making the Nuclear and Hydrogen Development and Hydrogen Hub provisions effective May 26, 2023.

- States legislative intent to appropriate \$500,000 over the next two fiscal years to the state Department of Economic Development for grants that will be used for engineering and modeling needed to apply for the hydrogen hubs (H2Hubs) program, which is intended to accelerate the use of hydrogen as a clean energy source.
- Lawmakers passed a measure last year creating a work group with the purpose of drafting a proposal seeking Nebraska’s designation as one of the six to ten regional H2Hubs. The work group partnered with Iowa and Missouri to submit an initial application for the program. Of 79 applications submitted, Nebraska’s was one of 33 selected for the next stage of the process.
- LB568 (Bostelman) to create the Nuclear and Hydrogen Development Act to support workforce development and advancement of advanced nuclear and hydrogen industries in Nebraska. The bill also creates a work group to evaluate and make recommendations regarding the workforce training needs of the nuclear and hydrogen industries in Nebraska and provide an opportunity for collaboration of the industries and higher education in the state to provide grants, training, curriculum, programming, and marketing to meet the workforce needs of the industry as identified by the work group. – Supporting

LB727 (Linehan) Revenue Omnibus Package

- LB100 (Erdman) Allows certain waste treatment and disposal facilities to qualify for tax incentives under the ImagiNE Nebraska Act. – Supporting
- LB407 (Linehan) Extends the application deadline under the Nebraska Transformational Projects Act from Dec. 31, 2023, to Dec. 31, 2025. – Supporting
- LB706 (Moser) Authorizes issuance of up to \$450 million in bonds between 2023 and 2029 to accelerate completion of highway construction projects, including Nebraska’s expressway system. Extends the sunset of the Build Nebraska Act (dedicating a quarter-cent of sales tax to highway construction) to 2042 and requires all bonds to be paid off by then. Becomes effective July 1, 2023. – Supporting
- LB809 (Murman) Increases the maximum amount of refundable tax credits that can be approved under the Nebraska Advantage Rural Development Act from \$1 million to \$2 million, starting in calendar year 2023. (The amount had been advanced at \$10 million annually, but a cost-cutting amendment trimmed the amount.) – Supporting
- LB118 (Brandt) Decreases the minimum required investment under the Nebraska Advantage Rural Development Act to \$10,000 for applications filed on or after Jan. 1, 2024.
- LB491 (von Gillern) Reinstates the Nebraska Advantage Research and Development Act, which ended in 2022, and extend it through Dec. 31, 2033. Also clarifies e-verify compliance and removes the 20-year cap on eligibility for the program.
- LB692 (Linehan) Authorizes the state Department of Economic Development to approve applications to create “good life districts.” Proposed projects within a district would have to meet certain thresholds related to development costs and job creation. For a project located in a county with 100,000 or more inhabitants, an applicant would have to demonstrate that, upon completion of the project, at least 20 percent of the project’s sales would be made to out-of-state residents and that the project would attract new-to-market retail businesses and draw at least 3 million visitors per year. Transactions occurring within a district would be subject to a reduced state sales tax rate of 2.75 percent.
- LB697 (Conrad) Makes several changes to the Nebraska Job Creation and Mainstreet Revitalization Act (Nebraska Historic Tax Credit) and extend its sunset date from Dec. 31, 2022, to Dec. 31, 2030. The act provides for a nonrefundable state income tax credit equal to 20 percent of eligible expenditures up to a maximum credit of \$1 million. The maximum credit allocated to any one project will be \$2 million. For historically significant real property located in a county that includes a metropolitan or primary class city, the credit will be equal to 25 percent of eligible expenditures. It will be equal to 30 percent of eligible expenditures in any other county. Beginning in 2024, \$2 million in credits will be allocated under the program. (The amount had been advanced at \$12 million annually, but a cost-cutting amendment trimmed the amount.)

LB754 (Linehan, at the request of the Governor) Tax Relief Package. Passed with emergency clause making it effective May 31, 2023.

- LB754 incrementally cuts the rate on Nebraska’s top individual and corporate income tax bracket to 3.99 percent by tax year 2027.
- LB318 (Bostar) to authorize the state Department of Revenue to approve up to \$15 million each year in refundable income tax credits intended to help parents and legal guardians pay for childcare. The measure allows individuals, estates, trusts and corporations to apply for a nonrefundable state income tax credit of up to \$100,000 for contributions they make to eligible childcare programs. The department may approve \$2.5 million in credits under the program each year. For tax years beginning January 1, 2024. – Supporting

LB814 and **LB818** (Arch) The Biennial Budget. Includes provisions of the following bills:

- LB610 (Lippincott) to appropriate funds to the State Department of Education (\$5.2 million in each of the next two years for career and technical education funding to add to federal Perkins funding) with at least \$7,500 going to each district. – Supporting
- LB617 (McDonnell) to create the Economic Development Cash Fund to award a grant relating to the federal Creating Helpful Incentives to Produce Semiconductors (CHIPS) for America Act (\$20 million) – Supporting
- LB644 (McDonnell) expanding authority under the Site and Building Development Fund for mega sites. LB818 includes language for: “Identification, evaluation, and development of large commercial and industrial sites and building infrastructure to attract major investment and employment opportunities for advanced manufacturing, processing, trade, technology, aerospace, automotive, clean energy, life science, and other transformational industries in Nebraska by means of the department providing grants to or partnering with political 10 subdivisions, including inland port authorities under the Municipal Inland Port Authority Act, or nonprofit economic development corporations and entering into contracts for consulting, engineering, and development studies to identify, evaluate, and develop large commercial and industrial sites in Nebraska.” – Supporting as originally introduced
- LB608 (McDonnell) providing to the Department of Economic Development (\$90 million for Shovel-Ready Projects divided equally between Congressional Districts with an additional \$30 million designated for projects at Creighton University). \$30 million of this statewide funding was vetoed by Governor Pillen, bringing the total amount to \$60 million.
- LB719 (Dover) providing funds to the Department of Economic Development (\$2 million for Norfolk Riverfront development)
- \$40 million in new funding for the Broadband Bridge Program
- Appropriations begin July 1, 2023, for the 2023-24 fiscal year.

Vetoed

Unfortunately, Governor Pillen successfully vetoed some items that were included in the budget originally passed by the Legislature that were supported by NEDA, including:

- LB712 (Hardin) Create the Ground Based Strategic Deterrent Deployment Fund (\$10 million)
- \$40 million in funding for Rural Workforce and Middle Income Housing

Bills Held Over

Legislation not acted upon in the 2023 session will carry over into the 2024 session and be eligible for further consideration. *Bills remain in committee unless otherwise noted as on General File.*

- LB16 (Briese) Require occupational boards to issue certain credentials based on credentials or work experience in another jurisdiction and make a determination regarding an applicant with a criminal conviction, provide for jurisprudential examinations and appeals from denial of a license, and change requirements for membership of the State Electrical Board
- LB79 (Erdman) Adopt the Nebraska EPIC Option Consumption Tax Act
- LB113 (McDonnell) Appropriate funds for federal four and nine percent low-income housing tax credit programs
- LB148 (Jacobson) Change powers and duties of the State Racing and Gaming Commission related to licensed racetrack enclosures and change dates related to the required market analysis and socioeconomic-impact studies
- LB164 (McKinney) Adopt updates to building and energy codes

- LB166 LB205 (vonGillern) Adopt the Government Neutrality on Contracting Act
- LB209 (Bostar) Provide tax exemptions relating to data centers
- LB213 (Slama) Change provisions regarding tax credits under the Nebraska Job Creation and Mainstreet Revitalization Act and grants under the Rural Workforce Housing Investment Act
- LB224 (McKinney) Adopt the Aid to Municipalities Act. *On General File.*
- LB235 (Wayne) Change provisions relating to the use of tax credits under the ImagiNE Nebraska Act. *On General File.*
- LB349 (Wayne) Change award limitations and appropriations intent language under the Business Innovation Act
- LB389 (Linehan) Restrict the use of tax-increment financing
- LB481 (Raybould) Adopt the Housing Incentive District Act
- LB504 (Aguilar) State intent to transfer and appropriate funds for housing
- LB515 (Walz) Adopt the Rural Economic Development Initiative Act
- LB 533 (McKinney) Change plumbing board membership for cities of the primary class and provide for licensure requirements for plumbers in certain cities and villages
- LB563 (Dorn) Appropriate funds to the Nebraska State Historical Society
- LB582 (Moser) Adopt the Manufacturing Modernization Pilot Investment Act
- LB636 (Albrecht) Prohibit political subdivisions from restricting certain energy services. *On General File.*
- LB644 (McDonnell) Change provisions relating to the use of the Site and Building Development Fund. *On General File.*
- LB714 (Cavanaugh, J.) Change provisions of the Nebraska Affordable Housing Act
- LB746 (Cavanaugh, M.) Restrict the use of tax-increment financing
- LB789 (Wayne) Appropriate funds to the Department of Economic Development

INTERIM

Each year, senators introduce legislative resolutions to study specific topics over the interim. The level of activity on interim studies varies widely. No action may be taken; senators may convene formal hearings or less formal round-table discussions; or staff may do research and write a report. LRs of potential interest:

- LR138 (McKinney) Interim study to examine the meaning of affordable housing in Nebraska
- LR141 (McKinney) Interim study to examine the reports received under the Municipal Density and Missing Middle Housing Act
- LR197 (McDonnell) Interim study to conduct a comprehensive examination of the need for Nebraska to foster development of large industrial and commercial business sites
- LR221 (Brewer) Interim study to review the credentialing requirements for interior designers for purposes of the Occupations Board Reform Act
- LR225 (Riepe) Interim study to determine ways to incentivize the growth in the number of apprenticeship programs and youth apprenticeship participants in Nebraska

With 2024 on the horizon, candidates begin emerging for Legislature

Six Nebraska Legislature candidates have declared their candidacy for the 2024 election, more than a year away. One former candidate and five political newcomers comprise the six. Five are pursuing seats held by term-limited senators. One is challenging an incumbent senator. In 2024, 15 members will be term-limited, ensuring district turnover and another year of considerable change for the 49-member Legislature. Fourteen senators were elected last year. Newcomers comprised nearly one-third of lawmakers in January, including the two senators appointed following the 2022 session.