

## LEGISLATIVE BILL 254

Approved by the Governor May 26, 2023

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

It shall be the duty of the council:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The Beginning Farmer Tax Credit Act;

(b) The ImagiNE Nebraska Act;

~~(c) The Nebraska Advantage Act;~~

~~(c) (d)~~ The Nebraska Advantage Microenterprise Tax Credit Act;

~~(d) (e)~~ The Nebraska Advantage Research and Development Act;

~~(e) (f)~~ The Nebraska Advantage Rural Development Act;

~~(f) (g)~~ The Nebraska Job Creation and Mainstreet Revitalization Act;

~~(g) (h)~~ The New Markets Job Growth Investment Act;

~~(h) (i)~~ The Urban Redevelopment Act; and

~~(i) (j)~~ Any other tax incentive program created by the Legislature for the purpose of recruitment or retention of businesses in Nebraska. In determining whether a future tax incentive program is enacted for the purpose of recruitment or retention of businesses, the office shall consider legislative intent, including legislative statements of purpose and goals, and may also consider whether the tax incentive program is promoted as a business incentive by the Department of Economic Development or other relevant state agency.

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

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

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

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

(A) Attracting new business to the state;

(B) Expanding existing businesses;

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

(D) Creating high-quality jobs; and

(E) Increasing business investment;

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

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

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

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

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

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

(B) By an estimation including all investment;

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

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

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

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

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

(e) Recommendations for any changes to statutes or rules and regulations that would allow the tax incentive program to be more easily evaluated in the future, including changes to data collection, reporting, sharing of information, and clarification of goals.

(4) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

(g) Renewable energy firm means a person or unitary group that has a location with any of the following six-digit code designations under the North American Industry Classification System as assigned by the Department of Labor: 111110, 111150, 111199, 111930, 111991, 113310, 221111, 221113, 221114, 221115, 221116, 221117, 221118, 221121, 221122, 221330, 237130, 237990, 325193, 331511, 331512, 331513, 331523, 331524, 331529, 332111, 332112, 333511, 333611, 333612, 333613, 334519, 423830, 482111, 484230, 488510, 541360, 541370, 541620, 541690,

~~541714, or 541715 111110, 111120, 111130, 111140, 111150, 111160, 111191, 111199, 111211, 111219, 111310, 111320, 111331, 111332, 111333, 111334, 111335, 111336, 111339, 111411, 111419, 111930, 111991, 113310, 221111, 221113, 221114, 221115, 221116, 221117, 221118, 221330, 237130, 237210, 237990, 325193, 325199, 331512, 331513, 331523, 331524, 331529, 332111, 332112, 333414, 333415, 333511, 333611, 333612, 333613, 334519, 485510, 541330, 541360, 541370, 541620, 541690, 541713, 541714, 541715, 561730, or 562213;~~

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

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

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

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

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

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

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

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

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

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

(3) To apply for and to receive and hold such authorizations, licenses, and assignments of channels from the Federal Communications Commission as may be necessary to conduct such educational telecommunications programs by standard radio and television broadcast or by other telecommunications technology broadcast systems and to prepare, file, and prosecute before the Federal Communications Commission all applications, reports, or other documents or requests for authorization of any kind necessary or appropriate to achieve the purposes set forth in the Nebraska Educational Telecommunications Act;

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

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

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

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

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

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

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

(11) To review, or cause to be reviewed by a person designated by the Nebraska Educational Telecommunications Commission ~~commission~~, all programs presented on the network prior to broadcast or transmission to insure that the programs are suitable for viewing and listening. Such suitability shall be determined by evaluating the content of the program, and screening the programs

if necessary, as to their educational value and whether they enhance the cultural appreciation of the viewer and listener and do not appeal to his or her prurient interest. When it is obvious from an examination of the descriptive program materials that a program is suitable for presenting on the network, no further review shall be required;

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

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

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

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

(16) To make certain that the facilities are not used for any purpose which is contrary to the United States Constitution or the Constitution of Nebraska or for broadcasting propaganda or attempting to influence legislation;

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

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

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

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

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

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

Sec. 12. Since an emergency exists, this act takes effect when passed and approved according to law.