

The Voice

of the Nebraska Grocery Industry

January / February / March 2020



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Not all independent grocers are going out of business.
Independent grocers can still compete and win!



Not as profitable as you once were? Independent grocers are in a fight for their lives. Don't be the next grocer forced to shut their doors. Continuing to operate in the same manner and hoping for different results will not be a winning long-term strategy. The future remains bright for those who embrace the change necessary to survive and prosper. While transitioning wholesalers may require some extra effort and a change to the status quo, isn't it worth it to make the call sooner rather than later to learn how Associated Wholesale Grocers can provide you a lower cost of goods and a real chance to compete in the marketplace today and in the future?

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Nebraska Age to Purchase for Tobacco Moving to Age 21 on June 1, 2020

On December 20, 2019 the President of the United States signed legislation that raises the federal minimum age to purchase tobacco products from 18 to 21 years. However, the FDA must develop and publish guidelines through rules and regulations before the law can be enforced. In a December 31, 2019 memorandum, the Nebraska Attorney General confirmed that the age to purchase tobacco in Nebraska is 19 years of age until the Nebraska Legislature passes a law that changes the age. Sen. Tom Briese introduced LB 1064, which raises the legal age to purchase cigarettes, cigars, electronic nicotine delivery systems (ENDS), alternative nicotine products and tobacco products to 21 years of age. **LB1064 bill goes in effect on June 1, 2020.** The bill clarifies that there is an exemption from the law for those who sell or handle tobacco products in the course of their employment.



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Reminder: DOL Has New Overtime Rule For 2020

Courtesy of U.S. Department of Labor

The Department of Labor has a new minimum salary for certain exempt white-collar employees. The new minimums took effect January 1, 2020.

Exempt Executive, Administrative, Professional and Computer Employees (EAP)

Salaried exempt EAP employees must be paid at least \$684 per week on a salary basis (an increase from the current minimum of \$455 per week). This is the equivalent of \$35,568 per year.

Up to 10% of this minimum may come from non-discretionary bonuses, incentive payments, and commissions (collectively, “incentive pay”), so long as these payments are received on at least an annual basis. If an employee does not earn enough incentive pay to meet the minimum by the end of the year, the employer has two options: pay the difference with a “catch-up” payment within one pay period after the end of the 52-week year or retroactively remove the exemption and pay the employee for any overtime worked during that same year.

Teachers, practicing lawyers, practicing doctors, and outside salespeople are exempt from these minimums under federal law, though may be subject to state minimums.

Exempt Highly Compensated Employees (HCE)

The HCE exemption is intended for employees who don’t quite qualify for the EAP exemptions due to their job duties, but who happen to be paid extremely well. This exemption is used much less commonly than the others and most exempt employees will fall under the EAP exemptions.

Employees classified as exempt under the HCE exemption must make at least \$107,432 per year. Of that amount, at least \$684 per week must be paid on a salary or fee basis, with no reduction for future incentive pay. The remainder of their income, however—nearly 67% if they make \$107,432— may come from incentive pay. If the employee does not earn enough in incentive pay to meet the minimum by the end of the year, the employer has the same two options as with EAP employees. They can make a catch-up

payment (in this case within one month) or retroactively remove the exemption and pay the employee for any overtime worked during the previous year.

State Law

California, New York, and soon Washington have laws in place that make the minimum salary for exempt employees higher than the new federal thresholds. Since employers must follow the law that is most beneficial to employees, the new federal minimums would not affect employers in these states.

What Now?

Employers will need to evaluate anyone who they currently classify as exempt from overtime and pay less than \$684 per week or \$35,568 per year. Once these employees are identified, employers will need to choose between giving them a raise to meet the new minimum to maintain the exemption or reclassifying them as a non-exempt and paying overtime.

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Nebraska Grocery Industry Association 2020 Calendar

April 16	Tentative Adjournment for Nebraska Legislature
April 28-29	Day in Washington: Supermarket Industry Fly-In (FMI, NGA, FIAE)
April 29	AWG Springfield Fresh Sales show, Chateau on the Lake, Branson
May 3-5	FMI Financial Executives and Internal Audit Conference, St. Louis, MO
May 12-14	FMI Future Leaders eXperience, Orlando, FL
June 2-3	Hy-Vee Auction & Golf Outing
June 16	NGIA Sandbaggers Spring Golf Outing at Iron Horse
June 16	NGIA General Membership Meeting, Iron Horse
Aug. 4-6	AWG - VMC Fall Show, Overland Park Conv. Ctr.
Aug. 18-19	AWG Springfield Holiday Food Show, Branson Conv. Ctr.
Aug. 19	AWG Kansas City Holiday Food Show, KCI Expo Ctr.
Aug. 19-20	SpartanNash Fresh/GFD West Expo in Minneapolis
Sept. 13-16	FMI Annual Business Conference, Chicago, IL
Sept. 17-19	AWG Nebraska Holiday Food Show, Omaha
Sept. 29	B&R Stores Golf Outing (tentative)
Oct. 6	Hackers & Snackers Golf Extravaganza – Quarry Oaks





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Ask the Experts: Background Checks on Minors

Courtesy of UNICO

Question: Are we permitted to run background checks on minors?

Answer: Running a pre-employment background check on any job applicant requires consent, which forms a legally binding agreement. Minors, in most cases, are prohibited from entering into a legally binding agreement, which means consent from a parent or legal guardian is required before proceeding with the background check. The minor candidate would need to have their parent or legal guardian sign the authorization form. Third party background checks performed on minors fall under the federal Fair Credit Reporting Act (FCRA) with the same terms as background checks performed on those 18 and older.

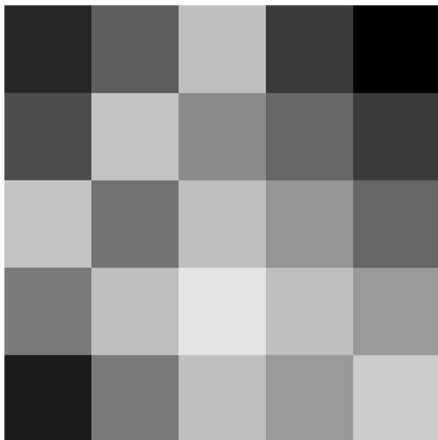
You should note, however, that the majority of criminal records for minors are sealed, with the exception of when a minor is convicted as an adult. Further, because most minors are unable to obtain credit, a credit history would likely not exist. Consequently, you would more than likely make a hiring decision based on the minor's previous work experience, educational experience, and professional references. This begs the question of whether a background check on a minor is a necessary policy. You may need to adjust your pre-employment hiring practices when hiring minors to adapt to these limitations. You may, after consulting with legal counsel, choose to create a pre-employment screening policy designed specifically for minors.

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*SOURCE: MSA Data - Latest 52 Weeks Ending 01-20-2018; Top Ten Brand Families



Chris Hoyme Answers Your Employment Law Questions

Courtesy of Chris Hoyme - Jackson Lewis & South Dakota Retailers Association

TATTOOS

Question: *A job applicant has tattoos that cover practically every square inch of his arms. He is qualified for the job, but I know my customers will be turned off by that. Can I use that as a reason not to hire him?*

Answer: Employers may have a dress code if it isn't discriminatory in terms of gender, race, religion, disability, and other protected categories.

If you have employees who deal with the public - for example if they're involved in sales, work as cashiers, receptionist, serving food, selling clothing, and those types of positions - you have the right to require them to meet a reasonable dress code. That may include requiring employees to cover up tattoos. It is important to note that if you implement this type of policy, you make sure it is reasonable, is non-discriminatory, and is applied uniformly to all employees who actually work with the public.

POWERFUL PERFUME

Question: *I have been receiving complaints from employees and customers that one member of my staff smells like she's taking a bath in perfume every morning. More than one person has told me they are allergic to perfume and don't want to be in the same room as this employee. Can I ask employee not to wear scented products to work?*

Answer: Yes, provided that the policy is uniformly applied to all employees. You can't prohibit one employee from wearing all scented products while allowing other employees to wear them.

PAYING FOR EMPLOYEE UNIFORMS

Question: *I require my employees to wear uniforms. Can I deduct the cost of the uniforms from their paycheck?*

Answer: Generally, deductions can be made for uniforms provided the deduction does not bring the employee below minimum wage (\$9.00 per hour in Nebraska). In addition, federal law provides an employer can't take deductions out of

overtime pay.

An agreement to deduct for uniforms should be in writing and clearly indicate that if the employee leaves his or her employment, they will be liable for payment of the entire remaining balance for the uniforms.

TERMINATING AN EMPLOYEE WHO GIVES NOTICE

Question: *An employee gave notice that they are leaving the job in three weeks. The individual has never been a good worker. Can I just tell them to leave immediately? If I do that, would I have to pay them for the entire three weeks?*

Answer: An employer can request that individual leave immediately under this scenario. In the absence of a contract or other agreement, you are generally not required to pay them wages for time they did not work. If you terminate their employment, the individual may be eligible for unemployment benefits.

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2020 NEBRASKA LEGISLATURE

NGIA Legislative Dinner Another Success!

Members of the food industry filled the ballroom at the Cornhusker Hotel as they met with Governor Pete Ricketts, State Officials, Regulatory Agency members and State Senators. The Scholarship Silent Auction continues to be a key fundraising tool for the scholarship program. A big thanks to Russ Stevens and Cindy Schroeder for being helpful volunteers at the event. Former Husker football athletes were present for photos and autographs.



De Lone Wilson presented Spirit of America Award to Governor Pete Ricketts.



De Lone Wilson presented Distinguished Service Award to Jeff Holling with Crystal Farms.



De Lone Wilson presented Vendor of the Year to Brian Gilliland with Chesterman Coca-Cola.





De Lone Wilson presented Lifetime Achievement Award to Terry Rehmeier with Retail Data Systems.



De Lone Wilson presented Lifetime Achievement Award to Mick Lusero with Keurig Dr Pepper.



De Lone Wilson presented Lifetime Achievement Award to Charlie Stein with Dean Foods/Land O'Lakes.



De Lone Wilson presented Lifetime Achievement Award to Greg Smith with Hiland Dairy.



De Lone Wilson presented Lifetime Achievement Award to Stu Wilsman the former owner of Rightway, Inc.



Lifetime Achievement Award recipient, Tim Henderson, former owner of Henderson IGA Inc.



Lifetime Achievement Award recipient, Steve Pirtle, with Associated Wholesale Grocers.



APRIL 28-29, 2020
DAY IN WASHINGTON

SUPERMARKET INDUSTRY FLY-IN



2020 Day In Washington Supermarket Industry Fly-In

Each year, supermarket industry executives from across the country visit Washington, D.C. for the annual Day In Washington Supermarket Industry Fly-In to meet with elected officials in Congress. This is a great opportunity to directly engage with lawmakers on how federal policies directly impact your business.

Join Us In Washington D.C. April 28-29

Schedule:

Tuesday, April 28

12:00 p.m. – 5:00 p.m.

5:30 p.m. – 7:00 p.m.

Registration Open

Day in Washington Opening Reception

Wednesday, April 29

7:30 a.m. – 9:00 a.m.

9:30 a.m. – 5:00 p.m.

Political Briefing & Breakfast

Scheduled Congressional Appointments



Guest Speaker Larry Sabato

Larry Sabato - one of the nation's most respected political analysts - will join us to discuss the 2020 presidential election. Sabato is a New York Times best-selling author, winner of four Emmys, and the founder of the University of Virginia's Center for Politics.

Please contact Terence Huie, National Grocers Association PAC and Grassroots Manager, at thuie@nationalgrocers.org with any questions.

Cost is \$150 and register now at www.grocersdayinwashington.com.

Nebraska Grocery Industry Association
presents

One of the Greatest Social Events of the Year!

**The NGIA Annual Conference &
“Sand Baggers” Golf Outing**

Tuesday, June 16, 2020 at Iron Horse Golf Club

Iron Horse Golf Club is located in Ashland, Nebraska, just minutes from Omaha and Lincoln. This unique golf course is built around an old rock quarry and features incredible views and exceptional course conditions.

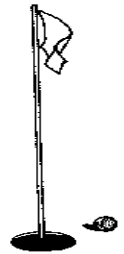
10:00 a.m. Shotgun Start*
3:00 p.m. Speaker
3:30 p.m. General Membership Meeting & Elections
4:00 p.m. Meal

***10:00 a.m.** shotgun start. The tournament is a Texas Scramble format. Three flights will be established after scores are turned in. Prizes include a \$50 Pro Shop Gift Certificate for each Flag Prize Winner and each Flight Winner. Fees include the driving range, green fees, cart fees, 2 beverages on the course, box lunch and dinner. Each team sets their own foursome. Those players without a full group will be combined with other players.

This tournament is included in the annual sponsorship package.

Sponsorships are still available:

- Pre-event publicity, 1 entry fee, hole signage, and recognition in The Voice **\$500**
- We would be interested in donating goodie bag items or prizes.



I want to Play Golf! Sign Me Up:

Members of NGIA: \$130 per player **Non-Members: \$235 per player**
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2020 Nebraska Grocery Industry Association Legislative Report as of March 2, 2020

Bill #	Introducer	Committee	Description	Hearing Date	Position
254	McCollister, Blood, Chambers, Howard, etc.	B&L	Labor – prohibits an employer with 15 or more employees from asking for criminal history. Criminal history check can be conducted after it has been determined that the potential employee meets qualifications. Applicant must be given an opportunity to explain his/her record. Amendment requires the job application (or oral questions) provide an opportunity to explain criminal record by placing a line on the application for an explanation of any convictions. On FR. Original supporters removed their support of the amendment so the bill was pulled by the sponsor. Could come back in 2020	02/04/19; GF 02/14/19; SF 02-27-19; FR 03-12-19	M w/ amd
255	McCollister, Blood, Chambers	HHS	SNAP – Sets eligibility at 140% of the federal poverty guidelines. This would help reduce the cliff effect when people lose benefits that are valued much higher than the raises or jobs they are offered. If passed, eventually these folks would leave assistance programs because their wages would compensate for the loss of benefits. Held in Committee	02/07/19 GF 01/31/20	S
305	Crawford	B&L	Labor – Employers of 4 or more would be required to provide sick leave for full and part time employees. Benefit would be a minimum of 1 hour per 30 hours worked. Sick leave would be carried over from year to year. Limited to use of 40 hours per year per employee	01-21-20 failed to advance for lack of votes	O
321 amd into 835	Hansen, Ben	Ag	Updates by reference Handbook 44, 130 and 133 from 2003. These are the handbooks our Weights & Measures officials use when regulating our industry. The updates have no substantial impact on our industry. Held in Committee but will move in 2020 with an amendment that does not impact NGIA	01/29/19	S w/ amd
322	Crawford/ Blood	Judiciary	Tobacco – allows use of a 15-17 year old in tobacco compliance checks if the minor meets certain criteria, including parental consent, is with law enforcement, is part of a licensee's self-check program, or with HHS or a tobacco prevention coalition that receives grant funding. Our concern was with the tobacco prevention coalitions and their inability to follow state law. Committee amendment removed ability for minors to work with advocacy groups in compliance checks. Now requires State Patrol to adopt compliance check guidelines – which was done 20 years ago. Adds cigars as an item that can be purchased during compliance checks.	02/01/19 GF 02-26-19 GF debate 01/20. Moved to SF	O M w/ amd
367 Amd in 858			Litter Reduction & Recycling Act. Extends the sunset date and eliminates the ability for the Legislature to transfer funds out of the account, insuring that the dollars our members pay in are actually used for environmental projects.		S
402	Hilkemann	HHS	SNAP – expands SNAP benefits to those with a felony conviction. Held in Committee. Reintroduced in 2020	02/07/19	M
408	Quick	B&L	Work Comp - Upon death of an employee if there is no spouse, child or other dependent entitled to the benefits, \$25,000 will be paid to the personal representative of the estate of the deceased. Held in Committee.	03/04/19	O
410	Kolowski	Revenue	Tax – Sales Tax Holiday for clothing and shoes from 1st Friday of August through 11:59 the following day. Held in Committee	03/14/19	M
429	Wayne	Revenue	Tobacco – Tax on cigars, cheroots and stogies shall be 20% of the purchase price paid by the first owner with a maximum tax of 50 cents. Held in Committee.	03/13/19	M
448	McDonnell	B&L	Work Comp – Burial Expenses: An amount equal to 14 12 times the state average weekly wage (currently \$671/week or \$9394) for the calendar year in which the death occurred (currently set at \$10,000). Committee amended Lowered the payment to 12. Passed GF 30-0-14 present not voting and 5 excused. Another amendment was filed on SF to tie the increase to the CPI.	GF 05/13/19; to SF 02/12/20	M w/ amd
594	Blood	Ag	Provide for a deceptive trade practice relating to meat under the Uniform Deceptive Trade Practices Act. Retailers/Grocers were made responsible for labelling of product. Bill was amended to remove Grocer's liability. However, labelling is a national issue and is being addressed by pending federal legislation. Complaints are already addressed in Nebraska through Dept. of Ag Weights & Measures. Failed to move due to lack of votes	02/19/19 01/16/20 Floor Debate. Failed to advance	O
632 Includes 861	Natural Resources Committee	Natural Resources Priority Bill	LB 861, Uniform merchandise container, was amended into this bill.	GF 02/27/20	
710	Cavanaugh	Revenue	Tobacco Tax – removes all reference to vape products and adds "any tobacco product" and established a fund for behavioral health services. Increases cigarette tax from \$.64 to \$2.14 per pack. \$47.4M (increase from \$1.2M) shall be placed in the Nebraska Health Care Cash Fund. Another \$13M will go to the Nebraska Health Care Cash Fund. Held in Committee.	02/28/19	O
722	Albrecht	Gen Affairs	Gambling – allows for confiscation of a "gray device" which is an electronic gaming device that accepts currency, credit, coins, tokens or other value in exchange for play and it awards a monetary prize or credits, tickets, vouchers, that are redeemable for a monetary prize. Held in Committee	03/18/19	M
723	Vargas, Blood, Wayne	Gen Affairs	Liquor – tax increase from 25 cents to 31 cents per gallon on beer; decrease wine tax to 90 cents from 95 cents per gallon; reduce from 6 cents to 5 cents per gallon for wine produce in farm wineries; and reduce from \$3.75 to \$3.50 for alcohol and spirits shipped in the state. Held in Committee	03/25/19	M
732	Vargas, Blood	Ag	Food – requires licensing of mobile food unit and establishes a maximum licensing fee of \$75. This removes local control and local ordinances already established by cities. Amended to require private well testing, registration online, and food safety training Held in Committee	03/05/19	O

Bill #	Introducer	Committee	Description	Hearing Date	Position
746	Blood	Transp	Data Privacy for consumers: All business with annual gross revenue of \$10M that sells or shares information, 50,000 or more consumers; or if 50% or more of revenues comes from selling information. Consumer has right to know all info collected, what is sold and to whom, right to refuse resale of info; 3rd party cannot resell without specific permission; right to ask that all info be removed. Business must provide forms for consumers to meet above restrictions.	02/04/20	O
810	McCollister	Revenue	Tax exemption removed for candy, soft drinks and bottled water. Revenue would go to NE Healthcare Cash Fund	01/30/20	O
826	Hilkemann	Approp	Lottery - Gives the Legislature the authority to transfer funds from the Charitable Gaming Operations Fund to the Compulsive Gamblers Assistance Fund, providing revenue for the Problem Gamblers Assistance Program.	02/06/20	M
835	Halloran	Ag Speaker Priority	Updates NE Pure Food Act to reflect FDA Food Code changes that are appropriate for Nebraska. Requires a clean-up kit on site. Requires hand washing signage. LB 321 and LB 835 will be combined and move to GF.	GF 01/31/20	
857	Lowe	Gov Mil & Vet	Requires all state agencies to review rules & regs and report to the legislature as set out in a reporting schedule of 10 years after implementation	01/31/20	M
858 367 amd	Nat Res		Natural Resources Committee Priority Christmas Tree that includes Litter Recycling and Reduction Act.	SF	
861 amd into 632	Hughes	Nat Res	Uniformity packaging for consumer merchandise/containers. Local governments would not be able to pass local ordinances to ban containers in which merchandise is carried.	02/12/20	S
862	Hughes	Gen Affairs	Tobacco – it would be illegal to possess tobacco or e-cigs under the age of 19 except in compliance checks. Amended to exempt those under the age if they are handling tobacco in the course of their employment.	02/03/20	S
887	Arch	HHS	Allows pharmacists to adjust scripts as follows: change quantity when the amount prescribed is not commercially available; Changes due to dosage; extend a one-time refill if drug is essential; dispense multiple months of refills; substitute active ingredients	01/30/20	S
905	DeBoer	Revenue	Environment – requires a charge of 5¢ per plastic bag that is less than 4 mils thick and is provided by a store to a customer at POS. Store keeps 1¢ for collecting the fee; 3¢ goes to the General Fund and 1¢ goes to the Plastic Bag Reduction Fund. The Fund is created to provide reusable checkout bags to the public.	01/30/20	O
915	Hunt, Hansen	B&L	Wage – tipped: Increases to \$2.13 prior to Jan 1 of 21; \$3.60 on Jan. 1, 21; and \$4.50 on Jan 1, 22	02/03/20	O
922	Kolterman	HHS	Pharmacy – mandates electronic prescribing for controlled substances. There are exemptions for veterinarians; when electronic prescribing is not available due to temporary technical or electrical failure; when the prescriber and the dispenser are the same entity ,elements are not supported by the Interface SCRPT standard; a standing order or in response to a public health emergency where non-patient-specific prescriptions are prescribed.; research, drugs requiring compounding	01/30/20	S
930	Briese	Revenue Priority	Tax – Establishes a minimum amount of property tax relief of \$275M. This is Sen. Briese’s Priority Bill.	02/21/20	M
946	Briese, McCollister, Gragert	Revenue	Tax – Sales: on all services and reduces sales tax rate to 4%. Adjusts the rate annually to bring in the same level of income. .005 of revenue would go to Highway Trust Fund	02/26/20	M
963	Brewer, Geist, Gragert, Lowe, McDonnell, Wishart	B&L McDonnell Priority	Permits but does not require first responders to take resiliency training to help prevent or mitigate the mental injury from Post Traumatic Stress Disorder (PTSD) and provides a means for establishing a prima facie case of PTSD due to cumulative injury or stress. The bill establishes who may diagnose PTSD. It also allows for reimbursement of training by the Critical Incident Stress Management Program and the Department of Health and Human Services.	01/27/20; SF 3/03/20	M
974	Revenue	Revenue Committee Priority Bill	Tax – Property tax relief. Reduces Ag and residential property tax bill by providing state aid to fund education. Statutory max levy remains at \$1.05 but can be increased by vote of taxpayers. Reduces property valuation over a 3 year period. Basic Funding Aid provides funding for every student through the TEEOSA formula.	01/22/20	M
989	Wayne	Revenue	Tax – impose a sales and use tax on digital advertisements, which is defined as an advertising message delivered over the Internet that markets or promotes a particular good, service, or political candidate or message.	02/13/20	O
1006	Hansen, Matt	Judiciary	Garnishment – increases from 10 to 30 the number of days within which an employer MUST respond to the courts. Bar Association and Trial Attorneys are neutral. Did not make it into a priority bill. Amendment has been offered to move to 20 days for payroll garnishments only. The bill will be ready to introduce in 2021.	01/29/20	S
1013 Amd into 1074	Linehan	Revenue Committee Priority Bill	Tobacco – changes definition of a cigar to mirror federal language. This pulls cigars back out of the MSA as they were prior to passage of the bill last year that redefined cigarettes	02/13/20	S
1016	Hansen, Matt	B&L Committee Priority Bill	Amends Wage Payment and Collection Act to provide for anti-retaliatory protections and change relief to claims so they are appropriate relief and attorney fees. This is an attempt to try to fix an ongoing problem when small claims are made. The employee can’t afford attorney fees so the case is dropped. This bill provides some compensation regarding small claims. A compromise has been worked out and the business community now supports the bill.	02/03/20 GF 2/13/20 W/amd; to SF 2/21/20	O & M w/ amd

Bill #	Introducer	Committee	Description	Hearing Date	Position
1021	Groene	Urban Affairs Groene Priority Bill	TIF Financing – removes barriers in the approval process for lower costs projects. Provides an expedited review for projects to repair, rehabilitate or replace an existing structure located in a substandard or blighted area. Must be in a county with less than 150,000 people or in an area that is declared blighted. Building must be 60 years old. Dollar amount cannot exceed \$250K for single family residential; \$1M for multi-family structure; or \$10M for structure on National Register of Historic Places. Local Government must approve.	02/18/20	M/S
1037	Hunt	HHS	SNAP: a violation that results in loss of SNAP benefits does not impact the remaining members of the household	02/20/20	M
1038	Hunt	HHS	SNAP: Felons would be eligible for SNAP benefits if the conviction was due to possession of a controlled substance and the individual is now on parole or has post-release supervision	02/20/20	M
1040	Vargas	Ag	Food Insecurity – Dept. of Ag would establish a state food insecurity nutrition incentive grant program. Private sector includes representatives of food industry associations, lenders, or venture capital groups. Program would offset startup and operational costs associated with projects awarded under a federal grant program. The grant would be for \$150,000. This is a repeat bill from 2 years ago where the NE Dept. of Ag applied for a \$2M FINI Grant to fund Double Up Food Bucks.	02/11/20	S
1056 943 & 980 amd into	Lowe	Gen Affairs Committee Priority Bill	Liquor: Allows a farm winery, craft brewery, micro-distillery, a bottle club, or an entity with a retail liquor license to temporarily expand their licensed premise to a street, parking lot, or alley that is immediately adjacent to their licensed location upon approval by the appropriate local governing body. This temporary expansion is limited to 15 calendar days per year.	02/03/20; GF 03/03/20 w/ amd	S
1064	Briese	Gen Affairs Committee Priority Bill	Tobacco to 21. Changes age to purchase to age 21 as of June 1, 2020. Feds will move to this age no earlier than June. This bill protects dollars NE receives from the Federal Government and sets a date certain for change of age to purchase.	02/03/20	S
1065	Halloran	HHS	Pharmacy: Changes the number of pharmacy technicians that can be supervised per pharmacist from 3 to unlimited	02/27/20	S
1074 1013	Revenue	Rev Committee Priority Bill	1013 – amended into this bill. Changes definition of a cigar to mirror federal definition.	02/21/20	
1090	Blood	Gen Affairs	Liquor – allows the local government to suspend a license if payment of taxes or fees or special assessment is 90 days in arrears. Authority to suspend a license should remain at the State level through NLCC	02/10/20	O
1101	Halloran	B&L	Work Comp – Amends the schedule of compensation for certain injuries resulting in disability. Loss or loss of use of multiple part of the same limb would not be eligible for determining the employee's loss of earning capacity or entitle to permanent disability. Multiple parts of the same hand would be one loss. Due to judicial erosion this needs to be clarified. Impacts earning capacity loss and permanent disability or loss. There is no fiscal note.	02/10/20	S
1126	Vargas	B&L	Work Comp –Amends Work Comp medical payments so that no attorney fee, penalty or interest is awarded if a reasonable controversy exists at the time of a delinquent payment and that the Work Comp Court may award attorney fees for a failure to authorize assurance of payment for treatment if there is no reasonable controversy regarding treatment within 30 days of the request for payment. The Comp Court may also assess a penalty not to exceed \$500 per day for each day the payment authorization is delayed without reasonable controversy. The \$500 /day penalty seems to be for something that has not yet taken place.	02/24/20	O
1127	Vargas		Work Comp – clean up: allows the compensation court or judge to issue contempt orders. A change from allowing Work Comp Court to deal with non-compliance by changing from commitment powers to be replaced with statutory powers of the judiciary. The employer is, in most cases, is not the one that refuses to comply.	02/24/20	S
1128	Vargas		Work comp – Provides for an exception for a claim based on bad faith. Current statute allows a claim to be released if the employee who files a claim accepts, makes and agreement, or accepts payment from the employer or the insurance company. The release is not allowed if denial of compensation benefits by an insurer or its agents is done without a reasonable basis at the time of the denial, and the insurer should have known there was no reasonable basis for denial. Any claim of bad faith in denying compensation benefits may be within 5 years.	02/24/20	O
1129	Vargas		Work Comp – Adds contractors or subcontractors as an employee if a corporation lets a portion of a contract to a without requiring the contractor to procure a policy of insurance for compensation to an injured worker.	02/24/20	O
1162		Revenue	Adopt the Fueling Station Tax Credit Act – sets up tax credit for new electronic vehicle charging stations.	02/26/20	S
1163	Wayne	Gen Affairs	Provide for transportation and storage of alcohol by retail licensees for customer pickup. Introducer stated that he hoped the two parties involved would work out a compromise. It appears there is no solution, so Sen. Wayne asked that the bill be held in Committee.	02/10/20	M
1176	Briese	Gen Affairs	Tobacco – Prohibits the sale of flavored vapor products. Penalty is a Class III misdemeanor. Federal law goes into effect 2/7/20 so we don't need this bill.	02/03/20	M
1196	Morfeld	HHS	Pharmacy – Adopts the Pharmacy Benefit Manager Regulation Act. A pharmacist/ pharmacy cannot be penalized or removed from a network due to sharing cost, price or copayment information. Prescription drug insurance cannot require payment at POS in an amount that exceed the individual's copayment, deductible or coinsurance or the amount if the individual paid in cash. A PBM could not exclude a pharmacy from participating in its specialty pharmacy network. A PBM cannot charge a fee or retroactively deny or reduce a claim of a pharmacy for payment of all or part of a claim if it is a clean claim. PBM shall not direct or influence a patient to use a pharmacy in which it has ownership interest or control without disclosing to the patient. Reimbursement shall not be less than the amount the PBM reimburses a PBM owned pharmacy for the same drug.	02/24/20	S

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Nebraska Food News...People... Places... Things...

Holdrege Market Place and **Sun Mart** in Holdrege offered shoppers an opportunity to participate in their food drive for the Phelps Community Pantry. The Holdrege High School FFA members greeted customers and had lists of suggested items for shoppers to purchase while they were shopping. Four hundred sixty-one shoppers participated, donating over six hundred pounds of needed items.

Pender's David Duffy has retired from the grocery business after serving the area for nearly 50 years. He first worked at Economy Market in 1971. The Duffy family bought the local grocery store in 1988, and Dave took over ownership of it 1998. In 2012, he sold Economy Market to Cubby's and the store was moved to new location. For the past seven years, Dave has managed the store's meat department.

Hy-Vee has announced several changes to its executive team. **Jay Marshall**, who has been with the company for 38 years, has been promoted to vice chairman. In addition to serving in this capacity, he will continue to oversee the operations of Hy-Vee's supply chain and subsidiaries. "While Jay will oversee key areas of our company, he will also work on the larger challenges facing the retail industry today," said Randy Edeker, chairman, president, and CEO. "Jay has worked in and led virtually every area of Hy-Vee throughout his career, and he is a great and trusted leader. I am confident that he will do an excellent job in this new role."

Most recently, Marshall was EVP, co-COO and president of Hy-Vee subsidiaries/commissaries — a position he was appointed to in 2016. With Marshall's new position, Jeremy Gosch will continue as COO.

Darren Baty, current Hy-Vee EVP, will take on the role of chief merchandising officer. This change comes on the heels of Brett Bremser's recent retirement after 35 years with the company. Darren started as a part-time clerk in 1981 before rising through the ranks to various management positions. Craig Clasen, SVP of retail business development, also retired on Jan. 1, although the company didn't address any plans for a replacement. Clasen oversaw several vendor and

supplier relationships while also vetting innovative products and companies.

Hy-Vee adjusted hours at most of its 24-hour stores across its eight-state region. Most of Hy-Vee's stores in Nebraska no longer offer 24-hour service. The change was effective on Monday, Feb. 10, 2020. "We have changed our hours to reallocate several team members to be available to assist customers during busier shopping times each day. Changes vary by store/market throughout our eight-state region," Director of Public Relations Christina Gayman said.

The Kroger Co. announced that Colleen Juergensen, president of its Dillions division headquartered in Hutchinson, has been promoted to president of its Central division, replacing Pam Matthews, who is retiring. Juergensen was promoted to her role as president of Dillions in 2016. Steve Dreher, currently VP of the Dillions division, will become president of the division which includes the Baker's banner in Nebraska.

Adam's Corner Market in Gibbon has temporarily closed after a fire on January 22, 2020. Three different fire departments responded to the fire in Gibbon with crews on scene saying it took nearly an hour to get the blaze under control. Store owner Adam Ferguson said "All we had was smoke damage. That's the main thing. The damage in the basement where the fire started is minimal. The fire department did wonderful job."

Super Saver in Omaha at 5710 S.144th St. will close no later than April 1, 2020, but it could be sooner if existing inventory sells out. "We came to the end of our 20-year lease at our Omaha location," Marty Jarvis, B&R Stores marketing director, said. "Our landlord based in St. Louis did not give us favorable terms to stay at the location, so we were left with no choice other than to close the store."

Aurora Mall in Aurora had a fire scare on January 23, 2020, after a suspected fire had broken out in the produce department. A worker on scene reported seeing smoke, but

no flames. The building was evacuated while the problem was sorted out. Shopping has since resumed and there is little visible damage to the structure.

Harvard Foodmart closed on February 16, 2020 ending 32-year run sitting at the corner of Clay Ave and Walnut St. This marks the third grocery store to close in Clay County within four years, following Fairfield's in 2016 and Clay Center's in 2018. Harvard's Foodmart also serves as gas station, with the only other gas option in town being the elevator, which requires co-op card to purchase gas.

The Stapleton Cooperative Market Deli Board of Directors has purchased the building in which they are currently located.

Schmick's Market in McCook has sold to Gary Suhr, owner of Gary's Superfoods of North Platte and Broken Bow.

IGA Market Place and Do-It Best Hardware store, which occupy the same building at 4646 W. Huntington Ave. in Lincoln, along with an in-store Subway sandwich shop, have lost their lease. "Unfortunately, an agreement could not be made that would leave us with favorable lease, in which we could operate the business in successful, financially reasonable manner," owner Peter Clark said.

The Market in Louisville owned by Lindy Schmidt opened on December 17, 2019. Schmidt made commitment to downtown Louisville by renovating and reopening the longtime grocery store that had been vacant.

Spartan Nash's Family Fare stores in Omaha has added GPS location technology to create a seamless online grocery shopping and curbside pickup experience. The technology allows Fast Lane shoppers to calculate a customer's arrival time for curbside pickup orders. Once a customer has placed their Fast Lane curbside pickup order, they will be alerted when their order is ready. Customers can then share their location through mobile apps or a web browser letting their Fast Lane shopper know they are on their way to the store, so their order can be prepared and delivered to their vehicle

when they pull up.

Main Street Market in Milford recently expanded. Owned by Neil and Lucinda Burkholder the store added space and purchased frozen/dairy coolers from the closed Pac 'N' Save grocery store. The expansion brings the opportunity to sell additional products, including bread. The Burkholders are hoping to expand their produce section, as well, bringing the store in line with fresh groceries.

Sun Mart of Falls City recently donated \$1,000 to Falls City Sacred Heart as part of its Direct Your Dollars campaign.

Ravenna has a vision for a full-service grocery store that would offer everything from watermelons to alcohol. Ravenna's former grocery store on Grand Avenue would be slated for complete renovation if plans being pioneered by the Ravenna Area Investment Group become reality. The group is working with a grocer to hopefully bring a store back to town sometime later this year.

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Pregnancy Discrimination Act

Courtesy of U.S. Department of Labor

Overview - The Pregnancy Discrimination Act (PDA) is an amendment to Title VII of the Civil Rights Act of 1964. Discrimination based on pregnancy, childbirth, or related medical conditions constitutes unlawful sex discrimination under Title VII, which covers employers with 15 or more employees, including state and local governments. Title VII also applies to employment agencies and to labor organizations, as well as to the federal government. Women affected by pregnancy or related conditions must be treated in the same manner as other applicants or employees with similar abilities or limitations.

Hiring - An employer cannot refuse to hire a woman because of her pregnancy-related condition as long as she is able to perform the major functions of her job. An employer cannot refuse to hire a woman because of any prejudices against pregnant workers or the prejudices of co-workers, clients, or customers.

Pregnancy and Maternity Leave - An employer may not single out pregnancy-related conditions for special procedures to determine an employee's ability to work. However, an employer may use any procedure used to screen other employees' ability to work. For example, if an employer requires employees to submit a doctor's statement concerning their inability to work before granting leave or paying sick benefits, the employer may require employees affected by pregnancy-related conditions to submit such statements.

If an employee is temporarily unable to perform her job due to pregnancy, the employer must treat her the same as any other temporarily disabled employee, for example, by providing modified tasks, alternative assignments, disability leave, or leave without pay.

Pregnant employees must be permitted to work as long as they are able to perform their jobs. If an employee has been absent from work as a result of a pregnancy-related condition and recovers, her employer may not require her to remain on leave until the baby's birth. An employer may not have a rule that prohibits an employee from returning to work for a predetermined length of time after childbirth. Employers must hold open a job for a pregnancy-related absence the same length of time jobs are held open for employees on sick or disability leave.

Health Insurance - Any health insurance provided by an employer must cover expenses for pregnancy-related conditions on the same basis as costs for other medical conditions. Health insurance for expenses arising from abortion is not required, except where the life of the mother is endangered. Pregnancy-related expenses should be reimbursed exactly as those incurred for other medical conditions, whether payment is on a fixed basis or a

percentage of reasonable and customary charge basis.

The amounts payable by the insurance provider can be limited only to the same extent as costs for other conditions. No additional, increased, or larger deductible can be imposed. Employers must provide the same level of health benefits for spouses of male employees as they do for spouses of female employees.

Fringe Benefits - Pregnancy-related benefits cannot be limited to married employees. In an all-female workforce or job classification, benefits must be provided for pregnancy-related conditions if benefits are provided for other medical conditions. If an employer provides any benefits to workers on leave, the employer must provide the same benefits for those on leave for pregnancy-related conditions. Employees with pregnancy-related disabilities must be treated the same as other temporarily disabled employees for accrual and crediting of seniority, vacation calculation, pay increases, and temporary disability benefits.

Harassment and Retaliation - It is unlawful to harass a woman because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth. Although the law does not prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted). The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on pregnancy or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under Title VII.

Additional Provisions - Pregnant employees may have additional rights under the Family and Medical Leave Act (FMLA), which is enforced by the U.S. Department of Labor. For example, under the Patient Protection and Affordable Care Act (PPACA) which amended the Fair Labor Standards Act (FLSA), employers are required to provide both:

- Reasonable break time for an employee to express breast milk for her nursing child for one year after the child's birth each time such employee has need to express the milk; and
- A place, other than a bathroom, that is shielded from view and free from intrusion from co-workers and the public, which may be used by an employee to express breast milk.

The FLSA requirement of break time for nursing mothers to express breast milk does not pre-empt state laws that provide greater protections to employees (for example, providing compensated break time, providing break time for exempt employees, or providing break time beyond one year after the child's birth).

Employers are not required under the FLSA to compensate nursing mothers for breaks taken for the purpose of expressing milk. However, where employers already provide compensated breaks, an employee who uses that break time to express milk must be compensated in the same way that other employees are compensated for break time. In addition, the FLSA's general requirement that the employee must be completely relieved from duty or else the time must be compensated as work time applies.

Note: Only employees who are not exempt from the FLSA's overtime pay requirements are entitled to breaks to express milk. While employers are not required under the FLSA to provide breaks to nursing mothers who are exempt from the overtime pay requirements, they may be obligated to provide such breaks under state laws. Additionally, employers with fewer than 50 employees are not subject to the FLSA break time requirement if compliance with the provision would impose an undue hardship.

Detailed Summary

On October 31, 1978, President Carter signed the PDA into law. The act is an amendment to Title VII of the Civil Rights Act of 1964, which prohibits, among other things,

discrimination in employment on the basis of sex. The PDA makes it clear that "because of sex" or "on the basis of sex," as used in Title VII, includes because of or on the basis of pregnancy, childbirth, or related medical conditions. Therefore, Title VII prohibits discrimination in employment against women affected by pregnancy or related conditions.

The basic principle of the act is that women affected by pregnancy and related conditions must be treated the same as other applicants and employees on the basis of their ability or inability to work. A woman is therefore protected against such practices as being fired or refused a job or promotion, merely because she is pregnant or has had an abortion. She usually cannot be forced to go on leave as long as she can still work. If other employees who take disability leave are entitled to get their jobs back when they are able to work again, so are women who have been unable to work because of pregnancy.

In the area of fringe benefits, such as disability benefits, sick leave, and health insurance, the same principle applies. A woman unable to work for pregnancy-related reasons is entitled to disability benefits or sick leave on the same basis as employees unable to work for other medical reasons. In addition, any health insurance provided must cover expenses for pregnancy-related conditions on the same basis as expenses for other medical conditions. However, health insurance for expenses arising from abortion is not required except where the life of the mother would be endangered if the fetus were carried to term or where medical complications have arisen from an abortion.

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