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UPDATE

Proposed water task force advanced

Lawmakers amended and advanced a bill from select file April 29 that would create a task force concerning the long-term sustainability of state water resources.

LB517, as originally introduced by Holdrege Sen. Tom Carlson, would create a 15-member task force to work on the state's water issues. Carlson said the need for a long-term strategic plan is vital to the state's future.

"Twenty years ago there was no need to [worry] about controlling, managing or regulating water in Nebraska," he said. "We thought we had an unlimited supply of water. Now we know better."

The Water Funding Task Force would comprise the Nebraska Natural Resources Commission, the director of Natural Resources, the chairperson of the Natural Resources Committee and 10 additional members to be appointed by the governor.

A Carlson amendment, adopted 38-0, replaced the bill.

The amended bill would allocate \$1 million for research, data collection and production of a final report, which the task force would submit to the Legislature by December 31. The report would identify water resources programs, projects and activities in need of funding to meet the long-term statewide goals of water sustainability, efficiency and productivity including:

- research, data and modeling needed to assist the state in meeting its water management goals;
- rehabilitation or restoration of existing and new

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Sen. Tom Carlson explains the need for long-term water planning.

Quality rating for subsidized child care advanced

Lawmakers gave first-round approval April 30 to a bill aimed at creating a comprehensive system for assessing and promoting quality care among the state's publicly subsidized child care providers.

LB507, introduced by Lincoln Sen. Kathy Campbell, would adopt the Step Up to Quality Act, which would put in a place a quality rating and

improvement system (QRIS) for child care providers.

The system would develop quality ratings based on a five-tiered system and assign ratings to applicable programs. The QRIS would be available to all child care providers and early childhood education programs in the state, but would be required for programs that receive significant public funds.

Under the bill, mandatory participation would be phased in over a three-year period. Beginning July 1, 2014, programs that received over \$500,000 in child care subsidy assistance in fiscal year 2011-12 would become subject to the QRIS and programs that received over \$250,000 in that fiscal year would join starting July 1, 2015.

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Proposed water task force advanced

(continued from front page)

water supply infrastructure;

- conjunctive management, storage and integrated management of ground and surface water; and
- compliance with interstate compacts or agreements.

Of the 10 members appointed to the task force by the governor, one member would be chosen from a public power and irrigation district under the amended bill. Omaha Sen. Burke Harr introduced an amendment that would have removed that designation and replaced it with an appointment from the metropolitan utilities district.

Harr said the utilities district serving the Omaha metropolitan area must be included in any statewide study of water usage.

“We need to make sure water policy is advantageous to everyone and that the metropolitan utilities district is at the table,” Harr said. “For us not to have the largest single supplier of our population included is a mistake.”

Carlson stressed the importance of having the representation of the public power and irrigation districts on the task force. Harr ultimately withdrew the amendment.

Omaha Sen. Heath Mello brought an amendment proposing the addition of a representative from both the metropolitan utilities district and the public power and irrigation district, increasing the total appointed members to 11.

Mello agreed with Harr about the importance of Omaha being adequately represented on the task force.

“The reality is that the metropolitan utilities district is the largest water user in the state of Nebraska,” Mello said. “For us not to consider the largest water infrastructure in the state as part of a grander water study [would be] a disservice to the entire state.”

Senators adopted the amendment 33-0 and advanced the bill to final reading on a voice vote. ■



Sen. Burke Harr stressed the need for additional representation on the task force.

COMMITTEE HEARINGS

*Current hearing schedules are always available at: http://nebraskalegislature.gov/calendar/hearings_range.php

Tuesday, May 7

**Transportation & Telecommunications
Room 1113 - 1:00 p.m.**

Appointment: Dillon, Blake - Motor Vehicle Industry Licensing Board

Appointment: Reeg, William - Motor Vehicle Industry Licensing Board

Wednesday, May 8

**Executive Board
Room 2102 - 12:00 p.m.**

LR155 (Chambers) Create the Tax Modernization Committee as a special legislative committee

Thursday, May 9

**Health & Human Services
Room 1510 - 1:00 p.m.**

Appointment: Acierno, Joseph M.

- Department of Health and Human Services

Monday, May 13

**Health & Human Services
Room 1510 - 1:00 p.m.**

Appointment: Brummer, Michael - Commission for the Deaf and Hard of Hearing

Appointment: Propp, Margaret - Commission for the Deaf and Hard of Hearing ■

Quality rating for subsidized child care advanced

(continued from front page)

Beginning July 1, 2016, programs that received over \$250,000 in subsidies in the previous fiscal year would become participants.

The state departments of health and human services and education would be required to develop, implement and provide oversight to the QRIS and would make program ratings public beginning in 2017. The QRIS also would include incentives for participating programs to improve their quality of care based on measurable outcomes.

Campbell said the first 1,000 days in a child's life are the most important in his or her development and program quality affects school readiness, future academic achievement and general success in life.

Given the amount of public funds involved in subsidized child care in Nebraska, she said, the state should work to ensure that high-quality care is provided.

"Nebraska spends nearly \$95 million in child care subsidies in federal and state funds," she said, "but there is not one minimum standard of quality. Therefore, no consideration is given to whether or not these funds purchase the kind of care found to reduce the achievement gap for children

at risk for failure in school."

Lincoln Sen. Danielle Conrad offered an amendment, originally introduced as LB625, that would expand eligibility to the state's subsidized child care program.

Currently, eligibility is capped at 120 percent of the federal poverty level (FPL). Conrad said the rate was cut in 2002 from 185 percent of FPL to the current rate.

LB625 originally would have restored the rate to 185 percent. Instead, the amendment offered would increase the rate to 125 percent of FPL in fiscal year 2013-14 and 130 percent of FPL in FY2014-15 and thereafter.

Calling it "abysmal" that Nebraska ranks 50th in the country in eligibility for child care subsidies, Conrad said the state needs to assist low-income parents in their efforts to become self-sufficient.

"By moving slightly up the ladder in terms of our eligibility ... we improve the quality of life for Nebraska working families and children and

do so in a measured and responsible manner," she said.

“By moving slightly up the ladder in terms of our eligibility ... we improve the quality of life for Nebraska working families and children and do so in a measured and responsible manner.”

--Sen. Danielle Conrad



Sen. Kate Bolz made LB507 her priority bill.

Lincoln Sen. Kate Bolz, who selected LB507 as her priority bill this session, supported both amendments. She said the state has a large percentage of parents in the workforce who need access to quality child care and a way to make informed decisions regarding providers.

"Nebraska ranks number two in the nation for participation in the labor force," Bolz said.

Hoskins Sen. Dave Bloomfield suggested that lawmakers in 2002 were right to reduce the FLP eligibility rate and that the cap should not be increased.

"Let's look at the possibility that maybe we were a little too generous to start with," he said.

The Conrad amendment and a technical amendment offered by the Health and Human Services Committee both were adopted 26-0.

Senators advanced LB507 to select file on a 27-0 vote. ■

Agriculture

Nursery license consolidation adopted

Senators passed a bill May 2 that updates provisions in the Plant Protection and Plant Pest Act.

Currently, there are three categories of commercial nursery licenses under the act: growers, dealers and brokers. LB68, introduced by Ogallala Sen. Ken Schilz, consolidates all three types of licenses into a single nursery stock distributor license.

LB68 also changes existing fee schedules due to the creation of the new license. Applicants seeking a Nursery Stock Distributor license will be charged \$115 for the first acre and \$5 for each additional acre. The state Department of Agriculture is authorized to adjust fees to a maximum of \$140 for the first acre and \$6 for each additional acre. This is an increase from a \$100 fee, regardless of size.

The bill also includes a number of additional provisions, some of which include:

- a license expiration date of Dec. 31 and a renewal date of Jan. 1, with application fees due at the time of renewal;
- the addition of botanically classified hardy plants to the existing definition of nursery stock;
- an increase of the maximum administrative fine for any violation of the act from \$500 to \$1000; and
- a liability of the person in violation of the act for any costs incurred by the department in the enforcement of quarantines and withdrawal orders.

The bill passed on a 41-0 vote.



Sen. Ken Schilz

Changes to pesticide product registration adopted

Lawmakers passed a bill May 2 that removes the specialty pesticide designation from pesticide product registration.

Currently, pesticides classified as specialty are charged a registration fee of \$160 per product while nonspecialty pesticides are charged a fee of \$200. LB69, introduced by Ogallala Sen. Ken Schilz, removes the specialty classification and establishes an annual registration fee of \$160 for all pesticide products.

The bill makes several additional changes, some of which include:

- updating contaminant levels in drinking water under the Safe Drinking Water Act;
- updating a reference relating to the state Department of Agriculture's authority with regard to designating pesticide applicator categories; and
- requiring that the renewal of an aerial pesticide business license is completed before the filing of a pesticide registration application.

The bill passed on a 40-0 vote.

Livestock welfare bill passed

Senators passed a bill May 2 that strengthens seizure protocol in the case of livestock neglect or cruelty.

LB423, introduced by the Agriculture Committee, authorizes law enforcement officials to enter into an agreement with animal owners and custodians outlining interventions to be undertaken to avoid seizure of neglected animals. The bill allows for keeping seized animals on the premises of the owner or custodian.

The bill also establishes procedures for determining the need to euthanize

animals experiencing extreme suffering. Upon seizure of the animals, the law enforcement agency taking custody will have seven days to petition for a hearing before the district court, which will be scheduled within 10 days of the date of petition.

If a court determines that abandonment or cruel neglect has occurred, it may:

- order immediate forfeiture of animals and authorize euthanasia;
- detail conditions that must be met to restore custody to the owner; or
- order a bond or security to pay for the seizing agency's cost for care of the animals.

If the owner or custodian is found not guilty, all costs associated with the seizure and care of animals will be refunded.

The bill also allows a court to order direct installment payments to cover expenses for the care of seized animals.

The provisions of the bill cannot preempt any animal welfare ordinances of a city of the primary class. Currently, Lincoln is the only primary class city.

Provisions of LB544, a bill originally introduced by North Platte Sen. Tom Hansen, were amended into the bill. Any person who owns a beef or dairy breeding bull infected with bovine trichomoniasis will be prohibited from selling or transporting the animal except for slaughter.

The owner also will be required to report the diagnosis to the state Department of Agriculture within five business days of laboratory confirmation of the diagnosis. The owner will be liable for notifying all neighboring landowners of the infection within 14 days.

The bill passed on a 41-0 vote.



Sen. Tom Hansen

Out-of-state brand permits adopted

An owner may brand cattle with a brand recorded or registered in another state under a bill passed by the Legislature May 1.

LB435, introduced by North Platte Sen. Tom Hansen, allows out-of-state brand permits that authorize a one-time use of a brand registered with a state other than Nebraska to brand cattle for immediate exportation out of state.

The bill authorizes the branding of cattle with an out-of-state brand if:

- the cattle are purchased at a livestock auction market licensed under the Livestock Auction Market Act or another location approved by the Nebraska Brand Committee;
- the cattle will be exported immediately from Nebraska;
- the cattle are branded at the livestock auction market or other approved location; and
- an out-of-state brand permit has been obtained prior to branding the cattle.

Producers can obtain an out-of-state brand permit by submitting an application and corresponding fee to a brand inspector.

The bill passed on a 45-0 vote.

Individual cattle ID requirement removed

Individual animal identification will no longer be required for cattle imported into Nebraska under a bill passed by the Legislature May 1.

Under LB647, introduced by Hyannis Sen. Al Davis, imported cattle will not be required to have individual



Sen. Al Davis

identification if they are:

- identified by a registered brand;
- accompanied by an official brand inspection certificate issued by the recognized brand inspection authority of the state of origin; and
- imported directly from a mandatory brand inspection area of any state.

The state Department of Agriculture can require imported cattle to have individual identification under LB647 if the director determines that:

- the state of origin recognized brand registration or brand inspection procedures and documentation are insufficient to trace an individual animal to its herd of origin;
- identification by brand alone is in conflict with a standard of federal law or regulation regarding identification of cattle moved into Nebraska; or
- the cattle originates from a location that is not an accredited tuberculosis-free state or zone or is not designated a brucellosis-free state or zone.

The bill continues to allow the state veterinarian to issue import orders imposing additional requirements, including identification requirements, for animals imported into Nebraska from any state, country, zone or other area.

The bill passed on a 45-0 vote.

Banking, Commerce & Insurance

Exemptions for small security transactions approved

Senators gave final approval May 2 to a bill that changes provisions relat-

ing to small securities transactions.

LB205, sponsored by Columbus Sen. Paul Schumacher, amends the Securities Act of Nebraska to exempt certain small offers and sales of securities.



Sen. Paul Schumacher

The bill exempts from registration a transaction by a Nebraska issuer selling solely to Nebraska residents when:

- the proceeds in any three-year period do not exceed \$250,000;
- no commission is paid except to a registered agent of a registered broker-dealer;
- the issuer or a connected individual has not engaged in a state or federal securities law violation;
- the issuer files a notice with the director of Banking and Finance;
- the offeree receives a disclosure statement;
- the purchaser signs a subscription agreement; and
- the issuer files a statement with the director.

No fine shall be imposed for a statement or omission of material fact related to an exempted transaction unless made with the intent to defraud or mislead.

In addition, a person who sells a qualifying security by means of an untrue statement of material fact, made with intent to defraud or mislead, may be held liable to a buyer in a civil action to recover the consideration, interest and attorney fees. The burden of proof is on the claimant.

LB205 passed on a 41-0 vote.

Education

Technical education bill advances

On May 1, lawmakers gave first-round approval to a bill that would

make various technical changes to current educational statutes.

LB410, introduced by Cedar Rapids Sen. Kate Sullivan, is a bill requested by the state Department of Education that harmonizes language and eliminates obsolete language currently in statute.



Sen. Kate Sullivan

Among other provisions, the bill would:

- require school districts to admit children who turn five between Aug. 1 and Oct. 15 who meet current eligibility requirements;
- allow students who move after Feb. 1 or those whose district merges after Feb. 1 to apply for option enrollment without being released from the resident district for the following school year;
- clarify that the enrollment option program does not relieve parents of compulsory attendance obligations, particularly while waiting for acceptance of an application;
- clarify that an allowance paid to the parents may not substitute for transportation for open enrollment students who qualify for free or reduced-priced lunches; and
- add tuition paid and transportation fees paid to other districts into general fund operating expenditures for calculating state aid.

Following the adoption of three technical amendments, senators advanced the bill on a 33-0 vote.

Learning community council changes adopted

The Omaha Learning Community

coordinating council will prioritize early childhood education under a bill passed by the Legislature May 2.

LB585, introduced by Papillion Sen. Jim Smith, changes numerous responsibilities of the coordinating council.



Sen. Jim Smith

Currently, the coordinating council has a 2 cent levy authority for elementary learning center facility leases and focus school capital projects. An additional 1 cent levy is dedicated to learning community pilot projects and elementary learning center employees and contracts.

LB585 reduces the 2 cent levy authority to one-half cent. The 1 cent levy will be increased by one-half cent to fund early childhood education programs for children in poverty. This will result in a net decrease of 1 cent in levy authority.

Current free transportation requirements will not apply for open enrollment students who have not previously been accepted if the student is transferring to another school within the home district or to a school district that does not share a border with the home district.

Learning community advisory committees, comprising superintendents of member districts, will be required to:

- submit a plan to the coordinating council providing for the implementation and administration of early childhood education programs for children in poverty;
- provide recommendations for improving the learning community diversity plan;
- review issues related to open enrollment;
- review proposals for focus programs, focus schools, magnet schools and pathways;

- provide recommendations for improving academic achievement across the learning community; and
- provide input to the coordinating council on other issues as requested.

The advisory committees will seek input from member school districts and community resources in order to maximize opportunities and resources. The committees also will make a special effort to establish programs that are readily available and accessible to children located in high poverty areas.

The bill passed on a 41-0 vote.

Government, Military & Veterans Affairs

Increase in at-large city council members advanced

Senators amended and advanced a bill from general file April 30 that would allow certain cities to elect up to four city council members on an at-large basis.

LB299, sponsored by Hastings Sen. Les Seiler, would increase from three to four the number of council members who could be elected at large in a first class city, when at least four council members are elected by ward. The change would not apply to a city with a commissioner or city manager form of government.



Sen. Les Seiler

State law classifies a city of the first class as one with a population between 5,001 and 100,000.

LB299 also would clarify procedures for how certain cities, villages, counties or school districts may place

the question of nominating and electing members to their governing boards on a general election ballot.

Under the bill, the question of nominating and electing members by ward or at large could be placed on a general election ballot either by majority vote of the governing body or by petition of registered voters.

Omaha Sen. Rick Kolowski offered an amendment, originally introduced as LB417, that would require the secretary of state to develop and publish guidelines for election workers.



Sen. Rick Kolowski

Most states have uniform election guidelines, Kolowski said, adding that the amendment would help ensure that voters are treated the same regardless of where in Nebraska they cast a ballot.

“This ensures consistency and provides smaller counties that may have fewer resources and less frequent elections the same quality of elections,” he said.

Gretna Sen. John Murante also offered an amendment to the Kolowski amendment, adopted 30-0, specifying that the guidelines are instructional in nature and not binding on an election commissioner or county clerk.

Murante said Nebraska election law provides a level of discretion to election commissioners and clerks regarding the conduct of elections because of the wide variation in counties. The amendment would preserve that flexibility, he said.

Sen. Bill Avery of Lincoln supported both amendments, saying the guidelines would help the state avoid potential problems at polling places.

“Nebraska is one of only eight states that do not administer elections according to any published election

guidelines,” he said.

Following adoption of the Kolowski amendment 34-0, senators advanced LB299 to final reading by voice vote.

Changes to public power elections approved

A bill that changes election provisions for certain public power districts was approved May 2.

LB646, introduced by Gretna Sen. John Murante, allows the board of directors of a public power district with a service area containing a city of the metropolitan class to be divided into election subdivisions. Omaha currently is the only metropolitan class city in Nebraska.



Sen. John Murante

The bill requires the subdivisions to be composed of substantially equal population, compact and contiguous territory and numbered consecutively.

LB646 takes effect Jan. 1, 2014 and was approved 40-0.

Health & Human Services

Changes to intermediate care facility reimbursement funds advance

Senators gave second-round approval April 30 to a bill intended to improve utilization of a reimbursement fund for intermediate care facilities for individuals with developmental disabilities, known as ICF/MR.

LB23, introduced by Kearney Sen. Galen Hadley, would change allocations of the state’s ICF/MR Reimbursement Protection Fund.

The bill would require the state De-

partment of Health and Human Services (DHHS), beginning July 1, 2014, to use the ICF/MR Reimbursement Protection Fund – including the matching federal participation funds – to enhance rates paid under Medicaid to ICF/MR and for annual contributions to community-based programs for persons with developmental disabilities.



Sen. Galen Hadley

Beginning July 1, 2014, the bill allows for the tax to end if federal participation funds become unavailable or if money in the ICF/MR Reimbursement Protection Fund is appropriated, transferred or otherwise expended for any use other than permitted by law.

The bill also incorporates LB343, originally introduced by Lincoln Sen. Colby Coash, which would replace the term “mental retardation” in state law with the term “intellectual disability.”



Sen. Colby Coash

As amended on general file, the bill would require, beginning in fiscal year 2014-15, that funds be remitted from the ICF/MR Reimbursement Protection Fund as follows:

- the first \$55,000 for administration of the fund;
- the amount needed to reimburse the cost of the tax to ICF/MR;
- \$312,000 for community-based services for persons with developmental disabilities; and
- the remaining proceeds of the tax amount available in the fund to enhance rates in non-state-operated ICF/MR by increasing the annual inflation

factor to the extent allowed by such proceeds and any funds appropriated by the Legislature.

Hadley offered an amendment on select file to specify that \$1 million would be remitted to the state's General Fund prior to distribution of the remaining proceeds to enhance rates to ICF/MR not operated by the state.

The amendment also would require DHHS to provide an annual report to the Legislature regarding the amounts collected from each tax and the amount of each disbursement from the fund.

Following adoption of the Hadley amendment on a 33-0 vote, senators advanced the bill to final reading by voice vote.

Education as welfare work requirement expanded

Lawmakers passed a bill May 2 that expands eligibility for education to satisfy work requirements in order to qualify for certain public benefits.

Currently, the Welfare Reform Act allows participants younger than 24 to pursue a high school diploma or General Educational Development Test (GED) and remain in compliance with the Aid to Dependent Children Program's work requirements.

LB240, introduced by Scottsbluff Sen. John Harms, removes the age restriction.



Sen. John Harms

The bill was approved on a 41-0 vote.

Military remains disposition clarified

Lawmakers gave final approval May 1 to a bill seeking to clarify authorization of disposition of a military mem-

ber's remains.

LB420, introduced by Lincoln Sen. Amanda McGill, specifies that the federal DD Form 93 be recognized as the legal instrument authorizing an individual to direct disposition of military remains.

If a service member dies during active military service, the bill gives priority to direct disposition to the individual authorized by the decedent in his or her federal form.

The bill passed 43-2 and takes effect immediately.

Transfer of rehabilitation capacity approved

Lawmakers gave final approval May 2 to a bill meant to allow rehabilitation entities to transfer patient capacity between facilities.

LB487, introduced by Lexington Sen. John Wightman, amends the Nebraska Health Care Certificate of Need Act that governs the establishment, transfer or increase in the number of rehabilitation beds in the state.



Sen. John Wightman

Under current law, a certificate of need (CON) is required before any relocation of rehabilitation beds in Nebraska from one health care facility to another.

The bill clarifies that a hospital may transfer rehabilitation beds between locations owned and operated by the same hospital without a CON.

LB487 passed on a 40-0 vote.

Judiciary

Nonconsensual lien filing provisions amended, advanced

Senators advanced a bill from select file April 30 that would change

nonconsensual lien filing provisions.

Omaha Sen. Bob Krist introduced LB3, which as amended would clarify that a non-consensual common-law lien is not binding or enforceable at law or in equity and, if recorded, would be void and unenforceable.



Sen. Bob Krist

Omaha Sen. Steve Lathrop offered an amendment, adopted 30-0, that would establish filing and notification provisions for commercial real estate liens. His amendment originally was introduced as LB289.



Sen. Steve Lathrop

The amendment would require a real estate broker to have a lien in the commission amount on commercial real estate or any real estate in which a buyer is interested in leasing, purchasing or conveying. The lien would be available only to the commercial real estate broker named in the commission agreement and signed by an owner, buyer or their agents and would remain enforceable for two years. The owner or anyone interested in the property would be allowed to give written demand to institute judicial proceedings within 30 days.

Under the amendment, the commercial real estate broker would be required to certify by mail a notarized lien notice to the commercial property owner at the address listed in the commission agreement or to the address of the commercial real estate on which the lien is to be filed. The lien would be unenforceable if the notice is not mailed within 10 days of being filed.

Additionally, the owner could have a recorded lien released at any time by placing the amount of the lien plus 15

percent in escrow, allowing the lien to attach to the escrow funds rather than the property. If a property were sold, the proceeds would be placed in escrow equal to an amount of 115 percent, attaching the lien instead to the escrow funds.

Lathrop offered an amendment, adopted 32-0, that would eliminate tenants from the commercial property lien filing provisions. He said the amendment would ensure that tenants could not create liens on properties they do not own.

The bill advanced from select file on a voice vote.

40-year minimum alternative to juvenile life sentences adopted

Senators passed a bill May 2 that expands sentencing options for juveniles convicted of Class IA felonies.

Introduced by Omaha Sen. Brad Ashford, LB44 establishes a new 40-year minimum sentencing option for a juvenile convicted of a Class IA felony.



Sen. Brad Ashford

The bill also establishes that offenders younger than 18 years old at the time that an offense was committed who were denied parole will be eligible for a parole hearing each year thereafter. The parole board must review and consider the juvenile's:

- educational and court documents;
- level of participation in the offense;
- age at the time of the offense, level of maturity and intellectual capacity;
- ability to appreciate the risks and consequences of his or her conduct;
- efforts toward rehabilitation and

participation in available rehabilitative and educational programs while incarcerated; and

- any other mitigating circumstance submitted by the juvenile.

The bill passed on a 38-1 vote.

Victim reparation changes added to racial profiling bill

Senators advanced a bill from select file April 30 regarding the collection of racial profiling information and Nebraska Crime Victims Reparations Fund requirements.

Omaha Sen. Heath Mello introduced LB99, which, as amended, would remove the sunset date for the Nebraska Commission on Law Enforcement and Criminal Justice to collect racial profiling data and would add requirements for the commission and law enforcement.



Sen. Heath Mello

Omaha Sen. Pete Pirsch offered an amendment that he originally introduced as LB233. The amendment, adopted 29-0, would eliminate a requirement that a victim suffer at least a 10 percent loss of financial resources to qualify for compensation from the Nebraska Crime Victims Reparations Fund.

Pirsch said the amendment would simplify the application process for victims seeking compensation.

The amendment also would remove the requirement that the Crime Victims Reparations Committee include in its biennial report a listing of the names, description of facts and the amount of compensation awarded to applicants. The committee would be required to electronically submit the biennial report to the Clerk of the Legislature.

Mello offered an amendment, adopted 29-0, that made technical changes and eliminated obsolete provisions and the bill advanced from select file on a voice vote.

New controlled substances discussed

Senators debated a bill May 2 that would add substances and compounds to the Schedule I controlled substances list.

In order to be classified as a Schedule I drug under federal law, a drug or substance must have a high potential for abuse, lack an accepted safe use under medical supervision and have no currently accepted medical treatment use in the United States. No prescriptions may be written for Schedule I controlled substances and they are subject to production quotas by the federal Drug Enforcement Administration (DEA).

LB298, introduced by Omaha Sen. Beau McCoy, would make adamantylindoles, tetramethylcyclopropanoylindoles and adamantylindole carboxamides and their compounds Schedule I controlled substances.



Sen. Beau McCoy

The bill also would add to the list phenethylamine, tryptamine and any material, compound, mixture or preparation containing either compound.

First and second generation synthetic cannabinoids used to make the drug commonly known as "K2" or "Spice" were banned in 2011, McCoy said, and the bill would prohibit the use of third and fourth generation synthetic cannabinoids that have been modified and used to make the drugs. Such drugs have dangerous, sometimes deadly effects and are most commonly used by teenagers, he said.

A Judiciary Committee amendment, adopted 27-0, made a technical change to the bill.

Omaha Sen. Brad Ashford, chairperson of the committee, supported the bill. Banning certain compounds broadens the spectrum of illegal substances used to make synthetic drugs, he said, so the bill would prevent the Legislature from having to ban specific drugs each time they legally are manufactured.

Omaha Sen. Ernie Chambers disagreed, saying the bill is too broad and could prevent new types of beneficial drugs from being manufactured.

“[The bill] is banning so many things and it is not known if [the compounds] could be used in some other forms or combinations that could be useful to someone,” he said.

The Legislature proceeded to the next bill on the agenda before taking further votes. A Chambers amendment is pending.

Police officer incapacitation changes adopted

Senators passed a bill May 1 that clarifies the revocation and suspension provisions for law enforcement training certificates and diplomas.

LB538, introduced by Omaha Sen. Ernie Chambers, defines incapacity relating to a law enforcement officer as “incapable of or lacking the ability to perform or carry out the usual duties of a law enforcement officer in accordance with the standards established by the commission due to physical, mental or emotional factors.”

The bill also clarifies that a law enforcement officer will not be deemed incapacitated if he or she remains



Sen. Ernie Chambers

employed as a law enforcement officer in a restricted or limited duty status.

Law enforcement agencies will be required to report to the Nebraska Police Standards Advisory Council an officer who is separated from the agency due to a physical, mental or emotional incapacity. The officer’s law enforcement certificate will be suspended until such incapacity no longer prevents him or her from performing essential duties.

Senators passed the bill on a 45-0 vote.

Natural Resources

Wind energy tax credit expansion advanced

Senators gave first-round approval to a bill April 29 that would allow more wind projects to qualify for a wind energy sales tax exemption.

Currently, private wind energy projects can qualify for a sales tax exemption on the equipment and supplies used in construction if at least 33 percent of the revenue from the project for the first 20 years is directed back to Nebraska residents or companies.

LB402, as originally introduced by Omaha Sen. Heath Mello, would relax current restrictions to allow more projects to qualify for the exemption. Mello said since its adoption in 2007, only one utility-scale wind project has utilized the exemption.

“One of the key remaining barriers to wind energy development is that the equipment and supplies used are subject to sales tax in most circumstances,” he said. “[This bill] represents a vital vehicle to promote Nebraska wind energy.”



Sen. Heath Mello

A Natural Resources Committee amendment, adopted 32-0, replaced the bill. It defines a qualifying community-based energy development (C-BED) project as a new wind energy generation project using a wind, solar, biomass, landfill gas or low-emission fuel source that reduces the overall carbon emissions of the generation system.

The bill would amend the current statute by:

- expanding the definition of “payments to the local community” to include payments for products manufactured in Nebraska or by Nebraska companies and services provided by Nebraska companies as well as lease and easement payments to property owners;
- reducing the qualifying percentage threshold from 33 percent to 25 percent; and
- loosening corporate restrictions by allowing corporations domiciled in Nebraska to meet the definition of “qualified owner.”

Ogallala Sen. Ken Schilz supported the bill, saying it would create new jobs in the state.

“It is much more beneficial for Nebraska if there’s Nebraska resources involved in these [developments],” he said. “In my district, it’s not about green energy. It’s about the ability and having the resources for economic development for smaller communities.”

Fremont Sen. Charlie Janssen also supported the bill. He said LB402 could lead to significant economic development.

“I like [the idea of] using Nebraska-based companies,” Janssen said. “It could lead to companies expanding their operations and bringing companies to rural parts of the state.”

Senators adopted a technical amendment 27-0 and advanced the bill on a 33-0 vote.

Revenue

Tax investment plan for roads construction discussed

Lawmakers considered a bill April 29 that would fund public roads projects with private investment.

LB82, introduced by Columbus Sen. Paul Schumacher, would allow taxpayers to pay extra taxes in return for a future income tax credit. The revenue raised by the tax investments would be earmarked for highway construction projects.



Sen. Paul Schumacher

Schumacher said the bill would provide an infusion of needed capital for roads infrastructure in return for an inflation protected, T-Bill rate of return in the form of a credit against future tax liability of the saver.

“We live in a world that is pretty much in financial chaos,” he said. “We have a public that is cash rich and looking desperately for a safe place to invest. This is an opportunity to have Nebraskans invest in Nebraska.”

The bill would require taxpayers younger than 62 to wait five years before claiming the credit. The waiting period would be waived for those over 62. The credit would be adjusted for inflation with an interest calculation equal to the T-Bill rate of return.

Credits would expire, unless claimed, 20 years after the underlying payment. In the case of death of the taxpayer, the credits would expire in five years.

Omaha Sen. Heath Mello opposed the bill. He questioned the constitutionality of the proposal and its implications for the state’s general fund.

“[The state] would have to account for this money,” he said. “What’s to

say that contractors and businesses engaged in road construction wouldn’t prepay their taxes to generate more funds for road construction?”

Lincoln Sen. Danielle Conrad also opposed the bill, saying that such a bold proposal should be studied more closely.

“Rather than making any major changes to our tax code, I’d like to see this rolled into our tax commission study,” she said.

A Schumacher amendment would have clarified that credits could be applied only toward income taxes and not sales taxes as provided for in the original bill. It also would have corrected a drafting error in the formula used to calculate tax credits. The amendment fell short of adoption on a 24-13 vote. Twenty-five votes were needed.

A technical committee amendment was not adopted on a 18-8 vote and the bill failed to advance from general file on a 22-15 vote.

Transportation & Telecommunications

Veteran notation on driver’s licenses advanced

Senators advanced a bill from general file April 29 that would amend the Motor Vehicle Operator’s License Act.

LB93, as introduced by Fullerton Sen. Annette Dubas, would allow eligible veterans to request that their veteran status be indicated on their driver’s licenses or state ID cards.



Sen. Annette Dubas

Veterans currently must provide discharge papers or other forms that contain their social security number and other private information to verify their status and receive certain benefits

offered to them, Dubas said, and it is not likely that they will be carrying such forms with them on a regular basis.

Under a Transportation and Telecommunications Committee amendment, adopted 29-0, the state Department of Veterans Affairs would be required to create and maintain a registry that would include veterans’ active duty records, status, discharge and retirement information. Those who submit fraudulent applications would have their driver’s licenses or state IDs revoked until their eligibility is verified with the department.

The amendment also included provisions from three other bills heard by the committee dealing with veterans’ license plates.

LB378, introduced by Papillion Sen. Jim Smith, would eliminate the \$5 fee charged for Pearl Harbor survivor, prisoner of war, disabled veteran and Purple Heart license plates.



Sen. Jim Smith

LB383, introduced by Fremont Sen. Charlie Janssen, would permit the issuance of Nebraska Armed Forces Pride license plates.



Sen. Charlie Janssen

And LB596, introduced by Bellevue Sen. Scott Price, would require the state Department of Motor Vehicles to manufacture specialty plates for military associations when the department receives 150 prepaid license applications rather than the required 500.



Sen. Scott Price

Dubas offered an amendment, adopted 26-0, that eliminated provi-

sions originally included in the bill that would have offered Military Honor License Plates for an additional \$5 fee, to be remitted to the Veteran Cemetery Systems Operation Fund.

Omaha Sen. Ernie Chambers had objected to the use of license plates for such purpose, Dubas said, and she did not want that opposition to hinder the passage of other components of the bill.

The bill advanced to select file on a 32-0 vote.

Changes to PSC appeals process advanced

After eight hours of discussion over three days, lawmakers voted May 2 to end general file debate and advance a bill that would change appeal procedures for the Public Service Commission (PSC).

Under LB545, introduced by Fullerton Sen. Annette Dubas, PSC appeals would go directly to the court of appeals instead of the district court as currently required under the Administrative Procedures Act (APA).



Sen. Annette Dubas

Dubas said the proposed change would streamline the appeals process for highly technical PSC rulings. A more streamlined process would reduce the cost of appeals, which are borne by ratepayers, she said.

“We’ll create a system that will take the ratepayers ... into consideration, ensuring that there is due process and ensuring that things work as they’re supposed to work,” she said.

A Transportation and Telecommunications Committee amendment, adopted April 22 on a 25-1 vote, replaced the bill.

Under the amended bill, the court of appeals would review commission

decisions to determine if they are arbitrary or capricious, whereas the district court conducted a de novo review.

Among other provisions, the bill also would:

- require that commission orders, except natural gas rate orders, may be reconsidered within 10 business days after the effective date of the order;
- suspend the time for filing a notice of intention to appeal pending resolution of a motion to reconsider; and
- allow parties to natural gas rate orders to file a motion for reconsideration within 30 days.

Dubas offered an amendment May 1, adopted 27-2, which would require the appellate court to conduct a review of a PSC order de novo on the record.

She said the amendment would ensure that the appeals court would review a case from the beginning.

Omaha Sen. Scott Lautenbaugh supported the bill, saying most decisions on PSC rulings eventually come from the appeals court, so the bill simply would skip the first level of review and speed up the appeals process.

“I don’t think we’re shortchanging any kind of review,” he said.

Omaha Sen. Ernie Chambers opposed LB545, saying no compelling public interest would be served by the bill’s passage.

“I have not heard anything that shows me where the public benefits,” he said. “This is an industry bill.”

Chambers brought an amendment May 1 that would have stricken the changes outlined in the amended bill.

Dubas opposed the amendment, saying her bill would not impede due process but simply would make rate appeals more efficient, thereby saving the public money.

The amendment failed 4-30.

Sen. Paul Schumacher of Colum-

bus also opposed the bill, saying appeals courts are not equipped to have a special master or referee to help sort through complicated information.

In addition, he said, the small number of cases that would be covered by the bill’s provisions would not be enough to justify the proposed change in public policy.

“We have an efficient mechanism now,” Schumacher said. “There has not been a demonstrated need for a change here of any kind.”

Schumacher offered, and later withdrew, an amendment May 1 that would require a de novo review if the appellant is not a regulated party. He said the change would open the process to individuals and interest groups.

Chambers filed several additional motions and an amendment in an attempt to kill the bill, which he called a “radical” and unnecessary change.

Dubas offered a cloture motion during discussion of a Chambers amendment May 2. A successful motion for cloture ceases debate and forces a vote on all pending action on a bill.

Following adoption of the cloture motion on a 35-7 vote, senators voted 33-8 to advance the bill to select file.

Emergency excavation notification requirements adopted

Senators passed a bill May 2 that amends the One Call notification provisions for natural gas utility operators.

Great Plains One Call Service is a system used by excavators to identify and locate underground facilities prior to excavation to protect the facilities from damage. A notice to the service center currently is required prior to performing an excavation or bar test survey.

Syracuse Sen. Dan Watermeier in-

roduced LB589, which requires the operator to give such notice prior to an emergency excavation, but a facility location response will not be required to begin or continue excavation. The bill also provides immunity from civil penalties, except from strict liability for damage caused by either the bar testing or the repair excavation.



Sen. Dan Watermeier

The bill passed on a 41-0 vote.

PSC study of emergency communications adopted

Senators gave final approval May 2 to a bill that allows the Public Service Commission (PSC) to conduct a study examining the statewide implementation of Next Generation 911.

LB595, introduced by Bellevue Sen. Scott Price, authorizes the PSC to use Enhanced Wireless 911 to conduct a study of the implications, costs and consideration of statewide implementation of next generation emergency telephone communications. The PSC will be required to report its findings to the Transportation and Telecommunications Committee.



Sen. Scott Price

The bill passed on a 41-0 vote.

Urban Affairs

Redevelopment process for former defense sites advances

Lawmakers gave first-round approval April 29 to a bill intended to provide greater latitude for economic development outside of city limits in Nebraska.

LB66, introduced by Ogallala Sen. Ken Schilz, originally would have provided a process for cities of the first class to annex certain non-contiguous land.



Sen. Ken Schilz

An Urban Affairs Committee amendment, adopted 24-0, replaced the bill. As amended, LB66 would create a process for a city to use tax increment financing (TIF) only for formerly used defense sites outside of the city limits, but within the same county.

A formerly used defense site is defined as real property that was formerly owned by, leased to or otherwise possessed by the United States and under the jurisdiction of the Secretary of Defense. Missile silos are excluded from the definition.

Under the bill, an area to be developed must be inside a sanitary improvement district (SID) and the city must file an ordinance declaring intent to annex the formed SID. The city then could use TIF to create a redevelopment project.

Currently existing service areas of electric and natural gas utilities and communications companies would be preserved.

Schilz said there are 69 sites across the state that could qualify for TIF under the bill, and that Nebraska needs to expand opportunities for rural redevelopment projects. He said the bill would encourage manufacturing and other development that could help stem the tide of population decline in rural areas.

“We need greater diversification in our rural economies,” he said. “TIF has been one of the most effective economic development tools that we’ve seen.”

Omaha Sen. Bob Krist supported the bill, saying it would allow cities to

take advantage of sites no longer being used for military purposes, rather than having them sit idle.

“Those former military installations already have infrastructure,” he said.

Sen. Scott Price of Bellevue agreed. “I think it is prudent and good stewardship to utilize the investments that [have been] made,” he said. “It only makes sense to ... be good stewards of the tax dollars that we’ve already expended.”

The bill advanced to select file on a 36-0 vote.

Metropolitan utilities district changes pass

Lawmakers passed a bill May 1 that makes several technical changes to state law governing metropolitan utilities districts.

LB208, introduced by Omaha Sen. Burke Harr, makes the following changes:



Sen. Burke Harr

- allows the board to decrease the president’s salary;
- eliminates a requirement that the district obtain a bond of not less than \$10,000 on the president’s performance;
- allows the board to establish its own standards for fire hydrant placement, as long as such standards do not violate any state Department of Health and Human Services regulations; and
- removes a requirement that an employee must first have been made a permanent employee by a unanimous vote of the full board of directors in order to be removed from his or her position.

The board still will be able to

remove an employee for cause by a two-thirds vote.

The bill passed on a 46-0 vote.

Annexed county road easements clarified

A bill that attempts to clarify the status of county roads when annexed by a city or village was approved by the Legislature May 1.

LB377, introduced by Wahoo Sen. Jerry Johnson, amends existing Nebraska law to clarify that the authority held by a county board over a county road, including any easements, are transferred to the governing body of an annexing city or village.

The bill passed 46-0.



Sen. Jerry Johnson

Local control for nuisance vegetation passed

Certain cities and villages are given authority to determine at what height weeds and grasses become nuisances under a bill passed May 1.

LB643, sponsored by Hyannis Sen. Al Davis, allows cities of the first and second class and villages to determine the height limit of weeds, grasses and worthless vegetation. Current law sets the nuisance level at 12 inches in height.

The bill also allows a city or village to develop a property owner notification process. If a property owner files a written appeal of a nuisance citation within five days of notification, the bill requires a city or village to hold an appeal hearing within 14 days.

LB643 passed 44-1. ■



Sen. Al Davis

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The Unicameral Youth Legislature is a four-day legislative simulation conducted at the State Capitol Building and coordinated by the Clerk's Office of the Nebraska Legislature. Student senators will sponsor bills, conduct committee hearings, debate legislation and discover the unique process of the nation's only unicameral.

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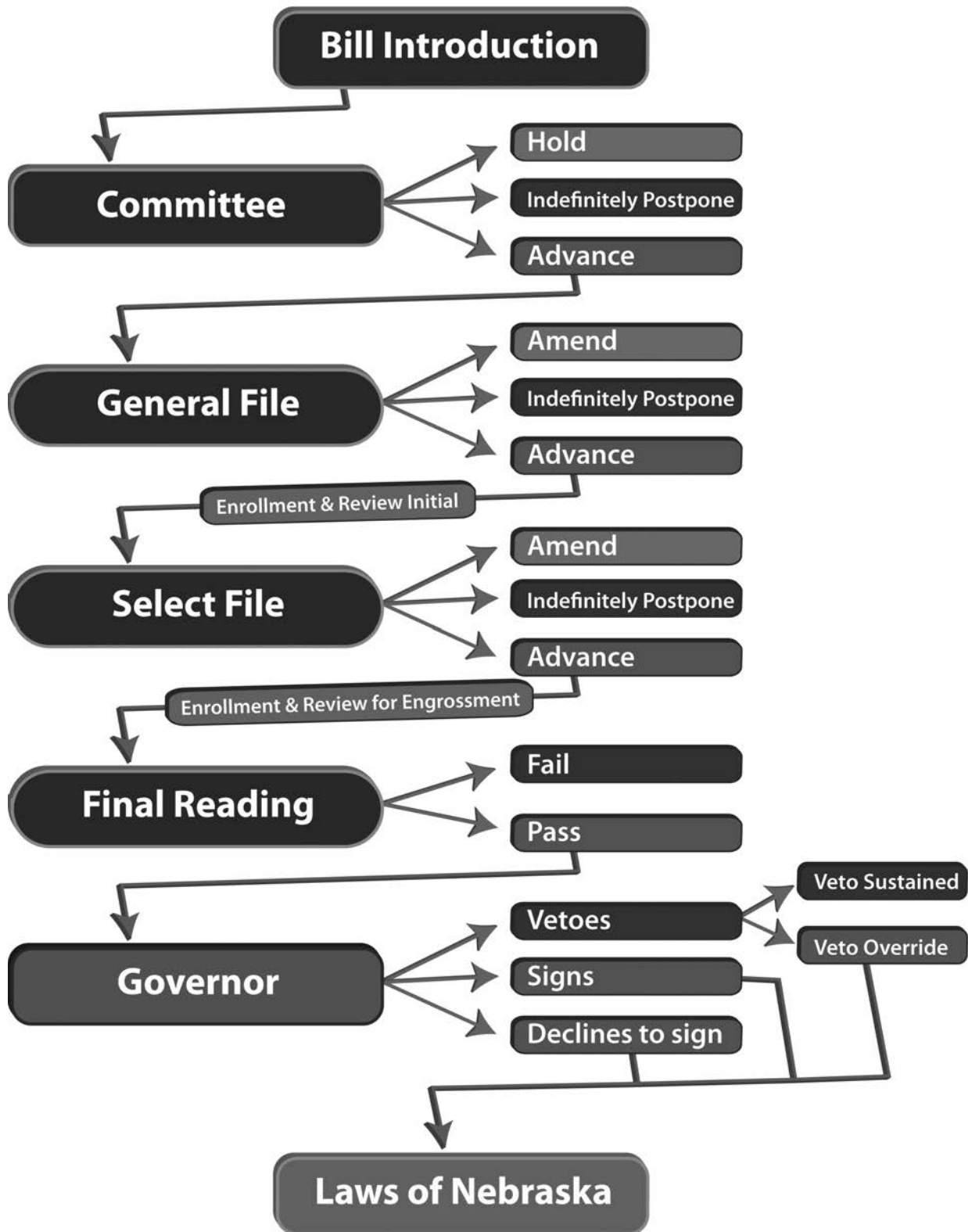
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