

Title X compromise reached, state budget adjustments advanced



Sens. Sara Howard, Burke Harr and Matt Williams discuss the negotiated amendment with Sen. Ernie Chambers, who opposed its adoption.

Lawmakers reached a compromise on Title X provisions in the state's mainline budget March 28, amending and advancing the bill to final reading.

LB944, introduced by Speaker Jim Scheer at the request of the governor, contains recommendations for state operations and state aid to schools and agencies. Lawmakers engaged in extended debate during several rounds of discussion on both general and select file on a provision in the bill regarding Title X funding disbursement to health clinics that also provide abortion services.

Nebraska receives funds from the federal Title X program that are used to subsidize preventive and reproductive health services, including the

diagnosis and treatment of sexually transmitted diseases, cancer screenings and family planning services. Federal grant funds dispersed by the state through the program cannot be used to perform abortions.

A provision included in LB944 as part of Gov. Pete Ricketts' mid-biennum budget proposal would prohibit federal Title X funds from being paid or granted to an organization that performs, assists, provides counseling in favor of or refers for abortion services. An otherwise qualified organization that is affiliated with, but objectively independent from, such an organization—which the bill defines as legal, physical and financial separation—would not be disqualified from receiving funds under the bill.

(continued page 3)

Requirements for correctional overcrowding emergency plan advanced

The state Department of Correctional Services would be required to develop an accelerated release plan for inmates under a bill advanced by the Legislature March 29.

Introduced by Lincoln Sen. Patty Pansing Brooks, LB841 calls for an accelerated release plan to go into effect if the department is operating at 140 percent of capacity on July 1, 2020. The plan would remain in place until the inmate population reaches 125 percent of capacity.



Sen. Patty Pansing Brooks

Pansing Brooks said a 2017 report by the inspector general of the Nebraska Correctional System showed that Nebraska has the second highest rate of prison overcrowding in the country behind only Alabama. The average daily population of Nebraska's correctional system is 5,343 inmates, she said, which is 155 percent higher than its design capacity of 3,435 inmates.

"We must take action now to ensure individuals are released back into the community in a way that keeps all of our citizens safe should an overcrowding emergency become necessary," she said.

The plan would provide a process for the department director to certify that an overcrowding emergency exists, prepare and submit a list of parole-eligible inmates to be considered for accelerated release and develop a process

(continued page 2)

Requirements for corrections overcrowding plan advanced

(continued from front page)

by which the board of parole would examine inmates for potential release.

The department's plan must be delivered to the Legislature no later than Dec. 1, 2018.

A Judiciary Committee amendment incorporated into the bill provisions of several additional bills:

- LB366, introduced by Hastings Sen. Steve Halloran, which would change the name of the Office of Parole Administration to the Division of Parole Supervision and place the division within the Board of Parole;



Sen. Steve Halloran

- LB692, introduced by Bellevue Sen. Carol Blood, which would direct the department to complete a comprehensive analysis



Sen. Carol Blood

of its system-wide staffing needs and provide a report to the Legislature by Sept. 15, 2020 and every six years thereafter;

- LB852, introduced by Lincoln Sen. Kate Bolz, which would authorize the department to allow an inmate to temporarily leave a facility to participate in substance abuse treatment, attend rehabilitative programming or seek residency or employment; and



Sen. Kate Bolz

- LB932, introduced by Omaha Sen. Sara Howard, which would require the department's medical director to establish a protocol for determining whether an inmate soon to be released should be



Sen. Sara Howard

prescribed and dispensed a medication-assisted treatment to reduce or eliminate an inmate's use of opiates upon release.

Howard spoke in support of the committee amendment, which included provisions of her LB932. There is a dearth of substance abuse services and providers in Nebraska, she said, so it is important to help inmates control cravings for opioids while locating and securing those services.

"Offering inmates about to be released the opportunity for a discharge protocol around medication-assisted therapy gives inmates the opportunity to not have those cravings for at least a month while they find the substance abuse assistance they need," Howard said.

Crete Sen. Laura Ebke introduced an amendment to the committee amendment, adopted 37-0 March 27, which removed the following bills from the committee amendment:

- LB816, introduced by Omaha Sen. Ernie Chambers, which would authorize the Nebraska State Patrol to investigate al-

(continued page 4)

UNICAMERAL UPDATE

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Compromise reached, budget adjustments advanced

(continued from front page)

Supporters said the provision is needed in light of questions raised by state audits to ensure that Title X funds are not “comingled” with funds used to provide abortion services. Opponents said the restrictive referral language would jeopardize funding for the state’s federally qualified health centers and hinder access to health care.

Scheer offered an amendment March 28 that he said represents the culmination of “hours and hours” of negotiation by senators on both sides of the divide. He said the agreement was fair and the result of perseverance and a desire to pass the Appropriations Committee’s budget adjustments.

“This is it, folks,” Scheer said. “This is as good as it gets.”

While the amendment continues to prohibit the referral of a patient to an abortion service, the definition of referral would be limited to the act of recommending a pregnant woman to doctors, clinics or other persons or entities for the purpose of obtaining an abortion.

Neutral, factual, nondirective information about prenatal care and delivery, infant care, foster care, adoption and pregnancy termination in an emergency situation in accordance with state law would not constitute an abortion referral.

Omaha Sen. Sara Howard, who was among the senators who negotiated the language, said the emergency exception comes from existing state law and was included to allow a physician to use his or her good-faith clinical judgement to ensure that a woman’s life and safety is guaranteed.

“Our main goals were to ensure access [to Title X funds] and to make

sure that no woman would be losing her access to this important care,” Howard said. “Everybody in the room really gave everything to try and find something that would work.”

Lincoln Sen. Kate Bolz, vice chairperson of the Appropriations Committee, spoke in support of the amendment, saying its adoption would ensure funding for the state’s overall priorities through advancement of the budget.

“This is a compromise that protects our state’s ability to continue to provide essential services through the Title X program, including cancer screenings, preventive health services and prenatal care,” she said.

Sen. Mike Hilgers of Lincoln, who also participated in the negotiations, said the result was a compromise that would ensure Nebraska’s continued access to Title X funding.

“This process put us in a room and did what I believe we should do here in this body: listen to each other, identify common goals that will help Nebraskans and work towards that goal. And where we could work together—without compromising our principles and beliefs—we did,” Hilgers said.

Other senators said inclusion of the Title X language in the budget bill represented overreach by the executive branch into the Legislature.

Sen. Patty Pansing Brooks of Lincoln said senators were rewarding inappropriate behavior from the governor by not removing an “incendiary” public policy issue from the budget process. She called the language a “hit job” on Planned Parenthood, which she said is the provider to nearly one in three Nebraskans who currently use Title X services.

“I think that we have acquiesced,”

Pansing Brooks said. “We have decided to allow things to be placed in the budget that shouldn’t be in the budget.”

Lincoln Sen. Adam Morfeld said the language “almost certainly” would exclude Planned Parenthood from receiving Title X funding, which he said provides health care services to 8,000 to 10,000 Nebraskans. He said there is no assurance that another provider will be able to step in and serve those individuals.

“There are going to be real impacts on real people,” Morfeld said. “I simply, from a principled position, cannot support this legislation or this amendment because if it is enacted into law, I believe it will unlawfully exclude one provider in particular.”

After two hours of discussion, senators voted 43-4 to invoke cloture, or cease debate and vote on the bill. The amendment was adopted on a vote of 40-4 and LB944 advanced to final reading 44-4.

Three other budget bills were advanced to final reading March 21 by voice vote:

- LB945, also introduced by Scheer at the request of the governor, which would transfer funds and change transfer provisions;
- LB946, introduced by Scheer, which would change provisions relating to the state’s Cash Reserve Fund; and
- LB950, introduced by Business and Labor Committee chairperson Sen. Joni Albrecht of Thurston, which would provide for payment of claims against the state. ■

(continued from page 2)

legations of criminal misconduct within the department;

- LB853, introduced by Bolz, which would authorize the department to continue contracting with counties to house state inmates in county jail facilities;
- LB868, introduced by Pansing Brooks, which would require the Board of Parole to provide the department and an inmate with notice within 10 days when an inmate has been deferred parole; and
- LB1118, introduced by Omaha Sen. Bob Krist,



Sen. Ernie Chambers



Sen. Bob Krist

which would create a coordinated reentry council.

Ebke said the governor, state Department of Correctional Services and Board of Parole had expressed concerns about these bills and recommended removing them to ensure the passage of the others in the amendment.

She said the best way to ensure lasting success in the operation of the state's criminal justice system is for all branches of government to work cooperatively.

"This will move us forward by implementing a number of recommendations by our own oversight committees, while ensuring that we as legislators can work with the agencies affected," she said.

Krist objected to the removal of the four bills in the Ebke amendment. He said each bill directly addressed issues identified by various special investigative and oversight committees.

Krist urged lawmakers to act independently and with expediency to ad-

dress an inevitable prison overcrowding emergency.

"Every item we identified as a critical decision point ... came out of the studies that this Legislature has put together over the last seven years," he said. "No, we do not need the permission of anybody outside this chamber to do something."

Echoing that sentiment was Columbus Sen. Paul Schumacher. He said senators must be forceful when state agencies fail to comply with legislative directives, whether intentionally or not.

"We struggled with several bills in the past to try and limit the use of solitary confinement, much to no avail," Schumacher said. "When institutions do not want to comply, it's really hard unless you're really aggressive as a Legislature to make them comply."

Following the 32-0 adoption of the committee amendment March 29, senators voted to advance the bill to select file on a 37-1 vote. ■

APPROPRIATIONS

Mechanism for Willa Cather property preservation approved

Lawmakers approved a proposal March 29 to fund preservation and restoration of properties related to author Willa Cather.

LB379, sponsored by Omaha Sen. Burke Harr, creates the Willa Cather Historical Building Cash Fund to assist with the restoration of the Cather House and the Antonia Farmhouse. The fund will be administered



Sen. Burke Harr

by the Nebraska State Historical Society and may accept money donated as gifts, bequests or other contributions from public or private entities.

The bill also authorizes the state Department of Economic Development to use the Civic and Community Center Financing Fund to provide grants of assistance in the preservation and restoration of historic buildings owned by a nonprofit organization if a contractual relationship is created between a municipality and the nonprofit organization.

The Nebraska State Historical Society may enter into an agreement with the Willa Cather Foundation to transfer clear title of properties described in the bill from the state to the foundation at no cost to either party other than property transfer transactional costs, which

will be shared equally by each party.

In order to carry out any agreements made, the Nebraska State Historical Society is authorized to dispose of these real properties using the vacant building and excess land process.

LB379 passed on a 49-0 vote.

EDUCATION

Social worker for each ESU advanced

Senators advanced a proposal March 26 to place a social worker in each of the state's 17 educational service units to aid students with behavioral and mental health problems.

Introduced by Fremont Sen. Lynne

Walz, LB998 would create a fund for a collaborative school behavioral and mental health program. Once the initiative receives \$3.6 million in funding, each ESU would hire a social worker who would train teachers and school personnel and work with parents, schools, behavioral and mental health care providers and other resources to connect students with services.



Sen. Lynne Walz

“The issue of mental and behavioral health within our state has been an ongoing and increasing problem for years, and it’s not going away,” Walz said. “This is one answer ... to get children, educators and families the resources and the preventative care they need.”

Social workers hired under the program could use screening and assessment tools to identify students in need of services and assist in matching students with appropriate health care providers.

The ESU coordinating council would solicit annual program plans from each ESU, identify evidence-based best practices in interventions for students, coordinate training for social workers and other school personnel and complete annual evaluations of the program. It also would create and maintain a statewide map of behavioral and mental health services.

Walz has said that private donors have agreed to fund the program. As introduced, the bill would have required that a program’s cost be shared by the ESU, school districts within the ESU, state general funds and private donations if the ESU decides to continue the program beyond three years.

An Education Committee amendment, adopted 31-2, instead would require that the ESU, school districts within the ESU and private donors—

not the state—pay for a program if it is extended. It would authorize ESUs or the coordinating council to hire a social worker but would not require them to.

Elkhorn Sen. Lou Ann Linehan introduced an amendment to the committee amendment, adopted 26-0, that would limit the program’s funding to private donations. It also would end the program in 2022.

The amendment would require each school district with which a social worker interacts to designate a contact person for that social worker at each school in the district.

“Every school, every building needs to have a person in that building that is the go-to point person for these social workers,” Linehan said. “The job we’re handing these people is enormous anyway—at the very least, they ought to know when they walk into a building who they’re to talk to.”

Bayard Sen. Steve Erdman opposed the bill and filed a bracket motion to effectively end debate on it for the session. Even though Linehan’s amendment would sunset the program and ensure that no public funds are used, he said, a future Legislature could choose to continue the program using property tax dollars.

“This is another program we’re going to start,” Erdman said, “and as we have discussed many times here, seldom does a program ever sunset.”

Erdman’s motion failed on a 7-15 vote.

Sen. Dan Hughes of Venango also opposed the bill. He filed an amendment that would prohibit any ESU from receiving revenue from property taxes, state aid or state general funds for a program that it administers and that was started with private funds.

Hughes said that the amendment would ensure that no property tax dollars are used to pay for the program if its sunset date is extended.

“Currently, the majority of school districts within my legislative district do not receive any state aid,” he said. “The total bill for running our school districts is coming on the back of the property tax payers.”

The amendment failed on a 17-14 vote.

Lawmakers then voted 27-8 to advance the bill to select file.

Special instruction for dyslexic students clears first round

A bill that would require Nebraska schools to provide special reading instruction for students with dyslexia beginning this fall advanced from general file March 27.

LB1052, introduced by Lincoln Sen.

Patty Pansing Brooks, would require schools to provide students who are identified as exhibiting characteristics of



Sen. Patty Pansing Brooks

dyslexia with evidence-based literacy instruction using a multisensory approach. A technical assistance document created and distributed by the state Department of Education would provide guidance on that instruction.

The document also would provide information on dyslexia’s characteristics, its associated conditions and indicators and the screening, evaluation, instruction and intervention for dyslexia. Information would be distributed to all school districts, educational service units and teacher education programs in the state to promote awareness of dyslexia.

Pansing Brooks said that prior to last year, Nebraska was one of only 10 states with no laws regarding dyslexia, resulting in misconceptions and a lack of evidence-based interventions.

“I feel gratified that we’ve developed a bill that has the broad support of dyslexia advocates, teachers, special educators, school administrators and others,” she said. “In the end, [the bill] means we are providing more interventions and opportunities for kids to learn and thrive.”

LB1052 would prohibit school districts from requiring a student who exhibits characteristics of dyslexia to obtain a medical diagnosis to receive interventions.

The bill also would require that each teacher education program approved by the State Board of Education include dyslexia instruction in its initial program course requirements beginning in July 2019.

Lawmakers voted 39-0 to advance the bill to select file.

EXECUTIVE BOARD

Agency reporting regulation updates advanced

A bill that would modify agency regulation reporting requirements to the Legislature advanced from general file March 26.

Heartwell Sen. John Kuehn, chairperson of the Performance Audit Committee, said LB751 would remove a current burdensome reporting requirement and lessen confusion.



Sen. John Kuehn

Agencies currently are required to report some information to the Legislative Performance Audit Office and some to the Executive Board and standing committees, he said.

“LB751 would simplify and streamline the reporting process, while pre-

serving the accountability that the Legislature was looking for,” Kuehn said.

Introduced by the Legislative Performance Audit Committee, the bill would require that only reports of regulations mandated by law—rather than all regulations—be reported to the Legislative Performance Audit Committee. Agencies would be required to report to the committee as to why regulations have not been timely promulgated.

“Those are the regulations of greatest concern to the Legislature when the reporting requirements were adopted and it makes sense to focus our efforts on them,” Kuehn said.

The bill also would remove a requirement that the Executive Board or the appropriate standing committee receive annual reports regarding mandatory regulations that have not been promulgated within the time frame required by law. Instead, the bill would require agencies to include that information in the reports that they already provide to the Legislative Performance Audit Office.

The Executive Board or a standing committee also could request the information.

LB751 advanced to select file on a 32-0 vote.

Child welfare reporting requirements approved

Reporting requirements regarding the state’s child welfare and juvenile justice systems are strengthened under a bill passed March 29.

Currently, all cases of death or serious injury of a child in a foster home, private agency, child care facility or other program licensed by the state Department of Health and Human Services must be reported to, and investigated by, the office of the inspector general of Nebraska child welfare.

LB1078, introduced by Bellevue Sen. Sue Crawford, adds to that

requirement all allegations of sexual abuse of a state ward or a juvenile on probation, in a detention facility or residential child-caring agency.



Sen. Sue Crawford

The bill also requires that the annual report of the DHHS Division of Children and Family Services include the number of sexual abuse allegations that occurred among children being served by the division and those placed at a residential child-caring agency.

Also required is the number of corresponding screening decision occurrences by category, open investigations by category and agency substantiations, court substantiations and court-pending status cases.

Included in the bill are provisions of Crawford’s LB1073, which require DHHS to include in their existing weekly report to the Foster Care Review Office whether relative and kinship placements are licensed or received a waiver.

Also included are provisions of LB411, sponsored by Lincoln Sen. Kate Bolz, that bolster reporting requirement to ensure that reasonable efforts are made to place children in state care with their siblings.



Sen. Kate Bolz

Under the bill, DHHS is required to file a written sibling placement report with the court within 30 days of a juvenile being placed in state care and at specified intervals while he or she remains in state care. The bill also clarifies that a sibling can be in the group of parties to a case who may file a motion for joint-sibling placement, visitation or ongoing interaction between the siblings.

The sibling report must include:

- the reasonable efforts of the department to locate the child's siblings;
- if a joint-sibling placement is made, whether such placement continues to be consistent with the safety and well-being of the children;
- if joint-sibling placement is not possible, the reasons why a joint-sibling placement is and continues to be contrary to the safety or well-being of any of the siblings;
- the department's continuing reasonable efforts to place a child with a sibling in the same foster care or adoptive placement; and
- the department's continuing reasonable efforts to facilitate sibling visitation.

DHHS must file a notice of placement with all of a child's known siblings. A parent or sibling may choose to opt out of receiving such notifications.

The department also is required to make reasonable efforts to place siblings together, even if there is no pre-existing relationship between them. It is left to the court to determine what constitutes such reasonable efforts.

The bill passed on a vote of 49-0.

GENERAL AFFAIRS

Electronic transfer of keno funds approved

Lawmakers passed a bill March 29 that would change the way keno locations handle keno revenue.

State law requires a keno operator to keep keno revenue separate from other sources. Keno sales outlets accomplish this by keeping two bank accounts, one for keno revenue and another for all other funds.

Under LB724, introduced by

Omaha Sen. Justin Wayne, a keno operator would be required to keep cash receipts from the sale of keno tickets segregated from other revenue until deposited in a single nonsegregated account. The state tax commissioner could authorize the electronic transfer of keno funds from that nonsegregated account to the bank account of a lottery operator, county, city or village no later than five business days after they were collected.



Sen. Justin Wayne

The bill also requires that gross lottery proceeds be deposited into the account of the sales outlet location, lottery operator, county, city or village no later than five business days after they were collected.

The bill passed on a vote of 47-0.

The bill passed on a vote of 47-0.

GOVERNMENT, MILITARY & VETERANS AFFAIRS

Extended time for voter registration advanced

Nebraska voters would have more time on the final day of online voter registration under a bill advanced from general file March 27.

Currently, the deadline for online registration to vote in person on election day is the third Friday before the election. LB1038, introduced by Omaha Sen. Theresa Thibodeau at the request of the Nebraska secretary of state's office, would create a deadline of midnight on that day.



Sen. Theresa Thibodeau

"LB1038 extends the online voter registration deadline from 5 p.m. to prior to midnight on the deadline date," Thibodeau said.

The bill advanced 42-0.

HEALTH & HUMAN SERVICES

Dogs and cats added to equine massage bill, advanced

Lawmakers simplified a bill March 28 intended to enable the practice of equine massage in Nebraska and advanced it to final reading.

As amended on general file, LB596, introduced by North Platte Sen. Mike Groene, would have created a registry system for equine massage practitioners.



Sen. Mike Groene

Groene said the bill would remove unnecessary barriers for people who want to start businesses caring for horses through massage. He said that the current licensure requirements are so restrictive that there are no licensed equine massage practitioners in Nebraska.

During general file debate, concerns were raised by Heartwell Sen. John Kuehn that the registry still would constitute excessive regulation on the part of the state. He brought an amendment on select file, adopted 34-0, that removed the registry provisions and replaced the bill.

The amendment instead defines equine massage practice as the application of hands-on massage techniques for the purpose of increasing circulation, relaxing muscle spasms, relieving tension, enhancing muscle tone and increasing range of motion in equines.

The amendment also specifies that an individual who engages solely in equine massage practice would not be covered by the Veterinary Medicine and Surgery Practice Act.

“We recognized ... that [the previous amendment] really didn’t necessarily get to the spirit of what we are trying to do,” Kuehn said. “[This change] is keeping in line with all of the ideas that we’ve talked about this session regarding occupational licensure reform.”

Groene supported the amendment, noting that the bill has garnered widespread attention.

“I do know that there are three ladies in my county who are anxiously awaiting this outcome so that they can pursue their lifelong dream,” he said.

Omaha Sen. Ernie Chambers offered an amendment, adopted 39-0, that added dogs and cats to the bill’s definition of massage practice.

LB596 was advanced to final reading by voice vote.

Developmental disability funding priority for military dependents approved

A new funding priority for military dependents with developmental disabilities was created under a bill passed March 29.

Current law specifies a hierarchy of funding priorities for disability services in Nebraska under the Medicaid home and community-based services waiver.

LB685, sponsored by Bellevue Sen. Carol Blood, allows dependents of a member of the U.S. Armed Forces who is a legal Nebraska resident due to the service member’s military assignment in the state to become the fifth priority in that hierarchy.

The bill passed 48-0.



Sen. Carol Blood

Child support updates approved

A bill that harmonizes Nebraska’s child support program with federal law passed March 29.

LB702, sponsored by Seward Sen. Mark Kolterman, clarifies that children who are covered by Medicaid and other needs-based health care programs in Nebraska have health care coverage.



Sen. Mark Kolterman

The bill also clarifies that incarceration is not considered voluntary unemployment for child support purposes.

The state Department of Health and Human Services is required to notify parents of their right to request a review and adjustment of a child support order within 15 days of learning that a noncustodial parent will be incarcerated for longer than 180 days.

LB702 passed on a 49-0 vote.

Omnibus occupational licensure bill advanced

A bill that would allow pharmacies in Nebraska to provide remote drug dispensing was amended to become an omnibus health and human services licensure measure and advanced from general file March 27.

Gothenburg Sen. Matt Williams, sponsor of LB731, said the bill would improve access to prescription medications in rural and underserved areas of Nebraska. Under the bill, a pharmacy could provide remote dispensing at a location staffed by a certified pharmacy technician and owned by a supervising pharmacy licensed



Sen. Matt Williams

and located in the state.

Williams said many small, rural Nebraska communities have lost pharmacies due to retirements, leaving residents without convenient access to their prescription medications.

“LB731 provides a framework for remote dispensing to occur in Nebraska with legal requirements in place to ensure patient safety,” Williams said.

Under the bill, a remote pharmacy would have to be located at least 10 driving miles from the nearest pharmacy and dispensing would occur under remote supervision via a real-time audiovisual communication system by a licensed pharmacist employed by a supervising pharmacy.

A remote dispensing pharmacy would be required to have the same pharmacist in charge as the supervising pharmacy, who would be responsible for drug utilization review, final verification and supervision of the remote dispensing pharmacy. A separate license would be required for the remote dispensing pharmacy.

A Health and Human Services Committee amendment, adopted 33-0, would prohibit a pharmacy from also being licensed as a remote pharmacy. The amendment also specifies that a pharmacist in charge would not be required to work within the physical confines of a remote dispensing pharmacy unless otherwise required by law.

The committee amendment also added provisions of four additional bills:

- LB681, introduced by Bellevue Sen. Carol Blood, which would adopt the physical therapy licensure compact;
- LB788, introduced by Ralston Sen. Merv Riepe, which would require cer-



Sen. Merv Riepe

tain providers to enroll in opiate administering and prescribing continuing education;

- LB1107, introduced by Elkhorn Sen. Lou Ann Linehan, which would reduce licensure hour requirements for barbers, cosmetologists, estheticians and nail technologists; and



Sen. Lou Ann Linehan

- LB790, introduced by Crete Sen. Laura Ebke, which would provide for licensure of mobile cosmetology and nail technology salons.



Sen. Laura Ebke

LB681 would add Nebraska to the existing Physical Therapy Licensure Compact. Under the compact, which exists to facilitate interstate practice of physical therapy by providing mutual recognition of member state licenses for physical therapy practitioners, Nebraska would be required to:

- participate fully in the governing commission’s data system;
- have a mechanism in place for receiving and investigating complaints regarding licensees;
- notify the compact of any adverse action or investigative information regarding a licensee;
- fully implement a criminal background check requirement;
- use a recognized national examination for licensure;
- establish continuing competence requirements as a condition for license renewal; and
- grant privileges to a licensee holding a valid, unencumbered license in another member state

in accordance with the compact rules.

Blood said 15 states currently are compact members and eight are pursuing membership. Nebraska’s inclusion in such compacts benefit military families that move frequently and include a spouse whose occupation requires licensure or certification, she said, which physical therapy does.

“Additionally, with telemedicine quickly becoming such an important tool to our medical community—especially in the underserved communities of our state—physical therapists must be able to practice across the barrier that is created by geography,” Blood said.

Riepe said that provisions of LB788 would ensure that Nebraska health care providers who prescribe opioids do so in a safe and effective manner and are aware of new guidelines.

The bill would require nurse midwives, dentists, physicians, physician assistants, nurse practitioners, podiatrists and veterinarians who prescribe controlled substances to obtain five hours of continuing education regarding the administering and prescribing of opiates, including the risks and indicators of addiction and emergency opiate situations.

Thirty minutes of the education must explain the state’s prescription drug monitoring program. The bill’s continuing education requirements would terminate Jan. 1, 2029.

“As members of the Nebraska Legislature, we must continue to do our part to respond to this national emergency as it continues to draw closer to Nebraska,” Riepe said.

An amendment offered by Seward Sen. Mark Kolterman and adopted 29-0 reduced the overall requirement from five hours to three.

Among other provisions, LB1107 contains provisions of two additional bills:

- LB794, introduced by Riepe,

which would remove a current ban on consuming, serving, possessing or distributing alcohol by entities operating under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Act; and

- LB1042, introduced by Omaha Sen. Sara Howard, which would address regulation and licensure under the Act.



Sen. Sara Howard

Linehan said the changes would reduce barriers of entry to a variety of occupations by removing burdensome, unnecessary licensure requirement involving cosmetologists, guest artists and barbers. Among other provisions, the bill would:

- reduce from 2100 to 1800 the required hours for cosmetologist licensure;
- reduce from 1900 to 1800 the licensure hours required for a barber license;
- eliminate a credit requirement for esthetician licensure;
- reduce from 925 to 600 the licensure hours beyond cosmetology licensure to be a cosmetology instructor;
- eliminate a requirement that a person must be registered to act as a guest artist, guest body artist, cosmetician, student, apprentice or student instructor; and
- change the ratio of student instructors to each full-time instructor from three to two for a school of cosmetology.

Ebke said provisions of her LB790 would allow cosmetology licensure to evolve to meet the needs of new businesses.

“Current statutes do not account

for technology changes that have made mobile businesses in cosmetology feasible and the requirement in law of a fixed business location makes mobile operations impossible,” she said.

Under the provisions, a motor home could be licensed as a mobile cosmetology or nail technology salon if it:

- is clearly identified as such to the public by a sign;
- has an entrance that provides safe access by the public;
- has at least 150 square feet of floor space, and an additional 50 square feet for each additional practitioner;
- includes functional sink and toilet facilities and maintains an adequate supply of clean water and waste water storage capacity;
- complies with the sanitary requirements of the Cosmetology, Electrology, Esthetics, Nail Technology and Body Art Practice Act; and
- meets the requirements of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles and the rules and regulations adopted and promulgated under the bill.

No cosmetology services could be performed while a mobile salon is moving. The bill would require a mobile salon to be safely and legally parked in a legal parking space at all times while clients are present inside.

Seward Sen. Mark Kolterman offered and later withdrew an amendment that would have added provisions of his LB360 and adopt the Surgical Technologist Registry Act.



Sen. Mark Kolterman

Following adoption of the committee amendment, LB731 advanced to select file on a vote of 34-0.

Early miscarriage commemorative certificates advance

A bill that would authorize the provision of a commemorative certificate of nonviable birth for early miscarriages cleared the first round of legislative debate March 28.

Thurston Sen. Joni Albrecht, sponsor of LB1040, said that an optional certificate has been available since 2008 in Nebraska for miscarriages that occur after 20 weeks of gestation.



Sen. Joni Albrecht

One in four women will experience a miscarriage, she said, and the vast majority occur prior to 20 weeks.

The pain and loss can be severe, she said, no matter the length of gestation. The ability to commemorate the loss would help women and their families grieve, she said.

“Every pregnancy loss is a tragedy that has a profound impact on women and entire families, yet most go unrecognized,” Albrecht said.

As introduced, the bill would have required a health care practitioner who attends or diagnoses a nonviable birth to advise the patient that they can request a certificate of nonviable birth. The certificate would be issued by the state Department of Health and Human Services within 60 days of request.

The commemorative certificate would not result in the registration of a live birth or be used to calculate live birth statistics. The certificate also could not be used in support of a civil action seeking damages for injury or wrongful death.

A Health and Human Services Committee amendment, adopted 30-1, would allow a health care practitioner to delegate the duty to notify a patient of the ability to request a commemora-

tive certificate. The amendment also would mandate that DHHS provide a form on the agency’s website that could be used to affirm a nonviable birth.

Lincoln Sen. Suzanne Geist supported the bill and the amendment. She said that her miscarriage at 16 weeks of gestation was “devastating” and that a commemorative certificate could validate that grief for families who have had a similar experience.

“When a mother sees a positive pregnancy test, her role is changed forever,” she said. “For those women who grieve the loss of their child [by] miscarriage in early pregnancy, does that hurt less?”

Omaha Sen. Ernie Chambers questioned why DHHS should be part of that grieving process.

“Why don’t the parents—or the parent or the family—just put together a certificate themselves?” Chambers said. “Why does the state have to be drawn into this?”

LB1040 advanced to select file 36-1.

Direct primary care pilot program clears second round

A bill that would create a pilot program offering direct primary care to state employees was amended and advanced to final reading March 28.

LB1119, sponsored by Ralston

Sen. Merv Riepe, would create a pilot program for state employees eligible to participate in the Nebraska state health insurance program. The three-year pilot program would begin in fiscal year 2019-20 and require that the state insurance program include at least two primary care options—one high-deductible and one low-deductible—for state employees.



Sen. Merv Riepe

The University of Nebraska system, state colleges and community colleges would not be included in the pilot program.

Under the bill, a participating provider would be required to:

- provide primary care to an enrollee;
- coordinate care across all care settings;
- oversee transitions in care between settings; and
- minimize the risk of gaps in care.

Providers would receive a monthly payment of a per-member, per-month fee for each enrollee and would be required to continuously monitor care quality measurements. The state Department of Administrative Services would provide the Legislature an annual report on the clinical and financial performance of the program.

The bill also would establish minimum standards and patient satisfaction measurements—which a provider must continually monitor—including a patient engagement measurement and a prevention measurement.

Riepe offered an amendment during select file debate to add provisions of his LB604, which would adopt the Nebraska Right to Shop Act. The act would apply to any health insurance carrier in the state that elects to be subject to it and would give DAS the discretion to develop and implement a right-to-shop program for state employees.

Riepe said a similar program in New Hampshire has saved the state \$12 million and has saved consumers more than \$1 million.

“Right to shop is a price transparency [measure] and it empowers consumers with the knowledge to make smart choices about how and where to obtain health care,” he said. “Through right to shop, insurance carriers provide patients with tools to find the best value [and] patients are

incentivized to find the best value by receiving cash from savings attained.”

The act would require participating insurers to disclose the allowed amount for a nonemergency admission, procedure or service within three working days. The information provided to a patient or prospective patient by the insurance carrier also would identify out-of-pocket costs.

Insurers would be required to develop and implement a program that provides incentives for insured individuals who opt for services from network providers that charge less than the average price paid by the insurer for that health care service. Individuals would receive at least 50 percent of the insurer’s saved costs for each service chosen.

Gothenburg Sen. Matt Williams supported the amendment.

“We have a looming crisis in health care and looking at alternative ways to be sure people understand what they are buying, how much they are paying for it and—with right to shop—having the insurance company have the option to give incentives ... just makes great sense moving forward,” he said.

Following the 33-0 adoption of a technical amendment offered by Riepe that would extend the direct primary care pilot program by one year, LB1119 advanced to final reading by voice vote.

JUDICIARY

Process approved for health care surrogacy

The Legislature passed a bill March 29 that allows people to make health care decisions for certain adults and emancipated minors.

Under LB104, introduced by

Lincoln Sen. Kate Bolz, a patient can designate a surrogate to make health care decisions on his or her behalf in the event that the patient becomes incapacitated.



Sen. Kate Bolz

In the absence of a formal designation, a member of the patient’s family can act as surrogate in the following descending order of priority: spouse, adult child, parent or adult sibling. If no family member is available to serve as a surrogate, an adult who has exhibited special care and concern for the patient and is familiar with the patient’s personal values may be designated as surrogate.

If multiple people of equal standing assume authority as a surrogate but they disagree on a health care decision, the supervising health care provider will comply with the majority decision.

A surrogate will be required to make health care decisions in accordance with the patient’s instructions and wishes, if known. Otherwise decisions must be made in the patient’s best interests, taking into account his or her personal values.

Decisions made by a health care surrogate will not require judicial approval.

The bill specifically prohibits an owner, operator or employee of a health care facility at which the patient is residing or receiving care from acting as a surrogate. An exception can be made if that person is related to the patient by blood, marriage or adoption.

The bill passed on a 48-0 vote.

Bill equalizes district court caseloads

Lawmakers passed a bill March 29 that will help equalize caseloads in the district court system.

LB697, introduced by Crete Sen. Laura Ebke, changes the geographic boundaries of Judicial Districts 1, 2 and 10. Otoe County will move from District 2 to District 1. Clay and Nuckolls counties will move from District 1 to District 10.



Sen. Laura Ebke

The bill passed on a 49-0 vote.

Civil liability for foster care misrepresentation advanced

The state Department of Health and Human Services could be held liable in certain civil proceedings under a bill advanced by the Legislature March 28.

Currently, a state agency and its employees have legal immunity from civil claims arising from misrepresentation or deceit under the State Tort Claims Act. LB729, introduced by Omaha Sen. Justin Wayne, would remove that immunity, which could make those parties liable in civil court proceedings.



Sen. Justin Wayne

Specifically, the department could be liable if it fails to inform potential adoptive or foster parents of issues relating to a state ward's behavioral health, mental health, educational or medical history, including a ward's potential history being a victim or perpetrator of sexual abuse.

Wayne said he introduced the bill in response to allegations of child sexual abuse within the state's foster care system. He said one family had begun the adoption process of their foster child, who then sexually assaulted another of their children.

The parents had repeatedly asked for

pertinent information about their foster child's history with sexual abuse, Wayne said, but the caseworker explicitly told them no such history existed. Neither the agency nor the caseworker faced legal consequences as a result, he said.

"At a bare minimum, our state should never be deceitful or misrepresent crucial facts about that child's history so that a family can make an informed decision about whether they have the capability to handle what that child may bring," Wayne said.

A Judiciary Committee amendment, adopted 34-0, eliminated a provision in the original bill that would have removed similar immunity provisions under the Political Subdivisions Tort Claims Act.

Syracuse Sen. Dan Watermeier spoke in support of the bill. He said DHHS must be held accountable for disclosing all available information to families considering foster care placements or adoption.

"It does not make sense to have a law requiring caseworkers to disclose information to adoptive families and then immunize them when they intentionally or unintentionally fail to do so," Watermeier said.

Senators advanced the bill to select file on a 40-0 vote.

Prohibition against threatening electronic communications approved

Lawmakers gave final approval March 29 to a bill making it a criminal offense to threaten someone with a text or email message.

Previously, a person committed the offense of intimidation by telephone call if he or she telephoned someone with the intent to terrify, intimidate, threaten, harass, annoy or offend.

LB773, sponsored by Sen. Robert Clements of Elmwood, amends

the law to include intimidation by electronic communication, such as a text message or an email. It also removes the terms "terrify," "annoy" and "offend" to address a possible conflict with the First Amendment.



Sen. Robert Clements

The offense is a Class III misdemeanor or with a maximum penalty of three months in prison, a \$500 fine or both.

As amended, the bill also updates Nebraska law to reflect new payment card technology and makes it a crime to possess a scanning device or encoding machine with the intent to use it to obtain information encoded on a card without authorization from the card's user, the card's issuer or a merchant.

Senators voted 47-0 to pass the bill.

Proposal that would prevent child custody being denied due to disability advanced

The Legislature advanced a bill from general file March 27 that would protect the custodial rights of people with disabilities.

LB845, introduced by Albion Sen. Tom Briese, would prohibit the denial or restriction of parental custody based solely on a parent's disability in cases when custody is determined to be otherwise in the best interests of the child.



Sen. Tom Briese

Briese said it would preserve the best interests of a child as the primary consideration when deciding child custody cases.

"This bill recognizes that individuals with disabilities face societal biases relative to their ability to successfully parent children," he said. "This is good,

common-sense legislation that protects the rights of parents with disabilities and the best interests of the children.”

A Judiciary Committee amendment, adopted 28-0, replaced the bill. As amended, the bill would prohibit the court from giving custodial preference to either parent based on the disability of a parent.

O’Neill Sen. Tyson Larson expressed concern that one parent could face an unduly high burden of proof in demonstrating another parent’s unsuitability to care for a child.

Senators advanced the bill to select file on a 31-0 vote.

Assault protections extended to health care providers

The Legislature passed a bill March 29 that enhances assault penalties for health care providers.

Under a bill passed in 2011, any person who knowingly and intentionally strikes a public safety officer with a bodily fluid is guilty of a Class I misdemeanor assault, which carries a penalty of up to one year imprisonment, a \$1,000 fine or both.

The charge is upgraded to a Class IIIA felony if the person committing the assault strikes a person’s eyes, mouth or skin and knows that the fluid is infected with HIV, hepatitis B or hepatitis C at the time the assault is committed.

A Class IIIA felony carries a penalty of up to three years imprisonment with 18 months of post-release supervision, a \$10,000 fine or both.

People protected under the original legislation include law enforcement officers, correctional employees and employees of the state Department of Health and Human Services if the person committing the offense is classified as a dangerous sex offender under the Sex Offender Commitment Act.

The statute was expanded in 2014

to include firefighters and out-of-hospital emergency care providers.

LB913, introduced this session by Omaha Sen. Mike McDonnell, extends such protections to include health care professionals who practice at hospitals or health clinics.

The bill passed on a 47-0 vote.

Tighter controls on opiate prescriptions passed

A bill to tighten restrictions on dispensing opiates in Nebraska was passed by the Legislature March 29.

LB931, sponsored by Omaha Sen. Sara Howard, limits opiate prescriptions for a patient younger than 18 to no more than a seven-day supply. A medical practitioner will be required to discuss the risks associated with opiates with the patient’s parent or guardian. Exceptions to the seven-day limitation can be made for chronic pain, cancer diagnosis or palliative care.

If a health practitioner deems such an exception appropriate for a patient, he or she is required to document the medical condition requiring the pain medication in a patient’s medical record and indicate that a non-opiate alternative was not appropriate to address the condition.

The bill’s provisions will expire on Jan. 1, 2029, to allow lawmakers to revisit the need for continuation of the program.

Provisions of two additional bills addressing opiate prescriptions are included in the bill.

LB933, introduced by Omaha Sen.



Sen. Mike McDonnell



Sen. Sara Howard

Brett Lindstrom, requires medical practitioners to notify patients—or a parent or guardian of a patient under 18—of the risk of addiction and overdose when prescribing Schedule II prescription medications. The notification is required prior to the initial prescription and again before issuing a third prescription.



Sen. Brett Lindstrom

Under the bill, a practitioner is required to discuss the risks of addiction and overdose, including:

- the fact that controlled substances and opiates are highly addictive even when taken as prescribed;
- there is a risk of developing a physical or psychological dependence on opiates or controlled substances;
- reasons why the prescription is necessary and alternatives that may be available; and
- taking more controlled substances or opiates than prescribed, or mixing sedatives, benzodiazepines or alcohol with controlled substances or opiates, can result in fatal respiratory depression.

A medical practitioner must make note of such discussion in the patient’s medical record.

LB934, introduced by Heartwell Sen. John Kuehn, requires a person picking up an opiate prescription to provide valid photo identification unless the pharmacist has an established relationship with the patient and can positively identify him or her. A driver license, operator license, Nebraska state identification card, military identification card, alien registration card



Sen. John Kuehn

or passport are considered acceptable forms of identification.

A patient, resident or employee of a licensed health care facility is exempt from this provision if identification procedures are in place for the receipt and administration of controlled substances at the facility.

The bill passed on a 48-0 vote.



Increased game law damages, records exemption for public power advanced

Senators gave first-round approval March 26 to a bill that was amended to include several bills related to natural resources, including a provision that would allow public power utilities to withhold information that could give competitors an advantage.

As introduced by Brainard Sen. Bruce Bostelman, LB1008 would increase the amounts of liquidated damages for a person who illegally sells, purchases, takes or possesses certain wildlife.



Sen. Bruce Bostelman

It would increase damages for:

- mountain sheep from \$15,000 to \$25,000;
- elk with a minimum of 12 points from \$5,000 to \$10,000 and from \$1,500 to \$3,000 for all other elk;
- whitetail deer with a minimum of eight points and a spread between beams of at least 16 inches from \$5,000 to \$10,000;
- all other antlered whitetail deer from \$1,000 to \$2,000;
- antlerless whitetail deer and

whitetail doe deer from \$250 to \$500;

- mule deer with a minimum of eight total points and a spread between beams of at least 22 inches from \$5,000 to \$10,000 and for all other mule deer from \$1,000 to \$2,000;
- mountain lions, lynx, bobcats, river otters or raw pelt from \$500 to \$5,000; and
- wild turkeys from \$100 to \$500;

A Natural Resources Committee amendment, adopted 38-4, added provisions of four other bills heard by the committee this session.

LB713, introduced by Sen. Steve Erdman of Bayard, would increase compensation of those serving on the Nebraska Oil and Gas Conservation Commission, which regulates the oil and natural gas exploration and production industry in the state. As amended by the committee, it would raise the per diem for commissioners from \$50 to \$400 and would increase the annual compensation cap from \$2,000 to \$4,000.



Sen. Steve Erdman

LB820, introduced by Venango Sen. Dan Hughes, would authorize the Nebraska Power Review Board to assess a \$500 fine on a private electric supplier that begins construction on a renewable energy generation facility less than 30 days before notifying the board of its intent.



Sen. Dan Hughes

LB762, also sponsored by Hughes, would extend the sunset date for the state's scrap tire grant program from 2019 to 2024.

The amendment also includes

LB822, which the committee replaced with an amendment that would authorize the Nebraska Power Review Board to withhold competitive or proprietary information that would give an advantage to business competitors.

The amendment defines such information as that which "a reasonable person, knowledgeable of the electric utility industry, could conclude gives an advantage to business competitors."

Hughes introduced the amendment, which received a public hearing on March 7, in response to a Nebraska Supreme Court opinion from Feb. 23. The justices reversed a Platte County District Court's decision that would have allowed the Nebraska Public Power District to withhold proprietary information from a potential competitor that had requested documents showing cost and revenue information for each of NPPD's generation facilities.

The Supreme Court wrote that, in order to withhold the information, NPPD had to show that releasing it would give an advantage to competitors and serve no public interest. It overturned the lower court's decision because NPPD did not prove the second element of that two-pronged test.

Both courts interpreted relevant public records statutes differently, Hughes said, and both speculated on the Legislature's intent. He said the Supreme Court has indicated the Legislature should clarify whether it wants the public power industry to provide private competitors with information they would need to underbid public utilities in the Southwest Power Pool, a group of utilities and power generation companies that oversees electricity infrastructure in Nebraska and 13 other states.

"If we don't clearly put our intent into statute," Hughes said, "Nebraska ratepayers will be negatively impacted."

Hughes said the amendment would

allow utilities to protect information that could give competitors an advantage while ensuring that the public would have access to a utility's other records.

Sen. Tom Brewer of Gordon opposed the public power provision. Brewer said he has not received information he requested from NPPD regarding its planned R-Project, a 225-mile high-voltage transmission line that will be routed in part through the Sandhills region.

"A senator can request information and not get it now," he said. "What's going to happen when we give them the ability to hide additional information?"

Brewer filed an amendment that would prohibit the construction of wind energy projects in counties that have not adopted zoning regulations that address a project's impact on property values and the environment, among other factors.

Sen. Jim Smith of Papillion supported the committee amendment. Without it, he said, the Supreme Court's ruling would require the state's public power utilities to release proprietary information to private competitors, which would ultimately hurt ratepayers.

"This is a common-sense fix to keep the playing field level for public utilities and investor-owned utilities," he said.

Sen. Matt Williams of Gothenburg agreed, saying that the state would never require a private company or non-profit to divulge its business secrets. He opposed Brewer's amendment, which he said would be a de facto moratorium on wind energy development in counties without specific zoning regulations.

"I don't think there's any place in this for the state telling counties what they have to do," Williams said.

Sen. Tyson Larson of O'Neill opposed the portion of the committee amendment dealing with public power. He acknowledged that certain

information—such as a contract between a public utility and a private company—should be confidential, but he said public utilities' generation costs should be available to ratepayers.

"We as shareholders own public power," he said, "and we have a right to know where that money is going."

Hughes filed a motion to invoke cloture, or cease debate and vote on the bill. The motion succeeded 35-4. Thirty-three votes were needed.

The Brewer amendment failed on a vote of 8-28. Senators then voted 42-2 to advance the bill to select file.



Proposal to use property tax credit fund for additional school aid debated

The Legislature debated a bill March 27 that would use the state's property tax credit cash fund to direct more state aid to schools.

As introduced last session by North Platte Sen. Mike Groene, LB640 would decrease the maximum levy for school districts and direct money in the state's property tax credit cash fund—which is funded by state income and sales taxes—to increase state aid to districts that lose money as a result.



Sen. Mike Groene

Because of the dramatic increase in agricultural land valuations over the past decade, Groene said, more than 170 of the state's 244 school districts receive no equalization aid, which is state aid intended to cover the needs of school districts that cannot be met by other resources, such as property taxes.

LB640 would direct more state aid

to those unequalized districts, Groene said, reducing their reliance on property taxes. The bill also would reduce property tax bills for those living in equalized districts by reducing the maximum levy, he added.

A pending Revenue Committee amendment would replace the bill, reducing the maximum levy for school districts from \$1.05 per \$100 of taxable valuation of property in a district to 98.7 cents per \$100.

Groene introduced an amendment, adopted 25-8, that replaced the committee amendment. It would decrease the maximum levy by the same amount beginning in fiscal year 2019-20 but would use the entire \$224 million in the state's property tax credit fund for school aid. Groene said the amendment also would allow the property tax credit fund to grow along with increases in state aid required by the state's school funding formula.

A district could qualify for the property tax relief aid if its property tax receipts exceed 55 percent of its total revenue. A school district that receives property tax relief aid would decrease the amount of property taxes it collects by the same amount.

The bill would calculate a school district's "property tax gap" by subtracting 55 percent of its total general fund revenue from the school's general fund property tax receipts. A district would receive 75 percent of that gap in property tax relief aid from the state. A two-thirds majority vote of a district's school board would be required to access the remaining 25 percent of the gap.

School districts that do not qualify for property tax relief aid could receive an option enrollment relief correction of 6.3 cents per \$100 of valuation if their net option funding is greater than 90 percent of the preliminary state aid calculated for the district.

Sen. Lou Ann Linehan of Elkhorn supported the bill, saying that it would provide additional state aid to most school districts. Even many equalized districts in metro areas would see an increase in state aid under LB640, she said.

“It’s a matter of fairness,” she said, “and I can’t see where anybody gets hurt.”

Lincoln Sen. Roy Baker opposed the bill and filed a motion to bracket it, which effectively would end debate on the proposal for this session. Baker said that many school districts across the state would not receive the proposed property tax relief aid because their property tax receipts do not exceed 55 percent of their general fund revenue.

Baker also questioned whether school districts could count on the state to fulfill its obligations under LB640.

“What’s lacking is evidence of sustainability,” he said. “There have been so many years in the past where [the school funding formula] has not even been fully funded.”

The Legislature adjourned for the day before voting on the committee amendment or the bill. Per a practice implemented last year by Speaker Jim Scheer, the sponsor of a bill that is facing a potential filibuster must demonstrate sufficient support for a cloture motion before the measure will be scheduled for additional debate.

Indexing of Social Security tax exemption thresholds advanced

Income thresholds the state uses to determine whether Social Security benefits are exempt from taxation would be indexed for inflation under a bill advanced by the Legislature March 27.

Under current law, federal adjusted gross income for state tax purposes is reduced by the amount received as So-

cial Security benefits if AGI is \$58,000 or less for those married filing jointly or \$43,000 or less if filing as an individual.

LB738, introduced by Omaha Sen. Brett Lindstrom, would index those exemption thresholds for inflation in the same way the state’s income tax brackets are indexed. He said this would ensure that inflation does not erode the buying power of a retiree’s Social Security benefits.

Lindstrom said Nebraska is one of 13 states that taxes social security income and that Iowa and Missouri have repealed their state tax on those benefits.

“[Retirees] are speaking with their dollars and leaving Nebraska for border states who have either reformed Social Security or do not tax Social Security at all,” he said. “We cannot afford our neighboring states to continue to profit off our losses.”

The state Department of Revenue estimates that the bill would decrease state revenue by \$1.3 million in fiscal year 2019-20. That would increase to \$3.9 million by FY2021-22.

A committee amendment, adopted 37-0, would extend the bill’s effective date from tax year 2019 to tax year 2020.

Sen. Paul Schumacher of Columbus supported the bill, but he cautioned senators about its potential impact on the state budget when it is fully implemented.

“Always beware and analyze the delayed implementation of anything, because almost always it is to make you feel good that you’ve done something now and make the guys and gals down the road have to worry about how to pay for it,” he said.

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



Sen. Brett Lindstrom

TRANSPORTATION & TELECOMMUNICATIONS

Greater child seat requirements approved

Child safety seats will get more use under a bill passed by lawmakers March 29.

LB42, introduced by Omaha Sen. Robert Hilkemann, extends by two years a requirement that children be secured in an approved child safety restraint device that is correctly installed in the vehicle. Children up



Sen. Robert Hilkemann

to age 8 must now be properly restrained by such safety devices in moving vehicles.

The device has to be located in a vehicle’s rear seat, if available. Additionally, the bill requires that all children up to age 2 use a rear-facing device until the child outgrows the device manufacturer’s height or weight requirements.

The bill passed on a 40-2 vote.

Wireless surcharge remittance changed

A bill that moves the responsibility to collect and remit a surcharge on prepaid wireless phones from service providers to retailers received final approval from lawmakers March 29.

Nebraska wireless customers pay three surcharges administered by the Nebraska Public Service Commission, including one that funds wireless E911 service and another that pays for telecommunications services and equipment for those with hearing or speech impairments.

LB157, introduced by Sen. Curt

Friesen of Henderson, changes how the third surcharge—for the state’s Universal Service Fund—is collected and remitted. The fund



Sen. Curt Friesen

pays for programs that ensure urban and rural Nebraskans have comparable accessibility to telecommunications services. Retailers collect and remit the first two surcharges to the state Department of Revenue, which then transfers the funds to the PSC and the state treasurer. Wireless providers had been required to remit the USF surcharge directly to the PSC, but LB157 requires sellers of prepaid wireless products to collect and remit the USF surcharge to the department like the other two surcharges.

Retailers may retain 3 percent of the wireless surcharges they collect from consumers. Under LB157, the department may retain 0.5 percent of prepaid wireless surcharges to reimburse its administration costs.

Retailers now are required to remit prepaid wireless surcharges on a monthly basis unless they collect less than \$1,000 in surcharges in the previous year. In that case, they may remit annually.

Senators voted 46-0 to pass the bill.

Extension of superintendent license advanced

Lawmakers gave first-round approval March 26 to a bill that would extend the duration of certain superintendent licenses.

Under LB733, introduced by Omaha Sen. Theresa Thibodeau, the duration of a Class B county highway or city



Sen. Theresa Thibodeau

street superintendent license would change from one to three years. The renewal fee would change from \$10 annually to \$30 every three years.

Thibodeau said the change would have little to no fiscal impact but would decrease by two-thirds the number of renewals the Board of Examiners for County Highway and City Street Superintendents would have to review.

“This would create a more cost-efficient system because of the reduced [state Department of Transportation] staff hours that would be required to process renewals,” she said.

The bill also would allow those holding Class A and Class B licenses to renew both at once.

Senators advanced the bill to select file on a 35-1 vote.

Transportation omnibus bill amended, advanced

A bill that would make numerous changes to existing motor vehicle titling and registration laws was amended and advanced from select file March 28.

LB909, introduced by Brainard Sen. Bruce Bostelman, would require that certificates of title for assembled and kit vehicles include the year, make and model the vehicle resembles. The title also would indicate that the vehicle is reconstructed.



Sen. Bruce Bostelman

A vehicle owner could apply for a title by presenting a certificate of title for one major component part, a notarized bill of sale for all other major component parts that have been replaced, a statement that an inspection has been conducted on the vehicle and a vehicle identification number.

The certificate would include

the year application for the title was made and the make of the vehicle as assembled. The base registration fee for assembled, reconstructed and replica vehicles would be the same as automobiles with a new value of less than \$20,000, which currently is \$5.

Henderson Sen. Curt Friesen introduced an amendment during select file debate that would incorporate provisions of three additional bills, including:

- LB900, introduced by Bostelman, which would update references to federal transportation laws and increase fines for certain motor carrier statute violations;
- LB860, introduced by Friesen, which would provide compensation for motor vehicle dealers affected by recalls and stop-sale orders; and
- LB980, introduced by Syracuse

Sen. Dan Watermeier, which would allow for the transportation of divisible loads of hay bales on the interstate.



Sen. Dan Watermeier

The Friesen amendment was adopted 41-0.

Omaha Sen. Burke Harr also filed an amendment on select file, adopted 36-0, that incorporated provisions of his LB1011, which would require a driver approaching a tow truck, maintenance vehicle or garbage or recycling service vehicle to proceed with caution and move over if possible.



Sen. Burke Harr

Provisions of six other bills previously were amended into LB909 on general file, including:

- LB1092, introduced by Papil-

lion Sen. Jim Smith, which would create separate procedures for operators of autocycles that are not completely enclosed;

- LB740, introduced by Omaha Sen. Brett Lindstrom, which would allow the Metropolitan Utilities District to register vehicles in the same manner as public power districts beginning Jan. 1, 2023;

- LB895, introduced by Lincoln Sen. Suzanne Geist, which would make a series of technical updates to current DMV statutes;

- LB896, also introduced by Geist, which would clarify that the operative date for certain sections relating to electronic certificates of title would be no later than Jan. 1, 2021;

- LB1049, introduced by Harr, which would amend the definition of low-speed vehicles to include certain three-wheeled motor vehicles; and

- LB1136, introduced by Elmwood Sen. Robert Clements, which would provide a mechanism for online auto auctions to obtain titles for vehicles purchased as salvage vehicles.



Sen. Jim Smith



Sen. Suzanne Geist



Sen. Robert Clements

LB909 was advanced to final reading by voice vote.

Creation of 911 service committee approved

The Legislature passed a bill March 29 that improves access to 911 services throughout the state.

A bill passed by the Legislature in 2016 authorized the Nebraska Public Service Commission to organize funding for a statewide system capable of next-generation service. This will enable public safety answering points to receive 911 calls via voice, text or video using internet protocol.

LB993, introduced this year by Henderson Sen. Curt Friesen, creates the 911 Service System Advisory Committee to assist the commission in its mission to fully implement the 911 service system.

Membership of the advisory committee includes the 911 director and the state chief information officer, as well as:

- four representatives of public safety agencies within the state, including an emergency manager, member of a law enforcement agency, member of a fire department and a member of an emergency medical service;
- two county officials or employees;
- two municipal officials or employees;
- two representatives of the telecommunications industry;
- two managers of public safety answer points, one of whom is employed by a county sheriff;
- one representative of the Nebraska Association of County Officials; and
- one representative of the League of Nebraska Municipalities.

Of the 14 members appointed to



Sen. Curt Friesen

the committee, at least four members must be appointed from each of the state's three congressional districts. Each will serve a term of three years.

The commission is tasked with creating a mechanism for determining the level of funding available to local governing bodies, public safety answering points and third-party service or infrastructure providers from the 911 Service System Fund.

Costs incurred for providing 911 service, acquiring new equipment, training personnel and maintaining, upgrading or modifying services all are eligible for funding under LB993.

Additionally, the commission can apply for federal funds available for next-generation 911 service and can distribute the funds accordingly.

The bill provides legal immunity to people installing, maintaining or providing service, except in cases of failure to use reasonable care or for intentional acts.

The Enhanced Wireless 911 Fund will be integrated into the 911 Service System Fund.

The bill passed on a 49-0 vote.

Study of rural broadband availability advanced

A proposal to study expanding high-speed internet access to rural areas of the state was advanced from general file March 27.

Henderson Sen. Curt Friesen introduced LB994, which would create the Rural Broadband Study Task Force to assist in developing enhanced broadband telecommunications service to unserved and underserved areas in rural Nebraska.

He said broadband internet service is needed to support business, agriculture, education and health care needs in the state's rural areas.

"It is vital to Nebraska's future

well-being that our rural residents have the same ability to participate in the information superhighway as our urban residents,” Friesen said.

A Transportation and Telecommunications Committee amendment, adopted 30-0, replaced the bill. As amended, the task force would be renamed the Rural Broadband Task Force.

Membership on the task force would include a member of the Nebraska Public Service Commission, the director of the state Department of Economic Development and the director of the state Department of Agriculture. Additional members would be appointed by the governor, including representatives from the state’s agribusiness, business, telecommunications, public power and educational communities.

The Transportation and Telecommunications Committee chairperson and another member of the Legislature appointed by the Executive Board would serve as nonvoting, ex officio members. The chairperson of the Nebraska Information Technology Commission would chair the task force.

The task force would study issues relating to the availability, adoption and affordability of broadband services in rural areas of the state. Specifically, the task force would:

- determine how the average advertised subscription rates and download and upload speeds compare with neighboring states;
- determine whether the administration of the Nebraska Telecommunications Universal Service Fund is effective in bringing comparable and affordable broadband service to rural residents;
- review the feasibility of alternative technologies and providers in expediting access to faster and more reliable broadband

service in rural areas;

- study alternatives for deployment to unserved or underserved areas such as reverse auction programs, public-private partnerships and funding for competitive deployment;
- recommend state policies to effectively leverage state Universal Service Fund dollars with federal support; and
- recommend to the governor and Legislature the most effective and efficient ways to use federal broadband rural infrastructure funds.

The Nebraska Information Technology Commission would host a Rural Broadband Task Force Fund to pay for the study, which initially would be funded by a \$50,000 transfer from the Nebraska Internet Enhancement Fund.

A final report of the task force’s findings would be delivered to the Legislature’s Executive Board no later than Dec. 1, 2019.

LB994 also would authorize the Nebraska Public Service Commission to withhold funding from companies that have not provided adequate broadband internet to unserved or underserved areas. The withheld funds could be used to institute a reverse auction program that would award funding to broadband internet service providers to support high-speed internet infrastructure deployment projects in these areas.

The amended bill clarified that such funding must be used only in the exchange area where it was originally granted.

The commission would establish a registry of locations within the state that receive complaints of a lack of wireless coverage. The annual report would be publicly available and could be used in future funding decisions.

Finally, the amended bill also incorporated provisions of LB966,

introduced by Friesen. These would exempt the sale, lease or rental of and the storage, use or consumption of dark fiber from state sales and use taxes.

Fremont Sen. Lynne Walz supported the bill, but expressed concern that the Legislature might not take action based on the study’s findings. She noted that nine task forces, working groups and studies on rural broadband access have been commissioned since 2006.

She said the residents of rural Nebraska cannot wait any longer.

“It’s becoming increasingly clear that affordable and reliable internet access is no longer a luxury, but a necessity,” Walz said. “The world is changing quickly and rural communities will need high-speed internet, not only to stay competitive, but to grow and prosper.”

Following the adoption of a technical amendment, senators voted 29-0 to advance the bill to select file. ■

COMMITTEE HEARINGS

Current hearing schedules are always available at:

NebraskaLegislature.gov/calendar

Tuesday, April 3

Government, Military & Veterans Affairs Room 1507 - 12:00 p.m.

- Appointment: Jeanna Stavas - Nebraska Tourism Commission
- Appointment: Kate Sullivan - Nebraska Accountability and Disclosure Commission
- Hearing on Dept. of Corrections rules and regulations from LB446 (1994)
- Hearing on Tourism Commission rules and regulations from LB1053 (2012)
- Hearing on Secretary of State rules and regulations from LB964 (1996)
- LR292 (Clements) Encourage Nebraskans to show respect for Nebraska and its history and encourage recitation of a pledge
- LR257 (Chambers) Petition the appropriate officials to determine if the President is unable to discharge the responsibilities of his office ■

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