

UNICAMERAL UPDATE

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Plan requirement for community-based disability services advanced

Senators gave first-round approval April 8 to a bill that would require creation of a statewide plan to provide disability services in Nebraska.

LB570, introduced by Sen. Lynne Walz of Fremont, would require the state Department of Health and Human Services to develop what is known as an "Olmstead Plan," which is a plan to provide services to qualified individuals with disabilities in the most integrated community-based settings. The plan would be completed by June 30, 2019.

Current law already requires development of an Olmstead Plan, Walz said, which was to have been completed by Dec. 15, 2018.

In the *Olmstead* case, she said, the U.S. Supreme Court found that unjustified segregation and institutionalization of people with developmental disabilities is unconstitutional and a violation of the Americans with Disabilities Act. Walz said Nebraska is "very much in danger" of being sued by the U.S. Depart-



Sen. Lynne Walz said an Olmstead Plan would protect the rights of Nebraskans with disabilities and help shield the state from potential lawsuits.

ment of Justice or an individual with a discrimination claim arising from the state's lack of an Olmstead Plan.

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Expanded right-to-farm protections advanced

A bill that would expand legal protections for agricultural producers under Nebraska's 1982 Right to Farm Act cleared the first round of debate April 10 after a successful cloture motion.

Under the act, a farm or public grain warehouse—a grain elevator or receptacle in which grain is held for longer than 10 days—cannot be found to be a public or private nuisance if it existed before a change in the land use or occupancy of land in its locality and would not have been a nuisance before the change.

As introduced by Sen. Dan Hughes of Venango, LB227 would expand the conditions under which those operations

are shielded from nuisance liability.

Hughes said the existing law does not protect the state's agricultural producers from nuisance lawsuits if they expand or change how they operate. He said LB227 is needed to encourage growth in the industry.

"Agriculture is not asking for anything additional than what we currently have now," he said. "The only thing we're asking for is to have the same protection if we choose to make an investment in Nebraska."

An Agriculture Committee amendment would have replaced the bill and created a second, independent set of criteria under which a farm or public

grain warehouse could not be found to be a nuisance.

Hughes introduced an amendment, adopted 36-2, that would replace the committee amendment. It would add two requirements that an operation would need to fulfill to be shielded from nuisance liability.

First, the operation must employ "reasonable techniques" to mitigate negative effects on the property of others, such as dust, noise, insects and odors. Second, it must comply with applicable laws and regulations, including any zoning regulations of a local governing body.

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Plan requirement for community-based disability services advanced

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"This is about quality of life that we are helping to provide to citizens—and everyone deserves the best quality of life that we can give them," Walz said. "We are quickly approaching the 20th anniversary of the [Olmstead] decision and our state still does not have a plan in place."

LB570 would require DHHS to hire an independent consultant to assist with continued analysis and revision of the Olmstead Plan. This analysis would be provided in a report to the Legislature by Dec. 15, 2021, and every three years going forward.

A Health and Human Services Committee amendment, adopted 40-0, would require DHHS to develop the plan with the Governor's Policy Research Office, the state long-term care ombudsman and the state departments of Correctional Services, Economic Development, Labor, Transportation and Education—rather than requiring DHHS to create the plan only in collaboration with those

other entities.

Walz said an Olmstead Plan must be statewide and comprehensive and that DHHS has indicated difficulty in the past in obtaining the cooperation necessary from all entities.

The amendment also would require the heads of those agencies to:

- develop a strategic plan;
- appoint and convene a stakeholder advisory committee that includes the Commission for the Deaf and Hard of Hearing and the Commission for the Blind and Visually Impaired; and
- arrange for consultation with an independent consultant.

Omaha Sen. Sara Howard, chairperson of the Health and Human Services Committee, offered an amendment that would fund the bill's provisions through the use of unexpended layover funds from the Legislature's budget. The amendment would transfer \$100,000 into the

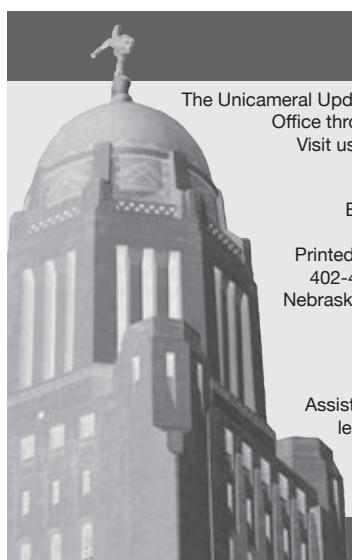
Nebraska Health Care Cash Fund to cover the cost of implementing LB570.

Sen. Dave Murman of Glenvil supported the bill, saying he had seen the importance of integrating people with disabilities into the community as much as possible through the experience of his daughter, Whitney, who has Rett's syndrome.

Although his daughter's ability to communicate is extremely limited, Murman said, his family tried to ensure that she had as much contact as possible with individuals outside her home when she was young.

"She had a lot of connections with friends and neighbors and others in the community," Murman said.

Following the 38-0 adoption of an amendment offered by Walz that would extend the deadline for creation of the state's Olmstead Plan until Nov. 1, 2019, senators advanced LB570 to select file on a 39-0 vote. ■



UNICAMERAL UPDATE

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Expanded right-to-farm protections advanced

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Under the amendment, after two years following the established date of operation, a farm or public grain warehouse could not be found to be a public or private nuisance. The amendment defines that date as the date on which the farm or public grain warehouse commences operation.

If the operation undergoes any subsequent change, including any of the four outlined in the amendment, Hughes said, the date of that change would be considered the established date of operation and the two-year window would reset.

Those specified changes are the conversion from one type of farm or public grain warehouse to another; a change in ownership or size of the operation; the enrollment, reduction or cessation of participation of the farm or public grain warehouse in a government program; and the operation's adoption of new technology.

Hughes said the amendment was intended to address concerns raised during floor debate earlier in the week that the bill would deny neighboring landowners a legal remedy if a change in size or type of a farming operation creates a nuisance.

Sen. Steve Halloran of Hastings supported the proposal, saying the expanded protections acknowledge how agricultural operations have grown more concentrated since the existing law was adopted. He said LB227 would allow farms and livestock operations to grow and remain viable, which would keep food prices low.

"The real nuisance would be \$35 steaks in the grocery store [and] \$15 hamburger because we couldn't produce enough livestock without this methodology that we use today," Halloran said.

Sen. Steve Lathrop of Omaha op-



Sens. Dan Hughes and Sue Crawford confer during debate on his LB227.

posed the bill. He said it would allow an agricultural operation to expand for the purpose of making more money without requiring that producer to compensate a neighbor who cannot enjoy his or her property due to a nuisance created by that expansion.

"We are talking about whether we will enshrine into law a policy that would let one neighbor ruin the property of another and not compensate them for it," Lathrop said. "When you take away somebody's home or their property and then you immunize the person who's doing this, I have a problem."

Lathrop and others also expressed concern that the proposed two-year pe-

riod during which a farming operation would be vulnerable to nuisance lawsuits could close before a nuisance becomes apparent. They also said the amendment does not specify when a conversion takes place or the size of a change that would open the two-year window.

After six hours of general file debate over two days, Hughes filed a motion to invoke cloture, or cease debate and vote on the bill. The motion succeeded on a 34-11 vote. Thirty-three votes were needed.

Lawmakers then voted 33-4 to adopt the amended committee amendment and 31-7 to advance LB227 to select file. ■

COMMITTEE HEARING

Thursday, April 18

Joint hearing:

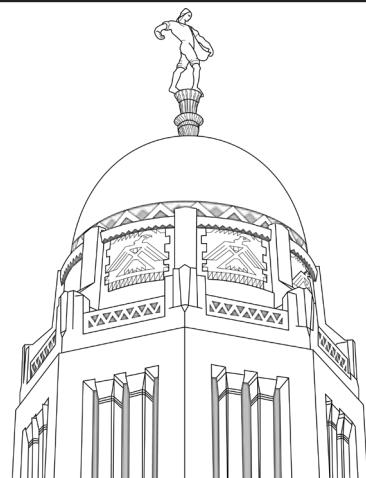
Revenue

Nebraska Retirement Systems

Education

Room 1510 - 1:00 PM

(rehearing) LB289 (Linehan) Change provisions relating to county assessor inspections of real property for property tax purposes



MEET THE SENATOR

Public service is a way of life for Gragert

When most people think of retirement, they might envision leisurely games of golf, time with family or days spent on a warm beach. Sen Tim Gragert, on the other hand, decided to spend his retirement in the George Norris Legislative Chamber.

A quick look at his resume shows a man who is happiest when he is busy.

Gragert, one of 13 children, spent most of his life in his hometown of Creighton. Just two weeks after graduating high school in 1977, he enlisted in the military. Ten years later he married his wife, Donna. The couple have three children: Brent, Megan and Jessica.

Their family has expanded over the years to include Brent's wife, Andrea, and their three children—Braxton, Mason and Ashlyn—and Megan's husband, Ross. Pictures of his bloodhound, Maggie, also take up significant space on his camera roll.

Gragert retired in 2017 after 31 years working for the Natural Resources Conservation Service. Much of his time with the NRCS coincided with his 40 years of military service—23 of which were spent as a medevac helicopter pilot.

He was deployed overseas four times, with his last tour in Iraq in 2016.

"I've been to every continent in the world with the flying I've done, so I've been very fortunate to have my military

career," Gragert said.

Between deployments and working for the NRCS, Gragert also found time to serve 12 years on the Creighton school board, 25 years as a member of the Creighton Volunteer Fire Department and to volunteer regularly on the St. Ludger's Church cemetery board.

"The most important thing in your life that you have and possess is your time. If you waste it, you don't get it back," he said. "With the time you've been offered, you've got to spend it wisely."

Gragert feels he is doing just that by serving the people of District 40. The demands on a senator's time during session can be overwhelming, he admits, but the real challenge for the retired military man is learning to just let go a little.

As it turns out, the planes don't always take off on time when you're a senator.

"I don't like waiting on people, but I hate people having to wait on me," he said. "It is bugging me big time because it seems like I'm always late."

Political life was never a lifelong goal for him, Gragert said, but conversations and friendly debates with friends and family opened his mind to the possibility. It was a former military buddy, however, who finally "kicked [him] off the fence."

"I've really enjoyed Sen. Brewer's mentorship and advice. Well, maybe not enjoy. I appreciate it," he joked. ■



Members of Sen. Tim Gragert's family gather before his summer 2016 deployment. They include his son-in-law and daughter, Ross and Megan Becklun, son, Brent Eggerling, grandson, Braxton Eggerling, Gragert and his wife, Donna, daughter, Jessica Gragert, grandson, Mason Eggerling and family friend, Cade Kalkowski.

AGRICULTURE



Healthy soils task force approved

A 17-member task force will develop a plan to improve soil health in Nebraska under a bill passed by the Legislature April 11.

Introduced by Creighton Sen. Tim Gragert, LB243 creates a healthy soils task force under the state Department of Agriculture.

The task force will develop a healthy soils initiative and a plan to carry it out “using standards for organic matter, biological activity, biological diversity and soil structure as measures to assess improved soil health.”

Members will include the director of the state Department of Agriculture or his or her designee and others appointed by the governor, including representatives of natural resources districts, production agriculture and agribusiness as well as academic experts and representatives from environmental organizations.

The chairpersons of the Legislature’s Agriculture and Natural Resources committees or their designees will serve as nonvoting members.

When developing the plan, the task force will examine how to provide farmers and ranchers with research, education, technical assistance and demonstration projects; financial incentives to improve soil health; and information on the contribution of livestock to soil health.

It also will identify goals and timelines for improving the state’s soil health through voluntary partnerships among producers and state and local agencies as well as public and private entities.

The task force is required to submit



Sen. Tim Gragert

its plan, findings and recommendations to the Legislature and the governor by Jan. 1, 2021, when it terminates.

LB243 passed on a vote of 43-0.

Expanded cottage food sales advanced

A bill that would allow Nebraskans to sell foods already authorized for sale at farmers’ markets to customers from their homes and at certain other events advanced from general file April 8.

Current law authorizes the sale of foods such as baked goods and uncut fruits and vegetables directly to a consumer at a farmers’ market if the consumer is informed by a sign at the sale location that the food was prepared in a kitchen that was not subject to regulation and inspection.

As introduced by Bellevue Sen. Sue Crawford, LB304 would expand that provision to direct consumer sales at a fair, festival, craft show or other public event or for pickup or delivery at the seller’s private home.

Crawford said the proposal is part of the Legislature’s efforts in recent years to eliminate regulatory barriers to earning an income.

“It’s critical that the state continue to pursue innovative approaches that allow all Nebraskans to earn an income,” she said.

An Agriculture Committee amendment, adopted 39-0, would replace the bill. It would require producers other than those selling directly to consumers at a farmers’ market to complete a nationally accredited food safety and handling course or a certified food safety and handling training course offered at a culinary school or as required by a county, city or village to

obtain a food handler permit.

For sales made for pickup at or delivery from a private home or other area, notification would be required at the home or area, on the producer’s website and in any advertisement for sales. For sales at a farmers’ market, fair, festival, craft show or other public event, notification would be required at the sale location.

The amendment would require delivery to be made in a person-to-person transaction, by U.S. mail or by a commercial mail delivery service. It also would require the name and address of the producer to be included on the package or container label.

A producer also would be required to follow food safety and handling guidelines for sale at a farmers’ market, fair, festival, craft show or other public event required by the county, city or village where the food is sold.

If a producer uses private well water to produce food, he or she must have the water tested for nitrates or bacteria before producing and selling food.

Finally, a producer selling from a private home would be required to register with the state Department of Agriculture before conducting any sales.

Blair Sen. Ben Hansen supported the bill, saying it would allow more Nebraskans to start small businesses from their homes.

“What better way to promote small business and individual enterprise than promoting cottage foods?” Hansen said.

Senators voted 41-0 to advance the bill to select file.

APPROPRIATIONS

Bill to end tax credit advanced

Lawmakers advanced a bill April 9 intended to increase assistance available to startup companies through the state De-

partment of Economic Development.

LB334, as introduced by Gering Sen. John Stinner, would eliminate the Angel Investment Tax Credit and appropriate the \$4 million cost savings to the DED to fund programs under the Business Innovation Act. The Angel Investment Tax Credit was scheduled to terminate in 2022.

Stinner said the Business Innovation Act funds five grant and loan programs that encourage innovation and startup businesses in Nebraska. The programs focus on early-stage businesses that need assistance raising capital to get their enterprises off the ground, he said.

"I would just like to reiterate how essential it is that we, as legislators, invest in Nebraska's continuing economic growth," Stinner said. "In order to do so, we need to address the lack of capital to help high-growth businesses—especially technically related businesses—get started in Nebraska."

Elkhorn Sen. Lou Ann Linehan offered an amendment that instead would direct the \$4 million to the Governor's Emergency Cash Fund in fiscal year 2019-20 and each fiscal year going forward. Linehan said the fund—which has a current balance of approximately \$400,000—is used to pay eligible costs related to emergency disaster declarations.

In light of the recent flooding, she said, it would benefit the state more to direct any savings from terminating the tax credit to the emergency cash fund, which normally has a balance of \$5 million.

"Right now, we all know we have no option but to put the governor's emergency fund back at \$5 million—and here is \$4 million that we can use to help close that hole," Linehan said.

Sen. Ben Hansen of Blair supported the amendment, saying the destruction

the state has experienced makes flood relief a higher priority this fiscal year.

"I think reinvesting [the money] in the governor's emergency fund would be appropriate," Hansen said.

Bellevue Sen. Sue Crawford opposed the amendment, saying the Business Innovation Act is an outstanding economic development program that is under-resourced.

"I do think that it's important that while we make sure we're investing sufficiently to help recover from the flood, that we don't lose sight of our long-term needs in term of growing our state," Crawford said.

Linehan withdrew her amendment and agreed to work with Stinner between general and select file on a new amendment that would appropriate the \$4 million to the Governor's Emergency Cash Fund in the current fiscal year, but would allocate those funds to the Business Innovation Act in future years.

"This is an important bill," Stinner said. "But I can assure everybody in the Legislature [that the] top priority is taking care of flood victims. We're definitely not going to short them."

An Appropriations Committee amendment, adopted 40-0, would:

- make the development of rules and regulations for the state's Enterprise Zone program permissive, rather than mandatory;
- specify that a \$100,000 reduction in the Angel Investment Tax Credit Act in 2019 be used to increase the appropriation to the state Department of Revenue to implement LB334;
- provide that beginning in 2020 and in every even-numbered year thereafter, the DED assess and evaluate the economic impact of programs funded under the Business Innovation Act; and
- specify that beginning with the next biennial budget review pro-

cess, the Appropriations Committee conduct a biennial analysis of the financial status and impact of programs funded under the Business Innovation Act.

Sen. Robert Clements of Elmwood offered an amendment to the committee amendment, adopted 39-0, that would incorporate provisions of his LB452. The provisions would transfer Cass County from its current planning and development region to Region 8, known as the Metropolitan Area Planning Agency.

"This would allow Cass County to more effectively take advantage of the current planning and development connections that already exist with the Sarpy County metro area," Clements said.

The provisions also would place a moratorium on future boundary changes until July 1, 2020.

Following adoption of the amendments, senators voted 41-0 to advance LB334 to select file.

BANKING, COMMERCE & INSURANCE



In-school behavioral health reimbursement clarified

A bill that clarifies coverage of behavioral health services provided in a school setting passed April 11.

LB619, introduced by Omaha Sen. Rick Kolowski, prohibits an insurance company from denying coverage or payment for a mental health service solely because the service



Sen. Rick Kolowski

is delivered in a school.

An insurer is not required to cover services otherwise excluded from a policy or to pay for services provided by an individual employed by or under contract with a school district or an educational service unit in a regular full-time or part-time position.

The bill passed 49-0 and takes effect Jan. 1, 2020.

BUSINESS & LABOR

Compensation disclosure bill approved

Senators passed a bill April 11 intended to combat wage discrimination in Nebraska.

LB217, introduced by Lincoln Sen. Patty Pansing Brooks, prohibits an employer from discharging or retaliating against any employee because he or she inquired about, discussed or disclosed comparative wage, benefit or other compensation information.

The bill prohibits disclosure or dissemination of:

- information to a competitor;
- proprietary or other privileged information; or
- information to the general public or by an employee during work hours.

LB217 does not apply to employers that are exempt from the Nebraska Fair Employment Practice Act and does not create an obligation for any employer or employee to disclose information regarding wages, benefits or other compensation.

Lawmakers passed the bill on a 46-1 vote.



Sen. Patty Pansing Brooks

EDUCATION

Resident tuition for dependents of military personnel advanced

Lawmakers advanced a bill from general file April 9 that would provide resident college tuition rates for spouses and dependents of active duty military personnel who are assigned to duty outside Nebraska.

Currently, a student who is on active duty with the armed services in Nebraska—or is a legal dependent of someone on active duty in Nebraska—is considered a resident for tuition purposes at the state's postsecondary education institutions.

Under LB6, as introduced by Bellevue Sen. Carol Blood, a person, the person's spouse or the person's legal dependent could receive in-state tuition as long as the person was on active duty military assignment in Nebraska at the time the person, spouse or dependent was accepted for admission and he or she remains continually enrolled at the institution.

Blood said spouses and dependents of active duty military personnel have no control over where or when that person is ordered to move.

"A change in status before enrollment places that student in a situation where they must then find another college at the last minute...or pay higher tuition," she said.

Blood said that, if passed, LB6 would be the latest in a series of U.S. Department of Defense requests that Nebraska has addressed to make the state more friendly to military families.

An Education Committee amend-

ment, adopted 36-0, would replace the bill. North Platte Sen. Mike Groene, the committee's chairperson, said part of the original bill is redundant because active duty military personnel already receive resident tuition rates under state and federal law.

Under the amendment, the spouse or legal dependent of a person on active duty military assignment in Nebraska would receive in-state tuition as long as the person was on active duty in Nebraska at the time the spouse or legal dependent is accepted for admission and he or she remains continually enrolled.

Sen. Sue Crawford of Bellevue supported the bill. She said it would make Nebraska a better host to military families and meet a request by the Department of Defense, one of the state's largest employers.

Senators voted 40-0 to advance LB6 to select file.



Sen. Carol Blood

Expansion of community college aid program advanced

A bill that would increase the number of programs eligible for the community college gap assistance program received first-round approval from lawmakers April 8.

The program provides funding for community colleges to provide awards to students in programs that are aligned with training programs with stackable credentials that lead to a program awarding college credit, an associate degree, a diploma or a certificate in an in-demand occupation such as health services, transportation and computer services.

Currently, only programs that are not offered for credit and that have a duration of at least 16 contact hours are eligible for the program.

Under LB180, introduced by Lincoln Sen. Kate Bolz, programs that are offered for credit but are of insufficient clock, semester or quarter hours to be

eligible for Federal Pell Grants also would qualify for the program.

Bolz said the change is a small step toward addressing Nebraska's workforce needs. Current funding would cover the additional eligible programs, she said, which would include certified nursing assistant programs and commercial driver's license programs.

Sen. Mike Groene of North Platte supported the bill, saying it would help more Nebraskans who wish to earn a credential in the trades but who otherwise could not afford to do so.

Bellevue Sen. Sue Crawford also supported LB180, saying the change would make the program more useful to those seeking additional training in order to get a new or better-paying job.

"We hear over and over again that workforce is a key issue," she said. "This is a very critical program that provides dollars to people ... who are looking to increase their skills to be a part of our workforce."

Senators voted 43-0 to advance the bill to select file.



Sen. Kate Bolz

all state lottery print ads to disclose the odds of winning the largest value prize in a font no smaller than 35 percent of the largest font used in the ad. Online advertisements would be required to disclose the odds in at least 10-point font.

Geist said the state lottery currently does not have to disclose the odds of winning.

"Government transparency is important and we, as Nebraskans, deserve truth in advertising," she said.

LB252 advanced to select file on a 38-0 vote.

lected to aid in patient matching and medication reconciliation;

- give non-statutory flexibility to the state Department of Health and Human Services in collaboration with the PDMP in altering data collection provisions; and
- allow Medicaid managed care organizations and Nebraska Medicaid officials access to the PDMP.

Howard said the bill would help ensure that providers access the PDMP more regularly and that Nebraska continues to obtain federal grant funding by complying with interstate operability requirements.

She said the state has been a leader in addressing opioid addiction.

"Nebraska is an anomaly. We are one of the only states—if not the only state—in the last year that actually saw a reduction in our overdose deaths," Howard said. "And it is because of the work that this body has done."

A Health and Human Services Committee amendment, adopted 44-0, incorporated provisions of LB557, introduced by Omaha Sen. Brett Lindstrom. The provisions would amend the definition of a practitioner to include a physician, physician assistant, dentist, pharmacist, podiatrist, optometrist and various advanced practice nurses—as long as that practitioner is a member of the patient's care team.

The provisions also would change the first and third prescription to a 60-day look back and add an exemption for hospice and palliative care or a cancer diagnosis.

Brainard Sen. Bruce Bostelman supported the bill and the amendments, although he suggested that senators consider future limitations on the number of opioids prescribed to individuals in the terminal stages of disease.

"My brother, as he fought cancer, he was given a lot of opioids—far more than what he needed," Bostelman said.

GENERAL AFFAIRS

Lottery advertisement bill clears first round

Senators gave first-round approval April 8 to a bill that would require the odds of winning to be posted on all Nebraska lottery advertisements.

LB252, introduced by Sen. Suzanne Geist of Lincoln, would require



Sen. Suzanne Geist

HEALTH & HUMAN SERVICES

Prescription drug monitoring changes clear first round

Lawmakers advanced a bill from general file April 8 that would make several changes to the state's drug monitoring program.

LB556, introduced by Sen. Sara Howard of Omaha, would make a number of changes designed to make the Prescription Drug Monitoring Program interact more effectively with appropriate agencies, other state drug monitoring programs and state and regional health information exchanges.

Among other provisions, the bill would:

- allow for interstate data sharing with other state prescription drug monitoring programs;
- allow for highly regulated sharing of de-identified prescription data for research purposes;
- add requirements for prescription and identifying data to be col-



Sen. Sara Howard

Sen. John Arch of La Vista also spoke in support, saying the bill would make sure that all necessary patient information is available to providers in nearly real time. Patients in an emergency situation may not remember all of the medications that they are taking, he said, and LB556 would allow providers to access all of a patient's pertinent information.

Senators voted 44-0 to advance the bill to select file.

NATURAL RESOURCES

Bond authority extension for certain NRDs advanced

Lawmakers advanced a bill April 8 that would extend certain bonding authority for an Omaha area natural resources district.

Current law authorizes natural resources districts encompassing a city of the metropolitan class to issue bonds payable from a flood protection and water quality enhancement levy on the taxable value of property in the district. The levy may not exceed 1 cent per \$100 of taxable valuation annually without voter approval.

Omaha Sen. Brett Lindstrom, sponsor of LB177, said only the Papio-Missouri River NRD currently has that bonding authority, which is set to end Dec. 31, 2019. LB177 would extend it to Dec. 31, 2029.

Lindstrom said recent flooding in Omaha and surrounding communities could have been worse if not for projects the NRD has completed in recent years. The proposed levy authority extension would fund six planned flood prevention projects in Douglas and Sarpy counties that are expected to

cost approximately \$80 million, he said.

"LB177 overall is critical to our flood prevention plan to protect homes, businesses and life in the state," Lindstrom said.

A Natural Resources Committee amendment, adopted 26-9, instead would extend the levy authority to Dec. 31, 2024.

Venango Sen. Dan Hughes, the committee's chairperson, said the committee questioned whether a 10-year extension was necessary. He said the NRD's representatives agreed that a five-year extension would be enough to meet the district's flood control mandate.

Sen. Carol Blood of Bellevue supported the amendment and the bill, saying the special bonding authority allows the NRD to acquire land before it is developed and to finish projects more quickly, thereby reducing the cost to taxpayers.

"[The NRD has] been very responsible and prudent with their dollars," she said. "We have to trust that they know what they are doing."

Sen. Joni Albrecht of Thurston opposed the bill, saying an election held on a similar proposal failed.

"For the NRD to turn around and want to come to [the Legislature] and ask permission to extend it 10 years but then agree to five years was concerning to me," she said.

Brainard Sen. Bruce Bostelman also opposed LB177, saying the NRD should fund projects through its base levy, as the others do. He said the proposed dams and reservoirs are intended not only for flood control but to support real estate development in the area.

Sen. Ben Hansen of Blair also opposed the bill, saying some of his constituents in Washington County are concerned about the NRD's past plans to build dams there. He said the NRD should wait until 2021 for the recommendations of a current study on flood

risks in the Papillion Creek Watershed before moving forward on other projects.

Senators voted 28-9 to advance LB177 to select file.

NEBRASKA RETIREMENT SYSTEMS

Study of OPS retirement system management clears first round

Lawmakers gave first-round approval April 9 to a bill that would explore the possible transfer of management of the Omaha school retirement plan to the state.

LB31, introduced by Seward Sen.

Mark Kolterman, would require the Public Employees Retirement Board—in consultation with the Nebraska Retirement Systems Committee, the Omaha School Employees Retirement System board of trustees, Omaha Public Schools board of education and other stakeholders—to prepare a work plan that examines the possible transfer of management responsibilities for the OSERS plan to the PERB.



Sen. Mark Kolterman

Kolterman stressed that the bill does not signal a future merger of the troubled OSERS plan with the state school retirement system. Instead, he said, it would be a first step toward possibly relieving the OSERS board of trustees of management responsibilities for the plan, much like when the state took over investment authority for the Omaha plan in 2016.

"I also want to be clear that the liability for OSERS unfunded liability—which is around \$770 million right now—remains with OPS," Kolterman said. "LB31 does not change that, nor is

it my intent that the state or any entity of the state would take on that liability."

Under the bill, the work plan would be required to include:

- a comparison of the annual OSERS administration costs to the estimated cost for PERB to assume management of the plan;
- identification of the tasks, issues and costs to transfer management; and
- establishment of timelines for completion of identified tasks.

The PERB would be authorized to assess OSERS for costs related to the work plan, which must be completed and submitted to the Legislature by June 30, 2020.

A Retirement Systems Committee amendment, adopted 43-0, also would:

- require that any written request from PERB for documents, data and other information be provided within 30 days;
- grant OSERS authority to bill OPS for any time or expenses it incurs in responding to requests from the PERB in completion of the work plan;
- require OPS to reimburse OSERS for work or expenses it incurs in response to PERB requests for information, documents and data related to preparation of the work plan; and
- create a fund to deposit OPS payments to OSERS for work completed by OSERS in response to PERB requests.

Following adoption of a technical amendment offered by Kolterman, lawmakers advanced LB31 to select file on a 42-0 vote.

Omnibus retirement bill passed

Lawmakers gave final approval April 11 to an omnibus retirement measure.

Among other provisions, LB34,

introduced by Seward Sen. Mark Kolterman, eliminates an option that allowed a county or state employee retirement plan member who has been terminated and filed a grievance to request and receive up to \$25,000 from his or her retirement account during the grievance process.

The measure includes provisions from three additional bills:

- LB35, also introduced by Kolterman, clarifies that, beginning Jan. 1, 2020, a county or state permanent employee must be at least 18 to be eligible for membership in the county or state employee retirement plan;
- LB36, introduced by Kolterman, modernizes language and codifies the Nebraska Public Employees Retirement Systems practice of awarding service credit by unifying the creditable service definition across all school employee retirement plan tiers. The provisions also grant NPERS additional time to process refund buy back payments for members who were employed on April 17, 2014, and who timely submit their refund buy back applications to NPERS by April 16, 2020; and
- LB565, introduced by Lincoln Sen. Kate Bolz, clarifies that when a beneficiary is not designated in the state, county or school retirement plans, benefits go to the surviving spouse.

If a member of the retirement system is married at the time of his or her death and there is no designated beneficiary on file, the spouse married to the member on the date of the member's death will be the beneficiary.

If the member is not married on the date of his or her death and there is no surviving designated beneficiary on file, the benefit will be paid to the member's estate.

LB34 passed on a vote of 48-0 and takes effect immediately.

REVENUE



Volunteer emergency responder tax credit clarifications advanced

A bill intended to simplify the administration of the Volunteer Emergency Responders Incentive Act was advanced from general file April 8.

The act provides a \$250 refundable income tax credit for qualifying volunteers serving a county, city, village or rural or suburban fire protection district. A certification administrator at each volunteer department keeps a record of points awarded to members based on their activities. Members qualify for the credit if they accumulate enough points.

Sen. Joni Albrecht of Thurston, sponsor of LB222, said the bill would streamline the act's administration.



Sen. Joni Albrecht

"LB222 will hopefully remove any unintended burdens caused by the original [act] and continue to encourage and reward our hardworking volunteer emergency responders," she said.

The bill would require the certification administrator to provide each volunteer member with notice of the total points he or she has accumulated during the first six months of the current calendar year no later than July 15 of each year.

It also would require the administrator to provide each volunteer member a written certification stating the total

number of points accumulated by the member during the immediately preceding year and whether that member qualified as an active emergency responder, active rescue squad member or active volunteer firefighter for the year. The notification could be sent no later than Feb. 1 of each year.

LB222 would clarify that a volunteer member would claim the credit by including a copy of the certification with his or her state income tax return.

Currently, the governing body of the county, city, village or rural or suburban fire protection district is required to file a list of qualifying volunteer members with the state Department of Revenue. LB222 instead would require the certification administrator to file the list with the department.

A Revenue Committee amendment, adopted 29-0, would require the administrator also to send a copy of the list to the governing body of the county, city, village, or rural or suburban fire protection district.

Sen. Bruce Bostelman of Brainard supported the bill. In a survey conducted last year as part of an interim study of the state's volunteer emergency responders, he said, many respondents expressed frustration about the tax credit's administrative process.

Elmwood Sen. Robert Clements also supported LB222, saying it would make it easier for volunteers who qualify for the credit to claim it on their tax returns. Many volunteer emergency responders whose taxes he has prepared have had difficulty proving to him that they qualify, he said.

Senators voted 40-0 to advance the bill to select file.

Valuation adjustment for destroyed property advanced

Lawmakers gave first-round approval April 9 to a tax cleanup bill after amend-

ing it to include a provision meant to provide tax relief to those whose property has been destroyed by a natural disaster.

Sponsored by Elkhorn Sen. Lou Ann Linehan, LB512 would make several technical changes to state tax law requested by the state Department of Revenue.



Sen. Lou Ann Linehan

As introduced, the bill would allow a property owner to petition his or her county assessor for a reassessment of a property's value for that year if the property is destroyed or damaged by a major calamity—such as a fire, flood or tornado—between the assessment date and July 15.

A Revenue Committee amendment would have removed that provision, but lawmakers voted 41-0 to amend the committee amendment with a proposal by Sen. Steve Erdman of Bayard.

His amendment would require a county assessor to report to the county board of equalization all real property that is destroyed by fire or other natural disaster between Jan. 1 and Oct. 1 of any year.

The county board then would adjust the value of the destroyed property based in part on the portion of the year during which the property was intact. The board's action would apply only to the current assessment year.

Omaha Sen. Steve Lathrop said the proposed change would mean that a political subdivision could make up for lost property tax revenue on destroyed property only with a significant levy increase on remaining property. He said it also could reduce a political subdivision's revenue to the extent that it cannot rebuild damaged infrastructure if a large portion of its property tax base is destroyed, as happened when tornadoes hit Hallam and Pilger.

Sen. Curt Friesen of Henderson

supported Erdman's amendment. He said the proposal would not have a large effect on a political subdivision's property tax revenue because the reduced valuation for destroyed property would last for only part of one year.

Sen. Robert Clements of Elmwood also supported the amendment, saying wholesale destruction of a community is rare and that other funds are available to support residents in those instances.

Senators voted 41-0 to adopt the committee amendment and advanced LB512 to select file on vote of 42-0.

Infrastructure grant program for ethanol-gasoline blends advanced

A state grant program would help gas station owners install tanks and pumps used to store and dispense ethanol-gasoline blends under a bill advanced from general file April 10.

LB585, introduced by Sen. Curt Friesen of Henderson, would create a cost-share grant program administered by the Nebraska Energy Office meant to improve retail



Sen. Curt Friesen

motor fuel sites by installing, replacing or converting infrastructure used to store, blend or dispense gasoline-ethanol blends.

An owner or operator of a retail motor fuel site would be eligible to apply for the grants, which could be used only for infrastructure projects designed and used to store and dispense E-15 or E-85 gasoline or a blend of ethanol and gasoline from a pump designed to blend those fuels.

Although Nebraska is the second largest ethanol producer in the country, Friesen said, few retail locations in the state dispense E-15, E-30 and E-85,

blended fuels with higher ethanol content. LB585 is intended to increase the number of locations where consumers can buy those fuels, he said.

"In a state like ours that [is] a leader in ethanol production, we should be leading the way in promoting the use of ethanol-blended fuels," Friesen said.

A grant could not exceed the lesser of 50 percent of the estimated cost of the improvement or \$30,000 for a three-year cost-share agreement. A grant could not exceed the lesser of 70 percent of the estimated cost of the improvement or \$50,000 for a five-year agreement.

As introduced, the bill would repeal a sales and use tax exemption for bullion and currency to fund the program. A Revenue Committee amendment, adopted 35-0, would remove that provision.

Under the amendment, only blender pumps that dispense blends higher than E-15 would be eligible for the grants. The amendment also would require the Nebraska Energy Office to award grants to the maximum number of qualified applicants rather than consider applications in the order they are received.

Friesen introduced an amendment, adopted 36-0, that would remove language stating the Legislature's intent to direct \$1 million to the program.

Sen. Dave Murman of Glenvil supported LB585. He said Iowa, the nation's leading ethanol producer, directs \$3 million per year to an ethanol infrastructure program and has more than 700 retail locations that sell higher ethanol blends. Nebraska has only 62 locations that sell those blends, he said.

By increasing that number, Murman said, LB585 would support agricultural producers and Nebraska's ethanol industry, which he said creates high-paying jobs in rural areas across the state.

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

TRANSPORTATION & TELECOMMUNICATIONS

Omnibus license plate bill advanced

The Legislature advanced a bill from general file April 9 that would authorize the creation of several new specialty license plates.

LB356, as originally sponsored by Norfolk Sen. Jim Scheer, would redistribute certain specialty license plate fees. Scheer said the bill would dedicate more funding to pediatric cancer research.

A Transportation and Telecommunications Committee amendment replaced the bill. As amended, LB356 would dedicate 85 percent of the application and renewal fees associated with Sammy's Superheroes license plates to the University of Nebraska Medical Center for pediatric cancer research. The remaining 15 percent would be credited to the state Department of Motor Vehicles cash fund.

Committee chairperson Henderson Sen. Curt Friesen said the amendment would bring more uniformity and consistency to Nebraska's license plate provisions.

The amended bill also would reclassify a Sammy's Superheroes license plate from an organizational to a specialty plate. This would change the initial application fee from \$70 to \$40 for a message plate and \$5 for an alphanumeric plate.

Under the amendment, 70 percent of all application and renewal fees for standard message plates, Husker Spirit plates and organizational plates

would be dedicated to the Highway Trust Fund. The remaining 30 percent would be credited to the state DMV cash fund.

Application and renewal fees for all specialty plates would be \$40 for message plates and \$5 for alphanumeric plates. Currently, there is no fee for a Breast Cancer Awareness alphanumeric plate. LB356, as amended, would add a \$5 fee for this type of license plate.

The committee amendment also would establish a standard \$50 application fee for both the special interest motor vehicle and one-plate plus sticker program.

The state DMV would be authorized to discontinue specialty license plates if no more than 250 plates are issued for two consecutive years. Gold Star, Purple Heart, Ex-POW, Pearl Harbor Survivor and Disabled American Veteran license plates would be exempt from the discontinuance provision.

Finally, the amended bill would include provisions from several additional bills, including:

- LB128, originally introduced by Venango Sen. Dan Hughes, which would authorize big-horn sheep and sandhill crane license plates;
- LB215, originally introduced by Elkhorn Sen. Lou Ann Linehan, which would authorize a prostate cancer awareness license plate; and
- LB691, originally introduced by



Sen. Jim Scheer



Sen. Dan Hughes



Sen. Lou Ann Linehan

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authorize
an ornate
box turtle specialty license plate.



Sen. Machaela Cavanaugh

Application for and distribution of specialty license plates created under LB356, as amended, would be available effective Jan. 1, 2021.

Friesen introduced an amendment to the committee amendment, adopted 36-0, that would change distribution of standard message license plate fees. The DMV would receive 60 percent of fees and 40 percent would be remitted to the Highway Trust Fund.

The amendment also would authorize the DMV to discontinue specialty license plates every year that standard license plates are reissued, or every six years. New license plates next will be issued in 2023.

Following the 37-0 adoption of the committee amendment, senators advanced the bill to select file on a 37-0 vote.

Proposal to ease unemployment benefit requirement advanced

The Legislature advanced a bill from general file April 9 that would exempt certain seasonal construction employees from a specific unemployment benefit requirement.

Currently, a person applying for unemployment benefits must prove that he or she is actively searching for employment. LB428, introduced by Henderson Sen. Curt Friesen, would waive this requirement for at least 120 days for highway construction employees who are prohibited by the state Department of Transportation from working during the winter months.

Nebraska's highway contractors use a process called "attachment," Friesen said, which allows construction employees who are laid off during the "off season" to receive unemployment benefits. The employee then returns to work for his or her employer when construction season begins in April.

"Nebraska's weather only allows roads and bridges to be built during part of the year," he said. "Contractors cannot afford to lose the skilled workforce to other jobs or other states with warmer weather."

The state Department of Labor originally had proposed shortening the attachment period to eight weeks, Friesen said, which is far shorter than the typical attachment period that can last for four months.

A Business and Labor Committee amendment, adopted 42-0, would maintain the current attachment period for construction employees, but increase the amount that construction employers would contribute to the unemployment fund.

The amendment also would have incorporated provisions of LB306, as originally introduced by Bellevue Sen. Crawford. The bill advanced to final reading earlier this session before failing on a 20-15 vote. Twenty-five votes were needed.

Currently, a person who voluntarily leaves employment with "good cause" would be eligible for unemployment benefits under employment security law. The amended provisions would have added leaving employment to care for a family member with a serious health condition to the existing list of good cause reasons.

Crawford supported the amendment, saying that it would apply only

to a small group of people who have exhausted all of their alternatives.

"This is not for a leave where you take care of a family member and come back to the same job," she said. "This is only if you must leave your current employer and you're actively seeking another job ... that allows you to accommodate family caregiving."

Columbus Sen. Mike Moser opposed including provisions of LB306 in the committee amendment. He said doing so would run counter to the original intent of unemployment insurance.

"To put in an exclusion to allow [employees] to get unemployment [benefits] right away when they quit to take care of a family member is a laudable goal," Moser said. "But it is more of a social service type provision that should be handled in some other way than the unemployment fund."

Lincoln Sen. Matt Hansen, who serves as chairperson of the Business and Labor Committee, introduced an amendment, adopted 37-4, which removed the provisions of LB306 from the committee amendment.

Senators then advanced LB428 to select file on a 44-0 vote.



Sen. Sue Crawford

Special financing for highway construction advanced

A bill that would expedite highway construction projects in Nebraska was advanced from general file April 10.

LB616, as originally introduced by Lincoln Sen. Mike Hilgers, would have authorized the state to structure certain highway construction projects as "build-finance" projects.



Sen. Mike Hilgers

A build-finance project is one in which the builder or contractor pays

for the associated costs as work is performed. Payments then are made by the Nebraska Department of Transportation over a period not to exceed 10 years after the project's completion.

A Transportation and Telecommunications Committee amendment, adopted 35-0, replaced the bill. As amended, highway construction projects with a payment schedule that exceeds the date of completion would be exempt from paying contractor interest.

Authorizing this type of construction financing will speed up construction of major projects like the Lincoln South Beltway, Hilgers said, and save the state millions in interest payments.

"Through this building mechanism, the south beltway will be built in three years [instead of] eight, not only accelerating the economic impact for the city of Lincoln and the state of Nebraska, but also saving tens of millions of dollars in inflation costs over the life of the project," he said.

Senators advanced the bill to select file on a 37-0 vote.

Grant fund proposal for 211 service advanced

Lawmakers gave first-round approval April 11 to a bill that would provide grant funding to a statewide health and human services referral program.

Currently, the Telecommunications Relay System Act levies a surcharge on telephone lines in Nebraska to provide specialized equipment for qualified deaf, hard of hearing and speech-impaired individuals.

LB641, introduced by Omaha Sen. Mike McDonnell, would allocate a portion of that surcharge to provide a \$300,000 annual grant to the



Sen. Mike McDonnell

211 Information and Referral Network.

The network is a free hotline that connects Nebraskans with non-emergency health and human services, McDonnell said, and currently is administered by United Way of the Midlands.

Much of the funding for 211 comes from charitable donations in Omaha, where United Way of the Midlands is located, he said.

"Right now, 211 is vulnerable to downturns in Omaha's economy and changes in the philanthropic community," McDonnell said. "LB641 helps to ensure that 211 will continue to be available throughout the entire state 24 hours a day, seven days a week."

The grant would be used to create a website to educate users about and connect them with available services. The grant also could be used to provide 24/7 service through telephone and online access.

The Nebraska Public Service Commission would accept applications from potential providers each year and approve a program administrator based on its ability to update the information and referral services annually, geographically index such services by county and meet all accreditation standards set by the Alliance of Information and Referral Systems.

A Transportation and Telecommunications Committee amendment, adopted 36-0, would expand the reach of 211 services to include disaster and emergency response. It also would change the bill's funding mechanism from the surcharge to a transfer of \$300,000 annually from the Nebraska Health Care Cash Fund for the next two years.

Omaha Sen. Sara Howard spoke in support of LB641, but opposed using money from the cash fund to pay for the bill's provisions. The fund should be used judiciously to cover the state's health care needs, she said, and risks becoming unsustainable if it becomes a "piggy bank"

for other legislative priorities.

"While I support LB641—and I want to be very clear about that—I do not support funding for this program to come out of the [Nebraska Health Care Cash Fund]," Howard said. "I don't think it's an appropriate place for it and I think the two-cent surcharge is far more appropriate."

Senators advanced LB641 to select file on a 35-0 vote.

Commercial cargo transportation requirements advanced

Commercial vehicle operators would be required to store cargo more securely under a bill advanced from general file April 9.

LB698, sponsored by Brainard Sen. Bruce Bostelman, would require commercial motor vehicle operators to ensure all cargo is secured adequately to prevent it from falling off of the vehicle. Bostelman said the bill is aimed solely at further deterring and penalizing individuals and companies who refuse to comply with load securement laws.



Sen. Bruce Bostelman

"The debris that they lose from their loads is not only an environmental problem," he said, "it is also a highway safety danger for other vehicles on the roadways."

The bill also would require that the structures, systems, parts and components used to secure the cargo be in proper working order with no damaged or weakened components that could cause cargo to fall from the vehicle.

Bostelman introduced an amendment, adopted 34-0, which would classify a violation of the bill's provisions as an infraction, subject to a \$200 fine for the first offense and a \$500 fine for

second or subsequent offenses.

In addition to the infraction, the superintendent of law enforcement and public safety also could assess the owner of a vehicle a civil penalty of \$1,000.

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

URBAN AFFAIRS

Clean energy economic development changes advanced

A bill that would make changes to the Nebraska Property Assessed Clean Energy Act, commonly known as PACE, advanced from general file April 8.

Seward Sen. Mark Kolterman, sponsor of LB23, said PACE was enacted in 2016 and allows cities and counties to authorize PACE financing within their jurisdiction for energy efficiency, water conservation and renewable energy projects for commercial, agricultural and residential property.

Kolterman said PACE loans have been used across the country and allow repayment through special assessments attached to a property. In order to use PACE, he said, a municipality must pass an ordinance establishing a PACE district, which Omaha, Lincoln and Bellevue have done.

An Urban Affairs Committee amendment, adopted 37-0, replaced the bill. Omaha Sen. Justin Wayne, chairperson of the committee, said the amendment addressed two concerns with the bill as introduced.

"The bill originally would have authorized the use of PACE financing to retroactively finance energy efficiency improvements and renewable energy



Sen. Mark Kolterman

systems that were already in place," Wayne said. "Second, the bill originally would have eliminated the requirement that the energy savings generated by a PACE project exceed the cost of the project, commonly known as savings to income ratio, or SIR."

The committee amendment would eliminate the retroactive financing provision. It would retain the SIR provision, but would allow municipalities to waive the requirement on a case-by-case basis.

The amendment also would add new public purpose language to the PACE Act and would change the classification of co-generation and tri-generation systems under the act from a renewable energy resource to an energy efficiency improvement.

Following adoption of the committee amendment, senators voted 39-0 to advance LB23 to select file.

State building code updated

A bill updating Nebraska's building code was given final approval April 11.

LB348, introduced by Sen. Dan Quick of Grand Island, adopts the 2018 version of the International Building Code, the International Residential Code and the International Existing Building Code as published by the International Code Council. Nebraska had been using the 2012 edition of the ICC codes.

Lawmakers passed the bill on a 41-6 vote.

Occupation tax reporting requirement extended statewide, advanced

A bill that originally would have required metropolitan-class cities to

report the impact of occupation taxes was amended to apply statewide and advanced from general file April 8.

Sen. Mike McDonnell of Omaha introduced LB445, which would require designated cities to produce an annual report detailing the following:

- the purpose of the occupation tax;
- any special project designation;
- the amount of tax dollars collected;
- a list of how the money was spent or is budgeted to be spent; and
- the scheduled or projected end date of the tax.

McDonnell said the measure would provide citizens with more information regarding the fees they pay.

"LB445 is truly about government transparency," he said. "I believe transparency builds trust."

An Urban Affairs Committee amendment, adopted 33-0, would apply the reporting requirement to all Nebraska municipalities. The mandated report would be made available for public inspection on a municipality's website or other location no later than 60 days after the end of the municipality's fiscal year.

North Platte Sen. Mike Groene supported the bill and the amendment, which he said would give taxpayers needed information regarding how occupation taxes are used.

"I'm a huge supporter of transparency in government," Groene said.

Following the 37-0 adoption of an amendment offered by McDonnell to extend the reporting deadline to 90 days after the end of a fiscal year, senators advanced LB445 to select file on a 35-0 vote. ■

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