

University leader hiring changes advanced

Lawmakers gave first-round approval March 8 to a bill that would update the University of Nebraska's search process for its chancellor and president positions.

LB1109, introduced by Sen. John Murante of Gretna, would require the university's Board of Regents to provide public notice of a preliminarily selected candidate 30 days before the board votes on whether to hire the candidate. The board would be required to make public the candidate's application materials and provide a forum in which the candidate would meet with and answer questions from the public.

Murante said the current search process, in which four finalists for a position are publicized, deters some top candidates because it discloses that they are considering a new position. The proposal would allow for public input on the selection and ensure that the university could attract the best possible candidates, he said.

"We're going to make sure that the citizens of Nebraska are heard and have a say in the process," Murante said.

Sen. Galen Hadley of Kearney supported the bill, saying that higher

(continued page 2)



Sen. John Murante

Military commission clears first round

Lawmakers advanced a bill to select file March 9 that would create a commission to protect the state's military installations, attract new missions and serve Nebraska's military members and veterans.

LB754, introduced by Bellevue Sen. Sue Crawford, would establish the Commission on Military and Veterans Affairs. The governor-appointed commission would assist the state in attracting and maintaining military missions, Crawford said.

She said Nebraska currently has important assets such as Offutt Air Force Base and its estimated \$1.3 billion annual contribution to the state's economy. There also are opportunities to pursue and secure additional missions and leverage them for economic development across the state, she said.

"The commission and the military liaison established by this bill assure that Nebraska is in the best position to respond to these opportunities and threats when they occur," Crawford said.

Among other duties, the commission would have the authority to:

- receive and administer funds;



Sen. Sue Crawford said Nebraska needs a coordinated effort to address military matters statewide.

- address matters of military significance in Nebraska;
- conduct activities relating to economic development;
- conduct activities relating to the welfare of veterans; and
- advise the governor, Legislature, Nebraska's congressional delegation and other governmental officials where appropriate.

A Government, Military and Veterans Affairs Committee amendment, adopted 30-0, removed a requirement that the commission partner with the state Department of Economic Development in carrying out its functions.

The amendment also removed the

(continued page 3)

University leader hiring process advanced

(continued from front page)

education institutions have become so complex that only a small pool of candidates is capable of running them. He said that Nebraska needs to update its search process in order to compete for talent with other schools in its academic conference.

When search committees contact possible candidates about a job opening, Hadley said, a candidate first will

ask if his or her name is going to be made public as part of the search process.

“More often than not, if the answer is yes, they’re not interested,” he said.

Sen. Ernie Chambers of Omaha spoke in opposition to the bill and filed several motions to delay a vote. He said any process that selects candidates for a leadership position at a public university should face public scrutiny. He said the proposed change would hide the board’s selection process from the public and present Nebraskans with a choice of whether to take it or leave it.

“For them to think that they have the right to conduct one of the most important things they do in total secrecy is unacceptable,” he said.

Sen. Beau McCoy of Omaha also opposed the bill. He said



Sen. Galen Hadley said the bill would accommodate top candidates’ concerns about publicizing their job search.

that including only one candidate in the public vetting process would not give Nebraskans a chance to compare the candidate’s qualifications to those of the others who were considered. Nebraskans expect transparency in any major decision that affects a publicly funded institution, he added.

Senators voted 36-1 to advance the bill to select file. ■



Sen. Beau McCoy said publicizing names of the finalists allows for public scrutiny of their qualifications.

UNICAMERAL UPDATE

The Unicameral Update is a free, weekly newsletter published during the legislative session. It is produced by the Clerk of the Legislature’s Office through the Unicameral Information Office. For print subscriptions, call 402-471-2788 or email uio@leg.ne.gov. Visit us online at Update.Legislature.ne.gov and follow us on [Twitter.com/UnicamUpdate](https://twitter.com/UnicamUpdate).

Clerk of the Legislature: Patrick J. O’Donnell
Editor: Heidi Uhing; Writers: Kyle Harpster, Kate Heltzel, Ami Johnson; Photographer: Bess Ghormley

Printed copies of bills, resolutions and the Legislative Journal are available at the State Capitol room 1104, or by calling 402-471-2709 or 800-742-7456. Status of bills and resolutions can be requested at that number or can be found on NebraskaLegislature.gov. Live video of hearings and floor debate can be viewed on NET2 and at NetNebraska.org/capitol.

Senators may be contacted by mail at this address:
Senator Name, District #, State Capitol, P.O. Box 94604, Lincoln, NE 68509-4604

Assistance provided by the Clerk of the Legislature’s Office, the Legislative Technology Center, committee clerks, legal counsels, journal clerks, pages, transcribers, mail room and bill room staff and the State Print Shop.

The Unicameral Update is available as an audio recording from the Nebraska Library Commission’s Talking Book and Braille Service. Call (800) 742-7691 for more information.

THE NEBRASKA LEGISLATURE’S OFFICIAL NEWS SOURCE SINCE 1977

Military commission clears first round

(continued from front page)

bill's provision for a \$50 per diem for ex officio members and reduced the number of ex officio, nonvoting members of the commission to the following:

- chair of the State Committee of Employer Support of the Guard and Reserve;
- commander of the 55th Wing of the Air Combat Command or his or her designee;
- commander of the United States Strategic Command or his or her designee; and
- commander of the 557th Weather Wing of the United States Air Force or his or her designee.

Among the commission's specific duties would be identifying ways to support sound infrastructure, adequate housing, education and workforce transition for Nebraska's veterans and current and retired military personnel and their families.

Gretna Sen. John Murante, chairperson of the committee, praised Crawford for her ongoing work on behalf of the military in Nebraska.

"I don't know of any member of this Legislature who has done more to ensure the rights and benefits of those members of our state," he said.

Under the amendment, the state Department of Veterans' Affairs would hire a military affairs liaison for the commission and provide administrative support.

The commission would provide an annual report to the governor, the Legislature and commanding officers of military bases in the state regarding recommendations for preserving and sustaining military assets and existing missions, as well as ways to encourage expanding such assets and missions.

Sen. Tommy Garrett of Bellevue supported the bill, saying Nebraska needs to be vigilant in maintaining its military assets and the economic development they bring to the state. The Air Force has excess bases, he said, and is looking for reasons to consider

closures.

"One of the primary reasons that I'm a state senator is that I was very much interested in protecting Offutt Air Force Base," Garrett said.

The bill advanced to select file 35-0. ■

UNICAMERAL YOUTH LEGISLATURE

High school students with an interest in law, government, leadership or public speaking are encouraged to register for the 2016 Unicameral Youth Legislature, which will convene June 5-8.

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

Students will learn about the inner workings of the Legislature directly from senators and staff. Bills will be based on legislation considered during the current legislative session.

Registrants are encouraged to apply for a Speaker Greg Adams Civic Scholarship award, which covers the full cost of admission. Applicants must submit a short essay. Other \$100 scholarships are also available.

The University of Nebraska-Lincoln's Extension 4-H Youth Development Office coordinates housing and recreational activities for the camp as part of their Big Red Summer Camps program.

Registration forms can be obtained from the Legislature's Unicameral Youth Legislature page: www.NebraskaLegislature.gov/uyl.

The registration deadline is May 15.



APPROPRIATIONS

Updates to state agency budget process advanced

Lawmakers gave first-round approval March 8 to a bill that would update certain administrative budget practices for state agencies.

Under LB1092, introduced by Omaha Sen. Heath Mello, any department, office, institution or expending agency that proposes changes to its appropriation for the biennium in progress would be required to file budget forms with the office of the Director of Administrative Services (DAS). Forms would have to be filed by Oct. 24 of each odd-numbered year.



Sen. Heath Mello

In addition, DAS would be required to develop a certification form and procedure, to be included in each budget request, through which each department and agency would certify whether an administered program is an evidence-based program or practice. If not, the department or agency would be required to certify whether the program or practice is reasonably capable of becoming evidence based.

Mello said the bill would codify current practice into state law and enhance the state's budget process.

"Evidence-based policymaking utilizes the best available data and research gathered from state programs and helps guide policymakers when making important decisions related to that program's budget request," he said.

Lincoln Sen. Kathy Campbell supported the bill. She said a recent conference of state legislators provided examples of success in states that had

used a similar process to examine child welfare issues.

"I saw states who had done this and they prioritized where they wanted to go based on what they were learning from the programs and best practices," she said. "This is a very exciting future for our appropriations process."

The bill advanced to select file 26-0.

Economic development measures advance

Senators advanced a bill March 9 that would change several economic development provisions.

LB1093, introduced by Omaha Sen. Heath Mello, initially dealt with cash funds for tobacco prevention and stem cell research. A committee amendment, adopted 32-0, replaced the provisions with those of three other bills.

As amended, the bill incorporates provisions of LB1017, introduced by Sen. Brett Lindstrom of Omaha, that would eliminate a residency requirement for student interns under a grant program.

The bill includes technical changes from LB1028, introduced by Sen. Adam Morfeld of Lincoln, that would require the state Department of Economic Development to contract with a statewide microenterprise development assistance organization.



Sen. Adam Morfeld

The department would award between \$1.25 million and \$2 million in fiscal year 2016-17 and between \$1.5 million and \$2 million in FY2017-18. The department also would be required to contract with a statewide venture development organization and award at least \$2 million to a product commercialization program.

LB1093 also incorporates provisions

from an amendment to LB560, introduced by Sen. Matt Williams of Gothenburg, that would require the University of Nebraska's Board of Regents to report annually to the Legislature with benchmarks that lawmakers could use to evaluate the performance of the Nebraska Innovation Campus.



Sen. Matt Williams

Senators voted 30-0 to advance the bill to select file.

BANKING, COMMERCE & INSURANCE

Direct primary care bill advanced

A bill that would specify the requirements of a direct primary care agreement and clarify that direct primary care agreements are not insurance was given first-round approval March 8.

Ralston Sen. Merv Riepe, introducer of LB817, said the proposal would provide clear legislative guidance for the state Department of Insurance that direct primary care agreements do not constitute insurance or function as a qualified health plan pursuant to any federal mandate.



Sen. Merv Riepe

"The need for this legislation is to guarantee in statute that direct primary care is not insurance and therefore exempt from insurance codes," Riepe said.

Direct primary care is a medical care delivery model involving a contract between a patient and a primary care practitioner in which the patient pays a monthly retainer for unlimited office visits and an annual physical

exam, he said. Generally, patients also obtain an insurance plan for major medical expenses, he said.

Under the bill, a practitioner in a direct primary care agreement would be prohibited from billing a patient in any form for primary care services provided under the contract. It also would require a practitioner to provide 60 days' notice in advance of any changes to the contract.

"Fee-for-service health care is not working in the United States, and that includes Nebraska," Riepe said. "The key to bending the health care cost curve is to refocus on direct primary care."

Gering Sen. John Stinner supported the bill, saying direct primary care creates better options for providers and patients. For example, he said, doctors can escape the "blizzard" of paperwork that comes with billing insurance companies for routine care and instead focus on their patients.

Sen. Robert Hilkemann of Omaha agreed, calling the bill "innovative, outside the box thinking." Patients would not be mandated to seek direct primary care, he said, but those who do would experience a simplified process.

"It will lead to better health outcomes," he said. "Certainly, the research has shown that."

LB817 advanced to select file on a 38-0 vote.

BUSINESS & LABOR

State employee vacation policy amended, advanced

Lawmakers amended and advanced a bill from select file March 7 that would ensure state employees are compensated for unused vacation time.

Under LB830, introduced by Omaha Sen. Burke Harr, a state

agency that denies an employee's reasonable request to use vacation leave before it is forfeited under the "use it or lose it" policy must pay the employee the cash equivalent of the forfeited leave that was denied.



Sen. Burke Harr

A Harr amendment, adopted 28-0, would give the employing agency discretion in approving or denying vacation requests. The length of vacation leave requested, the number of days left before forfeiture and the prior notice given to management all would be considered in determining what is and is not a reasonable request.

Omaha Sen. Bob Krist also introduced an amendment, which exempted from the bill employees of the Legislature and the state Department of Correctional Services. He said employees of the two state agencies should not be denied vacation leave.

"Just like batteries need to be recharged, people need vacation time," he said. "It's a health, safety and welfare issue to afford those folks to take that opportunity."

The amendment was adopted on a 34-0 vote.

Under the bill, cash payments made would be considered compensation in state employees' defined contribution and cash benefit plans but would not be considered compensation for state employees' defined benefit plans.

Currently only judges, state patrol and public school employees have defined benefit retirement plans. Harr said the change would ensure that an employee under a defined benefit plan could not artificially inflate his or her compensation right before retirement, thus inflating benefits received in retirement.

LB830 also incorporated provi-

sions of LB972, another bill introduced by Harr. These provisions added major, nontenured policymaking positions under the definition of employment under the Employment Security Law, making them eligible for compensation under LB830. The provisions also would require that any cash payment for forfeited vacation leave be paid by the state agency within 30 days after the requested and denied leave is forfeited.

The bill advanced to final reading by voice vote.

EDUCATION

Tuition waiver for law enforcement officers advanced

Nebraska law enforcement officers could apply for a tuition waiver under a bill advanced from general file March 9.

LB906, introduced by Sen. Brett Lindstrom of Omaha, would authorize a 30 percent tuition waiver for law enforcement officers who attend any state university, state college or community college in Nebraska. The officer would have to maintain satisfactory job performance, meet all admissions requirements at their postsecondary institution and pursue an associate or baccalaureate degree.

A committee amendment, adopted 28-0, clarifies that the officer must pursue a degree related to his or her career in law enforcement.

Senators voted 27-0 to advance the bill to select file.



Sen. Brett Lindstrom

EXECUTIVE BOARD

Inspector access to child welfare records approved

Lawmakers passed a bill March 1 that expedites delivery of confidential records to the Inspector General of Nebraska Child Welfare.

A bill passed by the Legislature in 2015 expanded the jurisdiction of the inspector general to include the state's juvenile services division of the Office of Probation Administration. It authorized the inspector general to access confidential information pertinent to investigations, including video testimony from victims of abuse.

LB954, introduced by Omaha Sen. Bob Krist, additionally authorizes the inspector general to submit written requests for access to records—including sealed records—of juvenile probation officers. The records must be delivered within five days of a juvenile court order.

Upon receipt of orders from the juvenile court or the Office of Probation Administration, the juvenile services division will grant direct computer access to all computerized records maintained by the division relevant to a specific case under investigation.

The bill also directs the inspector general to immediately notify the probation administrator of possible misconduct by an employee of the juvenile services division found during an investigation. Pertinent information regarding a potential personnel matter will be provided to the Office of Probation Administration.

LB954 also directs the juvenile court



Sen. Bob Krist

to provide confidential record information to the Foster Care Review Office.

The bill passed with an emergency clause on a 49-0 vote.

Appointments made to three special committees

The Executive Board of the Legislature announced appointments to three special committees March 9.

The Election Technology Committee was established Feb. 29 with the adoption of LR403. The committee will study the longevity of technology used by election commissioners and county clerks and the feasibility of updating or replacing Nebraska's election technology.

Appointed to the committee are: Lincoln Sen. Matt Hansen; Omaha Sen. Robert Hilkemann; Venango Sen. Dan Hughes; Omaha Sen. Brett Lindstrom; Lincoln Sen. Adam Morfeld; Gretna Sen. John Murante (chairperson); and Gering Sen. John Stinner.

Lawmakers established the Task Force on Behavioral and Mental Health Feb. 29 with the adoption of LR413.

The task force will study issues relating to the adequacy of the state's behavioral health system, including monitoring the progress of a statewide needs assessment and strategic planning being conducted by the state Department of Health and Human Services (DHHS).

Appointed to the committee are: Lincoln Sen. Kate Bolz; Bellevue Sen. Sue Crawford; Omaha Sen. Sara Howard; Omaha Sen. Heath Mello; Omaha Sen. John McCollister; Hastings Sen. Les Seiler; and Norfolk Sen. Jim Scheer.

The chairperson will be elected by members of the task force.

The AccessNebraska Oversight

Committee replaced a special investigative committee that was established in 2014. AccessNebraska is an online and call center system developed and implemented by DHHS to determine public benefit eligibility and deliver benefits to clients.

A committee was established to investigate an array of problems including long wait times for callers, high worker turnover and lost paperwork. Authorization for the committee was extended until the beginning of the current legislative session.

An oversight committee was authorized Feb. 29 with the adoption of LR418. Appointed to the committee are:

Hyannis Sen. Al Davis; Lincoln Sen. Matt Hansen; Omaha Sen. Sara Howard (chairperson); Heartwell Sen. John Kuehn; Omaha Sen. John McCollister; Lincoln Sen. Patty Pansing Brooks; and Gering Sen. John Stinner.

Reports containing the committees' findings and recommendations are due to the Legislature by Dec. 15.

GENERAL AFFAIRS

Omnibus liquor bill advanced

A bill that would make a variety of changes to the state's Liquor Control Act advanced from general file March 9.

LB1105, introduced by O'Neill Sen. Tyson Larson, would establish the Nebraska Craft Brewery Board. The board would



Sen. Tyson Larson

include seven governor-appointed members who have been involved in the beer industry.

The bill also would create the Nebraska Beer Industry Promotional Fund to advance, market and promote the beer brewing process in Nebraska and the agricultural products grown and produced in the state for use in the beer industry. The fund would consist of money credited from beer manufacturer shipping licenses and a \$250 annual fee for craft brewery licensees.

“The Nebraska Craft Brewery Board would serve as an advisory panel to the Nebraska Liquor Control Commission in all matters pertaining to the beer industry,” Larson said.

In addition, the bill would make the following changes to the Liquor Control Act:

- remove the requirement that a club must have a kitchen;
- harmonize the excise tax rate and make the statute applicable to wholesale and manufacturing licensees, not just retail licensees;
- remove the prohibition on “other fruit product nor any artificial product which imparts a fruit flavor other than apple” in the hard cider definition;
- establish a liquor license class for small boutiques to sell a limited amount of alcohol;
- eliminate the requirement that a licensee must reapply for a license if the licensee’s location is annexed by an adjacent municipality;
- increase the penalty for the illegal manufacturing of spirits;
- repeal the prohibition on pull tab or pull tops on soda and beer cans; and
- clarify that a craft brewery licensee, who has held the license for a minimum of three years and operates a brewpub or microbrewery, must obtain a manufacturer’s license once the licensee exceeds 20,000 barrels.

The bill also would allow employees who are at least 16 years old to ring up tickets that include alcohol purchases as long as the employee does not handle alcohol.

A General Affairs Committee amendment, adopted 31-0, removed a provision that would allow an employee between the ages of 16 and 19 to handle alcohol if he or she had taken a Liquor Control Commission approved server training course.

The amendment would house the Nebraska Craft Brewery Board within the state Department of Agriculture rather than the Nebraska Tourism Commission. The department also would be tasked with administering the board’s fund.

The amendment incorporated provisions of two additional bills.

LB748, introduced by Omaha Sen. Brett Lindstrom, would allow an individual to import alcohol—up to 108 liters per calendar year—for personal use from a holder of a retail direct sales shipping license or its equivalent.



Sen. Brett Lindstrom

LB1046, introduced by Crete Sen. Laura Ebke, would allow a Nebraska resident who is legally able to work in the state to be eligible for a liquor license regardless of U.S. citizenship.



Sen. Laura Ebke

Cedar Rapids Sen. Kate Sullivan supported the amendment and the bill, saying craft breweries have been a boon for several small towns in the state.

“This is burgeoning business out in rural Nebraska,” she said.

Following adoption of a technical amendment offered by Larson, LB1105 advanced to select file 32-0.

HEALTH & HUMAN SERVICES

Health care consumer protections amended, advanced

A bill that seeks to enhance protections for individuals who receive in-home care services was amended and advanced from select file March 7.

LB698, sponsored by Omaha Sen. Heath Mello, would create the Home Care Consumer Bill of Rights, which would apply to individuals 60 and older, those 18 and older with a disability or who are incapacitated and the parent or guardian of a minor who receives home care services.



Sen. Heath Mello

A consumer of home care services, or the parent or guardian of a consumer who is a minor, would have the right to privacy, refuse service and have grievances addressed in a timely manner. They also would have the right to:

- participate in the approval of services and any changes in service;
- receive care in a way that promotes his or her dignity and individuality; and
- information on the cost of services and whether those costs are covered by insurance or a public or private program.

An individual who violates the bill’s provisions would be subject to a civil penalty of \$100 per violation, up to a maximum of \$2,000.

Sen. Nicole Fox of Omaha introduced an amendment, adopted 31-0, which incorporated provi-



Sen. Nicole Fox

sions of her LB963.

The amendment would update state law to comply with changes to the federal Older Americans Act and equalize the process for how the Area Agencies on Aging fund local programs.

“If these changes are not made, Nebraska will be out of compliance with federal regulations,” Fox said.

LB698 was amended on general file to include provisions from three additional bills.

LB708, originally introduced by Lincoln Sen. Kate Bolz, would require the state Department of Health and Human Services to develop an endorsement for assisted living facilities that provide high quality care for individuals with cognitive impairment, dementia and Alzheimer’s disease.



Sen. Kate Bolz

Qualifications for the endorsement would include staffing enhancements, staff training, dedicated programming and security requirements. The department also would be required to examine the Medicaid rate structure and make recommendations regarding a higher or supplemental reimbursement rate for facilities that qualify for the endorsement.

LB849, introduced by Bellevue Sen. Sue Crawford, would require a hospital to give each patient or the patient’s legal guardian the opportunity to name an individual as a designated caregiver.



Sen. Sue Crawford

A designated caregiver would be consulted regarding the patient’s discharge plan and the hospital would be required to describe the patient’s aftercare needs post-release or transfer, including a description and demon-

stration of any aftercare tasks.

LB869, also introduced by Crawford, would align Nebraska law with federal requirements for fingerprinting and background checks of high-risk Medicaid providers.

Following adoption of the Fox amendment, LB698 was advanced to final reading by voice vote.

Foster youth bill amended, advanced

A bill designed to normalize life for Nebraska’s foster youth was amended to extend authorization of a commission before being advanced to final reading March 7.

LB746, sponsored by Lincoln Sen. Kathy Campbell, would implement a federal law designed to promote normalcy for foster youth.



Sen. Kathy Campbell

Among other provisions, the bill would establish the Normalcy Task Force, with members appointed by the Nebraska Children’s Commission.

Campbell brought an amendment, adopted 33-0, to add provisions of LB1034, which she also introduced. The provisions would extend the termination date of the Nebraska Children’s Commission to June 30, 2019. The commission currently is scheduled to terminate June 30, 2016.

Campbell said the commission has been helpful to the Legislature by providing insight and recommendations regarding improvements to the state’s child welfare system.

Juvenile justice youth were transferred to the state’s judicial branch in 2013, Campbell said, and a change in the law is needed to give the commission express authority to study juvenile justice issues.

“[The amendment] extends the Nebraska Children’s Commission through 2019 and updates the duties of the commission to more accurately reflect the work that they’ve been doing,” she said.

The amendment would require that no member of the commission have a private financial interest, profit or benefit from any of the commission’s work. It also would require the commission to develop a system of care plan and analyze case management workforce issues.

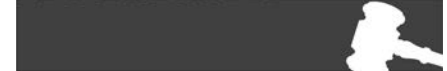
Sen. Kate Bolz of Lincoln supported the amendment, saying the commission would be looking at important issues for lawmakers to consider next session—particularly how to recruit and retain caseworkers in the juvenile justice and child welfare systems.

“I think that’s really a linchpin in improving quality and efficiency in these systems,” Bolz said.

The amendment also would harmonize requirements regarding guardians ad litem as adopted last session and make other technical changes.

Following adoption of the Campbell amendment, LB746 advanced to final reading by voice vote.

JUDICIARY



Administrative procedure changes advanced

State agencies would have more direction and clarity regarding the promulgation of rules and regulations under a bill advanced from general file March 8.

The Legislative Performance Audit Committee introduced LB867. Syracuse Sen. Dan Watermeier, chairperson of the committee, said the proposal

was the result of a 2015 performance audit of the Administrative Procedure Act (APA), which found that current language in state law gives inadequate guidance to agencies and does not reflect best practices.



Sen. Dan Watermeier

Among other provisions, the bill would amend the definition of rule or regulation and identify three types of agency documents that are not rules:

- internal procedural documents used to guide agency staff on organization and operations;
- guidance documents; and
- forms and instructions.

The bill also would exempt style, format and citation changes from public notice and hearing requirements. Security policies and procedures that, if released, would endanger public safety also would be exempted.

“While LB867 changes the language of what a rule is,” Watermeier said, “it does not change the intent behind the original rule definition.”

The bill also would create short-term emergency rules, which can be adopted outside of normal APA procedures. An emergency rule would require approval of the governor and would remain in effect for 90 days. An emergency rule could be made permanent only through the full promulgation process.

A Government, Military and Veterans Affairs Committee amendment, adopted 29-0, would limit the factors that an agency could consider in determining whether emergency rulemaking is necessary to imminent peril to public health, safety or welfare or the unforeseen loss of federal funding for an agency program.

Rules and regulations made under the emergency rulemaking procedures would be filed with the secretary of

state’s office and published on the agency’s website.

The amendment also clarifies that exemptions to the formal rulemaking requirements outlined in the bill could not be used if a change would alter the rights or obligations of the public.

Watermeier offered an amendment, adopted 30-0, which removed a requirement that the governor review emergency rules. He said the requirement could greatly slow down the sort of action that would need to be taken in an emergency situation.

The bill also adds language that would require state Department of Correctional Services’ regulations for circumstances in which an inmate is outside of a correctional facility.

Omaha Sen. Heath Mello supported the bill and committee amendment. Changes are necessary in some state agencies—particularly the state Department of Correctional Services—he said, which have relied on internal memos rather than the APA process to authorize some programs.

Mello cited an inmate driving program that resulted in the death of a Lincoln woman when her vehicle was hit by one driven by an inmate.

“None of us really knew [that] program existed,” he said. “It became very apparent that the [department] did not go through the Administrative Procedures Act for most of their operational rules and regulations.”

Sen. Sue Crawford of Bellevue also supported the bill, saying the rules and regulations process allows for important public input on state agency policies that impact citizens’ rights. Policies that have the force of law need to go through a formal process, she said.

“This administrative procedures process is a key part of how we are able to shape what government does,” Crawford said.

LB867 advanced to select file 33-0.

Juvenile court standards advanced

Lawmakers gave first-round approval to a bill March 8 that would clarify the rights of individuals appearing in juvenile court.

LB894, introduced by Lincoln Sen. Patty Pansing Brooks, would require law enforcement to use developmentally appropriate language when explaining a juvenile’s right to counsel. It also would direct the state Supreme Court to establish professional standards by July 1, 2017 for all attorneys practicing in juvenile court.



Sen. Patty Pansing Brooks

Pansing Brooks said some judges use promises of leniency to encourage juveniles to waive their right to counsel and represent themselves. In cases where counsel is appointed for a juvenile, she said, the case often is assigned to a young, inexperienced attorney.

“A young person’s freedom should not be resting on the shoulders of people with little to no training in juvenile justice,” she said. “The least capable should not be appointed to serve the most vulnerable.”

The bill also would require the juvenile court, when appointing counsel, to do so after a juvenile petition is filed but before the juvenile appears before the court. It also would ensure a juvenile’s timely right to counsel.

Juvenile courts could accept a juvenile’s waiver of right to counsel only on the record in open court and confirmed in writing signed by the juvenile. The court would consider the juvenile’s age, intelligence and emotional stability in determining whether to accept such a waiver.

Under no circumstance would a

waiver of right to counsel be accepted for a juvenile under age 14 or for a detention hearing, dispositional hearing requiring out-of-home placement or motion to transfer a case from juvenile to adult court.

A Judiciary Committee amendment, adopted 26-0, incorporated provisions of three additional bills, including:

- LB709, originally introduced by Omaha Sen. Sara Howard, which would reclassify secure and nonsecure detention as detention and alternatives to detention and require additional court review of such programs;
- LB845, introduced by Pansing Brooks, which would require thorough documentation of each instance of solitary confinement of a juvenile, including the length of confinement and the race, ethnicity, age and gender of confined juveniles; and
- LB893, introduced by Pansing Brooks, which would require that a juvenile be at least 11 years old to be prosecuted or adjudicated for a criminal law violation and would give county juvenile courts jurisdiction of children who are 10 or younger who engage in conduct that otherwise would be considered a law violation.

The amendment also included provisions of LB675, originally introduced by Omaha Sen. Bob Krist. The provisions would specify that a juvenile could be detained only if he or she is considered a threat to



Sen. Sara Howard



Sen. Bob Krist

the physical safety of others or is at risk of failing to appear for court.

The provisions also would have allowed the secure detention of juveniles 12 or younger only if the juvenile is alleged to have committed a Class I or Class II felony.

Krist introduced an amendment, adopted 25-0, which removed the provisions of LB675 from the amended bill. He said rural communities with limited facilities would have difficulty implementing the provisions this year.

It is unconscionable that young people are being detained only due to a lack of appropriate facilities, Krist said, promising to reintroduce the bill in the 2017 legislative session.

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

Changes to parole administration advanced

A bill advanced by lawmakers March 9 would grant more oversight to the Inspector General for the Department of Correctional Services.

A bill passed last year provided for the state Department of Correctional Services' Office of Parole Administration to be located within the state Board of Parole. LB910, introduced this year by Lincoln Sen. Kate Bolz, would ensure the inspector general has oversight of parole administration once that transition is complete.



Sen. Kate Bolz

"One of the most important things we did [in last year's bill] was to create an independent parole board that allows for independence and autonomy of the board in making the best decisions for people reentering society," she said. "[LB910] continues our work to improve and develop best practices

for reentry for individuals leaving our correctional systems."

Bolz introduced an amendment, adopted 27-0, which would require the parole administration office to provide public counsel and the inspector general access to all computerized records, reports and documents maintained by the office in connection with the administration of parole. Release of medical or mental health records would be subject to a parolee's consent.

The bill also would require the department director to annually submit a report detailing the race, gender and age of all inmates held in restrictive housing as well as the length of time spent in such housing. The report must include the number of inmates diagnosed with mental illness or behavior disorders held in restrictive housing.

Lincoln Sen. Adam Morfeld also introduced an amendment, which would eliminate a ban on Supplemental Nutrition Assistance Program (SNAP) eligibility for individuals convicted of a drug-related felony offense. Morfeld said 18 states have repealed similar bans.

"Denying a stable food source to individuals reentering society is counterproductive and increases the likelihood of recidivism," he said, adding that losing access to SNAP benefits affects the children of offenders. "We should not punish children for the mistakes and trials of their mothers and fathers."

Sen. Les Seiler of Hastings supported the amendment, saying the Judiciary Committee has been working for the past three years on ways to ease the reentry process for nonviolent offenders.

"This is a part of getting parolees training, finding jobs and earning money so they can pay back society and pay taxes," he said. "This is one method of [helping to stabilize their lives] and getting food to them."

Sen. Bill Kintner of Papillion challenged the germaneness of the

Morfeld amendment. According to legislative rules, only amendments found to be germane, or relevant, to the underlying bill may be considered during debate. The chair ruled the amendment to be germane to LB910.

Kintner challenged the ruling of the chair, saying the amendment's provisions, originally included in Morfeld's LB690 and heard by the Health and Human Services Committee, should be amended into a bill dealing with public benefits, not parole.



Sen. Adam Morfeld

Lincoln Sen. Kathy Campbell disagreed, saying ensuring those who are leaving a correctional facility and re-entering society have access to a stable food source is a primary component to the parole system.

"To my knowledge, there's no other felony that we [apply the ban on SNAP benefits] to," Campbell said. "How can we expect people to come out of the system, get a job and rebuild their lives without food?"

The motion to overrule the chair failed on a 7-26 vote.

Kintner opposed the amendment.

"Nebraska should not use tax dollars to support those who choose to continue using and selling drugs," he said.

Following the adoption of the Morfeld amendment on a 35-5 vote, senators advanced the bill to select file 31-5.

Staff increase, caseload limits proposed for public guardians

Additional staff would help manage public guardian cases under a bill advanced by the Legislature March 7.

LB934, introduced by Lincoln Sen. Colby Coash, would remove a requirement that the public guardian hire up to 12 associate guardians. Instead,

the director of the Office of Public Guardian would be changed with hiring a multidisciplinary team of up to 20 professionals and support staff, including at least one attorney licensed to practice law in Nebraska.



Sen. Colby Coash

A 2015 report by the Office of Public Guardian estimated that each current employee would have to work 123 hours each week to maintain its current workload, Coash said.

"The last thing we want is for anyone to not receive the attention they need," he said. "We need to make these changes to make sure our most vulnerable citizens are protected and have the services they need."

The bill also would limit the number of cases the public guardian could accept to a ratio of 20 public wards or protected persons to each member of the multidisciplinary team.

Bancroft Sen. Lydia Brasch supported the bill. She said protecting seniors and vulnerable adults will become even more of a pressing issue in the future.

"The state of Nebraska expects the population of aging adults to nearly double," she said. "[LB934] will help provide staff training, oversight and protections [for those aging adults]."

A Judiciary Committee amendment, adopted 35-0, removed from the bill a restriction limiting the office to a total of 480 cases and incorporated provisions of LB1008, a bill also introduced by Coash.

These provisions would require that a guardian ad litem be a licensed attorney in good standing, complete relevant training and advocate for the best interests of the individual whom they defend, including their social, economic and personal safety interests.

Each guardian ad litem would be

required to make contact with the person he or she represents within two weeks of appointment and become familiar with that person's condition to the best of his or her ability.

The guardian ad litem would be authorized to conduct discovery, present and cross-examine witnesses, file motions on behalf of the person they represent and request medical, psychological or other relevant examinations of the person to whom they are appointed.

He or she also would be authorized to make recommendations to the court regarding a temporary or permanent guardianship, conservatorship or other protective order.

Coash introduced an amendment that would incorporate provisions of his LB1007, which would extend the statute of limitations to six years on cases of abuse, neglect or exploitation of a vulnerable or senior adult from its current three-year limit.

The amendment also would clarify the definition of exploitation under the Adult Protective Services Act to include the wrongful withholding or control of a vulnerable or senior adult's financial assets through intimidation, threat of force or a breach of fiduciary duty by a guardian or conservator.

Following the adoption of the Coash amendment on a 33-0 vote, senators advanced the bill to select file 36-0.

Ban on sale of "lookalike" drugs advanced

Lawmakers gave first-round approval March 7 to a bill that would ban certain synthetic drugs.

LB1009, introduced by Gothenberg Sen. Matt Williams, would ban the sale and use of "lookalike" substances. Williams



Sen. Matt Williams

said the bill is intended to prevent sales of a harmful and illegal synthetic drug called K2, which often is sold in deceptive packaging to skirt the law.

There were 120 emergency room visits related to K2 in Lincoln last year, Williams said.

“There has been frustration because each year we bring legislation that changes the banned chemical compounds. As soon as we do that, someone [finds out] what the compound is and manufactures a new version,” he said. “This may not be a silver bullet but it gives us the tools to get [K2 products] off the shelves and keep them off the shelves.”

The bill would define a lookalike substance as one that is not specifically categorized as a controlled substance but possesses one or more of the following characteristics:

- packaging or labeling that suggests a user would achieve euphoria, hallucination, mood enhancement or stimulation that mimics those of a controlled substance;
- images or labels that suggest it is a controlled substance;
- disproportionately high pricing; or
- warning labels suggesting compliance with state and federal laws regulating controlled substances.

A person who knowingly offers, displays, markets, or sells a lookalike substance would be guilty of a Class IV felony, which carries a maximum penalty of three years imprisonment with 18 months probation, a \$10,000 fine or both.

A Judiciary Committee amendment, adopted 28-0, added an emergency clause as well as a severability clause, which means that if one part of the bill were declared to be unconstitutional, the remaining parts of the bill would not be impacted.

Omaha Sen. Nicole Fox spoke in support of the bill. She said it would help to curb the manufacture of K2, which is easily accessible to youth and adults alike.

“We can send a clear message to the manufacturers that we won’t stand idly by while they continue to [evade] the law and put Nebraskans at risk,” she said.

LB1009 also classifies the production, distribution and sale of certain lookalike substances as violations of the Uniform Deceptive Trade Practices Act. Each individual package would be considered a separate violation. The bill would not restrict the ability of scientific experts to use synthetic substances for investigative purposes.

The bill advanced to select file on a 35-0 vote.



Bond authority for natural resources districts stalls

A bill authorizing natural resources districts (NRDs) to use bonds to pay for water management projects stalled in the Legislature March 7.

As introduced by Sen. Rick Kolowski of Omaha, LB344 would have authorized natural resources districts to issue general obligation bonds to pay for water management projects provided that two-thirds of the district’s board of directors approve. The bonds would be retired using the district’s tax revenue.

A Natural Resources Committee amendment, adopted 25-2, would have required a district to meet several requirements before issuing bonds,

including submitting an application for funding from the Water Sustainability Fund. The fund was created by the Legislature in 2014 to help fund improvements in water supply infrastructure and water management projects.

Kolowski said the \$32 million allocated thus far to the Water Sustainability Fund is not enough to support the more than \$50 million in projects proposed to date. LB344 would allow NRDs to supplement the fund with bonds so that more projects could be built, he said, adding that the fund will begin to approve projects later this year.

“This legislation is essential to ensure that water needs all across our state can receive funding,” Kolowski said.

Sen. Curt Friesen of Henderson supported the bill, saying that it would give natural resources districts another way to raise money for projects that manage the state’s water resources. He said bonding is a tool most districts would not use but should have in case it later becomes necessary.

Sen. David Schnoor of Scribner opposed the bill, saying it would allow NRDs to increase taxes at a time when many Nebraskans are asking for property tax relief. As introduced, the bill would not have given voters a chance to approve the issuance of the bonds, he said.

Schnoor added that the Legislature should not extend natural resources districts’ taxing authority before the Water Sustainability Fund has been tapped.

“We haven’t even given [the fund] time to see if it works and now we’re going to authorize the levying of more money,” he said.

Kolowski introduced an amendment, adopted 28-3, that would have required a majority of a district’s voters to approve a levy increase of more than 1 cent to pay off bond debt.

Sen. Dave Bloomfield of Hoskins said the amendment improved the bill



Sen. Rick Kolowski

but that it still would be a mistake to allow districts to increase their tax levies when farmers and ranchers are struggling with falling commodity prices.

“The idea of doing that during an economic downturn when you should be cutting taxes—not increasing spending—just makes absolutely no sense to me,” he said.

After several hours of debate, Kolowski filed a motion to bracket the bill until April 20, the last day of the session. Senators obliged without objection, making the bill unlikely to be debated again.

Fracking well reporting requirement advances

Senators advanced a bill March 9 that would enhance disclosure and public notice regulations on injection wells.

LB1082, sponsored by Sen. Ken Schilz of Ogallala, would require commercial injection well operators to sample and analyze injected wastewater at least once per year and provide the resulting data to the Oil and Gas Conservation Commission, which regulates Nebraska’s oil and gas production.

The bill also would require the certification and monitoring of vehicles used to transport the wastewater and the periodic evaluation of an operator’s ability to pay the costs of shutting down a well.

The commission would be required to provide public notice of an injection well permit application to the county, city or village where the well would be located and could conduct public meetings to review them.

LB1082 also would remove language from the commission’s purpose statement encouraging it to promote development of the state’s oil and gas



Sen. Ken Schilz

resources.

Senators voted 29-0 to advance the bill to select file.



State patrol retirement changes advanced

Lawmakers gave first-round approval March 9 to a proposal that would change the retirement plans of new Nebraska State Patrol members.

Seward Sen. Mark Kolterman, sponsor of LB467, said the bill was introduced last year as a placeholder



Sen. Mark Kolterman

while the committee worked to reach a compromise on changes to the state patrol plan.

“LB467 was introduced to create a second tier of reduced benefits for [new] members of the Nebraska State Patrol,” Kolterman said, adding that similar changes have been made in recent years to the state’s other retirement plans.

Work was done over the interim, he said, which resulted in additional proposed changes. The result was a Retirement Systems Committee amendment, adopted 32-0, which replaced the bill.

Among other provisions, the amendment would make the following benefit changes for state patrol officers who are hired on or after July 1, 2016:

- increase the officer contribution rate from 16 to 17 percent;
- reduce the maximum cost of living adjustment (COLA) from 2.5 to 1 percent;
- prohibit participation in the Deferred Retirement Option Plan;
- increase from three to five the

number of years of employment used to calculate a member’s final compensation rate;

- limit the increase in compensation in each of the five years prior to retirement to 8 percent per year for benefit calculations; and
- exclude any unused sick, vacation, holiday and compensatory leave in the calculation of a member’s final average monthly compensation.

If the plan is 100 percent funded, a maximum supplemental COLA of 1.5 percent could be granted at the discretion of the Public Employees Retirement Board (PERB).

“We know that it’s not exactly what the patrol wants—they’d always like to have more—but this brings the state patrol plan into the same position that we passed in 2013 for the teachers and last year for the judges,” Kolterman said.

Sen. Heath Mello of Omaha supported the bill and the amendment, saying the changes are essential to the sustainability of the state patrol retirement plan.

Mello said the 8 percent cap on increased compensation was particularly important in containing costs. The impact of so-called “spiking” by patrol members prior to retirement is an estimated unfunded liability for Nebraska taxpayers of \$12 million over time, he said.

Sen. Brett Lindstrom of Omaha also supported the changes, saying additional issues likely will require examination in the future—including the estimated annual rate of return on the plan’s investments.

“It comes down to one thing: long-term solvency,” Lindstrom said. “I would suspect that when the actuary looks at the data and puts in its recommendation, that will change from 8 percent to 7.75 or 7.5 percent.”

Kolterman agreed. While the state pa-

trol plan currently is 87 percent funded, he said, it will be sustained only through annual multi-million dollar, actuarially required contributions by the state.

“This summer, the actuarial experience study is going to be completed,” he said. “We as a committee and the PERB expect to see a reduced assumed rate, which will require even greater contributions by the state.”

LB467 advanced to select file 32-0.

REVENUE

Access to tax incentive data advanced

A bill that would ensure the Legislative Audit Office’s access to data necessary for conducting performance audits of tax incentive programs advanced from select file March 10.

LB1022, introduced by the Legislative Performance Audit Committee, would give the office direct access to all agency databases containing relevant program information. The bill would allow the office to request confidential state Department of Revenue data and remove current provisions giving the speaker of the Legislature and the chairperson of the committee access to confidential data in certain circumstances.

A committee amendment adopted on general file would extend the incentive programs’ expiration by three years.

Sen. Paul Schumacher of Columbus introduced an amendment that would extend it by only one year. He said the Legislature should wait to review an upcoming performance audit before giving a long-term extension to programs that grant millions of dollars in tax credits.

“We should not give up our option to control the fate of this major, major expenditure,” Schumacher said, “and that is what we’d be doing if we just

move it down the road.”

The amendment failed on a 14-20 vote and senators advanced the bill to final reading on a voice vote.

TRANSPORTATION & TELECOMMUNICATIONS

Animal transport weight exceptions amended, advanced

Certain agricultural vehicles would be exempt from weight and load limitations under a bill advanced from general file March 9.

LB977, introduced by Papillion Sen. Jim Smith, would exempt implements of animal husbandry—tractors, fertilizer spreaders and mixer-feed trucks—from weight and load limitations on Nebraska highways. The exemption would not apply to vehicles on the interstate.



Sen. Jim Smith

Smith said farm equipment is bigger and heavier today than when the weight limitations initially were approved.

“Occasional use of the roadways is incidental to the agriculture industry and [farmers and ranchers] should not be vulnerable to hefty fines simply for doing their job,” he said. “[LB977] strikes an important balance between protecting the roads from damage and allowing our agriculture industry to operate efficiently.”

The animal husbandry exemption would not apply in any instance where such an implement crosses a bridge or culvert.

A Transportation and Telecommunications Committee amendment incorporated provisions of LB996, originally introduced by Henderson Sen. Curt Friesen.

Currently, vehicle manufacturers are prohibited from owning an interest in or operating or controlling a franchise, franchisee or consumer



Sen. Curt Friesen

care facility. As amended, LB996 would exclude manufacturers that own or operate two or fewer dealerships in Nebraska, have owned or operated a warranty repair or service facility as of Jan. 1, 2016, and manufacture engines installed in vehicles with a gross weight rating of more than 16,000 pounds.

The bill also would incorporate provisions of six additional bills, including:

- LB799, originally introduced

by Lincoln Sen. Kate Bolz, which would authorize the use of funds collected under the



Sen. Kate Bolz

Nebraska Transportation Act to be used for the purchase, replacement or rebuilding of public transportation vehicles;

- LB844, originally introduced by Lincoln Sen. Patty Pansing Brooks,

which would create a breast cancer awareness li-



Sen. Patty Pansing Brooks

cense plate to be available Jan. 1, 2017;

- LB872, originally introduced by Gretna Sen. John Murante,

which would allow vehicles operated by the state Department of Roads, as well as local authorities, to use blue and amber flash-

ing lights when engaged in the inspection, construction, repair or maintenance of highways;

- LB918, introduced by Murante, which would retain 1 percent of proceeds from the motor vehicle tax to fund the replacement and ongoing maintenance of a state vehicle title and registration system;
- LB946, introduced by Smith, which would authorize the chair of the Motor Vehicle Industry Licensing Board to modify, approve or reject any board action in which a controlling number of board members are active participants in the relevant market; and
- LB989, introduced by Murante, which would decrease from 500 to 250 the number of prepaid applications required to issue a qualified organization's specialty license plate and would allow for electronic renewal and replacement of commercial driver licenses.



Sen. John Murante

The committee amendment was adopted on a 38-0 vote.

Following the adoption of a technical amendment, senators advanced the bill to select file on a 39-0 vote.

URBAN AFFAIRS

Economic development disclosure amended, advanced

Businesses would be required to disclose additional information before applying for certain local economic development programs under a bill

advanced from select file March 7.

The provisions of LB1059, introduced by Bellevue Sen. Sue Crawford, would apply to businesses seeking economic development incentives under the Local Municipal Economic Development Act or contracts using tax increment financing (TIF).



Sen. Sue Crawford

Crawford said the bill is designed to address the intersection between state incentives and local development incentives. She said state tax credits can include a refund of a municipality's local option sales tax, which is not always evident to a municipality before awarding local incentives for the same project.

Before applying for special incentives, a business must certify:

- whether it has filed or intends to file an application to receive tax incentives under the Nebraska Advantage Act for the same project;
- whether such application includes or will include a refund of the municipality's local option sales tax revenue;
- a good faith estimate of the total amount of tax incentives the business expects to receive under the Nebraska Advantage Act for any application; and
- whether such application has been approved.

A Crawford amendment, adopted 30-0, eliminated the good faith estimate requirement for a business applying for special incentives. She said businesses often apply for one tier of incentives but receive a different tier of incentives, making it difficult to provide the estimate in advance.

"It would be difficult for businesses

to provide a good faith estimate that is both accurate and helpful to the political subdivision," Crawford said.

The bill also includes provisions of two related bills.

LB860, originally introduced by Venango Sen. Dan Hughes, would authorize a municipality to use funds from a Local Municipal Economic Development plan for workforce housing. Currently funds from such plans may be used only for low- and moderate-income housing.



Sen. Dan Hughes

Originally introduced by Lincoln Sen. Matt Hansen, LB808 would allow a municipality to amend an existing Local Municipal Economic Development plan to add or remove a qualifying business if recommended by its citizen advisory review committee. The provisions would require a public hearing and a supermajority vote—two-thirds of members—of the municipality's governing body.



Sen. Matt Hansen

Senators advanced the bill to final reading by voice vote. ■

The Unicameral Update is available as a free audio recording from the Nebraska Library Commission's Talking Book and Braille Service for those who cannot see regular print or hold printed materials.

Contact the Commission at (800) 742-7691 for more information.

Unicameral Information Office
Nebraska Legislature
P.O. Box 94604
Lincoln, NE 68509
03-23-05

PRESRT STD
U.S. POSTAGE PAID
LINCOLN, NE
PERMIT NO. 212



Students on a field trip to the Capitol observe the senators on the floor of the Legislature.