

Exemptions for private renewable energy companies advance

Senators amended and advanced a bill April 7 to encourage private renewable energy development—especially wind energy.

Sen. Ken Haar of Malcolm introduced an amendment to LB824 on select file, adopted 32-8, that would exempt private renewable energy generation facilities from certain laws that currently regulate facilities generating electricity.



Sen. Ken Haar

Haar said Nebraska currently is third in the nation in terms of wind energy potential but ranks only 23rd in development. He said Nebraska's current regulations make it less welcom-

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NO UNICAMERAL UPDATE NEXT WEEK

The 104th Nebraska Legislature, second session, has three scheduled days remaining: April 12, 13, and 20. The final issue of this session's Unicameral Update will be published after the Legislature adjourns sine die on April 20. Stories will continue to be posted online next week at: Update.Legislature.ne.gov.

Independent redistricting commission advanced

The Legislature's redistricting process would include the help of an independent commission under a bill given first-round approval April 4.

Currently, the Legislature is responsible for drawing new governmental boundaries every 10 years after the decennial census for districts pertaining to the U.S. House of Representatives, the Legislature, Public Service Commission, University of Nebraska Board of Regents and the state Board of Education.

LB580, introduced by Gretna Sen. John Murante, would create the Independent Redistricting Citizen's Advisory Commission to assist in the process beginning in 2021.

Calling the measure the best redistricting model in the nation, Murante said LB580 is the result of several years worth of research into how to effectively draw Nebraska's district lines. He said a citizen-run process that is subject to final legislative approval would increase public confidence in the process.

"This is the best I think that we can do," he said. "It doesn't eliminate partisanship—it isn't perfect—but it does minimize partisanship and it



Sen. John Murante said the state's current redistricting process would benefit from the addition of an independent commission.

encourages public trust."

An Executive Board amendment, adopted 26-1, replaced the bill.

As amended, the commission would be established by Jan. 30 of each redistricting year. Each of the three legislative caucuses would appoint three people to serve on the commission, with no more than five members of the commission with the same political party affiliation.

To be eligible for service on the commission, a person must be a Nebraska resident and a registered voter who, at the time of appointment, had not changed political party affiliation

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Independent redistricting commission advanced

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within the previous 24 months.

Residents registered as lobbyists within the previous 12 months, public officials, candidates for elective office and those holding a political party office in Nebraska or the United States would not be eligible. Also ineligible would be an individual who is a relative of or employed by a member of Congress or the Legislature, a constitutional officer or an employee of the University of Nebraska.

Omaha Sen. Heath Mello supported the measure, which he said was necessary following the tumultuous redistricting undertaken in 2011. The bill would provide a more transparent process that would focus on the public interest and not be driven primarily by partisan or political interests, he said.

“We tried to build what we thought was a process that works for the Legislature and a process that works for the public,” he said.

Under the bill, the following would be delivered to the Legislature no later than 30 days after the census data is received:

- final maps illustrating each of the six redistricting plans ad-

opted by the commission;

- any corresponding public hearing reports;
- a summary of differences between any of the redistricting plans adopted by the commission and the corresponding base maps developed by the research office; and
- formal opinions from the secretary of state and the attorney general regarding the constitutionality of the maps.

The chairperson of the Executive Board would introduce a bill for each redistricting plan adopted by the commission within two days of delivery of the final maps. The bills would be placed directly on general file.

If any of the bills fail, do not pass or are vetoed by the governor, a new redistricting plan would be prepared.

Sen. Kathy Campbell of Lincoln spoke in support of the bill, calling the 2011 redistricting one of the most partisan and rancorous processes that she has witnessed in her time at the Legislature.

“The current system that we have does not work,” she said. “[This bill] is

an excellent step forward to make sure that maps are drawn for the benefit of all Nebraskans.”

Papillion Sen. Bill Kintner opposed the bill, saying senators should not “hand off” their responsibility to draw district lines to an unelected commission. While redistricting decisions may be contentious, he said, lawmakers should be the ones to draw the lines.

“We didn’t elect a computer to do that,” he said. “People elected me because they knew where I stood.”

Sen. Dave Bloomfield of Hoskins agreed, saying other issues—such as last year’s vote to repeal the state’s death penalty—have been just as contentious as redistricting.

“This is not a bill in my mind to prevent contention in [the Legislature], but more a bill to protect both political parties,” he said.

Murante said senators still would have the final say on any maps drawn.

“The Legislature isn’t giving away any authority,” he said.

Following adoption of a technical amendment on a 26-1 vote, lawmakers advanced the bill 30-5. ■

UNICAMERAL UPDATE

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Clerk of the Legislature: Patrick J. O’Donnell

Editor: Heidi Uhing; Writers: Kyle Harpster, Kate Heltzel, Ami Johnson; Photographer: Bess Ghormley

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Senators may be contacted by mail at this address:

Senator Name, District #, State Capitol, P.O. Box 94604, Lincoln, NE 68509-4604

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THE NEBRASKA LEGISLATURE’S OFFICIAL NEWS SOURCE SINCE 1977

Exemptions for private renewable energy companies advance

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ing for private wind energy developers than Kansas, Iowa, Oklahoma and other states.

Omaha Sen. John McCollister, the bill sponsor, spoke in support of the amendment, saying that more private development could lead to billions of dollars in capital investment, high-paying jobs and new property tax revenue in rural Nebraska.

“The regulations are killing Nebraska when it comes to our public utilities and wind development,” he said.

Sen. David Schnoor of Scribner spoke against the bill. He said wind energy development is viable now only because of federal production tax credits.

“I will always be opposed to wind energy,” he said. “Why? From a simple business standpoint—it will not pay for itself.”

Sen. Curt Friesen of Henderson opposed Haar’s amendment, saying it would remove current safeguards designed to protect public utilities and ratepayers.

He introduced an amendment that would reinstate provisions the amendment removed, which required the Nebraska Power Review Board to determine whether a new electric generation facility would create stranded assets. As more electricity from wind energy is added to the grid, Friesen said, demand for electricity from coal-fired plants will decrease, reducing their revenue and forcing them to increase rates to cover their operating expenses.

The amendment failed on a 12-24 vote.

Friesen also introduced an amendment that would include electrical

generation facilities that use natural gas in the exemption. He said electrical generation using natural gas is less expensive and more consistent than wind energy, which Friesen said would create instability in the state’s power grid.

The amendment failed on an 11-22 vote.

Sen. Dan Hughes of Venango filed a motion to recommit the bill to committee, saying that wind energy is not reliable enough for the state’s public power needs.

“The reliability of renewables just is not there yet,” he said, “and forcing more and more renewables onto the market and costing us jobs in our current coal and nuclear power generation is not right.”

The motion failed on a 12-21 vote.

Senators voted 34-3 to adopt a McCollister amendment appropriating \$19,000 in fiscal year 2016-17 and again in FY2017-18 to the Nebraska Power Review Board, which had been addressed in a committee amendment on general file. It added to the bill provisions from LB914, introduced by Sen. Ken Schilz of Ogallala.

These would increase from \$60 to \$250 per day the compensation for the Nebraska Power Review Board member who represents the state on the Southwest Power Pool’s regional state committee.

After four hours of debate, McCollister filed a motion to invoke cloture, or cease debate and vote on the bill. The motion succeeded on a vote of 34-8. Thirty-three votes were needed.

Lawmakers then advanced the bill to final reading on a voice vote. ■



COMMITTEE HEARING

*Current hearing schedules available at: NebraskaLegislature.gov/calendar

Monday, April 18

**Department of Correctional Services
Special Investigative Committee (LR34)
Room 1113 - 1:30 p.m.**

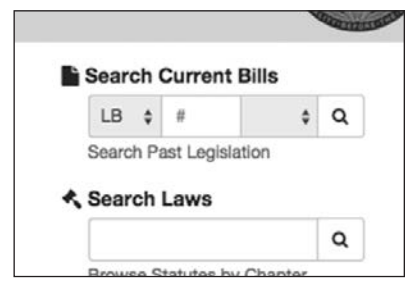
*Open to the Public - Invited Testimony Only
Hearing To Discuss Issues Dealing With
the Department of Corrections*

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Current laws may be searched using the keyword search found below the bill search.



BUSINESS & LABOR

Workforce innovation bill passed

Lawmakers passed a bill April 7 that provides future guidance for the state's workforce investment system.

LB1110, introduced by Omaha Sen. Heath Mello, outlines guiding principles for the state's workforce programs and services so they are responsive to the needs of employers, workers and students.



Sen. Heath Mello

The bill incorporates provisions of Mello's LB1029. These provisions create a sector partnership program to study labor availability and skills gaps in the state. The state Department of Labor will provide technical assistance to public-private sector partnerships.

The bill passed on a 44-0 vote.

EDUCATION

College admission test requirement advances

All Nebraska 11th-graders would take a college admission test under a bill advanced from general file April 4.

Sponsored by Sen. Jim Scheer of Norfolk, LB930 would require public school students in the 11th grade to take a college admission test, such as the ACT or SAT, instead of current Nebraska State Accountability (NeSA) assessments.



Sen. Jim Scheer

An Education Committee amendment, adopted 34-0, directs the State Board of Education to select the test and authorizes the state Department of Education to use lottery funds to pay for schools' expenses in administering the tests in the 2017-18 school year.

It also would end the requirement for a statewide writing assessment after the 2016-17 school year and instead require that the statewide reading assessment contain a writing component.

Sen. Kate Sullivan of Cedar Rapids introduced an amendment, adopted 29-0, that would authorize the state Department of Education to administer the test as soon as next school year.

Scheer said the current statewide assessment does not benefit 11th graders because they have no incentive to do well on it. Students would be motivated to do well on college admission tests because they measure a student's readiness for higher education and can lead to scholarships, he said.

College admission tests also would benefit students who do not wish to pursue a four-year degree, Scheer said, because they provide career readiness metrics and are required for admission to Nebraska's community colleges.

Omaha Sen. Nicole Fox supported the bill, saying that it would give all students one free opportunity to take a college admission test whether they plan to go to college or not. It also would give students in low-income families the opportunity to take the test, she said.

"For a family in poverty, this may be an expense they cannot afford," Fox said, "and students in these families may opt to not take the exam even once or even think that higher education is an option for them."

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

Elimination of learning community common levy clears second round

Senators advanced a bill April 6 that would end the Omaha learning community's common levy and provide transition aid to member districts.

The Legislature created the learning community in 2007 to share resources among the students in the broader Omaha area to help address the achievement gap of children in the city center.

Introduced by Sen. Kate Sullivan of Cedar Rapids, LB1067 would repeal the 95-cent common levy and 2-cent special building fund levy for the 11 school districts in Douglas and Sarpy counties that make up the learning community.



Sen. Kate Sullivan

Member districts instead would have an individual levy and would retain a 2-cent levy used for early childhood education. As amended, the bill would increase the amount of state aid for school districts with a high percentage of students in poverty and phase in transition aid over three years.

Under the bill, learning communities would create a plan to address achievement equity and barriers to achievement such as poverty, mobility and truancy. Districts would be eligible for additional state aid after the State Board of Education approves the plans. Multidistrict educational service units also could create achievement plans to qualify for the additional aid.

Sullivan said the common levy has become a divisive component of the learning community that threatens its long-term success. She said the proposal, particularly its inclusion of a community achievement plan, would

ensure that member districts continue to communicate and collaborate if the common levy is eliminated.

Sullivan introduced an amendment on select file, adopted 40-1, that would increase the amount of community achievement plan aid from \$5.4 million to \$5.7 million, which she said would go predominantly to Omaha Public Schools. Approximately \$1.1 million in transition aid would be funded using lottery dollars instead of general funds, Sullivan said. The proposal would cost approximately \$13.4 million, down from the original bill's estimated cost of \$17.3 million to \$20.7 million.

Sen. John Murante of Gretna supported the bill, saying that it succeeds in removing the common levy without endangering poverty aid for Omaha Public Schools.

"[The bill] abolishes the common levy of the learning community, it achieves additional funding for schools with extreme poverty and it creates an environment where we aren't pitting school district against school district in the Douglas and Sarpy County area," he said. "It may not be perfect, but it's pretty darn good."

Omaha Sen. Ernie Chambers opposed the bill. He said the common levy provides a predictable and sustainable way of funding the learning community's programs and ensures that schools with large numbers of students in poverty receive enough aid.

"That common levy is the only means by which the goals and vision of the learning community have any chance of being carried out," Chambers said.

Sen. Tanya Cook of Omaha also spoke against the bill. She said removing the common levy and replacing it with community achievement plan aid is not true to the learning community's original purpose, which was to ensure that everyone in the Omaha

metropolitan area had a stake in funding inner city schools with students in extreme poverty.

Sen. Bob Krist of Omaha introduced an amendment that would remove the community achievement plan requirement, which he said adds an unnecessary layer of bureaucracy. It also would direct aid to both learning community districts and high-poverty districts across the state and allow the learning community to use its existing building fund levy to address poverty.

The amendment failed on a vote of 13-14.

Sullivan filed a motion to force a vote on the bill after four hours of debate. The motion succeeded 42-2 and the bill advanced to final reading on a 40-5 vote.

EXECUTIVE BOARD

Process for certified version of Nebraska Constitution approved

A bill that establishes a process for the development and publication of a certified version of the state constitution was given final approval April 7.

Under LB686, sponsored by Omaha Sen. Ernie Chambers, the secretary of state, attorney general and the Legislature will cooperate in publishing a certified version of the Nebraska Constitution. The document will be updated annually to incorporate any changes made by the Legislature or the courts.

The certified copy resulting from the process will serve as the official version of the Nebraska Constitution and may be cited as prima facie evidence of



Sen. Ernie Chambers

the law in all state courts. It also will be made available electronically on the Legislature's website and to the public in print form upon request.

The bill passed 45-0.

GOVERNMENT, MILITARY & VETERANS AFFAIRS

Winner-take-all election bill advances after cloture vote

Senators advanced a bill to final reading after four hours of debate April 4 that would reinstate a winner-take-all system for allocating Nebraska's presidential electoral votes.

Currently, the winner of Nebraska's statewide popular vote receives two Electoral College votes. The state's three congressional districts also award one electoral vote each based on the popular vote winner in each district. Maine is the only other state to use this system.

LB10, sponsored by Omaha Sen. Beau McCoy, would reinstate a winner-take-all system and award all five electoral votes to the winner of the state's popular vote.



Sen. Beau McCoy

The bill was introduced last session and stalled while on select file. After three days of debate, McCoy offered a motion to invoke cloture—or cease debate and force a vote on the bill. That motion failed on a 31-18 vote on March 17, 2015. Thirty-three votes were needed.

Sen. Robert Hilkemann of Omaha—who said he believes the current congressional apportionment system to be unfair—prioritized the bill this session and select file debate resumed.

"I believe that when it comes to electing the president of the United States

that the election process should be uniform in all 50 states,” Hilkemann said.

Sen. Sue Crawford of Bellevue spoke in opposition to LB10, saying the U.S. Constitution specifically allows each state to determine how to allocate Electoral College votes. She said it is “hard to imagine” why conservatives who support state’s rights would argue against allowing states that flexibility.

In addition, she said, in order to garner attention from presidential candidates, a state’s votes need to be contested.

“If Nebraska wants to be relevant, it needs to retain our current system,” Crawford said. “I cannot fathom why anyone of either party does not want presidential candidates to visit our state.”

McCoy said Nebraska should return to the winner-take-all system and have the state “speak with one voice” with its Electoral College votes.

“I think it makes sense for our state—border to border, rural and urban and everything in between,” he said.

He said the contention that Nebraska was on the leading edge of a trend when it adopted the proportional vote system in 1991 has not proven to be true.

“We just haven’t seen the evidence of that at all in the last 25 years,” McCoy said.

Omaha Sen. Ernie Chambers—who led opposition to the proposal last year—offered an amendment that would urge other states to adopt Nebraska’s method for allocating presidential electors.

“It is often said that if you have something of value, flaunt it,” he said, adding that a winner-take-all system would stunt the political participation of voters who are not members of the majority party in Nebraska.

“That is not the way that participatory democracy should operate,” Chambers said.

Sen. Tanya Cook of Omaha supported the amendment. She said the proportional allocation of Electoral College votes is more likely to encourage participation among groups that are disproportionately impacted by public policy but who feel marginalized by the process and as if their votes do not count.

“It’s extremely important that these voters be heard,” Cook said.

Sen. John Murante of Gretna disagreed, saying every vote counts regardless of the probability that a preferred candidate or party will win. Voters should not be led to believe that their vote doesn’t count, he said.

“It is a sentiment that needs to be rejected by all 49 of us,” Murante said. “It has no basis in election law.”

The amendment failed on a vote of 8-31. Chambers brought several additional motions to delay the vote or bracket LB10 until the last day of the session. Those attempts also failed.

McCoy offered a motion to bracket the bill until April 5, saying a few “recalcitrant” senators were not present to vote and that extended discussion would delay debate on other bills on the Legislature’s agenda for the day.

“Our hours are short,” he said. “If we have folks who would rather not be here for the discussion, that’s their choice.”

Speaker Galen Hadley of Kearney said the bill would not be placed on the agenda again if senators voted to bracket it.

“I have been absolutely consistent since I’ve been speaker that we do not hold-over the votes if you do not have people here,” he said.

McCoy withdrew his motion and debate resumed. Following four full hours of debate, he offered a motion to invoke cloture. It was adopted 34-15 and the bill advanced to final reading on a 32-15 vote.

Bill to broaden state entity financial disclosure advanced

A bill that would broaden the scope of a financial transparency law aimed at state government was given first-round approval April 4.

LB851, sponsored by Omaha Sen. John McCollister, would modify the Taxpayer Transparency Act to include quasi-public entities such as boards and commissions created by the Legislature.



Sen. John McCollister

“Currently, financial records from all state agencies and the University of Nebraska are included on the state spending website, but financial information for a variety of quasi-public entities is not,” McCollister said.

The bill defines a state entity as any agency, board, commission or department of the state and any other body created by state statute that includes a person appointed by the governor, the head of any state agency or department, an employee of the state of Nebraska or any combination of such persons that is empowered to collect and disburse state receipts.

Under the bill, entities would be required to submit all expenditures of state receipts to the state treasurer for inclusion on the state’s spending transparency website.

Transfer of funds between two state entities and expenditure of pass-through funds would not be subject to the bill’s provisions. Data collected would be available on the state spending website beginning in fiscal year 2016-17.

A Government, Military and Veterans Affairs Committee amendment, adopted 30-0, would expressly include expenditures authorized by the governing bodies of state higher education

entities and exclude federal or other assistance to an individual from the bill's provisions.

The amendment also would limit the definition of state receipts to revenue or income received by a state entity used to pay the expenses necessary to perform the state entity's functions and reported to the state treasurer in total amounts by category of income.

Contracts entered into by the Nebraska Investment Finance Authority for the purpose of providing a specific service or financial assistance to a specifically name individual or his or her family would be exempt from the bill's disclosure requirements.

Bellevue Sen. Sue Crawford supported the bill and the amendment. Including quasi-public entities on the website would be an improvement in existing transparency efforts, she said.

"It's important for people to know that you can get on the website and see Nebraska [state] expenditures and also see the contracts," she said.

The bill advanced to select file 33-0.

Omnibus election bill clears final round

Lawmakers gave final approval April 7 to a bill that makes a number of changes to the state's election laws.

LB874, introduced by Gretna Sen. John Murante, makes the process for filling vacancies on school boards consistent statewide by stipulating that an appointee will fill a vacancy for the remainder of the unexpired term.



Sen. John Murante

The bill includes provisions of four additional bills.

LB879, originally introduced by Murante, changes the requirement to

place a candidate's name on the partisan general election ballot by petition to at least 10 percent of the registered voters entitled to vote for the office.

LB787, originally introduced by Lincoln Sen. Adam Morfeld, allows a voter to voluntarily photograph his or her ballot after it is marked and reveal the photograph.



Sen. Adam Morfeld

LB741, originally introduced by Lincoln Sen. Matt Hansen, removes from the list of banned electioneering practices the display of yard signs on private property within 200 feet of a polling place that is not under common ownership with the polling place.



Sen. Matt Hansen

LB682, originally introduced by Omaha Sen. Joni Craighead, changes the deadline for a voter to request a vote-by-mail ballot from 4 p.m. of the Wednesday preceding the election to the close of business on the second Friday preceding the election.



Sen. Joni Craighead

The bill also designates the 22nd day before an election as the earliest date that an election commissioner or county clerk may send out vote-by-mail ballots. That date currently is the 20th day before an election.

LB874 passed on a 45-0 vote and takes effect immediately.

HEALTH & HUMAN SERVICES

Eye care consumer protection bill advanced

Lawmakers gave first-round approval April 4 to a bill that would update regulation of eyeglass kiosks and other devices.

LB235, introduced by Omaha Sen. Sara Howard, would place restrictions on kiosks—defined as automated equipment or applications used to conduct an eye examination either in person or remotely.



Sen. Sara Howard

These new means of obtaining vision evaluations pose challenges for consumers, Howard said, because they currently are not subject to the same level of state oversight as traditional eye examinations.

"Absent the changes suggested by LB235 those safeguards would not be applicable to consumers using these new technologies," she said.

Under the bill, a kiosk would be required to:

- be approved by the federal Food and Drug Administration;
- meet Americans With Disabilities Act requirements;
- carry liability insurance adequate to cover claims;
- comply with the Health Insurance Portability and Accountability Act;
- have a recognized Current Procedural Terminology code; and
- display the name and state license number of the provider who would read and interpret the diagnostic data and infor-

mation produced by the kiosk. Violations could incur a civil penalty up to \$10,000 per violation and the attorney general could file a civil action at the request of the state Department of Health and Human Services.

The bill also would limit the strength of over-the-counter eyeglasses to +3.25 diopters.

A Health and Human Services Committee amendment, adopted 32-0, clarifies that a qualified provider would be limited to a physician, osteopathic physician or physician assistant. The amendment also specifies that investigations and complaint review would be done in accordance with the Uniform Credentialing Act.

Following adoption of a technical amendment on a 31-0 vote, the bill advanced to select file 33-0.

Surgical first assistant licensure clears first round

Senators advanced a bill from general file April 4 that would establish a licensure process for surgical first assistants (SFA) in Nebraska.

Under LB721, introduced by Lincoln Sen. Roy Baker, the state Department of Health and Human Services would provide licensure for SFAs.



Sen. Roy Baker

Baker said rural hospitals often have only one surgeon in an operating room and historically have delegated specific tasks to a well-trained assistant—often a nurse. However, he said, a recent audit at Sidney Regional Medical Center discovered case law that prohibits a surgeon from delegating any tasks to an unlicensed individual in the operating room.

“To continue to use these people, it

was determined that seeking licensure for SFAs was appropriate,” Baker said.

Under the bill, an applicant must:

- be certified as an SFA by an approved certifying body;
- successfully complete an SFA education or other experiential or training program approved by the state Board of Medicine and Surgery;
- pass a nationally recognized SFA examination adopted by the board; and
- have a high school diploma or equivalent as determined by the board.

A Health and Human Services Committee amendment, adopted 29-0, would waive the education and examination requirements for some applicants. It would grandfather in an individual who submits evidence satisfactory to the board that he or she has been functioning primarily as an SFA in a licensed health care facility within the last five years prior to September 1, 2016.

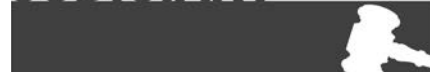
Also exempt would be an individual who holds a current SFA certification issued by an approved certifying body or issued by another state that has standards substantially equivalent to Nebraska’s.

Lincoln Sen. Kathy Campbell, chairperson of the committee, said the amendment would provide a pathway for current staff across the state who serve as SFAs to become licensed.

“We need this legislation this year,” she said. “We need to clarify what happens and who can practice within their scope of practice within the operating room.”

The bill advanced to select file 30-0.

JUDICIARY



Legalization of medical marijuana stalls

After four hours of debate, an attempt to force a vote on a bill that would legalize medical marijuana in Nebraska failed April 5.

As originally introduced by Bellevue Sen. Tommy Garrett, LB643 would authorize the state Department of Health and Human Services (DHHS) to regulate the manufacture and use of cannabis in Nebraska for medical purposes.



Sen. Tommy Garrett

Cannabis permitted under the bill would be only in liquid, oil, pill or vaporized form. A seven-person, governor-appointed Medical Cannabis Board would advise the department regarding medical cannabis regulations.

Garrett said medical cannabis could provide significant relief for many of the state’s most vulnerable and ill citizens when traditional prescription drugs have failed.

“This is an opportunity to help some of Nebraska’s ailing children and adults who are out of options,” he said. “We’re asking that Nebraskans not be criminalized for seeking relief from their pain.”

Omaha Sen. Sara Howard offered an amendment, adopted 25-12, which replaced the bill. Under the amended bill, patients with qualifying conditions could apply to the department for enrollment in a newly created patient registry.

Qualifying medical conditions under the bill would include:

- amyotrophic lateral sclerosis

(ALS) or severe and persistent muscle spasms, including those associated with multiple sclerosis (MS);

- epilepsy and seizures;
- pain, nausea and wasting associated with cancer;
- glaucoma;
- HIV or AIDS;
- Crohn's disease; and
- Tourette's syndrome.

Also eligible would be terminally ill patients with a probable life expectancy of under one year, if the illness or its treatment produces severe or chronic pain, nausea, severe wasting, hepatitis C, lupus, Huntington's disease, Parkinson's disease, Lyme disease, spinal cord injury or opioid addiction.

Lincoln Sen. Colby Coash supported the bill. He said a ballot initiative to legalize all marijuana use would be imminent if the Legislature fails to pass LB643. Passing Garrett's bill, he said, would give the state control in regulating the use of marijuana rather than "opening the door" to recreational marijuana use.

"This bill is about ending suffering for people who are sick, it's not about getting high," Coash said. "If and when [full legalization] goes on the ballot—and it will pass—the Legislature will not be able to catch up to [the associated regulatory issues]."

Sen. Matt Williams of Gothenberg opposed the bill. He said it represents a major philosophical shift for the state and should be considered cautiously.

"This is larger than just LB643. It's the direction our state will take on legalizing a Schedule I drug, not just for medical purposes but potentially others as well," he said. "We have to be smart with what we do and the direction we set."

Papillion Sen. Bill Kintner also opposed LB643. He said medical marijuana likely will be legalized at some

point, but too much is still unknown about potential dangers of cannabis.

"I'm looking for the major medical groups to come out and support [medical cannabis.] I think it's coming, but we're not quite there yet," Kintner said. "We have to make sound decisions here but we also have to listen to doctors and scientists."

Those applying for the registry would be required to provide basic identifying information as well as contact information for a participating health practitioner, designated caregiver or legal guardian.

They also must certify that they had an established relationship with the participating health practitioner prior to application for the registry, a diagnosis of a qualifying medical condition and a need, if any, for a designated caregiver to assist in the dispensing of medical marijuana.

Designated caregivers would be at least 21, agree to possession of cannabis only for purposes of assisting the patient, not be a caregiver for more than one patient unless they reside in the same home and pass a criminal background check. Parents or legal guardians would not be required to register with the department but would be subject to a background check.

LB643 would authorize DHHS to register only one cannabis manufacturer in each of the state's three congressional districts. Each manufacturer would be required to contract with an independent laboratory—subject to approval by the department—to test the safety and efficacy of its product.

Additionally, the department could register up to four cannabis dispensaries in each congressional district. All medical cannabis would be dispensed by a licensed pharmacist.

Any county, city or village governing body would be empowered to adopt a resolution or ordinance prohibiting

the operation of a manufacturer or dispensary or both within its boundaries.

An amendment offered by Omaha Sen. Heath Mello would authorize a transfer of \$1.4 million in fiscal year 2016-17 and \$1 million in FY2017-18 to the Medical Cannabis Regulation Fund to offset implementation costs of the bill. The funds would be repaid by June 30, 2023, with interest, by application and regulation fees levied on manufacturers and dispensaries.

The Mello amendment was adopted on a 26-12 vote.

Following a series of motions offered to extend debate, Garrett filed a motion to invoke cloture, or cease debate and take an immediate vote on the bill. The motion failed 30-15. Thirty-three votes were needed.

A failed cloture motion prevents further debate on the bill for the day. It is unlikely to be further debated this session.

Private adoption provisions approved

Parents who conduct an adoption privately or through an agency may enter into a communication and contact agreement under a bill passed April 7.

LB744, sponsored by Syracuse Sen. Dan Watermeier, authorizes a court to incorporate a communication and contract agreement into a private adoption agreement. Failure to comply with the terms



Sen. Dan Watermeier

of an agreement will not be grounds to invalidate an adoption or the relinquishment of parental rights.

The bill allows a communication and contact agreement to be enforceable in civil action if the petitioner has participated or attempted to par-

ticipate in good faith mediation. Parties seeking court enforcement of an agreement are required to participate in mediation first.

The bill also requires that a relinquishing parent be provided independent legal counsel and at least three hours of professional counseling at the expense of the adoptive parent or parents prior to relinquishment.

LB744 passed on a 46-0 vote.

Fiduciary access to digital assets advances

Lawmakers advanced a bill April 4 that would determine who has access to a person's digital assets after death.

Introduced by Omaha Sen. Burke Harr, LB829 would authorize four types of fiduciaries—executors of estates, conservators of estates, agents appointed under power of attorney and trustees—to access a person's digital assets after they die or otherwise lose the ability to manage their own assets.

The bill would create a tiered system of priorities for handling digital assets. If the custodian—the company that stores a person's assets on its servers—provides an online tool allowing the user to authorize another person to have access to the assets, those instructions would take priority.

If no such tool is available or the user chooses not to use it, a will, trust, power of attorney or other written record would be enforced. The custodian's terms of service would determine access if neither an online tool nor a legal document applies. If none of those situations apply, the bill provides default terms that would govern access.

A Judiciary Committee amendment, adopted 27-0, clarified that a

person could use an online tool to give digital access privileges to a recipient who is not a fiduciary.

Harr said the bill would give people the power to authorize fiduciaries to manage digital assets, such as photos stored online or the data on a social media profile, in the same way they could authorize them to manage tangible property.

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

Consumer protections enhanced

Lawmakers passed a bill April 7 that strengthens consumer protection laws.

LB835, introduced by Omaha Sen. Heath Mello, makes changes to several consumer protection statutes including the Credit Report Protection Act, the Consumer Protection Act, the Uniform Deceptive Trade Practices Act and the Financial Data Protection and Consumer Notification of Data Security Breach Act.

LB835 amends the Credit Report Protection Act to require consumer reporting agencies to create a credit file for a minor with no established credit file upon receiving a security freeze request.

The bill extends the provision to an additional category of protected consumers, which includes individuals under 16 and incapacitated individuals under the guidance of a guardian ad litem.

It also allows a protected consumer to have a security freeze removed from his or her record.

Changes to the Financial Data Protection and Consumer Notification of Data Security Breach Act include requiring any entity that suffers a data breach to notify customers if personal information—including email addresses

or user names in combination with a password or security question—is acquired by an unauthorized party. The bill requires the entity to notify the attorney general's office of the breach.

The attorney general's office will be permitted to share documentary material obtained through a Civil Investigative Demand with other law enforcement agencies under the Consumer Protection Act. LB835 also increases from \$25,000 to \$500,000 the maximum civil penalty for anti-trust violations, including restraint of trade and monopolization.

Finally, the bill adds two additional deceptive trade practices under the Uniform Deceptive Trade Practices Act: a person representing that goods do not contain ingredients or characteristics that the goods actually contain and a person employing any deception or fraud while soliciting funds or assets for a charitable purpose.

The bill passed on a 46-0 vote.

Human trafficking immunity passed

A bill that provides legal immunity to victims of human trafficking was passed by the Legislature April 7.

LB843, introduced by Lincoln Sen. Patty Pansing Brooks, grants legal immunity from prostitution charges to any person proven by law enforcement to

be a victim of labor or sex trafficking.

The bill establishes an affirmative defense for trafficking victims. An affirmative defense allows a defendant to present certain facts that mitigate the legal consequences of his or her unlawful conduct.

The bill passed on a 42-0 vote.



Sen. Burke Harr



Sen. Patty Pansing Brooks

Professional licenses for young immigrants advanced

A new class of Nebraskans would be eligible for professional licensure under a bill advanced from select file April 7.

LB947, introduced by Omaha Sen. Heath Mello, would allow Nebraska residents who are covered by the federal Deferred Action of Childhood Arrivals (DACA) program to apply for a professional or commercial license in order to practice his or her profession. Eligible residents could apply for credentials under the Uniform Credentialing Act.

Administered by the U.S. Department of Homeland Security, the DACA program is designed to protect from deportation individuals who were brought into the country illegally as children. Those who meet DACA guidelines are eligible for a work permit and may request deferred action for two years, subject to renewal. To qualify for the program residents must have:

- lived in the U.S. continuously since June 15, 2007;
- been no older than 31 as of June 15, 2012;
- entered the country prior to their 16th birthday;
- attended school, earned a diploma or general education certificate or been honorably discharged from the U.S. Armed Forces; and
- not been convicted of a felony or significant misdemeanors.

Mello said the bill is a common sense proposal to address workforce challenges in the state.

“The narrow intent of this bill is to ensure work-authorized residents—including DACA recipients with feder-

ally authorized lawful presence—are able to obtain professional and commercial licenses,” he said.

Mello introduced an amendment, adopted 28-1, clarifying that any professional license granted under the bill would be rescinded if a person’s lawful status is rescinded. It also would ensure that recipients are ineligible for public benefits other than a professional license. He said the amendment addressed unfounded concerns that LB947 could be a step toward creating a pathway to citizenship.

Omaha Sen. Bob Krist supported the bill, saying the state should do everything in its power to retain educated young people.

“The state spends millions each year trying to attract people with the right qualifications to earn money, pay taxes and contribute to society,” he said. “These young adults are already here and educated by our schools. We don’t have to pay a dime to attract them, we just need to keep them here.”

Sen. Bill Kintner of Papillion opposed the bill. He said offering professional licenses to undocumented immigrants rewards lawlessness and sends the wrong message to citizens who are in the U.S. legally.

Following the adoption of a technical amendment, senators advanced the bill to final reading by voice vote.

Camera procedures required for law enforcement

Law enforcement agencies using body-worn cameras will have to document usage procedures under a bill passed by the Legislature April 7.

LB1000, introduced by Omaha Sen. Heath Mello, requires all law enforcement agencies to document in writing the procedures to be followed by officers wearing cameras by Jan. 1, 2017.

The Nebraska Commission on Law

Enforcement and Criminal Justice will develop a model policy for body-worn camera usage. An individual agency using body-worn cameras can either develop its own policy or adopt the commission’s model policy.

Agencies choosing to develop individualized policies must include the minimum standards set forth by the commission, including:

- proper training for officers using cameras or accessing video and audio captured by the cameras;
- retention of recordings captured for at least 90 days from the date of such recording; and
- procedures governing the destruction of such recordings after the retention requirement has been met.

If video is determined to have evidentiary value in a criminal, civil or internal disciplinary proceeding, it must be retained until a final determination is reached. If an arrest or prosecution is not made, the video will be retained until a final determination is made or an investigation is officially closed or suspended.

The bill also incorporates provisions of two additional bills.

LB846, originally introduced by Lincoln Sen. Patty Pansing Brooks, requires each law enforcement agency in Nebraska to adopt a written policy on eyewitness suspect identification and provide a copy to the commission. Each policy must include standards for administration of a lineup, instructions given to an eyewitness and documentation of an eyewitness’ level of certainty of identification.

LB1055, originally introduced by Omaha Sen. Ernie Chambers, requires all relevant documentation associated with a grand jury proceeding to be made available for public review in the event it returns no indictment.

The bill passed on a 45-0 vote.



Sen. Heath Mello

End-of-life medication bill stalls

Lawmakers declined to move a bill from committee to general file April 4 that would allow terminally ill patients to access aid-in-dying medications. The bill was heard by the Judiciary Committee on Feb. 24 but the committee has taken no action on it.

Under LB1056, introduced by Omaha Sen. Ernie Chambers, an adult diagnosed with a terminal illness with less than six months to live and capable of making his or her own medical decisions could request a prescription for aid-in-dying medication. The medication would be self-administered by the patient.

Chambers filed a motion to place the bill on general file so it could be considered by the full Legislature despite being held in committee. He said LB1056 offers a person diagnosed with a terminal illness the opportunity to maintain his or her dignity during the last six months of life.

“For the government to withhold from such a person the right and means to carry out his or her final decision is totally unjustified, inexcusable and unacceptable,” he said. Depriving a person of that choice because the decision does not “sit well” with others is insensitive and cruel, Chambers said.

Grand Island Sen. Mike Gloor opposed the motion to place the bill on general file. He said medical providers should be given time to fully realize advances made in end-of-life care.

“There is a science here that ensures people do not have to suffer in any pain,” Gloor said. “We do not need to make the leap to assisted suicide.”

An attending physician would determine if the patient requesting aid-in-dying medication has a terminal illness,



Sen. Ernie Chambers

has made the request voluntarily and is qualified to receive the medication. Upon reaching a qualifying determination, the attending physician would refer the patient to both a consulting physician for confirmation of diagnosis and a mental health professional for confirmation of mental capacity capable of making medical decisions.

The motion to place LB1056 on general file failed on a 9-28 vote.

Increased legal aid approved

A bill that increases a fee to provide additional legal aid to indigent Nebraskans was passed by the Legislature April 7.

LB1098, introduced by Lincoln Sen. Adam Morfeld, increases civil court filing fees from \$5.25 to \$6.25. Revenue from the fee increase will be remitted to the Legal Aid and Services Fund, which provides legal services funding to the state’s indigent population.

The bill passed on a 40-0 vote.



Sen. Adam Morfeld

Bill advanced that would restrict property seizure

Lawmakers gave first-round approval to a bill April 4 that would place restrictions on the state’s civil forfeiture law, which allows law enforcement to seize property associated with suspected criminal activity without necessarily filing criminal charges.

LB1106, introduced by Bellevue Sen. Tommy Garrett, would allow law enforcement agencies to dispense forfeited currency and property only after



Sen. Tommy Garrett

securing a criminal conviction. Persons not charged with a crime or later acquitted of a crime would be able to recoup their property under the bill.

Garrett said the current practice of treating forfeiture as a separate criminal proceeding was determined to constitute double jeopardy.

“Civil forfeiture can be a valuable tool for law enforcement but should only be used when crimes are committed,” he said. “[LB1106] would ensure the burden of proof lies with law enforcement and not with citizens.”

A Judiciary Committee amendment, adopted 27-9, incorporated into the bill provisions of Garrett’s LB1108 requiring law enforcement agencies to file quarterly reports detailing their seizure of property. Written reports must include the date, type, monetary value and location of each property seizure. If property is seized during a traffic stop, the agency must document the race or ethnicity of the person forfeiting the property and whether they were arrested or issued a citation.

Omaha Sen. Ernie Chambers supported the amended bill. He said current laws create a financial incentive for police to take property from people who may or may not have committed a crime.

“The original [civil forfeiture] laws were designed to take away the fruits of crime,” he said. “What has happened is local law enforcement agencies use this money to purchase things the city or the county should put in their budgets.”

LB1106 as amended also would allow law enforcement agencies to partner with a federal agency to conduct forfeiture litigation only if the amount of the seized property is valued at more than \$50,000. The state would be responsible for all cases involving less than \$50,000 in seized property.

Lincoln Sen. Patty Pansing Brooks also supported the bill. Currently, the

revenue generated by seized property is split evenly between the county in which it is litigated and the state's public schools, she said. When an agency partners with the federal government, however, 80 percent of the money goes back to the agency and 20 percent stays with the federal government.

"We're always talking about [finding more money to fund schools] because property taxes are too high," she said. "We're eliminating and diverting dollars through this circumvention of the law. It doesn't make any sense."

Sen. Colby Coash of Lincoln said the committee amendment was substantially different from the original bill that was supported by key stakeholders. There could be smaller interstate cases of property seizure in which Nebraska would want to partner with the federal government but would be unable to under the amendment, he said.

Thirty days after a criminal charge is filed, a defendant could request a hearing to determine if the seized property was used in the commission of a crime. A person with a legal interest in seized property but who was unaware that the property was used in the commission of a crime also could file a motion for a hearing.

The court would hold a hearing within 30 days and the prosecuting attorney would be required to prove by clear and convincing evidence the amount of property subject to forfeiture used in the commission of a crime.

The bill also would add the manufacture, distribution and possession of illegal drugs and child pornography to the crimes eligible for property seizure and forfeiture.

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

NATURAL RESOURCES

Game and Parks fee increase advances after cloture

After four hours of select file debate April 5, senators advanced a bill that would raise fees that the state Game and Parks Commission is authorized to charge for a wide range of permits, licenses and stamps.

LB745, introduced by Omaha Sen. John McCollister, also would raise the caps on user fee ranges and increase the allowed growth rate for fees the commission is authorized to charge for hunting, fishing and other activities. The fee increases would generate an estimated \$2.5 million in fiscal year 2016-17 and a further \$5 million in FY2017-18.

Resident fee caps for an annual hunting permit would be raised from \$13 to \$18 and the cap on an annual fishing permit would increase from \$17.50 to \$24. The bill would raise the fee cap for a deer hunting permit for residents from \$29 to \$39.

The minimum fee for an annual park permit for a resident motor vehicle would increase from \$25 to \$30.

McCollister said some of these fees have not been increased in several years and that unless the commission is allowed to increase them, it will be unable to keep up with the growing costs of maintaining the state's parks and managing its game animals. Fees generated 87 percent of the commission's revenue in 2015, he said.

"It's entirely proper for us to periodically raise these fees so they're commensurate with the costs," McCollister said.



Sen. John McCollister

listers said. "We greatly value our parks in this state and we need to make sure that we fund them properly."

Omaha Sen. Ernie Chambers filed several motions and amendments in an effort to delay a vote on the bill.

Chambers filed an amendment containing provisions of his LB961, which would repeal the commission's authority to hold mountain lion hunting seasons. He said the commission could manage the state's mountain lion populations through methods other than hunting, which Chambers said is cruel and unnecessary considering the small number of animals in the state.

"I'm not against everything Game and Parks could do to try to manage these animals," he said. "The killing of them I'm opposed to."

The amendment failed on a 9-26 vote.

After four hours of debate, McCollister filed a motion to invoke cloture, or cease debate and vote on the bill. The motion succeeded 44-4.

Senators then voted 43-3 to advance the bill to final reading.

REVENUE

Bill to end savings program for long-term care advanced

Nebraska's Long-Term Care Savings Plan would be eliminated under a bill given first-round approval April 4.

Syracuse Sen. Dan Watermeier, who introduced LB756 on behalf of the Legislative Performance Audit Committee, said the plan was created in 2006 to encourage Nebraskans to plan for the future by pro-



Sen. Dan Watermeier

viding a tax credit on contributions to an account used to pay for long-term care needs or long-term care insurance plan premiums.

However, he said, a recent audit determined that the plan had been ineffective in incentivizing individuals to plan for long-term care needs or reducing Medicaid costs to the state.

“The Long-Term Care Savings Plan was a well-intended program that just wasn’t able to do what its creators had hoped for,” Watermeier said. “Too few people are saving too little money to have a meaningful impact on long-term care costs to the taxpayers. It is time for the program to be eliminated.”

A Revenue Committee amendment, adopted 26-0, would terminate the plan on Jan. 1, 2018. Any participant would be entitled to receive the full balance of his or her account on that date.

Under the amendment, investment earnings from the plan would be deducted from an individual’s adjusted gross income (AGI) for tax years beginning Jan. 1, 2018, and AGI would increase for unapproved withdrawals for tax years before Jan. 1, 2018.

Grand Island Sen. Mike Gloor, chairperson of the committee, said the change would allow plan participants sufficient time to transition to another option.

Sen. Mark Kolterman of Seward supported the bill and the amendment, but said the state needs to examine ways to better incentivize Nebraskans to save for their long-term care needs.

A major reason that the current program failed, he said, is because investments had to be placed in federally insured accounts—essentially limiting participants to CDs, which offer only a 1 or 1.5 percent return.

“If this program had some good incentives it would have been utilized,” Kolterman said. “We need to look at

ways to [encourage] people to plan for the future so the state doesn’t continue to take on the liability of those entering nursing homes.”

The bill advanced to select file on a 29-0 vote.

Community college limits removed from ag land tax credit bill

A bill that would increase the amount of property tax credits for agricultural landowners advanced to the final round of debate April 7.

Introduced by Grand Island Sen. Mike Gloor on behalf of Gov. Pete Ricketts, LB958 as amended would grant \$234 million in property tax credits for fiscal year 2016-17, a continuation of credits offered last year totaling \$204 million. Gloor said \$20 million of this year’s credits would go specifically to agricultural and horticultural landowners.



Sen. Mike Gloor

Gloor introduced an amendment on select file, adopted 36-0, which removed provisions that would limit the amount of unused restricted funds that community colleges could carry forward from year to year. That component faced strong opposition from some senators and would threaten the passage of the bill, he said.

Sen. Al Davis of Hyannis said something needed to be done to reduce the amount of property taxes collected by community colleges. He said the current amount is unsustainable, amounting to an increase from \$90 million to \$205 million over the past decade. Central Community College’s property tax asking increased from \$18 million to \$51 million during that period, Davis said, and Northeast

Community College’s went from \$10 million to \$30 million.

“It’s time the state started reining in the spending of the community colleges,” he said.

Davis introduced an amendment that would reduce the cap on community colleges’ levying authority.

Gloor said he understands Davis’ frustration but that community colleges are evaluating their funding models and are expected to report to the Legislature on their findings next year. If they don’t, Gloor said, they can expect to see limits similar to those in Davis’ amendment proposed next session.

Sen. Paul Schumacher of Columbus supported the amendment. He said some community college boards, instead of reducing their property tax levies in response to increasing agricultural land values, took advantage of the influx of property tax revenue by increasing their spending. Schumacher said it is unfair that the bulk of the funding for community colleges—whose goal he said is to train workers for industry and business—comes from property taxes on agricultural land.

The amendment failed on an 8-18 vote and senators advanced the bill to final reading on a voice vote.

TRANSPORTATION & TELECOMMUNICATIONS

Right of way clarification advanced

A bill that would clarify right of way laws for bicyclists and pedestrians was advanced from general file April 4.

LB716, introduced by Omaha Sen. Rick Kolowski, would clarify that any bicyclist who is riding on a designated path that intersects with a street or highway would have the right of way

within the crossing if he or she follows all traffic signals.

In the event that a motor vehicle, bicycle and pedestrian all are

present at an intersection, the pedestrian would have right of way.

Kolowski said the bill would make roadways safer for everyone.

“It’s time to change our laws so we can better protect people who ride bicycles,” he said. “These common-sense legal clarifications strengthen the rights of cyclists, motorists and pedestrians.”

Omaha Sen. Robert Hilkemann supported the bill.

“Nebraska is currently ranked 48th in bicycle friendliness in terms of safety for riders,” he said. “[LB716] will improve that bike safety in the state.”

LB716 also would repeal a current statute commonly referred to as the “mandatory sidepath” provision. This states that whenever a usable path for bicycles has been provided adjacent to a street, a bicyclist must use the path and not the street.

Sen. Colby Coash of Lincoln said he has concerns about repealing this



Sen. Rick Kolowski

provision.

“I don’t understand the rationale behind removing a requirement to use a sidepath when there’s one parallel to the highway,” Coash said. “If we have a poorly kept sidepath, we should repair it, not remove the restriction.”

Following the adoption of a technical amendment, senators advanced the bill to select file on a 26-5 vote.

URBAN AFFAIRS

Clean energy financing bill passed

Lawmakers passed a bill April 7 that will help property owners make energy-efficient upgrades.

LB1012, introduced by Omaha Sen. Heath Mello, allows municipalities to create a clean energy assessment district. Property owners within such a district are eligible for energy-efficient home improvements on residential and commercial properties, financed



Sen. Heath Mello

by the municipality.

Qualifying energy-efficiency improvement projects can include new insulation, windows and doors, heating and air-conditioning modifications or replacements and energy-efficient fixtures.

The bill enables any municipality to enter into an assessment contract with the owner of a qualifying property and third-party lenders, if applicable. The financing will be paid back within 20 years through a special assessment on the property owner’s property tax statement.

To qualify for financing, a property owner must not be delinquent on any taxes, special assessments, water or sewer charges, have no involuntary liens on the property and be current on all mortgage debt. Financing and future assessments will follow the property and the obligation will be transferred upon sale of the property.

LB1012 authorizes a municipality to issue revenue bonds to finance qualifying projects, which can be paid back only through assessments levied on the property owners. Any single bond issued by a municipality that exceeds \$5 million will require voter approval.

The bill passed on a 45-0 vote. ■

U.S. CONGRESS CONTACT INFORMATION

Senator Deb Fischer
United States Senate
383 Russell Senate Office Building
Washington, D.C. 20510
Tel. (202) 224-6551

Senator Ben Sasse
United States Senate
B40E Dirksen Senate Office Building
Washington D.C. 20510
Tel. (202) 224-4224

Congressman Jeff Fortenberry
(District 1)
1514 Longworth House Office Building
Washington, D.C. 20515
Tel. (202) 225-4806

Congressman Brad Ashford
(District 2)
107 Cannon House Office Building
Washington, D.C. 20515
Tel. (202) 225-4155

Congressman Adrian Smith
(District 3)
2241 Rayburn House Office Building
Washington, D.C. 20515
Tel. (202) 225-6435

Unicameral Information Office
Nebraska Legislature
P.O. Box 94604
Lincoln, NE 68509
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