

Senators at impasse on proposal to fund school aid, property tax relief with sales tax increase

Lawmakers debated a proposal April 6 to provide a minimum amount of state aid to each public school district. A pending amendment would replace the bill and raise the state sales tax rate in order to fund additional school aid and property tax credits.

Sen. Curt Friesen of Henderson, sponsor of LB1103, said the bill would ensure that each school district would receive no less than 25 percent of its basic funding needs—as calculated by the state’s school aid formula—in the form of state aid.

Friesen said his bill is an attempt to address the state’s overreliance on property taxes to fund public education and the dramatic shift in that tax burden to agricultural landowners over the past decade. As a result of that shift, he said, about 70 percent of the state’s 244 school districts receive no



Sen. Curt Friesen said the tax increases in a proposed amendment to LB1103 would fund additional state aid to public schools and reduce property taxes.

equalization aid, which is state aid intended to cover the needs of school districts that cannot be met by other resources, such as property taxes.

“We need to address how we fund

K-12,” Friesen said, “and the state needs to accept more responsibility in that effort.”

Friesen filed a motion to substitute an amendment he had introduced

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Income tax credit on paid property taxes stalled

Senators considered a proposal April 3 to provide income tax credits that partially offset the amount that Nebraskans pay in property taxes.

As introduced by Papillion Sen. Jim Smith on behalf of Gov. Pete Ricketts, LB947 would eliminate the state’s current property tax credit program and instead would provide Nebraska homeowners and agricultural and horticultural landowners a refundable state income tax credit equal to 10 percent of their property taxes paid.



Sen. Jim Smith

The bill also would reduce the top individual and corporate income tax rates to 6.69 percent by 2020 and would

transfer \$10 million to a job training fund.

Smith said that the state’s income tax rates, overreliance on tax incentives and high property taxes make it uncompetitive with other states when trying to attract new businesses.

A pending Revenue Committee amendment would replace the bill, instead providing a refundable state income tax credit for agricultural and horticultural landowners equal to 2 percent of their property taxes paid beginning this year. The credit would increase in annual increments until it reaches 20 percent in 2027.

Homeowners would receive a 1 percent income tax credit on their property taxes paid this year, with a \$25 cap for 2018. The credit would increase to 20 percent by 2030, when it would be capped at \$500.

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Income tax credit on paid property taxes stalled

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The amendment would maintain funding for the current property tax credit program at \$224 million annually.

The proposal also would decrease the state's top corporate income tax rate—which is applied to taxable income in excess of \$100,000—from 7.81 percent to 6.84 percent over five years. Individual income tax rates would not change.

Finally, the amendment would direct the state treasurer to transfer \$5 million from the state's cash reserve fund to a job training fund and approximately \$34 million to the state's general fund to cover the proposal's cost for the first year.

LB947 is the only property tax relief bill that could garner enough votes to advance from the Revenue Committee this session, Smith said, and its failure to pass could increase the odds that voters will approve a proposed ballot initiative that mirrors LB829, introduced by Bayard Sen. Steve Erdman. That bill would provide Nebras-



Sen. Steve Erdman

kans a refundable state income tax credit equal to 50 percent of their property taxes paid to school districts during the taxable year.

Smith said that Erdman's proposal would leave the state with a \$1.1 billion budget shortfall next year that could be filled only by cutting state spending and by raising other taxes. He said his proposal, which would provide for \$600 million in property tax relief when fully implemented, is a more responsible approach.

"Sen. Erdman's alternative is dangerous," Smith said. "You will not be able to cut enough to pay for LB829 or the ballot initiative cost."

Sen. Lydia Brasch of Bancroft supported the amendment, saying that LB947 would provide "slow and gradual" increases in property tax relief.

"If we would have done this 10 years ago, we would have that 20 percent reduction and a better three-legged stool," she said, referring to the state's tax system, which comprises income, property and sales taxes.

North Platte Sen. Mike Groene also supported the amendment, saying

that another property tax relief proposal that came before the committee this session would raise taxes without controlling school spending.

"I stand in support of [the amendment] because at least it doesn't raise my taxes," he said.

Erdman opposed the amendment, saying that other bills, including his LB829, offer more substantial property tax relief. Erdman said that a 2 percent credit on an agricultural landowner's property tax bill is not enough when valuations on agricultural land have increased approximately 5.6 percent per year over the past 12 years.

"I didn't come here to take this back to my people and say this is property tax relief, because this is not property tax relief," he said. "This is too little, too late."

Erdman filed a motion to bracket the bill, which effectively would end debate on it for this session. The motion failed on a 9-25 vote.

Sen. Burke Harr of Omaha supported the amendment's increase in workforce development funding, but he said the state could not afford the

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UNICAMERAL UPDATE

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Sen. Tom Briese said the property tax authority cap in his amendment to LB1103 would allow for growth in state aid to schools while ensuring property tax relief.

with another amendment by Sen. Tom Briese of Albion. The amendment would replace Friesen's original bill with provisions of LB1084 and would raise the state sales tax rate from 5.5 percent to 6.5 percent, raise taxes on a pack of cigarettes from 64 cents to \$2.14 and impose a surtax on those earning at least \$500,000.

The amendment would direct the additional tax proceeds to the state's property tax credit fund and to school aid.

It would limit the amount that school districts could request in property taxes each year, and it would require the state Department of Education to oversee an in-depth review of the financing of public elementary and secondary schools.

Briese said the amendment would deliver "immediate and substantial" property tax relief, but he acknowledged that some senators would oppose raising other taxes to pay for it.

"I'll admit there's something in here for everybody to dislike," he said, "but I can almost guarantee you that the average Nebraskan will support this concept."

Sen. Tyson Larson of O'Neill opposed the bill and filed a motion to indefinitely postpone it, which would end consideration of it for this session. The motion failed on a 6-25 vote.

Sen. Jim Smith of Papillion also opposed the bill and said it would increase taxes by approximately \$487 million. He said the amendment attempts to provide property tax relief by increasing sales and cigarette taxes, which would affect mostly low-income Nebraskans.

"If we're going to be responsible and avoid putting burdensome taxes—more taxes—on our families and our businesses, it's going to take time to get out of this," Smith said, referring to the problem of high property taxes. "Don't expect it to happen overnight."

Sen. Lydia Brasch of Bancroft also

opposed Briese's amendment and filed a motion to bracket the bill. Brasch said she supports reducing property taxes, but the amendment would not control school spending or fix flaws in the state's school funding formula that created the problem Friesen and Briese are trying to correct.

"We are not going to do this in the 11th hour of session," she said. "We need to have a deliberate plan."

Brasch said she favored LB947, sponsored by Smith, which would provide refundable income tax credits for homeowners and agricultural or horticultural landowners that would increase gradually over the next decade.

The Legislature moved to the next item on the agenda before voting on the bracket motion, Briese's amendment or the bill. Per a practice implemented last year by Speaker Jim Scheer, the sponsor of a bill that is facing a potential filibuster must demonstrate sufficient support for a cloture motion before the measure will be scheduled for additional debate.

After debate on LB1103 had concluded, Scheer told lawmakers that he is willing to meet with five senators who introduced major tax bills this session—Briese, Friesen, Smith, Bayard Sen. Steve Erdman and North Platte Sen. Mike Groene—in an effort to broker a compromise so that a tax relief proposal could be passed this year. He said none of the bills currently has the 33 votes needed to secure a cloture motion.

"I don't care what the lobby says, I don't care what the governor says," Scheer said. "We should be working for something that benefits the state of Nebraska—not next year, this year." ■

Income tax credit on paid property taxes stalled

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proposed credits and rate cut. Ricketts has asserted that the state can afford the proposal based on a growth rate of 6 percent, Harr said, but the Legislature's economic forecasting board predicts that Nebraska's economy will grow by only 4.9 percent next year.

Harr added that, under the amendment, he would have received a \$25 credit on his most recent property tax bill of more than \$6,200.

"If you think that amounts to a hill of beans, you're crazy," he said. "If you think that appeases me and says the property tax problem is solved, you're crazy."

Sen. Curt Friesen of Henderson said he could not support the amendment because it does not address the state's overreliance on property taxes to fund its public schools.

"I've always said I'm willing to work

to accomplish this over a period of years," he said, "but to do this over a period of 12 years is not substantial, it's not upfront and it doesn't deal with school funding the way I've envisioned it."

Lincoln Sen. Kate Bolz said that the amendment's increasing cost over time would leave the state unable to fund priorities like education, child welfare services and the Department of Correctional Services. The amendment would reduce the state's cash reserve fund to approximately \$256 million, only about 35 percent of the Appropriations Committee's goal, she said.

"This isn't the right proposal, and it isn't the right time," Bolz said.

Sen. Tom Briese of Albion also questioned how the state would pay for the proposal. Briese said his

LB1084, which would raise the state sales tax rate and eliminate several state sales tax exemptions on services, would provide more property tax relief more quickly than LB947.

"You're not going to deliver the immediate and substantial property tax relief that Nebraskans need without changing how we pay for things," he said, "and that means replacing property taxes with other forms of revenue."

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

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AGRICULTURE

Prairie dog management act repeal advanced

Lawmakers gave first-round approval April 6 to a bill that would repeal the Black-Tailed Prairie Dog Management Act.

The act, passed by the Legislature in 2012, authorizes county boards to adopt and carry out coordinated management programs to control black-tailed prairie dog colonies on property within the county.

The law requires a landowner to effectively manage prairie dog colonies on his or her property to prevent them from expanding to adjacent property if the owner objects to the expansion. If a landowner does not provide evidence that a colony is being managed within 60 days of a county board's notice, the county may enter upon the property to manage the prairie dogs.

The landowner would be responsible for any expenses, and unpaid assessments would become a lien on the property. Landowners who do not comply also could receive a fine of up to \$1,500. The law allows a county to file a foreclosure suit to recover the debt.

Omaha Sen. Ernie Chambers, sponsor of LB449, said the act violates property owners' rights by allowing government agents to come onto their land without notice when a neighbor makes an unverified complaint about prairie dogs on the property.



Sen. Ernie Chambers

"People can come onto your property, they can damage it, they can spread poison—without any court involvement, without giving you no-

tice," he said.

Sen. Laura Ebke of Crete supported the bill. Whether prairie dogs are a nuisance or not, she said, landowners do not have the right to tell others that they cannot have prairie dogs on their property.

"The appropriate role of government is to protect life, liberty, the pursuit of happiness and property," Ebke said. "I think my conservative colleagues have long believed that—they ought to jump in line on this one."

North Platte Sen. Mike Groene also supported the bill. He said current law allows landowners to seek help from the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture to control prairie dogs and other nuisance animals. Groene agreed that the current law infringes on Nebraskans' privacy, property and due process rights.

"When I get a speeding ticket, I go to court in front of a judge," he said. "There's no judge here, or court."

Sen. Tyson Larson of O'Neill opposed repealing the current law. Government's role, he said, should be to protect individuals—and their property rights—from other individuals.

"By not having something like [the current law], you are allowing another individual's decisions to blatantly harm my property and my property rights," Larson said.

Sen. Dan Hughes of Venango also opposed the bill. He said the current law has never been used, but its existence forces landowners to settle disputes about unmanaged prairie dog colonies.

"I agree with Sen. Groene," Hughes said. "What he wants to do on his property is fine, but when it begins to encroach upon my property, devaluing my property—which is what prairie dogs do—then I have a problem."

Senators voted 25-9 to advance the bill to select file.

APPROPRIATIONS

Budget adjustment bills approved

Lawmakers gave final approval April 3 to the four components of the Legislature's mid-biennium budget adjustment package.

LB944, introduced by Speaker Sen. Jim Scheer of Norfolk at the request of the governor, makes adjustments to appropriations for state operations, agency and school aid and construction programs in the current and next fiscal year.



Sen. Jim Scheer

The bill contains an across-the-board reduction in general fund appropriations to many state agencies and operations budgets of 2 percent in fiscal year 2017-18 and FY2018-19.

The University of Nebraska, state and community colleges will see a 1 percent reduction in FY2018-19. Reductions in state aid—except for community colleges—is retained at 4 percent in FY2018-19.

Among other provisions, the bill also provides \$55 million to the state Department of Health and Human Services to cover increased child welfare costs and \$15 million to offset reductions in the federal Medicaid match rate.

A provision included in LB944 prohibits federal Title X funds from being paid or granted to an organization that performs, assists, provides directive counseling in favor of or refers for abortion services. An otherwise qualified organization that is affiliated with, but objectively independent from, such an organization—which the bill

defines as legal, physical and financial separation—is not disqualified from receiving funds under the bill.

The provision also prohibits the referral of a patient to an abortion service, which the bill defines as the act of recommending a pregnant woman to doctors, clinics or other persons or entities for the purpose of obtaining an abortion.

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

LB944 passed on a 38-6 vote.

A number of fund transfers and changes to transfer provisions are made by LB945, also introduced by Scheer at the request of the governor, and passed 41-4.

Among other provisions, the bill:

- creates the Nebraska Film Office Fund to be administered by the state Department of Economic Development;
- transfers the unobligated balance of the Nebraska Progress Loan Fund as of Sept. 30, 2017, to the Intern Nebraska Cash Fund;
- allows transfers to be made from the State Visitors Promotion Cash Fund to the General Fund at the direction of the Legislature and transfers \$1 million to it; and
- transfers \$200,000 from the Affordable Housing Trust Fund to the Lead-Based Paint Hazard Control Cash Fund.

LB946, also introduced by Scheer, changes provisions relating to the state's Cash Reserve Fund. The bill transfers \$100 million from the Cash Reserve Fund to the General Fund. It reduces by \$2.3 million a transfer from the Nebraska Capital Construction

Fund due to the lower cost of the Central Nebraska Veterans' Home project.

The bill also changes the timing and individual transfer amounts to the Nebraska Capital Construction Fund related to the heating, ventilation and air conditioning project at the state Capitol Building.

The bill passed on a vote of 40-5.

LB950, introduced by Business and Labor Committee chairperson Sen. Joni Albrecht of Thurston, provides for payment of claims against the state.

The bill, passed 47-0, includes tort and workers' compensation claims totaling \$2 million, along with several agency write-offs totaling \$978,000 for various uncollectable debts.

The governor must sign, veto or line item veto the budget within five calendar days, excluding Sunday.



Restrictions for payday lenders advanced

Providers of short-term, delayed deposit loans would be required to provide more information to borrowers under a bill advanced by lawmakers April 6.

To secure a delayed deposit loan—often called a payday loan—a borrower typically submits a personal check for the loan amount, which is then held and cashed by the lender at the end of the loan period, which typically is 34 days.

LB194, introduced by Omaha Sen. Tony Vargas, would have limited the amount of interest that could be charged on a



Sen. Tony Vargas

delayed deposit loan to 36 percent.

Vargas said some Nebraska delayed deposit lenders currently charge more than 400 percent interest on loans, creating a cycle of debt and poverty.

“It is critical that the Legislature continues to work to reform payday lending,” he said. “This doesn’t reform payday lending [as amended], but it increases the information and notifications regarding payday loans given to consumers.”

A Banking, Commerce and Insurance Committee amendment, adopted 47-0, replaced the bill. As amended, it would require that a lender provide written notice to a borrower including the name of the borrower, transaction date and amount, payment due date and total payment due and the total fees imposed on the transaction, both as a dollar amount and an annual percentage rate.

The notice would state that such loans only should be used to meet short-term cash needs, that the total cost of a transaction cannot exceed \$500, that the borrower has the right to rescind a transaction before the end of the next business day and that the borrower has the right to rescind authorization for an electronic payment.

Any fees charged to individuals on active military duty or their spouses and dependents would not exceed the amount allowed under federal law.

If a check held by a lender is returned unpaid due to insufficient funds, a closed account, a stop-payment order or other reason, the lender could exercise all civil means to collect the face value of the check. The lender could collect one returned check charge for each delayed deposit, not to exceed \$15, plus court costs and attorney’s fees.

A borrower who is unable to pay back a loan when due could request an extended payment plan once in any 12-month period. The bill would require lenders to accept prepayment

of a loan from a borrower without any penalty.

Finally, lenders would be required to provide information annually to the state Director of Banking and Finance, who would submit a final report to the Legislature.

Following the adoption of a technical amendment, senators advanced the bill to select file on a 47-0 vote.

Property appraiser statutes updated

Lawmakers passed a bill April 6 that updates Nebraska’s Real Property Appraiser Act.

LB741, introduced by Omaha Sen. Brett Lindstrom, brings Nebraska’s Real Property Appraiser Act into compliance with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Uniform Standards of Professional Appraisal Practice, and the Policy Statements of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.



Sen. Brett Lindstrom

The bill lessens the burden to obtain or maintain a credential by removing the required demonstration of general knowledge of Nebraska appraiser law, as well as the report writing update course continuing education requirement.

It also simplifies the standards for evaluation of a reciprocal applicant’s jurisdiction of practice.

Finally, it makes minor changes to the administration of the Nebraska’s Real Property Appraiser Act and would eliminate provisions relating to the separate credential of real property associate.

The bill passed on a 45-0 vote.

BUSINESS & LABOR

Changes to workers’ compensation settlements advanced

Lawmakers gave first-round approval April 4 to a bill that would help injured workers receive settlement payments more efficiently.

LB953, introduced by Thurston Sen. Joni Albrecht, would require the Workers’ Compensation Court to approve a lump-sum settlement in cases when the employee is eligible for Medicare, is a Medicare beneficiary or has a reasonable expectation of becoming eligible for Medicare within 30 months of the time of settlement.



Sen. Joni Albrecht

Albrecht said the bill would streamline the settlement process.

“This makes Nebraska workers’ compensation law better and more efficient,” she said. “It would allow attorneys to help move the process along when it’s in the best interests of the employees to do so.”

The lump-sum settlement also would apply in cases when the medical, surgical or hospital expenses incurred for treatment of the injury will not be fully paid as part of the settlement if the employee’s attorney affirms that the settlement is in conformity with the compensation schedule and in the best interests of the employee or his or dependents.

The bill would eliminate a requirement for a duly-executed release if a lump-sum settlement is approved by the court.

Finally, it would address concerns about penalties imposed when a settlement payment is late. Currently, a 50

percent penalty is imposed on each payment to the employee that is made more than 30 days after the release is filed with the compensation court. The bill would clarify that the penalty provision still would apply unless the court enters an order of dismissal with prejudice.

A Business and Labor Committee amendment, adopted 29-0, would narrow the scope of the settlement the court is required to approve to include only the portion of the settlement regarding medical expenses.

Medicare’s interests must be approved by the court if the employee’s attorney affirms that the resolution of payment of disputed medical, surgical or hospital services is in conformity with the compensation schedule and in the best interests of the employee or his or her dependents.

The court would not be required to approve other areas of the settlement.

Omaha Sen. Tony Vargas introduced an amendment, adopted 32-0, that would incorporate provisions of his LB784. As amended, these would prohibit contractors and employers who have unpaid fines for violating the Employee Classification Act from entering into a contract with the state or any political subdivision until the fines are paid.

Following the adoption of a technical amendment, senators advanced the bill to select file on a 29-1 vote.

GENERAL AFFAIRS

Bottle club licensure added to omnibus liquor law bill, advanced

An omnibus liquor law bill was narrowed and amended to include provisions related to bottle clubs April 3.

LB1120, as introduced by Sen.

Tyson Larson of O'Neill, would have made a variety of changes to the Nebraska Liquor Control Act. A General Affairs Committee amendment, adopted 36-0, removed all sections of the bill except for a provision that would create the Music Licensing Agency Act.



Sen. Tyson Larson

The act would require a music licensing agency to register with the state Department of Revenue starting Jan. 1, 2019, and file an annual electronic copy of each performing rights agreement that provides for payment of royalties made available from the music licensing agency to any Nebraska proprietor.

A \$10,000 fine would be imposed for each 45-day period following each Feb. 15 if a music licensing agency fails to renew a registration or engages in business without registration.

Larson said the act is intended to stop Nebraska businesses from being harassed.

"The Music Licensing Agency Act would provide protections for any venue that hosts live music performances and are being aggressively contacted by agencies claiming to hold copyrights to the music being performed and demanding a licensing fee," he said.

Omaha Sen. Theresa Thibodeau offered an amendment to the committee amendment, adopted 34-0, that would provide licensure for bottle clubs—private clubs where members bring their own alcohol.



Sen. Theresa Thibodeau

Thibodeau introduced LB747 this session in an effort to regulate bottle clubs, but said the provisions in the

amendment were a compromise taken from the committee's 2017 omnibus liquor bill, which stalled during debate last session over unrelated considerations.

"This amendment would provide the Liquor Control Commission with the means to license and regulate bottle clubs," she said.

The amendment would define bottle clubs and establish a new license for such establishments with a \$300 application fee. A bottle club licensee could not hold any other license under the Nebraska Liquor Control Act and would be required to close between 5 a.m. and 6 a.m.

A club's private membership list would not be made public except as required by a court order, warrant or subpoena.

Thibodeau said the provisions would need to be worked on before select file to ensure appropriate enforcement mechanisms and penalties for noncompliance, which she said is important given the role that bottle clubs play in human trafficking.

Larson said he was willing to work on specific enforcement measures, although he emphasized that human trafficking is a separate issue.

"The Nebraska Liquor [Control] Commission won't have enforcement over human trafficking," he said. "But we can set out enforcement mechanisms when there is a liquor license violation, and that is reasonable and needs to happen."

The amendment also would add back the following provisions originally contained in LB1120:

- allowing Class C licensees with a bottling endorsement to increase the size of their growlers from 32 to 64 ounces;
- clarifying that the fees collected for beer shipper licenses are to be deposited in the Nebraska

Beer Industry Promotional Fund; and

- allowing a party to apply for a rehearing when a liquor license application is denied by the Liquor Control Commission.

Following adoption of the amendments, LB1120 advanced to select file on a 41-0 vote.



Bill would send Cather, Chief Standing Bear to U.S. Capitol

Two different icons would represent Nebraska at the U.S. Capitol under a bill advanced by the Legislature April 3.

The National Statuary Hall Collection, established by Congress in 1864, houses two statues that represent important historical figures from each state. Statues of Julius Sterling Morton and William Jennings Bryan currently represent Nebraska.

Federal legislation passed in 2000 authorized states to request that one or both statues be replaced by the Joint Committee on the Library of Congress.

LB807, introduced by Omaha Sen. Burke Harr, would direct the Nebraska secretary of state to submit a request to approve the replacement of the Morton statue with one of Pulitzer Prize-winning author Willa Cather.



Sen. Burke Harr

A National Statuary Hall Selection Committee composed of members of the Nebraska Hall of Fame Commission would be tasked with selecting a sculptor for the statue and securing funding.

A Government, Military and Veterans Affairs Committee amendment, adopted 35-0, authorized the replacement of the William Jennings Bryan statue with one of Chief Standing Bear. It also clarified that the costs associated with replacing both statues would be paid by private donations.

Gordon Sen. Tom Brewer spoke in support of the bill and the amendment, saying that Willa Cather and Chief Standing Bear are strong representatives of Nebraska's diverse cultural history.

"This is in no way a task that we're doing to dishonor those who are there," he said. "This is a chance to share the rich history of Nebraska with those who visit Statuary Hall."

Sen. Patty Pansing Brooks of Lincoln also supported the bill. William Jennings Bryan's former home stands in her district, she said, but she does not view the bill as a dishonor to his legacy.

Instead, the bill would bring the legacies of two other important Nebraskans to the forefront, Pansing Brooks said.

"It is a really fitting tribute to Nebraska to honor both Willa Cather and Chief Standing Bear," she said. "Standing Bear was a statewide leader and national leader for Native Americans and therefore, for all of us."

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

Firearm public information exemption advanced

Lawmakers gave first-round approval April 3 to a bill that would authorize the withholding of certain public information relating to firearms.

Under current law, specific types of information may be withheld from the public unless disclosed in an open

court, open administrative proceeding or meeting or disclosed by a public entity pursuant to its duties.

LB902, introduced by Brainard Sen. Bruce Bostelman, would add to those exemptions information regarding firearm registration, possession, sale or use that is obtained by a government entity for an application or permit. Such information would, however, be available to any federal, state, county or local law enforcement agency.

Bostelman said the forms listed in the bill contain an abundance of personal information that could be used in a variety of negative ways, including identity theft. The bill would provide a proper balance between concerns regarding transparency and privacy and safety considerations, he said.

The bill advanced to select file 32-0.

Proposal to require faithful convention delegates fails

A bill that would have placed restrictions on delegates to a potential Article V convention of the states failed to advance from general file April 5.

LB1058, introduced by Hastings Sen. Steve Halloran, would provide the rules and procedures necessary to guide a delegation to an Article V delegation. Halloran said 28 out of the 34 states required to call a convention have done so and Nebraska must be prepared.

"As a state, we must be prepared to act when called," he said. "This would provide the framework needed to ef-

fectively participate in a convention of the states."

The Legislature would elect five delegates and five alternative delegates from its membership to represent the state at a convention. Both would be required to take an oath promising to not vote on any amendment to the U.S. Constitution that has not previously been approved by the Nebraska Legislature.

If a delegate does cast an unauthorized vote, he or she would be disqualified from continued service in the role. Knowingly casting an unauthorized vote would be a Class IV felony, punishable by up to two years imprisonment with 12 months post-release supervision, a \$10,000 fine or both.

Rather than selecting state senators, a Government, Military and Veterans Affairs Committee amendment specified that the lieutenant governor, state auditor, secretary of state, state treasurer and speaker of the Legislature would serve as delegates. Alternate delegates would be selected by the Legislature's Executive Board from the chairpersons and vice chairpersons of the Legislature's standing committees.

Additionally, the state attorney general would have sole authority in determining whether a vote is unauthorized.

Supporting the measure was Crete Sen. Laura Ebke. She said there needs to be a clear and thoughtful process in place to choose delegates who will represent the state's interests most accurately and responsibly.

"It's important to realize that LB1058 has nothing to do with the call of a convention, but is asking the Legislature to be prepared should a convention be called," Ebke said. "There needs to be some sort of a structure because otherwise we're just



Sen. Bruce Bostelman



Sen. Steve Halloran

making it up.”

Lincoln Sen. Adam Morfeld opposed the bill. He said that once the convention begins, every part of the Constitution will be on the table.

“It’s so easy to have a runaway convention because there are so few guidelines and rules within that article of our Constitution to be able to guide a convention,” Morfeld said. “The last constitutional convention we had at the federal level is when we got rid of the Articles of Confederation and we ended up with an entirely different form of government.”

Also opposing the bill was Lincoln Sen. Kate Bolz, who said a convention called to pass a balanced budget amendment could have a devastating impact on the state’s budget. Nearly \$3 billion in federal funding comes into the state budget, Bolz said, with \$400 million going to the K-12 public school system alone.

“I have no problem with fiscal restraint ... however, I think a convention of the states could make sweeping changes that have a significant impact on the quality of life in Nebraska,” she said. “What I think we imperil by empowering a convention of the states is rather than holding our federal delegation accountable, we kick it to the convention, which could make sweeping changes that will impact everything that we receive federal funds for.”

The committee amendment failed on a 20-24 vote.

LB1058 failed to advance on a 23-21 vote. It is unlikely to be debated again this session.

Electronic poll book proposal narrowed, advanced

Senators significantly narrowed a proposal April 5 that would codify the use of electronic poll books in Nebraska.

LB1065, introduced by Gretna Sen. John Murante, would authorize

the use of electronic poll books in each precinct in the state. As introduced, the bill would require EPBs to contain a list of registered voters and the sign-in register for the precinct in one database that would include voter information, a digital image and the digital signature for each registered voter in the precinct.



Sen. John Murante

Murante said the change to an electronic version of the voter rolls has decreased the time it takes for citizens to vote by as much as 25 percent in states that have adopted the technology. Most forms of election technology must be certified by the secretary of state’s office, he said, and there currently is nothing in Nebraska law to allow counties or election commissioners to use EPBs.

“LB1065 is, in my mind, the first step on what will undoubtedly be a long journey in updating and modernizing Nebraska’s election technology,” Murante said.

Under the bill as introduced, a person whose identity is questioned due to his or her digital image in an electronic poll book could cast a provisional ballot. The individual would be required to appear before the election commissioner or county clerk within seven days after election day and have his or her identity confirmed.

Lincoln Sen. Adam Morfeld opposed the bill. While agreeing on the need to modernize Nebraska’s election technology, he said the inclusion of digital images—and the ability for poll workers to challenge a voter based on those images—was problematic. A driver license photo is valid for 10 years, he said, and an individual’s

appearance can change dramatically over a decade.

“I believe that it raises Fourteenth Amendment concerns along with a host of other concerns in some of those subjective judgements that we’d be putting [poll workers] in the position of making,” he said.

In addition, Morfeld said, many voters would have difficulty appearing in person within the bill’s time frame to provide proof of their identity if they were challenged on election day and voted provisionally. Election offices are open only during regular business hours and transportation would be a challenge for those who rely on public transportation or live in rural areas, he said.

Bellevue Sen. Sue Crawford agreed, saying the bill would add restrictions on voting instead of making elections cheaper and easier to conduct. A better focus would be updating computers and voting systems to ensure the integrity of elections, she said.

“We need to invest in making it easier to vote, making it less expensive for counties, making our systems more secure and updating our computers that need to be updated—that’s where we need to focus our emphasis on making sure that we’re using technology to make our elections more effective,” Crawford said.

Murante said he was willing to work between general and select file to find a pathway forward on the bill. He offered an amendment to a pending Government, Military and Veterans Affairs Committee amendment, adopted 31-0, that removed all but the provision authorizing the use of EPBs with digital signatures included.

Senators then adopted the committee amendment 36-0 and advanced the bill to select file 39-0.

Attempt to revive voter ID constitutional amendment fails

Senators rejected a cloture motion April 5 during first-round debate on a measure that would ask Nebraskans to decide whether voters must show identification at the polls.

LR1CA, introduced by Gretna Sen. John Murante, stalled during general file debate last session when an attempt to invoke cloture and cease debate failed. The proposal was given a priority designation this year, allowing it to be placed on the agenda again for further debate.

The measure would place a proposed constitutional amendment on the November 2018 general election ballot. If approved, the amendment would require voters in Nebraska to present an ID containing a photograph or digital image prior to casting a ballot.

The Legislature would be tasked with determining the specifics of the voter ID requirement through enabling legislation.

Murante said that since last session he had spent time traveling the state discussing the issue with Nebraskans, who he said overwhelmingly support voter ID.

“Folks around this state—and clearly around this country—are genuinely concerned about the integrity of elections: about the conduct of elections, about the sanctity of elections, about whether people’s votes are counted,” he said.

The 70 percent of Nebraskans who favor voter ID should have the opportunity to decide whether someone who shows up to vote is “who they say they are and live where they say they live,” he said. Such a requirement currently is necessary to purchase certain medications, board a plane or cash a check, he said, and also should be required of voters.

“Over 35 states have some sort of

voter identification on the books,” Murante said.

Lincoln Sen. Adam Morfeld spoke in opposition. People only support voter ID laws because individuals in power have misled them into believing that voter impersonation is an issue, he said, even though evidence for that assertion does not exist.

“It is the rarest form of fraud,” Morfeld said. “You and I are more likely to be struck by lightning twice than to be the victim of voter impersonation fraud.”

In addition, he said, voter ID would place an unnecessary burden on the elderly, students, low-income individuals and others. The secretary of state repeatedly has indicated that voter impersonation is not an issue in Nebraska, Morfeld said, so lawmakers should focus on election technology concerns rather than restricting ballot access.

After an hour of debate, Murante offered a motion to invoke cloture, or cease debate and vote on the bill. The motion failed on a 24-18 vote. Thirty-three votes were needed. A failed cloture motion results in debate on a measure ceasing for the day. With five days left in the legislative session, LR1CA is unlikely to be placed on the agenda again.



Elimination of developmental disability entitlement amended, advanced

A bill that would have permanently eliminated an entitlement that prioritized services for high school graduates with developmental disabilities was amended and given first-round ap-

proval April 6.

The entitlement was halted for fiscal year 2017-18 and FY2018-19 during the 2017 legislative session in order to bring Nebraska into compliance with federal law. The entitlement prioritized services for graduates or those reaching age 21, which violates a home and community-based services waiver federal requirement that the state first serve individuals with the highest priority status.

LB793, as introduced by Ralston Sen. Merv Riepe, would have permanently eliminated the entitlement, which otherwise would resume in FY2020.



Sen. Merv Riepe

Riepe said he had worked to find alternative language that would be a “win-win for all parties.” The new language, contained in an amendment offered by Gering Sen. John Stinner, was adopted on a vote of 27-6.

Under the amendment, if the state Department of Health and Human Services does not have enough funds to provide services to all eligible individuals under the waiver, the department would be required to provide comparable services only to high school graduates.

Riepe described to the amendment as “trigger language” for the entitlement.

“The way the Legislature will know that this provision is triggered is that every Sept. 15th the department will have to provide a notification to the Appropriations and Health and Human Services committees of whether or not the provision is triggered, so the Legislature may provide appropriate funding for the services,” he said.

The provision would sunset June 30, 2021, which Riepe said would pro-

vide enough time to demonstrate that individuals are being funded through the Medicaid waiver.

The amendment also contained provisions of Lincoln Sen. Kate Bolz's LB1004.

The amendment would extend aging and disability resource centers as an ongoing component of Nebraska's long-term care continuum and require that ARDC sites coordinate and establish partnerships as necessary with organizations specializing in serving aging individuals and persons with disabilities to provide services.



Sen. Kate Bolz

Bolz said ARDCs provide information, referral and options counseling to seniors and individuals with disabilities, which helps them stay in their home and community when they choose to do so.

"Since December 2016, ARDCs have fielded 9,326 calls and, importantly, ARDCs have created an estimated \$4.5 million in cost savings by helping individuals avoid higher cost nursing home placements," she said.

Under the amendment, the state's area agencies on aging would be required to establish partnerships with one or more lead organizations that specialize in serving people with disabilities to develop an ARDC plan.

The department would provide a report to the Legislature each Dec. 1. Funding for the program would come from the Nebraska Health Care Cash fund for fiscal years 2018-19 and 2019-20.

Bayard Sen. Steve Erdman opposed the amendment, saying the services that ARDCs provide are "duplicative" and that the measure would violate local control by mandating that local area agencies on aging partner with ARDCs.

"This was a pilot project," he said. "I haven't been shown by anybody ... the examination of the results that shows me this is a necessary program that needs to continue."

Riepe acknowledged the concerns and said the Legislature would examine ARDCs over the interim to answer questions about their functioning and effectiveness.

Following adoption of the Stinner amendment, senators voted 33-1 to advance the bill to select file.

Child care safety bill becomes omnibus public health measure, advances

A bill intended to standardize child care and protection rules at Nebraska schools was amended to become an omnibus public health measure and advanced from general file April 3.

Ralston Sen. Merv Riepe, sponsor of LB1034, said that currently both the state Department of Health and Human Services and the state Department of Education have



Sen. Merv Riepe

jurisdiction over elementary schools for the safety of children. DHHS has oversight during programs before and after school that are located within a school, he said, and the Department of Education has oversight during the school day.

"The safety requirements are vastly different depending on the time of day," Riepe said. "There is no additional risk for these children before or after school, there are just different departments providing oversight."

The bill would require the standards of care and protection for school-age child care programs located within an accredited or approved

school to meet the same standards of an accredited or approved school under state Department of Education regulations.

Riepe offered an amendment, adopted 38-0, which would specify that if a school-age child care program accepts reimbursement from a state or federal program, DHHS would determine whether the program complies with the requirements for reimbursement.

A Health and Human Services Committee amendment, adopted 38-0, added provisions of five additional bills:

- LB344, sponsored by Thurston Sen. Joni Albrecht, which would change credentials and regulations for substance abuse centers;
- LB686, sponsored by Bellevue Sen. Carol Blood, which would adopt the Psychology Inter-jurisdictional Compact;
- LB894, sponsored by Bellevue Sen. Sue Crawford, which would adopt the EMS Personnel Licensure Interstate Compact, known as REPLICA;
- LB924, sponsored by Riepe, which would change provisions within the Emergency Medical Services Practice Act, Occupational Therapy Practice Act and Uniform Credentialing Act; and



Sen. Joni Albrecht



Sen. Carol Blood



Sen. Sue Crawford

• LB1057, sponsored by Heartwell John Kuehn, which would change provisions relating to the prescription drug monitoring program.



Sen. John Kuehn

Albrecht said LB344 was introduced as part of the governor's occupational licensure reform legislative package. The bill provides an alternative method to obtain an alcohol and drug counseling license or mental health practice license in Nebraska through reciprocity with other states, she said.

"[It] reduces regulatory burdens by streamlining the separate licensing processes for mental health centers and substance abuse treatment centers," she said.

Riepe said LB686 was introduced in an attempt to remove as many hurdles to employment as possible for veterans and military spouses by facilitating the practice of telepsychology. The bill would authorize telepsychology across state lines in member states when the compact becomes operational.

LB894 would enter Nebraska into another compact, REPLICA, which would allow the state's EMS personnel to provide care across state lines under authorized circumstances and to provide standardized practices and accountability for licensed EMS personnel from other REPLICA states to provide intermittent care in Nebraska.

"Like other compacts, LB894 eliminates red tape and allows licensed and qualified EMS personnel to provide care in another state under certain circumstances without having to obtain additional licenses," Riepe said.

Riepe said many elements were stricken from his LB924 to eliminate opposition to the bill as introduced. The remaining provisions would allow

for criminal background checks to be performed for initial licensure or reinstatement if required by an interstate licensure compact and would provide a number of new definitions.

Kuehn said LB1057 would make three basic changes to the state's prescription drug monitoring program by eliminating an inconsistent deadline for veterinary reporting, distinguishing between different types of pharmacies and redefining dispenser to ensure that those dispensing in an in-patient facility have access to the PDMP.

Seward Sen. Mark Kolterman offered an amendment to the committee amendment to add provisions of his LB703 and LB704.



Sen. Mark Kolterman

LB703 would provide an exemption from Nebraska's unlawful practice of medicine statutes for physicians from another state who accompany an athletic team or organization into the state for an event. The exemption would be limited to treatment provided to a team or organization while present in Nebraska.

LB704 would reduce the requirement for licensure of physician graduates of foreign medical schools from three to two years. Other licensure requirements would not change.

"This legislation will make Nebraska a more attractive place for foreign medical graduates to serve their residencies, which will in turn help our hospitals and our physician clinics recruit more physicians to our state," Kolterman said.

The amendment also included provisions of Riepe's LB1035, which would make a technical change to the state's Stroke System of Care Act.

Following adoption of the Kolterman amendment 37-0, lawmakers advanced LB1034 to general file on a 39-0 vote.

NATURAL RESOURCES

Increased game law damages, records exemption for public power approved

Lawmakers gave final approval April 6 to a bill that was amended to include several bills related to natural resources, including a provision that allows public power utilities to withhold information that could give competitors an advantage.

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



Sen. Bruce Bostelman

It increases damages for:

- mountain sheep from \$15,000 to \$25,000;
- elk with a minimum of 12 points from \$5,000 to \$10,000 and from \$1,500 to \$3,000 for all other elk;
- whitetail deer with a minimum of eight points and a spread between beams of at least 16 inches from \$5,000 to \$10,000;
- all other antlered whitetail deer from \$1,000 to \$2,000;
- antlerless whitetail deer and whitetail doe deer from \$250 to \$500;
- mule deer with a minimum of eight total points and a spread between beams of at least 22 inches from \$5,000 to \$10,000 and for all other mule deer from \$1,000 to \$2,000;
- mountain lions, lynx, bobcats, river otters or raw pelt from

\$500 to \$5,000; and

- wild turkeys from \$100 to \$500.

The bill includes provisions of four other bills heard by the Natural Resources Committee this session.

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



Sen. Steve Erdman

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

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

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

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

The bill passed on a vote of 42-4.



OPS retirement funding option considered

Lawmakers debated a measure April 4 intended to address retirement system pension obligations for employees in the Omaha Public School District.

LB548, as introduced last session by Omaha Sen. Brett Lindstrom, originally would have consolidated the Class V (Omaha) School Employees Retirement System (OSERS) with the School Employees Retirement Plan beginning in 2020.



Sen. Brett Lindstrom

Lindstrom proposed an amendment this session that instead would expand the bonding power of school districts in Nebraska to include bonds to address retirement system pension obligations in an amount determined by an actuary.

He said that OPS currently is facing actuarially required contributions to OSERS in the tens of millions annually to address the plan's unfunded liability to its members. Without action, he said, those payments are expected to increase to about \$45 million annually—and total approximately \$900 million—over the next 30 years.

"The unfunded liability is not going away," Lindstrom said. "We're going to have to pay it regardless if we do this or if we do something else."

A Retirement Systems Committee amendment would replace the bill and authorize any school district to issue pension obligation bonds for payment of obligations to the retirement system

without a vote of the electorate. Payment for pension obligation bonds would be from the school district's general fund and included in general fund operating expenditures. Pension obligation bonds would be issued within the \$1.05 property tax levy lid.

The amendment would require that the Omaha Public Schools district contribute a total of \$300 million from a pension obligation bond to OSERS on or before Aug. 31, 2019.

Lindstrom said the injection of \$300 million into OSERS would allow the Nebraska Investment Council to "unravel" previous bad investment decisions made by OPS and the OSERS board. A different asset allocation of those funds would give the system a chance to achieve the 7.5 percent rate of return on investment necessary to close the unfunded liability gap, he said.

It also would stabilize the actuarially required contribution payments at approximately \$20 million per year, he said. Lowering ARC payments in the short-term would produce millions in long-term savings for Omaha taxpayers, he said, and allow OPS to schedule predictable yearly payments.

"I am asking that you grant us local control," Lindstrom said. "This is not a tax increase; this is a restructuring of existing debt."

Omaha Sen. Tony Vargas supported the amendment. While not a "silver bullet," he said the ability to issue a pension obligation bond would be another tool for OPS to use—in addition to budget cuts that they already are making—to deal with the problem.

"By issuing this bond under the current levy, which is not new debt ... it would allow stability and more predictability in the payments that would be required," he said.

Seward Sen. Mark Kolterman, chairperson of the committee, said

he agreed to have the amendment debated on the floor although he opposed its adoption. Issuing the pension obligation bond would tie the hands of future OPS administrations, he said, by allowing them to use only .93 cents of their \$1.05 levy.

Kolterman said a better option to address the \$713 million in unfunded liability would be to attempt a levy override, which would require voter approval.

“That’s one thing I didn’t appreciate about this amendment,” he said. “We’re going to issue \$300 million [in bonds] without a vote of the electorate.”

Sen. Lou Ann Linehan of Omaha also opposed the amendment. OPS already has extensive debt, she said, and taking on more is not the solution to the district’s problems. The state currently pays more than \$300 million in state aid annually to OPS, she said, yet the district is failing its students.

OPS passed a bond a few years ago close to \$500 million, she said, and is set to have a \$400 million bond on the ballot in May. No banker would agree to another \$300 million in bond debt, she said.

“They are \$700 million behind on their retirement program, they’re almost another \$1 billion in debt and they’re talking about cutting staff and building schools,” Linehan said.

The committee amendment failed on a vote of 22-17.

Following nearly three hours of debate, the Legislature moved on to another item on the agenda. Per a practice implemented last year by Speaker Jim Scheer, the sponsor of a bill that is facing a potential filibuster must demonstrate sufficient support for a cloture motion before the measure will be scheduled for additional debate.

REVENUE

Tax credit extended to county volunteer emergency responders

Volunteer emergency responders serving a county may qualify for a tax credit under a bill passed by the Legislature April 6.

In 2016, the Legislature created a \$250 refundable income tax credit for volunteer emergency responders, rescue squad members and firefighters who serve a city, village or rural or suburban fire protection district. A point system determines annual qualifications for the credit.

Sen. Dan Hughes of Venango, sponsor of LB760, has said the 2016 bill inadvertently left out county volunteers. LB760 includes those volunteers and provides retroactive eligibility for 2016 and 2017 for those who meet the criteria.



Sen. Dan Hughes

A county board may approve and certify a list of qualifying volunteers for 2016 and 2017 no later than 30 days after the effective date of the bill. Volunteers who met the requirements for both years are eligible for the tax credit for the 2017 tax year.

The bill passed on a vote of 44-0.

TRANSPORTATION & TELECOMMUNICATIONS

Collocation regulations for small wireless facilities debated

Lawmakers debated a bill April 4 that would give wireless communica-

tions providers the right to collocate small cell wireless technology in public rights of way.

Introduced by Sen. Curt Friesen of Henderson last session, LB389 is intended to create uniform, state-wide standards for the regulation and deployment of small wireless facilities, or small cells.



Sen. Curt Friesen

Friesen said 13 other states, including Colorado, Iowa, Kansas and Minnesota, have passed similar legislation. Wireless companies are set to spend hundreds of millions of dollars in Nebraska to install small cells, which are short-range cellular nodes needed to support fifth-generation wireless technology, called 5G. But without the “regulatory relief” that LB389 would provide, Friesen said, wireless companies will invest in those other states first.

“A yes vote supports accelerated deployment of small cell for 5G technology,” he said, “while a no vote lets other states leapfrog Nebraska and send a signal that we aren’t open for business.”

A pending Transportation and Telecommunications Committee amendment would replace the bill. It would allow a wireless provider to collocate, or attach, small wireless facilities to wireless structures and utility poles and install, maintain, modify, operate and replace utility poles in the public right of way.

The amendment defines a small wireless facility as one with an antenna enclosure of no more than 6 cubic feet in volume; other equipment associated with the facility could be no more than 28 cubic feet in volume.

A political subdivision, or authority, could require an applicant to obtain one or more permits to collocate a small wireless facility or install a new, modified

or replacement utility pole associated with a small wireless facility. The application would be deemed approved if the authority fails to approve or deny the application within 90 days after receipt.

An authority could deny an application only under certain conditions, such as if the collocation interferes with the safe operation of traffic control equipment or with sight lines. The permit would be valid for at least 10 years and would be renewed if the applicant remains in compliance with the bill's criteria.

The authority could charge an application fee only if it charges other entities for the use of the right of way and if the fee is required for similar types of commercial development or construction within the authority's jurisdiction.

The application fee for the collocation of small wireless facilities on an existing or replacement authority pole could not exceed \$100 each for the first five small wireless facilities on an application and \$50 for each additional facility on the same application.

The application fee for the installation, modification or replacement of a utility pole and the collocation of an associated small wireless facility could not exceed \$250 per pole.

An authority could charge companies no more than \$20 annually for each collocation on an authority's utility pole.

Friesen said the city of Lincoln charges communications companies as much as \$2,000 annually for each piece of equipment a company attaches to a city utility pole. Cities should be able to cover the cost of processing permit applications and maintaining utility poles, he said, but such high fees deter private investment and serve as a hidden revenue stream for local governments.

Sen. John Lowe of Kearney supported the bill, saying that it would speed

the deployment of 5G technology across the state. Faster download speeds would benefit public safety, health care, education and economic growth, he said.

"LB389 will allow the private sector to pay for the infrastructure upgrades that will benefit all these areas and more, with no cost to the taxpayer," Lowe said.

Papillion Sen. Jim Smith opposed the bill and filed a bracket motion on it, which effectively would end debate on the bill this session. He said LB389 would put other communications companies at a disadvantage and would weaken local governments' ability to regulate the location and appearance of small cells. Similar legislation passed in other states is the result of compromises among competing interests, he said.

"This bill is not a compromise," Smith said. "This bill is basically a piece of legislation that has been drawn up, prepared and introduced by the wireless industry."

Sen. John McCollister of Omaha also opposed the bill, saying that wireless companies and local governments should determine the market price for installing equipment in the public right of way, not the state. Wireless companies are promoting 5G technology to make a profit, he said, and cities should ensure that they get a good price for the use of public property.

"A city has a responsibility to its taxpayers to make a return wherever they can," McCollister said.

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

Transportation omnibus bill passed

A bill that makes numerous changes to existing motor vehicle titling and registration laws was passed by the Legislature April 6.

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



Sen. Bruce Bostelman

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

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

The bill includes provisions of 10 additional bills, including:

- LB900, introduced by Bostelman, which updates references to federal transportation laws and increase fines for certain motor carrier statute violations;

- LB860, introduced by Henderson Sen. Curt Friesen, which provides compensation for motor vehicle dealers affected



Sen. Curt Friesen

by recalls and stop-sale orders;

- LB980, introduced by Syracuse Sen. Dan Watermeier, which allows for the transportation of



Sen. Dan Watermeier

divisible loads of hay bales on the interstate;

- LB1011, introduced by Omaha Sen. Burke Harr, which requires a driver approaching a tow truck, maintenance vehicle or garbage or recycling service vehicle to proceed with caution and move over if possible;



Sen. Burke Harr

- LB1092, introduced by Papillion Sen. Jim Smith, which creates separate procedures for operators of autocycles that are not completely enclosed;



Sen. Jim Smith

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



Sen. Brett Lindstrom

- LB895, introduced by Lincoln Sen. Suzanne Geist, which makes a series of technical updates to current DMV statutes;
- LB896, also introduced by Geist, which clarifies that the

operative date for certain sections relating to electronic certificates of title would be no later than Jan. 1, 2021;

- LB1049, introduced by Harr, which amends the definition of low-speed vehicles to include certain three-wheeled motor vehicles; and
- LB1136, introduced by Elmwood Sen. Robert Clements, which provides a mechanism for online auto auctions to obtain titles for vehicles purchased as salvage vehicles.



Sen. Suzanne Geist



Sen. Robert Clements

The bill passed on a 46-0 vote.

Operation of autonomous vehicles debated

Driverless cars could be traveling on city streets under a bill discussed by lawmakers April 4 and 5.

LB989, as originally introduced by Lincoln Sen. Anna Wishart, would have authorized a city of the primary class to conduct a pilot project to test autonomous vehicles, which operate without a human operator. Currently, Lincoln is the only primary class city in the state.

Wishart said that autonomous vehicle technology is full of promise in the areas of safety, mobility, fuel efficiency, agriculture and economic

development.

“Vehicles with this technology are already being produced,” she said. “This is our opportunity to stay competitive with this technology while ensuring the safety of Nebraskans by putting in place proper oversight.”

A Transportation and Telecommunications Committee amendment would have authorized the testing of autonomous vehicles statewide under a special permit authorized by the state Department of Motor Vehicles.

O’Neill Sen. Tyson Larson introduced an amendment, adopted 32-1, that replaced both the committee amendment and original bill. As amended, these provisions would authorize the operation of autonomous vehicles on all state roads and highways, as long as the vehicle is capable of operating in compliance with traffic and motor vehicle safety laws.

Larson said his amendment would encourage growth, development and expansion of autonomous vehicles in Nebraska.

“If Nebraska doesn’t allow for autonomous vehicles, it essentially puts a box around the state,” he said. “Nebraska’s neighbors will be the beneficiaries of pilot projects and will be experiencing technology that is the future of the industry.”

An autonomous vehicle may or may not contain a human driver. If a human driver is present in the vehicle, he or she must be a licensed driver and covered by insurance.

The amended bill also would authorize the operation of an on-demand autonomous vehicle network, which could provide transportation of persons or goods, including for-hire transportation or public transportation.

Political subdivisions would be prohibited from imposing any additional performance requirements or taxes that relate specifically to the operation

of an autonomous vehicle.

Henderson Sen. Curt Friesen filed a motion to bracket the bill until April 18. He said issues like insurance coverage and accident liability still have not been discussed.

“I was looking forward to seeing Lincoln test the technology and now [the bill has] been hijacked and opened up [so that] we can have vehicles operating fully autonomously,” Friesen said. “We haven’t addressed many of the issues that come with autonomous vehicles. We are not prepared for this.”

Supporting the bracket motion was Omaha Sen. Ernie Chambers. He said supporters are willing to risk the safety of all drivers to win grant funding. Autonomous vehicles will be operating alongside human drivers, Chambers said, which puts everyone at risk.

“These cars are programmed to function according to the laws and rules of the road, but not everyone follows the rules of the road,” he said.

Bellevue Sen. Carol Blood supported the bill and opposed the bracket motion. She said the state needs to embrace technology and stop being scared of innovation.

“It is time for Nebraska to be in the forefront for once,” Blood said. “We don’t need to do the research. The research has already been done.”

Also opposing the bracket motion was Lincoln Sen. Patty Pansing Brooks. She said the state needs to seize opportunities when they come.

“Technology happens way more rapidly than we can anticipate,” Pansing Brooks said. “If we’re not ready, it’s going to take us by storm.”

The Legislature moved to the next item on the agenda before taking any additional action on the bill. Per a practice implemented last year by Speaker Jim Scheer, the sponsor of a bill that is facing a potential filibuster

must demonstrate sufficient support for a cloture motion before the measure will be scheduled for additional debate.

URBAN AFFAIRS

Urban affairs omnibus bill advanced with land bank provisions intact

A bill that was amended on general file to become an omnibus Urban Affairs measure was given first-round approval April 3.

As introduced by the Urban Affairs Committee, LB873 would make a variety of clean-up changes to state law related to the governing of cities, including clarifying terms and eliminating antiquated and unnecessary language.

Debate focused on provisions related to expanding land bank authority statewide, which were added to the bill by an Urban Affairs Committee amendment adopted during general file debate March 20.

The provisions, originally introduced by Grand Island Sen. Dan Quick as LB854, would allow any Nebraska municipality to create a land bank under the Nebraska Municipal Land Bank Act and clarify that land banks may enter into agreements under the Interlocal Cooperation Act for the joint administration of multiple land banks.

Currently, only municipalities in Douglas and Sarpy counties are eligible under state law to create land banks, or tax-exempt political subdivisions that acquire, manage and develop vacant and tax-delinquent properties.

Sen. Suzanne Geist of Lincoln had offered an amendment to strike the land bank provisions from the bill, saying she was hesitant to give extensive authority to an unelected entity. The amendment was pending when the Legislature moved to another item on the agenda after three hours of debate.

When debate resumed April 3, Geist said her concerns remained that the land bank provisions were too broad and would increase the size of government. She said the pilot program in Omaha may not be right for all of Nebraska.

“I believe the jury is still out on whether this is a helpful program or not,” she said. “I think we need to give that more time before we push this across the entire state.”

Omaha Sen. Justin Wayne, chairperson of the Urban Affairs Committee, opposed the amendment. He said land banks provide a valuable public service by dealing with vacant, abandoned and delinquent properties in an attempt to return them to the tax rolls.

The amendment failed on a vote of 17-20.

The previously adopted committee amendment also contained provisions of five additional bills:

- LB735, introduced by Bellevue Sen. Carol Blood, which would clarify that municipalities have the authority to enter into an interlocal agreement with a county in which the extra-territorial zoning jurisdiction of the municipality is located to provide for joint and cooperative action to abate, remove or prevent nuisances within the ETJ;



Sen. Dan Quick



Sen. Carol Blood

- LB748, introduced by Lincoln Sen. Matt Hansen, which would clarify references to municipal population thresholds, providing that such thresholds are met based on either the most recent federal decennial census or the most recent revised certified count by the U.S. Bureau of the Census;
- LB765, introduced by the Urban Affairs Committee, which would amend sections of law governing first class cities to clarify that they apply only to first class cities;
- LB768, introduced by Quick, which would authorize first- and second-class cities and villages to make grants and loans under the Local Option Municipal Economic Development Act for early childhood infrastructure development; and
- LB880, introduced by Hansen, which would require cities to include an early childhood element in their comprehensive plans no later than Jan. 1, 2022,



Sen. Matt Hansen

either when adopting a new or updating an existing comprehensive plan.

LB873 also was amended March 20 to include provisions of LB756, introduced by Lincoln Sen. Adam Morfeld, which would prohibit municipalities from adopting or enforcing an ordinance or regulation that prohibits the use of a property as a short-term rental, unless necessary to protect public health and safety.



Sen. Adam Morfeld

The provisions authorize an online hosting platform to enter into an agreement with the state tax commissioner to collect and pay applicable sales taxes imposed under Nebraska law on behalf of short-term renters.

The bill advanced to select file on a vote of 26-4.

Community grant program expanded

Grant limitations under the state's Civic and Community Center Financing Act are expanded under a bill passed April 6.

LB940, introduced by Henderson Sen. Curt Friesen, increases by 50 per-

cent the amount of funds eligible to be requested by municipalities and reduces from five to two years the period that a municipality must wait between grants awards.



Sen. Curt Friesen

The CCCF fund is supported by a turn-back of 30 percent of new state sales tax generated by arenas constructed under the Convention Center Facility Financing Assistance Act and the Sports Arena Facility Financing Assistance Act and retailers near the arenas. Grants from the fund are awarded to communities based on a project's readiness, financial support and likelihood of attracting new activity to Nebraska.

The bill expands the list of eligible CCCF properties to include parks and historic buildings or districts. It also clarifies that property receiving a grant under the CCCF Act must be owned by the municipality and cannot be sold within five years of receiving a grant.

Applications from municipalities that have not received grant funds within the last 10 years will be given priority by the state Department of Economic Development.

The bill passed 48-0 and takes effect immediately. ■

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