

Best practices for school resource officers advanced

Lawmakers gave first-round approval March 25 to a bill that would establish statewide standards for school resource officers.

LB390, as originally introduced by Lincoln Sen. Patty Pansing Brooks, would have required the Nebraska Commission on Law Enforcement and Criminal Justice to develop a model policy for school districts that employ school resource officers.



Sen. Patty Pansing Brooks

The bill does not require the hiring of a school resource officer, Pansing Brooks said, it simply ensures that if a district decides to hire one, it employs certain best practices.

“LB390 will make sure we aren’t using law enforcement’s time on disciplinary matters, but rather to enhance safety, respond to law violations and serve as a community resource for students, parents and school staff,” she said.

A Judiciary Committee amendment, adopted 34-0, replaced the bill. As amended, LB390 instead would require the state Department of Education to develop a model memorandum of understanding that would govern the use of school resource officers or security guards, beginning Jan. 1, 2021.

The MOU would include training requirements for all school resource

(continued page 3)

TIF repayment extension stalls on first round



Sen. Justin Wayne said his proposal could provide the necessary incentive for developers to consider hard-hit areas of Omaha and other cities.

After two days of debate, a proposal that could extend the maximum length of time to repay tax-increment financing indebtedness in certain cases stalled on general file March 26.

LR14CA, introduced by Sen. Justin Wayne of Omaha, would place a proposed constitutional amendment on the November 2020 general election ballot. The amendment would authorize the Legislature to extend the maximum repayment period for TIF indebtedness from 15 to 20 years if more than half of the property in a project area was designated as extremely blighted.

Wayne said that many Nebraska cities struggle to attract developers to revitalize neighborhoods that are

designated substandard and blighted, a challenge that becomes even more difficult in areas that are extremely blighted—those with high poverty levels and high unemployment rates.

State law defines an extremely blighted area as a census tract with an average unemployment rate that is at least 200 percent of the average state unemployment rate and an average poverty rate of more than 20 percent according to the most recent federal decennial census.

“The underlying goal of LR14CA is to spur the use of TIF in those areas that need it the most,” Wayne said.

Only Nebraska and Montana currently have a 15-year maximum length of time for TIF bonds to be repaid, he said, however Montana allows for

(continued page 2)

TIF repayment extension stalls on first round

(continued from front page)

projects to be extended up to 25 years, making Nebraska's repayment period the most restrictive in the country.

North Platte Sen. Mike Groene opposed the measure, saying municipalities will find a way around any constraints that the Legislature attempts to place on TIF projects. He acknowledged that high-poverty areas of Omaha have been ignored by developers, but said expanding TIF provisions is not the way to solve the problem.

Groene offered an amendment to stipulate that 100 percent of the property in a project area must be designated as extremely blighted to qualify for the extended repayment period.

"Quite frankly, I don't trust the economic gurus," he said. "You are taking property off the tax rolls for 15 years now."

Bayard Sen. Steve Erdman agreed, saying TIF is not being used for redevelopment as it originally was intended. Instead, he said, it is a "tax giveaway" that benefits developers.

"A cornfield west of town that has been farmed for the last 100 years all of a sudden becomes blighted," Erdman said. "No clue how that happens—except the city council wanted that annexed into town and now they've designated it blighted."

Sen. Matt Williams of Gothenburg supported LR14CA, saying TIF does not deny property tax income to political subdivisions. Cities and schools still receive property tax revenue on the base value of a project, he said, while the projected increase in property tax value is used to pay down the project bond.

"[TIF] never does—never has—taken property off the tax rolls," Williams said. "We have these areas that need encouragement. We have housing shortages, we have workforce development issues. All of those can be partly addressed by how we develop blighted areas in our communities."

Albion Sen. Tom Briese said he believed that the measure could be a benefit to areas in need of redevelopment. He cautioned, however, that

lawmakers in the future could expand the definition of extremely blighted in state law if that definition is not made explicit in LR14CA.

"I believe perhaps we should further define extremely blighted in the constitutional provision," Briese said.

Wayne said he understood the concern, but said the constitution is a place for broad concepts and ideas, not strict definitions. For example, he said, the current definition of extremely blighted in state law uses census tract data, which may not be available in the same form in the future.

Adjusting public policy is easier to do in state law than by amending the constitution, Wayne said.

The Legislature moved on to the next item on the agenda before voting on LR14CA or the pending amendment. Per a practice implemented 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. ■

UNICAMERAL UPDATE

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Best practices for school resource officers advanced

(continued from front page)

officers or security guards employed by a district as well as at least one administrator. The training would include at least 20 hours focused on school-based law enforcement, student rights, understanding students with special needs and disabilities, conflict de-escalation techniques, ethics for school resource officers, teenage brain development, adolescent behavior, implicit bias training, diversity and cultural awareness, trauma-informed responses and violence prevention in school settings.

The school district would be required to maintain records of each student referral for prosecution by a school resource officer, including the reason for each referral and federally identified demographic characteristics of each student.

A district also would be required to identify when a parent or guardian would be notified if a student is questioned or interrogated, and under what circumstances a student would be advised of their constitutional rights. Each MOU would include a complaint process for students and parents to express concern about a school resource officer or his or her practices.

Under the amended bill, school districts would have the option to develop individual MOUs, but they must be substantially similar to the one distributed by the department. Any district required to adopt an MOU, also would be required to provide a copy to the department or publicly post it to the school district's website.

The bill advanced to select file on a 38-0 vote. ■



Unicameral Youth Legislature registration open

High school students with an interest in law, government, leadership or public speaking are encouraged to register for the 2019 Unicameral Youth Legislature, which will convene June 9-12.

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

Students will learn about the inner workings of the Legislature directly from senators and staff. Bills will be

based on legislation considered during the current legislative session.

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

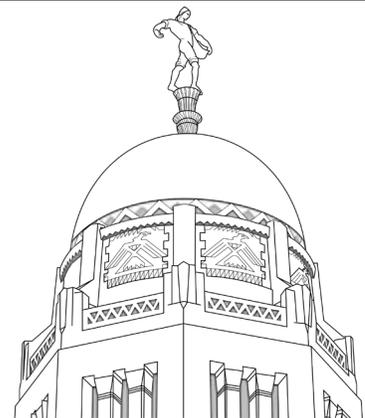
The University of Nebraska-Lincoln's Extension 4-H Youth Development Office coordinates housing and recreational activities for the camp as part of their Big Red Summer Camps program.

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

The registration deadline is May 15.

COMMITTEE HEARING

Wednesday, April 3
Revenue
Room 1510 - 12:30 PM
LB288 (rehearing) AM 974



MEET THE SENATOR

New senator is ready for work

Sen. Ben Hansen doesn't like to sit still. The new senator from Blair owns two chiropractic clinics, an equipment rental business and a company that turns reclaimed wood into furniture.

"And I've got a two-year-old, that's the biggest [job]!" Hansen said of his daughter, Olivia.

Hansen has a long history of staying busy. He was born in Schuyler, where he qualified for the 1998 boys' track and field state meet in the 110-meter hurdles. After earning a psychology degree from Wayne State, Hansen graduated summa cum laude from Palmer College of Chiropractic in Davenport, Iowa in 2007. Shortly after, he and his wife, Jill, settled in Blair.

"We loved the people, we loved the atmosphere and we always wanted to move back to Nebraska," Hansen said. "And it's just the right size. If it takes me longer than five

minutes to get from Point A to Point B, I don't like it."

Hansen, who served the past four years on the Blair City Council, didn't consider becoming a candidate for the District 16 seat until outgoing Sen. Lydia Brasch encouraged him to run.

"We've known each other for years," Hansen said. "She thought I'd make a good candidate."

Life, though, hasn't stopped since he was sworn in. He still sees patients at his practices in Blair and Omaha on Saturdays and days off from the Legislature.

"I've got patients scheduled for the next six months," Hansen said. "I've still got to pay the bills."

He pays some of those bills through Heritage Barnwood Company, which he started in 2017 with two partners. The group takes salvaged wood, often from razed barns around Nebraska, and turns it into tables, chairs and other pieces.

The company recently sold a bench made from milled wood taken from a building on the campus of the former Dana College.

Each item includes a plaque detailing the wood's origins.

"Every piece of furniture we sell has a story to tell," Hansen said.

And if all of that wasn't enough to occupy his time, Hansen recently bought a 1957 Chevrolet in need of restoration. It's something he's never done before.

"I thought the best way to learn was to get my hands dirty," he said. "One of these years I might be able to drive it to Lincoln. It might be a few sessions; maybe after reelection." ■



Sen. Ben Hansen relaxes with his wife, Jill, and daughter, Olivia.

APPROPRIATIONS

Behavioral health provider rate increase proposed

The Appropriations Committee heard testimony March 26 on a proposal that would increase behavioral health provider rates.

LB327, sponsored by Lincoln Sen. Kate Bolz, would increase mental health and substance abuse treatment service rates for providers serving Medicaid patients and individuals in the probation systems by 5 percent in each of the next two fiscal years.



Sen. Kate Bolz

Bolz said cost-model data collected by the state Department of Health and Human Services shows that rates paid to the state's behavioral health providers is, on average, 18 percent below the actual cost of providing services.

"This is particularly important because one in five Nebraskans will suffer from a mental illness or addiction in any given year and one in five high school students reported that they [have] seriously considered attempting suicide," Bolz said.

Cathy Phillips, a psychiatric nurse practitioner, testified in support of the bill. The upcoming expansion of Medicaid in Nebraska, along with this spring's devastating flooding, will strain the state's already struggling behavioral health provider network, she said.

"The recent flooding in Nebraska will likely produce mental health issues, such as depression, anxiety, traumatic stress and potential increases in substance abuse," Phillips said.

Also speaking in favor of the bill

was Annette Dubas, executive director of the Nebraska Association of Behavioral Health Organizations. Historically, she said, private health insurance has provided little coverage for behavior health services. For example, 69 percent of substance abuse treatment in Nebraska is covered by public payers such as Medicaid, she said.

At the rate that providers currently are reimbursed, Dubas said, they cannot afford to continue providing services to Medicaid recipients who urgently need care.

"It is critical that you understand just how important this bill is to the future of behavioral health providers and the individuals and families they serve," she said.

Stephanie Knight, behavioral health administrator at Fillmore County Hospital in Geneva, also supported the bill. Testifying on behalf of the Nebraska Hospital Association, she said many rural hospitals are straining to provide front-line behavioral health services through their emergency rooms.

Knight said many behavioral health crises could be prevented through early intervention, but rural providers cannot attract and retain enough qualified professionals to address the need due to low reimbursement rates.

"If mental health and substance abuse treatment are provided early, long-term savings can be significant," she said.

No one testified in opposition to LB327 and the committee took no immediate action on the bill.

Bill would change Medicaid rate calculation for nursing facilities

The Appropriations Committee heard testimony March 25 on a bill that seeks to help struggling nursing facilities in Nebraska.

LB403, introduced by Gering Sen. John Stinner, would prohibit the state Department of Health and Human Services from including application of the inflation factor when



Sen. John Stinner

calculating Medicaid nursing facility rates beginning in fiscal year 2019-20.

"This would, in effect, require DHHS to use the amounts appropriated by the Legislature for computing future nursing facility rates," Stinner said, adding that approximately \$30 million over the last five years has been allocated for Medicaid reimbursement but not paid out under the current methodology.

Stinner said 16 nursing facilities closed in Nebraska between 2015 and 2018, and 22 have been placed under state receivership—the majority of them located in rural areas.

"It's not a sustainable business model when a nursing facility is paid less than its costs to provide care," Stinner said.

Heath Boddy, president and CEO of the Nebraska Health Care Association, testified in support of the bill. He said the inflation factor assumes that facility utilization will stay the same over a two-year period, but utilization has been declining consistently in rural areas.

"Without any change to this rate calculation formula, Medicaid's inflation factor will continue to increase and put nursing facility sustainability in further jeopardy," Boddy said.

Kari Wockenfuss, administrator of the Louisville Care Center, also testified in favor of LB403. She said that 76 percent of residents at the facility are Medicaid recipients, and the reimbursement rate for their care continues to decrease. The result,

she said, is that the facility has lost \$169,000 since Oct. 1.

“It’s a challenge to make ends meet when you’re serving such a high population of residents that are receiving Medicaid,” Wockenfuss said.

Jeremy Brunssen, deputy director of finance and program integrity at DHHS, opposed the bill. He said the department is working on a new rate methodology that would improve the funding situation.

Brunssen said the new methodology would set a base for all providers in the state rather than the current system in which some providers are being paid more than \$80 more per day than others. The new methodology also would incentivize facilities to increase the number of Medicaid residents they serve and improve their overall quality of care, he said.

The committee took no immediate action on LB403.



ATM fee change clears first round

Lawmakers advanced a bill to select file March 25 that would change certain ATM fees.

LB603, introduced by Omaha Sen. Brett Lindstrom, would remove a requirement that a financial institution must charge the same automatic teller fees to all other financial institutions.



Sen. Brett Lindstrom

The bill would affect default interchange fees that are charged between institutions during an ATM transac-

tion. It would not change a bank customer’s ATM fees.

“LB603 would modernized Nebraska statutes without putting our residents at any disadvantage,” Lindstrom said.

Senators advanced the bill on a 38-0 vote.



Workers’ compensation privacy bill considered

Members of the Business and Labor Committee heard testimony March 25 on a bill that would keep certain workers’ compensation reports private.

LB19, introduced by Albion Sen. Tom Briese, would withhold from the public record all first reports of injury to the Workers’ Compensation Court. Briese said the reports typically contain the name of the injured, the name of the employer and the nature of the injury.



Sen. Tom Briese

“These are the kinds of things that in any other situation would be covered by HIPPA and myriad other state and federal programs to protect a person’s medical history,” he said. “But in [workers’ compensation cases], they become essentially a public record.”

The bill would provide exceptions to the nondisclosure of injury reports to certain individuals, including:

- the employee or his or her attorney;
- the employer, workers’ compensation insurer, risk management pool or third-party administrator who is party to the complaint;

- a third party for the purpose of identifying the number and nature of any injuries to employees of a specific company, as long as identifying information is redacted by the court; and
- a nonprofit organization for the purpose of sending condolences to, providing memorials for and offering grief counseling in the event of an employee’s death.

The court would disclose the report if it is requested for use in a state or federal investigation.

Kathy Siefken, representing the Nebraska Grocery Industry Association, spoke in support of the bill. Everyone wins when legislation like LB19 is passed, she said, because it allows the system to work as it was intended.

“Withholding first-injury reports from the general public with appropriate exceptions gives employers a chance to work with employees to establish a plan that provides appropriate care and a plan to help them get back to work as quickly as possible,” Siefken said.

Opposing the bill was Dennis Crawford, representing the Nebraska Association of Trial Attorneys. He said the bill would infringe on the First Amendment rights of small businesses that use direct-mail advertising to offer legal services to injury victims.

“Many small businesses utilize public records to send out advertising letters,” he said. “There’s no reason to discriminate against small business owners who happen to represent people injured on the job.”

Susan Martin of Lincoln also opposed the bill. Not all employers look out for the best interest of their injured employees, she said, making legal advice necessary to navigate the complex workers’ compensation system.

“Workers’ compensation is extremely complicated to comprehend

and the typical average worker cannot begin to understand their rights and instead they get lulled into thinking their employer will lead them through the oftentimes nightmarish situation,” Martin said.

The committee took no immediate action on LB19.

EDUCATION

State aid increase proposed for early childhood education

The Education Committee heard testimony March 26 on a bill meant to increase the number and quality of preschool programs across the state.

Fremont Sen. Lynne Walz, sponsor of LB358, said early childhood education promotes social and emotional development and builds language, motor and cognitive skills. Increasing state funding for those programs would encourage more schools to offer them, she said.



Sen. Lynne Walz

The bill would change how qualified early childhood education membership is calculated for state aid purposes. Early childhood membership currently is calculated based on 60 percent of the number of students who are enrolled in an approved early childhood education grant program and who will be eligible to attend kindergarten the following school year. LB358 would increase that to 80 percent.

The proposal also would create an early childhood education allowance in the state aid formula and increase state funding for transportation expenses related to early childhood education.

Walz said some of the changes would provide additional state funding through the state aid formula to districts that already receive state equalization aid. The allowance would benefit districts that normally do not receive equalization aid, she said.

The state Department of Education estimates that the proposal would result in a \$10.4 million state aid increase beginning in fiscal year 2020-21.

Maddie Fennell, executive director of the Nebraska State Education Association, testified in support of the bill on behalf of the NSEA, groups representing school administrators, school boards and school districts and the ESU coordinating council. She said increasing the reimbursement rate for early childhood education membership would incentivize school districts to provide early childhood education programs.

“Just because they are little doesn’t mean they are any less expensive to educate,” Fennell said. “Early childhood students deserve to be supported and weighted for state aid just as much as their older, full-time fellow students.”

Ann Hunter-Pirtle, executive director of Stand for Schools, also testified in support, saying the proposed allowance would help non-equalized districts expand their early childhood education offerings.

She said early childhood education can help reduce the opportunity gap for young children in poverty and, when followed by strong K-12 education, may help increase earnings, improve health and reduce crime over the long term.

“We need to do more to improve Nebraskans’ access to high-quality preschool and early childhood education programs,” Hunter-Pirtle said.

No one testified in opposition to the bill and the committee took no immediate action on it.

Student mental health services, education proposed

The Education Committee heard testimony March 25 on two bills meant to improve mental health resources and education for Nebraska students.

LB725, introduced by Fremont Sen. Lynne Walz, would create a fund that the state Department of Education would use to reimburse qualifying school districts and educational service units for up to 80 percent of their allowable mental health expenditures.

To qualify for reimbursement, a district or ESU would designate a mental health resource liaison who would help students, families, teachers and schools find mental health resources for students in the district or ESU.

Allowable expenditures would include expenses related to meeting or reducing students’ mental health needs and the training or work of the liaison.

The bill stipulates that the Legislature would transfer \$12 million to the fund annually beginning in fiscal year 2020-21.

Walz acknowledged that LB725 is unlikely to pass this session due to state budget constraints, but she said the proposal would help school districts that already are providing these services, reducing their reliance on property taxes. It also would encourage rural schools to expand the mental health services they offer, she said.

Maddie Fennell, executive director of the Nebraska State Education Association, testified in support of the bill. She said surveys of Nebraska teachers and administrators have identified mental and behavioral health challenges as the top unmet need in schools.

“The fact that schools have become essentially the de facto mental health

system for students is a daunting duty for educators, administrators and district leaders,” Fennell said. “LB725 can shoulder some of that burden by providing needed resources.”

Kraig Lofquist, administrator of ESU 9, testified in support of the bill on behalf of groups representing school administrators, school boards, teachers and school districts and the ESU coordinating council. He said ESU 9 hired a full-time licensed mental health practitioner last year and will hire another next year to meet its school districts’ demand for mental health services.

“Schools and ESUs need consistent resources to address these needs,” Lofquist said. “I can honestly say this problem is not going away.”

Laura Barrett, special services director for ESU 13, also testified in support. She said nearly 20 percent of youth have struggled with a debilitating mental health disorder. Less than half receive treatment, Barrett said, and approximately three-quarters of those students do so either through their school or a school district referral.

She said the proposed reimbursement would allow school districts to continue to fund current treatments, pay for services that currently are not covered by other funding sources and offset training costs for school liaisons, which would promote the development and potential expansion of the state’s therapeutic workforce.

LB488, introduced by Omaha Sen. Sara Howard, would change requirements related to school districts’ comprehensive health education programs.



Sen. Sara Howard

Current law requires schools to include instruction about the physio-

logical, psychological and sociological aspects of drug use, misuse and abuse and to place a special emphasis on tobacco, alcohol, marijuana, hallucinogenics, amphetamines, barbiturates and narcotics.

LB488 would repeal that requirement and instead would require schools to incorporate age-appropriate mental health education and comprehensive drug awareness and prevention education into their programs.

The latter would include strategies to prevent illegal use of alcohol, tobacco and other drugs and strategies to eliminate the incidence and prevalence of student alcohol, tobacco and drug use. It also would include at least one hour of instruction for students on the dangers of opioid use and the addictive characteristics of opioids.

Howard said the updated requirements would ensure that students can identify addiction and mental illness, which the programs currently are not required to cover.

“There is so much shame that accompanies mental health issues in our country that maybe the best way to address that type of shame and stigma is to make sure that kids know exactly what it is and know that there’s no shame in getting help,” she said.

Annette Dubas, executive director of the Nebraska Association of Behavioral Health Organizations, testified in support of LB488. She said the proposed changes reflect a modern understanding of how mental health and physical health work together.

Although the opioid crisis has not hit Nebraska as hard as some other states, Dubas said, it is not immune to the impact of opioid addiction. The state also leads the nation in binge drinking among 18 to 24 year olds, she said, and suicide is the second leading cause of death for Nebraskans ages 15 to 24.

“Having educational programs in our schools that speak to all of these issues and more is critical to the overall health of our young people,” Dubas said.

No one testified in opposition to either bill and the committee took no immediate action on them.



Additional budget reports clear first round

Lawmakers gave first-round approval March 25 to a bill that would require the Legislature to analyze long-term fiscal sustainability by adding a new step to the budget process.

LB713, sponsored by Omaha Sen. Tony Vargas, would require the legislative fiscal analyst to create additional revenue and budget reports throughout the biennium.



Sen. Tony Vargas

The reports would include a revenue volatility report in even-numbered years, a budget stress test in odd-numbered years and a long-term budget for major programs every four years.

Vargas, who is chairperson of the Legislature’s Planning Committee, said the bill is the result of that committee’s work. Research shows that states that engage in long-term budget planning are better able to address economic volatility, he said.

“Now that we have the information and data, the next step for us is to implement some of that planning,” Vargas said. “In order to meet the needs of future Nebraskans, we have to start [preparing] now.”

Lincoln Sen. Mike Hilgers sup-

ported the bill, saying it would provide important tools for lawmakers going forward.

“Particularly in light of term limits and the turnover that we’ve had in this body, I think it’s important for us to be thinking about ways that we can take the long-term [view] and structurally set up the [Legislature] for success,” Hilgers said.

Senators voted 38-0 to advance LB713 to select file.

GENERAL AFFAIRS

Bills would change alcohol taxation

The General Affairs Committee heard testimony March 25 on two bills that would change how alcohol is taxed in Nebraska.

LB723, introduced by Omaha Sen. Tony Vargas, would lower an alcohol manufacturer’s or wholesaler’s per-gallon excise taxes as follows:

- from 31 cents to 25 for beer;
- from 95 cents to 90 for wine from non-farm wineries;
- from six cents to five for wine from farm wineries; and
- from \$3.75 to \$3.50 for alcoholic spirits.

Vargas said the bill would allow breweries to hire more employees and buy additional equipment.

“We’ve seen that we’re not as competitive as we can be in Nebraska when it comes to excise taxes,” he said.

Lindsey Clements, owner of a brewery in Omaha, testified in support of the bill. She said reducing taxes would help her business grow. Omaha-based breweries must compete with nearby Iowa businesses that are paying 12-cents less per gallon of beer in excise tax, she said.

“LB723 makes a clear statement that craft beer is welcome in our state,” Clements said.

Chris Wagner, director of Project Extra Mile, testified against LB723. Wagner said the bill would cost the state revenue and lead to more alcohol consumption.

“Cheaper alcohol leads to excessive rates of drinking,” Wagner said. “Higher alcohol taxes save lives.”

Vargas also introduced LB682, which would tax alcoholic spirits as proof gallons—liquor that is at least 50 percent alcohol. The bill would not affect the tax rate for beer and wine. LB682 also would require the Nebraska Liquor Control Commission to create a labelling system for alcoholic spirits sold in the state.

Vargas said all alcohol currently is taxed by the wine gallon, regardless of the product’s alcohol content, placing an unfair burden on certain manufacturers.

“This is a much fairer system for allowing breweries into the marketplace with mixed-beverage products,” Vargas said.

Zac Triemert, owner of an Omaha brewery, testified in support of the bill. He said there has been a recent rise in “ready to drink” beverages that are like a mixed drink in a can. It is a market that Nebraska is missing out on, he said.

“LB682 would create a whole new viable business in Nebraska,” Triemert said. “Currently, Nebraska is collecting very few dollars from spirits-based RTDs and I’d like to change that.”

Omaha pastor Portia Cavitt testified against the bill. She said the negative consequences of increased drinking far outweigh any gains from lower taxes.

The committee took no immediate action on either bill.

HEALTH & HUMAN SERVICES

Timeline for abuse complaint reviews advanced

Lawmakers advanced a bill from general file March 25 that would require a timely response to complaints at licensed children’s residential facilities in Nebraska.

LB59, as introduced by Sen. Machaela Cavanaugh of Omaha, would mandate that the state Department of Health and Human Services respond within five days to all complaints of child abuse



Sen. Machaela Cavanaugh

or neglect made at a facility licensed under the Children’s Residential Facilities and Placing Licensure Act. If a complaint leads to an investigation, the department would be required to issue a report within 30 days.

A Health and Human Services Committee amendment, adopted 42-0, would extend the reporting deadline to 60 days. The requirement could be extended to 90 days if DHHS files an interim report by the 60-day deadline.

Cavanaugh said she introduced the bill after learning that DHHS issued no reports regarding allegations of sexual abuse at licensed group home facilities from 2013 to 2016.

“Furthermore, there were no records of investigations even being conducted,” Cavanaugh said. “We owe it to our children to take these allegations seriously and to ensure we’re holding everyone [who is] responsible accountable.”

Omaha Sen. Sara Howard sup-

ported the bill, saying that response times to complaints have been slow.

“What we were seeing were investigations that didn’t come for several months, or maybe a year,” Howard said. “This gives them a very clear timeline.”

Lawmakers advanced the bill to select file on a 42-0 vote.

Cloture attempt on SNAP eligibility change fails

Senators rejected an attempt March 27 to force a first-round vote on a bill that would remove a lifetime ban on food assistance eligibility for individuals with past drug felonies.

Under current state law, an individual is ineligible for SNAP benefits in Nebraska if he or she has three or more felony convictions for the possession or use of a controlled substance or has been convicted of a felony involving the sale, distribution—or intent to sell or distribute—a controlled substance.

A person with one or two felony convictions for possession or use of a controlled substance is eligible only if he or she is participating in or has completed a state-licensed or nationally accredited substance abuse treatment program since the date of conviction.

As introduced, LB169, sponsored by Omaha Sen. Megan Hunt, would remove that ban and would apply the treatment requirement to individuals with three or more possession or use convictions.



Sen. Megan Hunt

Hunt offered an amendment that would limit the bill further to include only individuals with one or two convictions for possession or use who have completed their sentence and either have completed or are serving a term of parole, probation or post-release supervision.

Hunt said removing eligibility for individuals with convictions for distribution was a compromise that she was willing to make in order to gain support for the proposal.

“A person under this amendment would be ineligible for SNAP—would not be able to get it—if they have three or more felony convictions for possession or use or if they have been convicted of a felony for distribution,” Hunt said. “This is a much more conservative [version] than the bill I originally brought.”

Omaha Sen. Sara Howard supported the bill and the amendment. Drug treatment is a condition of parole and probation, she said, and the amended bill would allow those services to be tailored to an individual’s needs.

“I think if people are sick and there is something we can do to help them, and it doesn’t cost us anything ... why wouldn’t we help them?” Howard said.

Kearney Sen. John Lowe opposed the bill. He said there is plenty of work in Nebraska for individuals who return from prison and that former drug felons who dedicate themselves can turn their lives around without the state “suppressing” them with government benefits.

“Your actions and your behaviors cause consequences,” Lowe said.

After six hours of debate spanning several days, Hunt filed a motion to invoke cloture, or cease debate and vote on the bill. The motion failed on a vote of 28-16. Thirty-three votes were needed.

A failed cloture motion results in debate on a bill ceasing for the day. LB169 is unlikely to be placed on the agenda again this session.

Bill would expand Medicaid preferred drug list

Antidepressant, antipsychotic and anticonvulsant medication would be

added to the Medicaid Preferred Drug List under a bill considered March 28 by the Health and Human Services Committee.

The list was established by the Legislature in 2008 and contains several classes of drugs administered by a committee which, in conjunction with the state Department of Health and Human Services, determines the best and most cost-effective medications on the market for inclusion.

Bayard Sen. Steve Erdman, sponsor of LB245, said the bill would save the state \$2.3 million by allowing generic versions of medications in the three categories to be included on the list. The bill would not prevent a doctor from prescribing a brand-name medication, he said.



Sen. Steve Erdman

“The [federal] Office of Generic Drugs follows a rigorous review to make sure they do the following: have the same active ingredient, have the same strength and use the same dosage,” Erdman said.

Carisa Schweitzer Masek, pharmacy director for the DHHS Division of Medicaid and Long-Term Care, testified in support of the bill. She said that since the list’s creation, many generic drugs in the three classes covered under LB245 have become available, and now the majority of patients begin their treatment with a generic medication.

Schweitzer Masek said that one-third of the state’s Medicaid drug expenses are for medications in these three classes.

“[The bill] would lessen the administrative burden on providers, reduce burdens on recipients, not negatively affect care and protect taxpayers,” she said.

Psychiatrist Beth Ann Brooks testified in opposition to LB245 on behalf of the Nebraska Psychiatric Association and several other health provider organizations, saying it could decrease the quality of patient care. It is impossible to predict how a patient will react to a particular antipsychotic drug, she said, and cost considerations should not be a primary prescribing factor.

“When psychiatric practitioners are forced into a normal formulary, less than optimal care can result in increased costs incurred from higher levels of care, including hospitalizations,” Brooks said.

Bill Mueller also testified against LB245 on behalf of the Pharmaceutical Research and Manufacturers of America. He said drugs in the three categories should not be on the preferred drug list and doctors should have complete control over which medications they are prescribing.

“To say that it makes it easier for providers, I don’t think is accurate,” Mueller said.

The committee took no immediate action on the bill.

Adoption of psychology code of conduct considered

The Health and Human Services Committee heard testimony March 27 on a bill that would redefine the code of conduct for psychologists who practice in Nebraska.

LB499, introduced by Sen. Adam Morfeld of Lincoln, would place the new definition within the Psychology Practice Act. The new code of conduct would require a psychologist or anyone he or she supervises to comply with the American Psychologi-



Sen. Adam Morfeld

cal Association Ethical Principles of Psychologists and Code of Conduct. The bill also would:

- prevent a psychologist from accepting a professional role that is outside his or her scope of competence;
- prevent a psychologist from accepting a professional role in which he or she has a conflict of interest that could adversely affect services provided; and
- require a psychologist who is unable to provide professional service to make a referral while accounting for a patient’s needs in a manner that protects the patient and the public.

Morfeld said he introduced the bill to end a 12-year disagreement between the state Department of Health and Human Services and the Nebraska Psychological Association concerning whether psychologists and behavioral health specialists should be required to refer patients in a manner that may contradict a provider’s religious beliefs.

The most recent edition of the American Psychological Association Ethical Principles of Psychologists and Code of Conduct prohibits discrimination on the basis of sexual orientation and gender identity, Morfeld said.

“It is time for the impasse to end,” Morfeld said. “It is critical for all health care professionals to follow ethical considerations while serving Nebraskans, many at their most vulnerable.”

Lori Wall of the Nebraska Psychological Association testified in support of the bill. She said Nebraska’s existing ethics code hasn’t been updated since 1992. It includes a prohibition against discrimination on the basis of sexual orientation but not for gender identity, she said.

“We are asking that psychologists

are allowed to follow our current code of ethics,” Wall said.

Terry Werner, director of the Nebraska chapter of the National Association of Social Workers, also testified in support. Werner said the impasse has prevented his organization from changing its regulations.

“To have gone on like this since 2007 is an atrocity,” Werner said.

Also testifying in support of the bill was psychologist Mary Fran Flood. She said 88 of the state’s 93 counties have a shortage of psychologists and LB499 would help attract and retain them.

Tom Venzor, director of the Nebraska Catholic Conference, testified against the bill, saying it could cause psychologists to stop practicing rather than violate their conscience. The bill also does not define a professional referral, he said.

“When a psychologist cannot provide a service requested by a client, such as same-sex relationship counseling or gender-transition therapy, the question is: what standard of referral is required?” Venzor said. “The practitioner must have, at the least, the ability to provide for an indirect, general referral.”

Darrell Klein, deputy director of the DHHS Division of Public Health, also testified against the bill. He said LB499 would contradict existing law by adding a protected class not recognized in federal law. In addition, he said, some behavioral health practitioners oversee other license holders, such as alcohol and drug counselors.

“This bill would hold those individuals to a code of conduct that it not in their professional license area,” Klein said.

The committee took no immediate action on LB499.

JUDICIARY

Immigration enforcement proposals considered

Members of the Judiciary Committee heard testimony March 28 on two proposals that would govern how Nebraska law enforcement agencies enforce immigration policies.

The director of U.S. Immigration and Customs Enhancement currently can delegate immigration enforcement functions to state and local law enforcement officers who receive appropriate training and operate under the supervision of ICE officers.

LB369, sponsored by Omaha Sen. Tony Vargas, would require a law enforcement agency or jail that enters into such an agreement with any other public agency to investigate, interrogate, detain, detect or arrest people for immigration enforcement purposes to provide written notification to the governing body of its political subdivision at least 30 days before entering into the agreement.

Vargas said that taxpayers have a right to know how their tax dollars are being spent, what they are being used for and if they are being spent responsibly.

"I believe this level of transparency with our local law enforcement agencies is minimal and is the very least we should expect with cases of potentially harmful policy changes," he said.

The subdivision would be required to include the notice on the agenda for its next regularly scheduled public meeting to accept community feedback.

Any agreement entered into by



Sen. Tony Vargas

the Nebraska State Patrol would be reported to the Legislature's Judiciary Committee and the Nebraska Commission on Law Enforcement and Criminal Justice.

Within 60 days of entering into an agreement, the agency or jail would be required to provide a report to the commission including a written copy of the agreement, notice to the political subdivision's governing body and all records of public meetings held by the political subdivision about the agreement including any exhibits, testimony transcripts, statements made by governing board members or recorded votes by members.

Schuyler Geery-Zink, representing Nebraska Appleseed, spoke in support of LB369. She said the bill would help local law enforcement reaffirm trust with their communities, increase transparency and keep taxpayer costs down.

"When local law enforcement takes on the added burden of serving as immigration agents, it affects us all by undermining community policing and the ability to protect public safety," Geery-Zink said. "When some members of the community fear contacting police to report crimes or to assist with investigations, the police can't do their primary job of protecting public safety."

Also supporting the bill was Rose Godinez of the ACLU of Nebraska. Dakota County currently is the only Nebraska county to enter into an agreement with ICE, she said, but communities there were not informed until three months after the application, indicating a need for a more open process.

"LB369 ensures we continue Nebraska's tradition of transparency, open government, citizen engagement and civilian oversight for important governmental functions," Godinez said.

Col. John Bolduc, superintendent

of the Nebraska State Patrol, opposed the bill. The definition of an agreement with a federal agency is too vague, Bolduc said, which could negatively impact local law enforcement's ability to carry out its regular duties.

"We currently cooperate with federal agencies on the issues of human trafficking, labor law violations, firearms, distribution of child pornography and many other serious criminal matters," he said. "Preventing us from quickly collaborating with our federal law enforcement partners upon request for assistance is not conducive to efficient enforcement of the law, nor is it conducive to keeping Nebraskans safe."

The committee also heard testimony on LB502, sponsored by Omaha Sen. Megan Hunt.

As introduced, it would prohibit a peace officer or government employee from asking a person about his or her immigration status, unless required by court order, federal law or state law.

People should not be afraid to engage with law enforcement because of their citizenship status, Hunt said.

"For the justice system to be effective, courts must be accessible to all members of the public, regardless of their immigration status," she said. "When Nebraskans are afraid to call for help, go to court or report crimes to law enforcement, public safety suffers."

A peace officer or government employee would not be prohibited from knowing a person's immigration status as long as the information is voluntarily given and kept confidential, unless disclosure is required by court order, federal law or state law.

Geery-Zink, again representing Nebraska Appleseed, supported LB502. When people fear contacting police,



Sen. Megan Hunt

health or other government officials, she said, it can create a harmful ripple effect through many spheres of community health and safety.

“We support LB502 because it would promote keeping families together and increase trust in local law enforcement and other government agencies, improve public safety, public health and law enforcement for all,” she said.

Opposing the bill was Doug Kagan, speaking on behalf of Nebraska Taxpayers for Freedom. He said the bill would make Nebraska a “sanctuary” for undocumented immigrants.

“Sanctuary policies inhibit law enforcement from identifying illegal aliens and makes it more difficult to uncover criminal activity,” Kagan said.

The committee took no immediate action on either bill.

REVENUE

Sales tax exemption for certain public power equipment advanced

Power poles and power lines owned by a city or public power entity would be exempt from state sales and use tax under a bill advanced from general file March 25.

As introduced by Omaha Sen. Brett Lindstrom, LB218 would exclude electric generation, transmission, distribution and street lighting structures or facilities owned by a political subdivision from the definition of tangible personal property, thereby making those items exempt from state sales and use tax.



Sen. Brett Lindstrom

A Revenue Committee amendment, adopted 40-1, instead would add such structures or facilities that are owned by a political subdivision or the public power industry to the definition of real property to achieve the same end.

The amendment would retain a provision in the original bill that would exclude from the definition of “gross receipts” charges from the lease or use of those structures or facilities, making those charges exempt from state sales and use tax.

The state Department of Revenue has imposed sales and use tax on power poles and power lines in recent years after determining that they are tangible personal property rather than real property, Lindstrom said, changing an interpretation of state law it has used for the past several decades.

Currently, public power entities must pass that additional tax on to consumers through increased rates, he said, and LB218 is needed to clarify that such items are not subject to state sales and use tax.

Elkhorn Sen. Lou Ann Linehan supported the bill as amended, saying the Legislature alone should decide what is or is not taxed.

“I don’t think we want to get in the business of letting the departments change the rules in the middle of the game without any input from the Legislature,” she said.

Sen. Mike Groene of North Platte opposed the amendment and the bill. Although public power entities pay a portion of their gross revenue to the state in lieu of taxes, he said, they also should pay the sales tax imposed under the department’s current interpretation of the law in order to further support public schools, infrastructure and safety.

Senators voted 38-1 to advance LB218 to select file.

Jet fuel tax increase proposed

The Revenue Committee heard testimony March 27 on a bill that would raise the tax on aviation jet fuel sold in Nebraska.

Fremont Sen. Lynne Walz, sponsor of LB440, said the tax on jet fuel purchased for and used in aircraft within the state has not increased since 1984. The bill would increase it from 3 cents to 10 cents per gallon.



Sen. Lynne Walz

Walz said proceeds from that tax and the state tax on aviation gasoline—currently 5 cents per gallon—go to the Aeronautics Cash Fund, which funds the operation of the state Department of Transportation’s Division of Aeronautics. The division uses a portion of those funds to support the state’s general aviation airports, she said, which are vital to Nebraska’s economy.

The division estimates that LB440 would increase revenue to the Aeronautics Cash Fund by \$1.5 million in fiscal year 2020-21 and \$3.6 million in FY2021-22.

Geary Combs, chairman of the Blair Airport Authority, testified in support of the bill, saying it would increase revenue for much needed infrastructure improvements at the state’s 80 general aviation airports. State grants for airport improvement projects have been cut in recent years, he said, and those grants may total only \$100,000 this year.

“Today, with virtually no funding available from the state, the burden of improving the airport falls fully on ... federal dollars and local property tax,” Combs said.

Kyle Schneewis, director of the state Department of Transportation, testified in opposition to LB440, say-

ing the proposed tax increase is not warranted.

Schneweis said the state has not completed an aviation needs assessment since the early 2000s. The department plans to update that study this year or next year and also will prepare a long-range plan that will examine aviation within the context of the entire transportation system, he said.

“Before we make policy decisions like this,” Schneweis said, “it’s important to understand what the needs of aviation are.”

John Heimlich, vice president and chief economist at Airlines for America, also testified in opposition to the bill, saying it would cost the airline industry an additional \$4.7 million per year. He said this would force airlines to raise fares and reduce service growth at a time when Nebraska is trying to grow its economy.

Heimlich said the state’s commercial and general aviation airports received approximately \$33.9 million in federal grants in 2017 and another \$29.6 million in 2018. Airline cargo, ticket and fuel taxes fund those grants, he said.

“We are proud to serve big and small communities and proud to pay user fees at all those airports to support them,” Heimlich said. “What we’re loath to do is subsidize airports that we don’t use.”

Sarah Curry, policy director for the Platte Institute, also testified in opposition. Many transcontinental flights land at Midwest airports to refuel, she said, and LB440 would put Nebraska at a disadvantage to neighboring states such as Kansas that have lower jet fuel taxes.

Curry said most states exempt jet fuel from sales tax and 16 states tax private jet fuel purchases but exempt commercial jet fuel to avoid taxing a business input.

Jon Large, a Nebraska Association

of Airport Officials board member, gave neutral testimony on LB440. According to 2015 and 2016 reports from the state Department of Aeronautics, now the Division of Aeronautics, Nebraska airports have delayed or abandoned federal projects because reduced state funding has prevented them from financing a 10 percent match required to receive certain federal funds, he said.

This has led to a deterioration of airport systems and an increased need for reconstruction due to the delay of rehabilitation projects, according to the reports. Between 2010 and 2018, Large said, more than \$18 million in federal funds allocated to Nebraska airports expired because those airports could not meet the 10 percent match.

The committee took no immediate action on the bill.

URBAN AFFAIRS

Opportunity zone preferences given first-round approval

Senators advanced a bill from general file March 27 designed to rejuvenate economically disadvantaged areas.

LB87, introduced by Omaha Sen. Justin Wayne, would require that the state Department of Economic Development provide a preference for grant applications at least partially located within an opportunity zone as designated by the federal Tax Cuts and Jobs Act.



Sen. Justin Wayne

Projects that meet the program requirements for the Affordable Housing Trust Fund, the Business

Innovation Act, the Job Training Cash Fund and the Site and Building Development Fund and are located in an opportunity zone would be given priority consideration for funding.

Wayne said there are 44 areas in Nebraska that would be eligible for consideration under the bill.

“LB87 is designed to further encourage investment in these areas,” Wayne said.

Sen. Mike Groene of North Platte said he supported the bill, particularly because preferences would be given in all three of the state’s congressional districts.

“If all bills had that there’d be a lot more bipartisanship,” Groene said.

Senators advanced LB87 on a 32-0 vote. ■

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