

## Limit on train length proposed

The Transportation and Telecommunications Committee heard testimony March 1 on a proposal that would restrict the length of certain trains in Nebraska.

LB539, as introduced by Fremont Sen. Lynne Walz, would limit freight or work trains to no longer than 7,500 feet in length. Walz said that isolated communities with limited entrances blocked by bodies of water or railroads have experienced emergency services delays because of crossings blocked by excessively long trains.

“Excessive [train] lengths obstruct the path of children getting to school, parents getting to work and, most importantly, emergency vehicles assisting a person or property in danger,” she said.

Walz brought an amendment to the hearing that instead would limit trains to no longer than 8,500 feet to mirror limits established in other states.

Speaking in support of the bill was James Dulin, a train engineer from Hershey. He said that it is impossible to stop a 15,000-foot train – which is a common length in Nebraska – without blocking at least one train crossing.

“There’s almost no risk to the railroads for [having] unlimited lengths of trains,” Dulin said. “Nobody likes regulations, but this is an area where regulations are for the good of the people.”

Sonny Fankhauser of Waverly also testified in support of LB539. There is a train crossing approximately every mile in Nebraska, he said, which could

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## Step therapy exception bill clears first round

Health care providers would have greater ability to prescribe treatments not covered by health insurance under a bill advanced from general file March 2.

Step therapy is an insurance company practice in which a patient must fail a treatment, usually lower-cost or generic, selected by an insurance company before the company will cover the treatment originally prescribed by a patient’s health care provider. LB337, introduced by Sen. Mark Kolterman of Seward, would adopt the Step Therapy Reform Act.

The bill would allow a provider to request a step therapy override exception and require that the override be granted if all of the following apply:

- a drug required under step therapy is contraindicated by the drug manufacturer’s prescribing information or if the drug is likely to cause an adverse reaction, decrease a patient’s ability to perform daily activities or cause mental or physical harm to the patient;
- a provider believes a drug prescribed under step therapy will be ineffective because of the drug’s characteristics or the pa-

tient’s experience with the drug;

- a patient previously was prescribed a drug that was ineffective; and
- a patient successfully is being treated by a drug prescribed by his or her provider.

LB337 also would require an insurance company to grant or deny a step therapy override within five days of receiving the request except in urgent

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Sen. Mark Kolterman said LB337 would help remove barriers to health care access.

## Limit on train length proposed

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increase response time exponentially for first responders in the event of an emergency.

“With 15,000 feet [long] trains, you’re blocking three crossings at once,” Fankhauser said. “You increase the probability of blocking someone in without getting a [first] responder to them.”

Opposing the bill was Jeff Davis, speaking on behalf of BNSF Railway. He said that shorter trains would not necessarily mean that trains would not block crossings.

“Most blocked crossings are [the result of] an infrastructure problem and require an infrastructure solution,” Davis said. “Sometimes we can make an operational change to solve [the issue], but more often than not, we need a longer siding, a greater separation or something else to improve the situation and that’s a discussion that’s best had between the railroad and local officials.”



Sen. Lynne Walz said blocked train crossings are one of the top issues for her constituents.

Daniel Blank, representing Union Pacific Railroad, also spoke in opposition to LB539. He said the Federal Railroad Administration found in 2018 that there is insufficient data and no justification for limiting train lengths.

“The ability to operate trains with more rail cars allows us to run fewer trains, which reduces the potential for employee injuries and derailments, improves best practices and contributes to key safety aspects,” Blank said.

The committee took no immediate action on the bill. ■

## Step therapy exception bill clears first round

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care situations.

Kolterman said step therapy can delay access to life-changing treatment.

“We have built a large coalition here in Nebraska with over 45 patient advocacy groups and provider organizations,” Kolterman said. “These groups and provider organizations are all committed to seeing some common sense guardrails put into place for the patients of Nebraska.”

Lawmakers adopted an amendment 41-0 to clarify that a pharmaceutical sample could not be used to meet the bill’s exception requirements. LB337 then advanced to select file on a 43-0 vote. ■

## UNICAMERAL UPDATE

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# MEET THE SENATOR

## Bostar follows own path to the Capitol

Before Lincoln Sen. Eliot Bostar decided to run for the Nebraska Legislature, he asked for guidance from an old friend: Bill Moyers.

Moyers, a journalist who served as press secretary in the Johnson administration, is a family friend who Bostar said has played a “significant and deeply important role” in his life. Moyers, an ordained Baptist minister, even officiated at Bostar’s wedding.

“He was exceedingly supportive,” Bostar said, “and I’m exceedingly grateful for that.”

Bostar said his mentor has always encouraged him to work hard, learn as much as he can and help people whenever he can – to push himself.

It’s a directive that Bostar followed as early as his high school days, when he chose to attend a military academy in Wisconsin. There he joined the flying program with the goal of becoming a naval aviator.

“It seemed like the most challenging,” he said. “I’ve never been particularly good at trying to find the easy path.”

A failed eye exam ended that dream, but Bostar studied aerospace engineering and business at Embry-Riddle Aeronautical University in Florida, where he met his wife, Carrie.

After graduation, Bostar returned to New York, where he worked on infrastructure, homeland security and economic development projects – including reconstruction of the World Trade Center site – as a special advisor in the governor’s office.

As a state senator, Bostar’s portfolio is even broader, which is good for someone who says he likes learning something new every day. Whenever he wonders how something works, Bostar said, he picks up the phone and asks.

“People are more than happy to tell you,” he said. “That’s the biggest perk of the job.”

Right now, Bostar said, he is trying to keep up with the bills that come before his committees – Revenue and Banking, Commerce and Insurance – a task made more difficult by the pace of all-day hearings.

“You feel very fortunate to be in a position to do this work at all,” he said. “You just want to do the best job you can, even on the hard days.”

Back in 2013, Bostar brought that work ethic to Nebraska when he moved here to start his current job, as executive director of two conservation-related nonprofits.

Although he was raised in Brooklyn, it was a homecoming of sorts. Every summer growing up, Bostar traded his “fairly regimented” life in the city for the freedom of his family’s farm in southeastern Nebraska, where he built fences and carried irrigation pipes with his cousins.

Bostar, whose son, Dexter, turns 2 in March, said most people – especially farmers like his family – care about the natural environment and want to conserve it for future generations. Although his fellow senators might disagree on how best to do that, he said, many of them will measure their success in the Legislature in the same way.

“Are we making a better place for our children and our grandchildren?” Bostar said. “Let’s start from that.” ■



Sen. Eliot Bostar with son, Dexter, and wife, Carrie.

## BANKING, COMMERCE & INSURANCE



### Bill would require contraceptive insurance coverage

The Banking, Commerce and Insurance Committee heard testimony March 1 on a bill that would require an individual or group health insurance plan or self-funded employee benefit plan to include coverage for certain contraceptives.

LB20, introduced by Sen. Carol Blood of Bellevue, would require public and private insurers not preempted by federal law to cover the expense of a self-administered hormonal contraceptive approved by the Federal Drug Administration.

The bill also would require coverage of up to a three-month supply of a qualifying contraceptive on the first prescription and up to 12 months on the second and subsequent prescriptions. The state Department of Health and Human Services would be required to ensure that a prescription for a one-time, 12-month supply of a covered contraceptive be provided as prescribed.

Blood said LB20 would expand access to contraceptives, particularly for women in rural Nebraska, by reducing the number of pharmacy or doctor visits required. She added that expanded access to contraceptives would decrease the number of unplanned pregnancies and abortions.

"This bill does not mandate a provider to prescribe 12 months at a time," she said. "It only requires that insurance covers the full supply of the



Sen. Carol Blood

prescription to be provided to the patient at one time, for up to 12 months."

Tiffany Joekel of the Women's Fund of Omaha testified in support of the bill. Oral contraception requires constant and regular administration to be effective, she said, and missing just one pill can lead to an unplanned pregnancy. Reducing the number of trips to the pharmacy would help women maintain a regular schedule, Joekel said.

Meg Mikolajczyk of Planned Parenthood North Central States also spoke in support. She said that approximately one in three patients will not fill a prescription for oral contraceptives unless they receive a 12-month supply.

"When you have an unintended pregnancy it leads to increased costs to insurers, including Medicaid," Mikolajczyk said.

Also speaking in support was Karen Bell-Dancy, executive director of the YWCA of Lincoln. The bill would help reduce the burden on women in rural Nebraska, she said, particularly those who lack reliable transportation.

"There are only 30 states that cover prescription contraceptives through insurance. It is now time for Nebraska to join these states," Bell-Dancy said.

Robert Bell, testifying on behalf of the Nebraska Insurance Federation, spoke in opposition to LB20. He said the bill would increase insurance premiums and reduce an insurance company's flexibility by requiring that the same coverage be offered to all customers.

Eric Dunning, testifying on behalf of Blue Cross Blue Shield of Nebraska, also opposed LB20. He said Blue Cross Blue Shield supports the goal of expanding access to birth control but said the bill could lead to wasted medication if a patient changes contraceptive brands for medical reasons

mid-prescription.

"We see significant issues with disposal of unused prescriptions as is," Dunning said. "A requirement that birth control pills be issued for a one-year minimum will only make that issue worse."

Also in opposition was Marion Miner of the Nebraska Catholic Conference. Miner said the bill would force employers who may have religious objections to pay for employee birth control and he disputed the assertion that greater access to birth control would reduce unintended pregnancies.

The committee took no immediate action on LB20.

### Financial protections for seniors, vulnerable adults advanced

A bill that would allow certain financial professionals to delay suspicious transactions advanced from general file March 2.

LB297, introduced by Sen. Brett Lindstrom of Omaha, would allow broker-dealers and investment advisers to hold transactions for up to 30 business days in suspected cases



Sen. Brett Lindstrom

of exploitation of seniors and vulnerable adults.

Under the bill, broker-dealers and investment advisers would be required to notify the Adult Protective Services Division of the state Department of Health and Human Services and the state Department of Banking and Finance within two business days in order to delay a transaction and conduct an internal review.

Lindstrom said the bill would expand upon legislation passed in 2020 that enabled financial institutions to

pause suspect transactions.

“There are some subtle changes from last year’s legislation, but I believe they strengthen the act to provide protections [against] the exploitation of vulnerable adults and senior citizens living in the state of Nebraska,” Lindstrom said.

Sen. Mike Groene of North Platte said he supported the bill because it would give financial advisers the ability to protect vulnerable clients.

“I had a bank loan officer one time, darn near in tears, telling me a story about one of his clients as he watched \$300,000 empty from his account but couldn’t do anything about it,” Groene said.

Lawmakers adopted a technical amendment 40-0 before advancing LB297 to select file on a 38-0 vote.

### **Bills would strengthen pharmacy benefit manager regulation**

The Banking, Commerce and Insurance Committee heard joint testimony March 2 on two bills that would regulate pharmacy benefit managers in Nebraska.

LB375, sponsored by Sen. Mark Kolterman of Seward, would codify several changes affecting pharmacy benefit managers — companies that manage prescription drug benefits on behalf of health insurers — including requiring PBMs to obtain a certificate of authority from the state Department of Insurance for a fee not to exceed \$5,000.

Under the bill, PBMs would be prohibited from charging or collecting a copayment for a prescription or pharmacy service that exceeds the amount



Sen. Mark Kolterman

retained by the network pharmacy from all payment sources for filling a prescription or providing a service.

A PBM could not exclude a Nebraska pharmacy from its specialty pharmacy network and the department would have authority to examine a PBM’s financial condition and revoke or suspend a certificate. Violations of the bill would be considered violations of the Unfair Insurance Trade Practices Act.

Kolterman said PBMs need more oversight because their business practices are causing local pharmacies to lose money.

“These pharmacists out there, they’re just trying to make a living and we have to help them survive,” Kolterman said. “For 85 years my family owned a business in Seward, Nebraska. It was a Ben Franklin store ... they aren’t around anymore. You know why? Walmart put them out of business.”

LB270, sponsored by Lincoln Sen. Adam Morfeld, would prohibit PBMs from excluding pharmacies from their networks, prohibit charging higher copays at local pharmacies and prohibit steering patients to mail order pharmacies.

“Over time, PBMs have taken advantage of their strategic position between the insurer and provider to assert control over prices, and most aspects of prescription drug [transactions],” Morfeld said.

Dr. Marcia Muetting, CEO of the Nebraska Pharmacists Association, testified in support of both bills. She said the role of PBMs has expanded beyond their original intent and they have increased the cost of prescription medication.



Sen. Adam Morfeld

“PBMs collect rebates from drug manufacturers, they conduct predatory audits — which have become a profit center — reimburse pharmacies at below-cost rates and offer contracts to pharmacies that are not negotiable,” Muetting said.

Pat Spanel spoke in support of LB375. Spanel said she takes seven prescription medications and recently a PBM changed the brand of medication for all of her prescriptions.

“A 90-day supply [of medication], wasted. My co-pay money, wasted,” Spanel said.

Dr. Marcus Snow, testifying on behalf of the Nebraska Medical Association, the Nebraska Rheumatology Society and the American College of Rheumatology, also testified in support of both bills. He said PBMs can force a patient to change medication against a doctor’s advice.

“I have a patient who has responded, who’s doing well, and [the PBM] is asking me to move them to a different medication and putting their health at risk,” Snow said.

Coleen Nielsen, speaking on behalf of PBM Prime Therapeutics, testified in opposition to both bills, saying they “take aim” at the way PBMs help consumers and that restricting audit programs would lead to more waste, fraud and abuse.

“The purpose of PBMs is to ensure that patients have access to affordable prescription drugs by encouraging them and their physicians to select the safest and the most effective drugs at the lowest possible price,” Nielsen said.

Jay McLaren, testifying on behalf of health insurer Medica, also spoke in opposition to both proposals. McLaren expressed sympathy for patients caught in the middle of a disagreement between a PBM and a pharmacist but said the specialty pharmacy Medica uses provides vital medical expertise

and increases competition, which reduces drug costs.

The committee took no immediate action on either bill.

### Installment loan interest rate increase advances

Lawmakers gave first-round approval March 2 to a bill that would increase the interest rate that licensees may charge under the Nebraska Installment Loan Act.

Currently, a licensee may charge a borrower a maximum annual interest rate of 24 percent on the first \$1,000 of an unpaid principal balance, and 21 percent on the remaining unpaid balance.

LB510, introduced by Omaha Sen. Brett Lindstrom, would raise the cap to a single rate of 29 percent annually. The bill also would increase the annual license renewal fee paid by installment loan licensees from \$250 to \$500.

Lindstrom said the interest rate cap has not increased since 1984 and consumers are choosing online lenders that are unregulated. Brick-and-mortar lenders need to survive, he said, because they are able to work with borrowers to understand their loans and help improve their credit in order to receive better interest rates in the future.

“This [bill] does not mean that every loan would be charged 29 percent,” Lindstrom said. “It broadens the range of borrowers the bank or lender can serve. I always like to make sure that individuals can access Nebraska businesses versus going online where they’re not regulated.”

Sen. Matt Williams of Gothenburg

supported the bill, which he said is necessary to serve both the installment loan industry and consumers. When voters chose to limit the interest rate cap on pay day lenders in 2020, they eliminated an important source of capital for borrowers, he said.

“What we thought was going to happen following the vote of the people on pay day lending is exactly what did happen,” Williams said. “We have eliminated that industry in our state.”

Omaha Sen. Justin Wayne opposed the bill and offered a motion to recommit LB510 to the Banking, Commerce and Insurance Committee. He said raising the interest cap on installment loans so soon after voters chose to constrain the pay day lending industry in Nebraska would be “premature.”

“No consumer is actually asking for this – it’s the lending industry that’s asking for this,” Wayne said. “This is a way for those who don’t have the best credit to get preyed upon.”

Omaha Sen. John Cavanaugh referenced financial statements reported by a Nebraska installment loan company. He said they’ve reported profits of \$183 million in 2017, \$447 million in 2018 and \$855 million in 2019.

“The rate at which their profits are increasing – I’d say that’s more than doubling – does not demonstrate an industry that is struggling and that needs further expansion in their ability to increase their rates,” Cavanaugh said.

Following Lindstrom’s offer to work with opponents before the next round of debate, senators voted 11-28 on Wayne’s motion. LB510 then advanced to select file on a 27-9 vote.



### Increased protections proposed for meatpacking workers

Members of the Business and Labor Committee heard a bill March 1 that would enact health and safety protections for meatpacking workers during the ongoing coronavirus pandemic.

LB241, sponsored by Omaha Sen. Tony Vargas, would require employers to maintain 6 feet of space around and between each worker, including in common areas like lunch, break and locker rooms.



Sen. Tony Vargas

Vargas introduced a proposal late in the 2020 legislative session that would have incorporated the provisions in LB241 but the effort was unsuccessful. The rejection of that proposal, he said, resulted in increased COVID-19 cases, hospitalizations and deaths among meatpacking plant workers.

“While we’re incredibly grateful for a vaccine, we are by no means out of the woods just yet,” Vargas said. “The situation is urgent and demands action from all of us. Actually, it demanded actions from us months ago.”

Under the bill, employers would be required to provide all workers with free face masks and shields and must replace them daily or more often as needed. Additionally, employees must have ample opportunity to wash and sanitize their hands. An employee also could request gloves as needed.

Employees would be screened for COVID-19 at the start of each shift, including a temperature check – with the result disclosed to the employee – and either an oral or written ques-

tionnaire including questions about possible symptoms and exposure.

If a worker suspects they have been exposed to COVID-19, they could leave the meatpacking operation premises to receive a test on paid work time. Employees displaying COVID-19 symptoms would be allowed to quarantine at home while awaiting test results, although asymptomatic employees could return to work.

The bill also would ensure paid sick leave for an employee who tests positive that would not count against any other paid sick leave owed to the employee. Employees who may have come into direct contact with someone who tests positive must be informed by management of their potential exposure. The protections proposed in LB241 would apply until Dec. 31, 2021.

Tonya Ward, speaking on behalf of the League of United Latin American Citizens, spoke in support of LB241. She said lawmakers must show that they truly care about the health, job safety and well-being of every meatpacking worker in the state.

“Failing to protect them, from COVID especially, contributes to the deadly spread of this virus because what happens to these important employees affects the entire community, including their family, their friends and their neighbors,” Ward said.

Belinda Acosta of Lincoln also supported the bill. Meatpacking workers have been called “heroes,” she said, but have not been provided with basic health and safety protections.

“Creating COVID health and safety protections, as well as providing the sick leave proposed in LB241 ... is not a luxury,” Acosta said. “It’s a human right that also makes economic sense.”

The protections in the bill should have been passed in 2020, said Romulo Vega of Lincoln, speaking in

support of LB241. Meat processing plants have been given suggestions and guidelines to keep workers safe, he said, but there is no way to enforce those guidelines.

“We, as Nebraskans, pride ourselves on our sense of integrity and value our worth ethic,” Vega said. “For whatever reason, we labeled meatpacking workers as essential workers, but we did not implement the basic, transparent protections against COVID-19 in 2020.”

LB241 also would require meatpacking operation employers to document and track all COVID-19-related deaths and positive cases – broken down by race and ethnicity – and report such results weekly to the state Department of Health and Human Services and Department of Labor, as well as to the Legislature.

The DOL commissioner would be authorized to conduct unannounced workplace inspections, including analyzing employer records and making remedial recommendations. The commissioner could issue a citation if an employer is found to be in violation of the bill’s provisions.

Commissioner of Labor John Albin testified in opposition to the bill. In written testimony, Albin said the federal Occupational Safety and Health Act preempts state-level safety regulations. If the state were to adopt its own regulations, he said, it would have to receive approval from the federal Secretary of Labor.

“The department does not believe it will be feasible to have a full plan submitted and approved by the Secretary of Labor by Dec. 31, 2021,” Albin said. “Additionally, any plan would have to account for enforcement equal to or more stringent than the regulations created [by OSHA].”

Also opposing the bill was Ron Sedlacek, testifying on behalf of the Nebraska Chamber of Commerce

and Industry. In written testimony, he said that OSHA and the Centers for Disease Control and Prevention continually have updated their guidance regarding meatpacking workers.

“These ever-evolving guidance documents demonstrate that a ‘one-size-fits-all’ static policy enshrined in law is not the right solution to address worker and workplace safety,” Sedlacek said. “Rather, the ability to update, adjust and respond to evolving circumstances is best left to flexible regulatory guidance documents and health directives.”

Julia Plucker, testifying on behalf of the Nebraska Coalition of Agricultural Manufacturers, opposed the bill in written testimony. She said that the requirement to keep workers 6 feet apart at all times is “unworkable.”

“This will result in reduced operational efficiency, which means slowing production lines and reducing capacity, which will ultimately result in fewer head of cattle being processed, thereby affecting the entire supply chain from the Nebraska cattle producers to the customers,” Plucker said. “An estimate from our plant engineer states that the impact of this section [of LB241] alone would result in a 50 percent reduction of workers and [output].”

The committee took no immediate action on the bill.

### **Bill would authorize workers’ compensation for COVID**

Essential workers exposed to COVID-19 on the job could receive compensation under a bill heard March 1 by the Business and Labor Committee.

Under LB441, sponsored by Lincoln Sen. Matt Hansen, cases identified after March 13, 2020, in which an essential worker tested positive for COVID-19, was directed by their employer to quarantine due to a possible

exposure or whose death certificate listed COVID-19 as the cause of death would be considered a work-related accident and be eligible for workers' compensation benefits.



Sen. Matt Hansen

An employer could rebut such a claim if it could prove that the exposure happened outside of the workplace.

Some employees already have been approved for workers' compensation benefits for injuries related to COVID-19, Hansen said, but the state must make sure all essential workers can access the same relief.

"We've all praised essential workers for close to a year now for protecting the community through a pandemic," he said. "The thought of them not being covered under workers' compensation and leaving families to shoulder the burden themselves is unacceptable."

The bill defines essential workers as, among other occupations, peace officers, firefighters, hospital employees, EMTs, child care providers and school and grocery store employees.

Cases filed under the bill's provisions would not be subject to the typical seven-day waiting period before payment of temporary total disability benefits. Compensation would begin from the first date of quarantine, receipt of a positive test or confirmed diagnosis — whichever is earliest — and would continue for the duration of the self-quarantine period.

An employer's workers' compensation insurance premium, experience rating or modification would not be impacted by positive COVID-19 cases.

Finally, the state Department of Insurance would process claims and pay compensation benefits retroactively for cases occurring after March 13,

2020, and before the operative date of the bill. A fund dedicated to paying retroactive claims would be created and could be funded by federal COVID relief dollars.

Robbie McEwen, representing Nebraska Appleaseed, spoke in support of LB441. He said it is difficult under the current system for essential workers to prove their claim and receive compensation.

"We need to ensure Nebraskans performing this essential work have access to basic coverage and protection," McEwen said.

Also supporting the bill was Rhonda Meyer, speaking on behalf of the Nebraska State Volunteer Firefighters Association. Volunteers are afraid of exposure, she said, because it could lead to lost work and wages due to illness.

Having workers' compensation protections in place could help alleviate that fear and ensure that assistance calls are answered, she said.

"They hear that it's a difficulty breathing call or it's in a 'hot spot' area ... all of a sudden, they don't respond, which impacts the support to our communities," Meyer said.

Opposing the measure was state DOI director Bruce Ramage. He said the department is not equipped to process retroactive claims as proposed in LB441, which could lead to a significant delay in distributing compensation.

"The [DOI] would have to hire several new staffers to handle the workload and provide them with the necessary training, equipment and supplies to complete the task," Ramage said. "Further, because the [DOI] does not presently perform any sort of claims administration, it will require claims management software and corresponding employee training to use that system."

Korby Gilbertson, speaking on

behalf of the American Property Casualty Insurance Association, also opposed the bill. Workers' compensation law already is construed liberally in favor of the employee, she said, and it would be very difficult for employers to prove that a worker contracted COVID-19 outside of the workplace.

The committee took no immediate action on LB441.

### Increased minimum wage considered

Members of the Business and Labor Committee discussed a proposal March 1 to increase the minimum wage incrementally over 10 years.

Currently, the state minimum wage is \$9 per hour. LB480, sponsored by Omaha Sen. Terrell McKinney, would raise the wage to \$10 per hour in 2022, with additional \$1 per hour increases annually until it reaches \$20 per hour in 2032.



Sen. Terrell McKinney

McKinney said the incremental approach would allow businesses plenty of time to adjust to the increases while still providing more pay for individuals.

"It's become astonishingly clear, especially in a global pandemic, that Nebraskans are not paid adequately," he said. "We rave about a low unemployment rate, but we forget that many Nebraskans are working multiple jobs and are still struggling to support themselves and their families."

Karen Bell-Dancy, executive director of the YWCA of Lincoln, spoke in support of the proposal. She said that nearly half of all Black and Latino workers nationwide make less than \$15 per hour.

"By raising the minimum wage in yearly increments starting in 2022 ...

LB480 could dramatically decrease poverty and close the racial income gap and disparities which have continually remained,” Bell-Dancy said.

Also supporting LB480 was Scout Richters, speaking on behalf of the ACLU of Nebraska. She said economic justice is critical to advancing racial justice.

“Higher wages for low-skilled workers reduce both poverty and violent crimes, as well as crime among adolescents,” Richters said. “A 10 percent increase in wages for non-college educated men results in approximately a 10 to 20 percent reduction in crime rates.”

Opposing the bill was Dallas Jones, representing the Lincoln Independent Business Association. Passing the measure, he said, would cause a dangerous drag on the Nebraska economy.

“A 2018 report from the Harvard Business School estimates that every \$1 increase in the minimum wage leads to a 14 percent increase in the likelihood for many restaurants to close,” Jones said. “An \$11 ultimate increase in the minimum wage under this bill would be devastating for not only restaurants, but for all small businesses and their employees.”

Loreen Reynante of Papillion also opposed LB480. She said the bill would not have the desired effect of pulling workers out of poverty.

“We all want higher wages but that will only come from higher productivity, better training, education and friendly tax policies that increase quantity and quality of capital,” Reynante said.

The committee took no immediate action on the bill.

## EDUCATION

### Program would study effects of classroom air filters

The state would install high-quality air filters in 150 classrooms to study their effect on students’ test scores and behavior under a bill heard March 1 by the Education Committee.

LB630, introduced by Lincoln Sen. Eliot Bostar, would require the state Department of Education to develop and implement a pilot program to study the efficacy of commercial air filters to remove air pollution from classrooms and their impact on academic performance and behavior.

The pilot program would include 50 schools, with six participating classrooms in each school. Half of the classrooms would be assigned to the control group.

At the end of the study, the department would submit the results to the Legislature.

Bostar said a recent study measured the effect of air quality on academic performance in several California schools that installed high-quality commercial air filters in response to a leak at a nearby natural gas storage facility in 2015.

Compared to schools outside the affected area, he said, schools that installed air filters saw a significant increase in students’ math and English test scores.

Given those results and the growing body of research demonstrating air pollution’s negative effects on children’s health and development, Bostar said, Nebraska should further

investigate classroom air filters.

“Investing in clean air for our children is unlikely to be something we regret in the future,” he said.

Barbara Baier testified in support of LB640 on behalf of Lincoln Public Schools. She said the program would help schools make research-based decisions about facilities upgrades.

“Having access to research that may identify ways to improve the learning environment for students in ways that impact student performance would be beneficial to school districts,” she said.

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

### Seizure action plans for students proposed

Nebraska schools would create individualized plans to help students with seizure disorders under a bill heard March 1 by the Education Committee.

Under LB639, introduced by Omaha Sen. Jen Day, a school with an enrolled student who has a seizure disorder and requires medication would have at least one employee at each school building who is trained to recognize and respond to seizures and administer the medications.

Day said that many first-time seizures happen when children are at school, and, without proper training, teachers and other school staff easily can mistake the signs and symptoms of seizures for other behaviors, overlook them or mishandle them.

“With the prevalence of seizures happening inside schools – and with common misconceptions about the signs and symptoms – it’s imperative



Sen. Eliot Bostar



Sen. Jen Day

for us to better equip our school personnel and provide more safety for our students in the classroom,” she said.

Before a school employee could administer seizure medication, a student’s parent or guardian would provide a written authorization, a written statement from the student’s doctor and the medication in its unopened, sealed package with the intact label affixed by the dispensing pharmacy.

A parent or guardian also would have to collaborate with school employees to create a written, individualized health plan to acknowledge and prepare for the health care needs of a student diagnosed with a seizure disorder. Each student’s seizure action plan would be distributed to any school personnel or volunteers responsible for them.

A student would be allowed to possess the supplies, equipment and medication necessary to treat a seizure disorder if specified in the student’s seizure action plan.

LB639 also would require each certificated school employee to participate in at least one hour of self-study review of seizure disorder materials.

Jennifer Cordes of Elkhorn testified in support of the bill. She coordinated with her daughter Ruby’s school to ensure staff are aware of her seizure action plan, but not all parents are as proactive, Cordes said. She said LB639 would ensure that all schools create plans to help students with epilepsy and other seizure disorders.

“Without LB639, our children are not assured a safe learning environment,” Cordes said. “They are at risk for inadequate and delayed medical attention, which may lead to permanent damage and even death.”

Ruby Cordes also testified in support, saying her seizures are unpredictable and do not stop just because she is at school. She said knowing that her

teachers are aware of her seizure action plan and trained to respond to both types of seizures that she suffers from gives her a sense of comfort.

“My safety depends on the actions others take,” Cordes said, “and I want and need to feel safe at all times, especially at school.”

Kristi Berst, executive director of Epilepsy Foundation Nebraska, also testified in support of LB639. She said the foundation, in collaboration with the CDC, has designed two seizure first aid and awareness training programs for schools, both available free online.

Berst said many schools, especially those in rural Nebraska, do not have a full-time nurse.

“We want to help the entire school staff by providing the tools to effectively and safely respond [to seizures] even when the nurse is out of the building,” she said, “much like CPR and first aid training.”

Colby Coash testified in opposition to the bill on behalf of the Nebraska Association of School Boards. Although free training is available, he said, schools still would have to pay teachers for the time they spend on it.

Additionally, Coash said, the federal government already requires schools to develop plans to provide special support to children with disabilities.

The committee took no immediate action on the bill.

### **State would define, pay classroom expenses**

The Education Committee heard testimony March 1 on a proposed constitutional amendment intended to decrease Nebraska’s reliance on property taxes to fund public education.

The amendment would require the state to pay all classroom expenses — as defined by the Legislature — related to

the operation of public elementary and secondary schools in Nebraska beginning July 1, 2024.

If passed by the Legislature, LR21CA, sponsored by Albion Sen. Tom Briese, would place the amendment on the November 2022 general election ballot.



Sen. Tom Briese

Briese said Nebraska ranks roughly last in the country in terms of state funding for public schools and nearly first in reliance on property taxes to fund K-12 education.

“LR21CA is a vehicle that can correct this,” he said. “And we can allow the voters to decide if this is how they want to fix it.”

Briese estimated that the state would direct \$2.7 billion to public schools each year under the proposal, compared to approximately \$1.1 billion currently.

He said the Legislature should include supplies, materials, teacher salaries and benefits and contractual services such as special education in its definition of classroom expenses, although it could review that definition periodically.

Briese said LR21CA would not change the state’s school funding formula or collective bargaining practices. School districts would retain the ability to collect property taxes to address any “perceived shortcomings” in funding, he said.

Bruce Rieker testified in support of the resolution on behalf of the Nebraska Farm Bureau and six other agricultural organizations. He said the proposed amendment would force the Legislature to rebalance education funding, reducing the property tax burden on the state’s agriculture industry.

Kyle Fairbairn testified in opposition to LR21CA on behalf of the Greater Nebraska Schools Association and three other education groups. In addition to the proposal's high cost, he said, it presents many unknowns, such as whether the federal government would continue to help Nebraska schools pay for special education if the Legislature is required to cover those expenses.

The committee took no immediate action on the resolution.

## EXECUTIVE BOARD

### Bill would require legislative racial impact statements

The Executive Board heard testimony March 1 on a measure that would require certain bills introduced in the Legislature to include a statement of their potential racial impact.

LB657, sponsored by Omaha Sen. Tony Vargas, would require the Legislative Research Office to prepare racial impact statements for bills designated by the Executive Board, beginning in the 2022 legislative session.



Sen. Tony Vargas

Statements would summarize the estimated impact of the bill on racial populations in Nebraska and on racial disparities. They also could include any relevant research on the historical racial impact of similar bills enacted previously.

The research office could request the cooperation of other state agencies, political subdivisions, accredited academic institutions or other subject matter experts in the preparation of a racial impact study.

Vargas said the information would be useful for policymakers in the same way the fiscal notes that currently accompany bills are — by providing data on the potential impact of a proposed policy change. The statements wouldn't determine or constrain lawmakers' choices, he said, but simply would provide additional information on how changes in state law might impact racial minorities.

"The extent to which something is going to be harmful or helpful — or do nothing at all — to Black and brown communities is the decision we make with every one of our bills," Vargas said.

Craig Beck, speaking on behalf of OpenSky Policy Institute, testified in support of LB657. He said changes in the tax code and funding decisions regarding transportation, education and health care often exacerbate racial disparities. Data increasingly is available, he said, and should be examined by lawmakers when considering legislation.

"The manner in which state and local governments raise and spend revenue has major implications for racial and ethnic equity," Beck said.

Spike Eickholt, representing the ACLU of Nebraska, also supported the bill. A disproportionate number of people of color are stopped, cited, arrested and jailed in Nebraska, he said, and there are aspects of the criminal code and how it's enforced that cause those disparities.

"It may not be explicit; it may not be deliberate. But it's systematic," Eickholt said. "If you do nothing, it's going to continue."

No one appeared in person to testify against the bill and the committee took no immediate action.

## GOVERNMENT, MILITARY & VETERANS AFFAIRS

### Bill would require reporting of electioneering communication

Additional reporting for certain types of political expenditures would be required under a bill considered March 4 by the Government, Military and Veterans Affairs Committee.

Under LB8, introduced by Bellevue Sen. Carol Blood, any individual who makes an independent expenditure for an electioneering communication of more than \$250



Sen. Carol Blood

would be required to file a report with the Nebraska Accountability and Disclosure Commission. The bill defines an electioneering communication as one that clearly refers to a political candidate or ballot question, is directed to the electorate and is released within 30 days of an election involving the candidates or ballot measures mentioned.

An electioneering contribution of more than \$1,000 would require a report with within two days. Failure to do so would be a Class IV misdemeanor and would incur a fine of \$25 a day, not to exceed \$750.

Blood said gaps in current election law enable individuals and groups to secretly fund advertisements by claiming they are educational — a practice that is legal as long as the advertisement doesn't ask a voter to vote for or against a candidate or a ballot question. She said both parties engage in the practice and will continue to do so unless the law requires greater transparency.

"We're asking a very simple question — who are you and how much are

you spending?” Blood said.

Frank Daley, executive director of the Nebraska Accountability and Disclosure Commission, testified in support of LB8. He said electioneering advertisements are similar to advertisements for products. Such ads don’t explicitly ask the viewer to buy a product, he said, but imply that they should.

“What they do is create images. Often it’s happy people, smiling people, using the product. Through these images they are attempting to affect your buying decisions. Candidates will often do the same thing with their advertising,” Daley said. “They’re attempting to affect your voting decisions.”

Linda Duckworth, co-president of the League of Women Voters of Nebraska, testified in support of the bill. She said LB8 would shine a light on dark money in campaigns and require reporting on all campaign material.

“If candidates and political action committees are required to disclose, to a point, who their donors are and how much money is spent, it is only right that some accountability and transparency be required of the so-called educational [material],” Duckworth said.

Spike Eickholt of the ACLU of Nebraska testified in opposition. In written testimony, he said LB8 would place arbitrary limits on the protected exercise of political speech and that the “swift reporting requirements, broad definitions and criminal penalties” outlined in the bill could hinder freedom of expression and association.

The committee took no immediate action on LB8.

### **Holidays recognizing Juneteenth, Malcolm X proposed**

June 19 and Malcolm X’s birthday would each become new state holidays under bills considered March 3 by the

Government, Military and Veterans Affairs Committee.

LB29, introduced by Omaha Sen. Justin Wayne, would replace the existing Arbor Day state holiday with Juneteenth — a commemoration of June 19, 1865, the date when the last enslaved person in America was freed.



Sen. Justin Wayne

Wayne said that date was the “true Declaration of Independence” for all Americans.

“Nebraska adopting Juneteenth as a state holiday is another important way that we as a state can honor the sacrifices that were made to this country,” Wayne said. “It is June 19th where slavery and the Confederacy were finally ended.”

Wayne said that replacing Arbor Day — observed on the last Friday in April — with Juneteenth would avoid the expense of adding a state holiday.

Karen Bell-Dancy, executive director of the YWCA of Lincoln, testified in support of the bill. Juneteenth currently is regarded by many as a holiday only for Black Americans, she said, and establishing it as a state holiday would signal its importance to all people.

“Making Juneteenth a state holiday is one gesture that would not only demonstrate recognition of the past but would also be an affirmation that Black lives matter,” Bell-Dancy said.

Annette Harris of Omaha also testified in support. She said many individuals don’t realize that slavery continued in practice for more than two years after the Emancipation Proclamation was signed into law.

“By making this a holiday it will open up the doors where everyone, all children — white and Black — will be aware of why we celebrate Juneteenth,” Harris said. “I think it’s long overdue.”

LB349, introduced by Sen. Terrell McKinney of Omaha, would establish May 19 as El-Hajj Malik El-Shabazz, Malcolm X Day in Nebraska.



Sen. Terrell McKinney

McKinney said Malcolm X is recognized worldwide as a champion of human rights but his contributions to equality and justice have been overlooked in his home state.

“I have always been extremely disgusted and disheartened by the lack of acknowledgement and appreciation shown by our state to Malcolm,” McKinney said. “Malcolm X is a symbol of perseverance and perpetuates the notion that a person’s past does not define them.”

Leo Louis, President of the Malcolm X Memorial Foundation, testified in support of LB349. By recognizing Malcolm X as a human rights icon, the state of Nebraska would honor his contributions to establishing an ethnic identity for Black Americans similar to that of Czech Americans or Polish Americans, he said.

Also testifying in support was Kara Warner of Omaha. She said it saddens her that many Nebraskans are unaware that Malcolm X was born and raised in Omaha.

“Because of brother Malcolm’s boldness and resiliency, I have made it my personal duty and responsibility to introduce Black youth to the many contributions brother Malcolm provided us,” Warner said.

No opponents to either bill appeared at the hearing and the committee took no immediate action.

### **Asian American commission considered**

The Government, Military and

Veterans Affairs Committee heard testimony March 3 on a bill that would create a commission to address the concerns of Asian American in Nebraska.

LB442, introduced by Sen. Matt Hansen of Lincoln, would create a 14-member Commission on Asian American Affairs. Members would be of Asian ancestry and appointed by the governor. The commission would promote beneficial state and federal legislation, enhance the cause of Asian American rights and develop solutions to problems common to all Asian Americans in Nebraska.



Sen. Matt Hansen

"This [bill] would provide a commission to study issues specific to our Asian American community, educate state officials on those issues and propose policies and programs to address them," Hansen said.

Suzanne Swanson testified in support of the bill. She said she's endured racial hostility, such as being told to "go back to China" even though she's Korean. A commission would enable Asian Americans to teach the various languages and cultures of Asia, she said.

"This commission would do so much good for us," Swanson said. "Without this commission, these incidents like I've experienced will continue."

Rose Godinez of the ACLU of Nebraska also testified in support. Individuals of Asian descent have experienced racism in America, she said, from Japanese internment camps during World War II to being blamed falsely for spreading COVID-19. A commission would highlight these issues and grant Asian Americans access to policymakers, she said.

No one appeared at the hearing to testify in opposition to LB442 and the

committee took no immediate action on the bill.

### Election Day holiday proposed

Statewide general election day would become a state holiday in Nebraska under a bill considered March 3 by the Government, Military and Veterans Affairs Committee.

LB577, introduced by Lincoln Sen. Eliot Bostar, would make the first Tuesday after the first Monday in November of even-numbered years a state holiday. The bill also would require vote-by-mail return envelopes to be postage paid and preprinted with the election commissioner or county clerk's address.



Sen. Eliot Bostar

In addition, the bill also would register an individual to vote automatically when he or she obtains a drivers license or state identification card unless the individual opts out.

Eleven states have adopted an Election Day holiday, Bostar said. He added that the bill would increase voter turnout, citing a U.S. Census Bureau survey in which 14 percent of respondents said a busy schedule was the main reason they didn't vote in the 2016 presidential election.

"For many people it is difficult to find the time to vote on a work day," Bostar said.

Gavin Geis, executive director of Common Cause Nebraska, testified in support of the bill. He said LB577 would make it easier for voters to access the ballot and would elevate the importance of Election Day.

"We celebrate the Fourth of July when we secured our democracy, why should we not also celebrate the day that we renew that democracy?" Geis said.

Karen Bell-Dancy, executive director of the YWCA of Lincoln, also testified in support. LB577 would increase the accuracy of voter rolls and eliminate barriers to voting like paying for postage, she said.

"LB577 brings our state election-related mail in line with our Nebraska Constitution's promise to make elections free," Bell-Dancy said.

Nebraska Secretary of State Bob Evnen opposed the bill. In written testimony he said that registering individuals when they obtain a drivers license would lead to duplicate registrations.

"We anticipate an additional 354,000 more records per year as a result," Evnen said. "Processing these duplicate registrations takes time, money and effort from our county election officials."

Also in opposition was Jon Cannon, executive director of the Nebraska Association of County Officials. He said in written testimony that LB577 would increase mailing costs for counties. In addition, he said, the information that an individual provides to obtain a drivers license may be insufficient to update their voter registration.

"The proposed process would significantly increase the time spent by election officials to verify changes and missing application information," Cannon said.

The committee took no immediate action on the bill.

## JUDICIARY



### Expansion of sex offender registry considered

Members of the Judiciary Committee considered a proposal March 4 to add applicable human trafficking offenses to the state's Sex Offender

Registry Act.

LB204, sponsored by Peru Sen. Julie Slama, would require an individual to register as a sex offender who has been found guilty of — or pleaded guilty to — a charge of sex trafficking or sex trafficking of a minor.



Sen. Julie Slama

Sex trafficking is a sex crime, “plain and simple,” Slama said, and should be treated as such.

“People can of course look up any conviction online because they are a matter of public record, however this information is not easily accessible to the public based on our current statutes,” she said. “As the crime of sex trafficking expands, it’s all the more important that information on these sex criminals is attainable and accessible to the public.”

Slama brought an amendment to the hearing that would remove a provision in the introduced bill to require that a registered sex offender report planned international travel to law enforcement for community notification purposes.

Glen Parks, speaking on behalf of the Nebraska Attorney General’s Office, supported LB204. Some lawyers and judges assume registration is automatic in cases of sex trafficking, he said, and are surprised that it currently is not.

“I don’t believe it was anyone’s intention to leave these crimes off the list ... it’s just never been done [until this bill],” Parks said.

Opposing the measure was Kenneth Ackerman of Omaha. He said studies have not shown that a sex offender registry improves public safety.

“Although sex trafficking is terrible and against all decency and deserves

prison time, adding those convicted to the registry would not stop this crime or exploitation from taking place,” Ackerman said.

The committee took no immediate action on the bill.

### More notice, grace period proposed for concealed carry renewals

The Judiciary Committee heard two proposals March 3 to increase flexibility in Nebraska’s concealed handgun permit renewal process.

LB244, sponsored by Elmwood Sen. Robert Clements, would allow permit holders to renew a permit up to 30 days after its expiration.



Sen. Robert Clements

The state Department of Motor Vehicles sends renewal notices for state-issued driver licenses and vehicle registrations, Clements said, but the Nebraska State Patrol is not required to send reminders to concealed permit holders to renew their permit — nor is there a grace period after a permit expires.

“Allowing a renewal grace period for a five-year, government-issued permit is not unprecedented and is a reasonable allowance to exercise the constitutional right to self-defense,” Clements said.

James Gottschalk, speaking on behalf of the Nebraska Firearms Owners Association, spoke in support of LB244. He said the high cost of training and application fees for a concealed handgun permit already can be cost prohibitive, especially for lower income Nebraskans.

“If an individual has to undergo the same or increased costs for the second permit due to a missed renewal dead-

line, then the cost is more financially burdensome,” Gottschalk said.

Opposing the bill was Melody Vaccaro, representing Nebraskans Against Gun Violence. She said it is reasonable to expect individuals who carry firearms to meet a deadline once every five years.

“[If the state is] giving somebody the ability to bring loaded guns into the public square and you’re verifying that they are reasonable, rational people who are capable of good decision-making, we think it is reasonable to expect that they can meet the permit renewal periods,” Vaccaro said.

The committee also heard testimony on LB85, sponsored by Bayard Sen.

Bruce Bostelman, which would require the Nebraska State Patrol to send renewal notices to permit holders at least four months before a permit is



Sen. Bruce Bostelman

set to expire. Currently, he said, if a person fails to renew their permit on time, they are not able to simply pay a \$50 renewal fee.

“If you fail to renew your permit, you must complete the entire application process, which includes the certification training course and state patrol in-person processing, which is about \$100,” he said.

Wayne McCormick of Columbus spoke in support of LB85. He called it a basic, commonsense proposal.

“I know that I depend on reminders a lot and I think this could be a very, very good customer service for the citizens of Nebraska,” McCormick said.

No one appeared at the hearing to testify in opposition to LB85 and the committee took no immediate action on either bill.

## Expansion of self-defense statute proposed

Members of the Judiciary Committee considered a bill March 3 meant to strengthen an individual's right to self-defense.

Currently, the state's "castle doctrine" permits an individual to use force to defend themselves or others in their home or workplace without retreating if there is a reasonable and good faith reason to believe that there is an immediate threat of death or serious bodily injury.

LB300, sponsored by Peru Sen. Julie Slama, would add an individual's motor vehicle to the list of places where force could be used for self-defense.

Use of force against another individual would be authorized under the bill in cases of forced and unlawful entry into a home, workplace or motor vehicle, or a forced and unlawful abduction. The bill would provide a rebuttable presumption that an individual against whom force was used intended to commit a forceful or violent crime.

Force used to commit a criminal offense, avoid arrest or against a peace officer who identifies themselves and lawfully enters a home, workplace or motor vehicle would not be protected.

Slama said the bill addresses ambiguities in state law that put county attorneys, defense attorneys and those who defend themselves in sometimes "impossible" situations.

"LB300 would protect victims from being attacked by the court after they have already been attacked by criminals in their home, their workplace or their vehicle," she said.

The protection authorized in LB300 would not apply if the other individual had the right to be present in the home, workplace or motor vehicle, notwithstanding an active domestic violence, harassment or sexual assault

protection order. Additionally, force could not be used against a parent or grandparent assuming lawful custody of a minor.

The bill also would not apply in cases when an individual has abandoned their unlawful efforts to enter a property or abduct a person.

Testifying in support of the bill was David Pringle, owner of DEGuns Firearms and Sales Service. People come to his store for help, he said, and to be enabled and empowered so that they are not dependent on the system to protect them.

"It's so important to have clarity so that when these dynamic, critical incidents happen and unfold, the people who are involved in them — that are trying to protect themselves — can do it with certainty," Pringle said.

James Gottschalk, vice president of the Nebraska Firearms Owners Association, also supported LB300. In cases of self-defense, he said, the onus should not be on the person defending themselves to prove that they acted responsibly, but on the state to prove that they did not.

"I transport my grandchildren on a regular basis for a variety of activities. If our safety while in that vehicle is threatened ... and I can safely drive us out of danger, then I absolutely will do that," Gottschalk said. "If, on the other hand, the threat prevents us from being able to get away, then the state should not require us to retreat from the vehicle and potentially put my grandchildren in threat of serious bodily harm or worse."

Opposing the bill was Melody Vaccaro, speaking on behalf of Nebraskans Against Gun Violence. She said her opposition was limited to the expansion of the "castle doctrine" to include motor vehicles.

Vaccaro cited the death of Florida 15-year-old Trayvon Martin, who was

shot and killed by a man who claimed that he felt threatened while inside his motor vehicle.

"Most people probably agree that you should be able to use lethal force in your home," she said. "I think there's probably a reasonable debate about lethal force in your workplace. But if you can drive away, you should drive away."

The committee took no immediate action on the bill.

## Limited firearm possession in schools discussed

The Judiciary Committee considered a proposal March 3 to broaden the exemption for who can legally carry a firearm in a Nebraska school.

LB417, sponsored by Hastings Sen. Steve Halloran, would add full time, off-duty law enforcement officers to the list of individuals allowed to possess a firearm on school grounds under state law. Halloran said the bill would add an additional layer of protection for students, staff and family members.

"Our law enforcement officers receive extensive training to carry firearms safely and are uniquely qualified to intervene in dangerous situations to protect members of the community," he said.

Testifying in support of LB417 was Jim Maguire. Speaking on behalf of the Nebraska Fraternal Order of Police, he said the bill would apply only to full-time law enforcement officers who receive extensive firearms training and already carry guns.

"In theory, you could have an officer who gets off work, goes to pick up their child from school and they'd be in violation under current state law,"



Sen. Steve Halloran

Maguire said.

Also testifying in support was Jennifer Hicks of Peru. Her mother was a school resource officer, she said, whose presence on the school grounds allowed her to establish a good relationship with students.

“It’s a healthy thing for our kids to see law enforcement officers in a positive light and in the full capacity of their position and their authority,” Hicks said. “I believe that not just the kids are kept safer, but all of us are, when law enforcement officers actually get to carry their firearms.”

Opposing the bill was Melody Vaccaro, representing Nebraskans Against Gun Violence. Expanding the number of people who can possess a gun in schools may increase some students’ sense of safety, she said, but could decrease the actual safety of the most vulnerable students.

“In Nebraska ... Black and brown youth have increased interactions with school resource officers – and also we see increased interactions with students with disabilities – and that’s a really big problem with the school to prison pipeline,” Vaccaro said.

Kristen Dupree of Omaha also spoke in opposition to LB417. She said state law already provides eight exceptions for people to carry firearms in schools.

“Schools are supposed to be an inherently safe place for children,” Dupree said. “Allowing more people to possess firearms on school property does not increase safety [but] opens the door for more accidents.”

The committee took no immediate action on the bill.

### Elimination of cash bail proposed

Judges no longer could set cash bond as a condition for pre-trial release under a bill heard by the Judi-

ciary Committee March 4.

LB636, sponsored by Omaha Sen. John Cavanaugh, would eliminate cash bonds and appearance bonds. He said the cash bail system penalizes poor people, forcing many defendants who cannot afford their bond to plead guilty to avoid more jail time – even if they have a valid defense.

“The system right now bears no relationship to the likelihood of appearance or danger to society,” Cavanaugh said. “It’s only a measure of access to capital.”

When determining whether to release an individual on their own recognition or under conditions, the court would be required to consider the individual’s employment history, obligations to support dependents or family members, community involvement, ongoing need for medical care and enrollment in an educational program.

LB636 would prohibit consideration of, among other factors, an individual’s lack of residence, unrelated criminal history or assertion of the right to remain silent or deny consent to a search. The bill would implement similar restrictions when balancing an individual’s pre-trial release with considerations for maintenance of evidence and the safety of victims, witnesses and the community.

Joe Nigro, speaking on behalf of the Nebraska Criminal Defense Attorneys Association, supported the bill. People charged with crimes are presumed innocent, he said, but if they cannot make bond, they sit in jail until their case is resolved.

“Many of us don’t have to worry about losing our jobs if we miss a day of work, but many of the people we represent will lose their job if they miss



Sen. John Cavanaugh

a shift. Then they could lose their housing and their children could be placed in foster care,” Nigro said. “Time in jail can be devastating and this is for people who are presumed innocent.”

Also testifying in support of LB636 was Jasmine Harris, director of advocacy and policy for RISE. She said states that already have eliminated cash bond have implemented additional tools to ensure an individual appears at court including risk assessments, substance abuse treatment, mental health care and calls and text message reminders.

“The average bond across the United States for a felony is \$10,000, which means people here in Nebraska would have to come up with \$1,000 to get out of [jail],” Harris said. “That is not realistic for a majority of people, especially when we have high rates of poverty.”

Opposing the bill was Bruce Ferrell, speaking on behalf of the Police Chiefs Association of Nebraska. He said the cash bail system as it currently exists keeps many individuals accused of violent crimes in jail and promotes public safety.

“Particularly with gun crimes, not only is it a concern for release on bail under those conditions, but we also have to remember the victims of crimes when it comes to bail reform,” he said.

The committee took no immediate action on the bill.



### Bill would allow state to issue bonds to finish expressways

The state highway commission could issue up to \$400 million in bonds over the next six years to speed completion of the state’s expressway system under a bill considered March

3 by the Revenue Committee.

LB542, introduced by Fremont Sen. Lynne Walz, would authorize the commission, upon recommendation of the state Department of Transportation, to issue bonds between July 1, 2021, and June 30, 2027. The bonds would be paid off by June 30, 2040.



Sen. Lynne Walz

Proceeds from the sale of any bonds would be deposited in the department's Highway Cash Fund to be used to accelerate completion of highway construction projects under the Build Nebraska Act.

The act, passed by the Legislature in 2011, dedicates one-fourth of 1 percent of state sales tax revenue to road projects, including the expressway system, between 2013 and 2033.

Bonds authorized by LB542 would be special obligations of the state payable only from the State Highway Capital Improvement Fund and any other funds pledged by the commission for that purpose. They would not be a general obligation or debt of the state.

Walz said Nebraska's pay-as-you-go model cannot meet its infrastructure needs, particularly in the case of the expressway system, which will consist of 600 miles of four-lane highways connecting the state's major cities.

The project was estimated to cost \$200 million when the Legislature approved it in 1988, she said, but completing just the remaining 160 miles could cost more than \$500 million due to inflation and rising construction costs.

"It seems incredibly financially irresponsible to wait any longer on this 30-year-old plan," Walz said.

She said LB542 would allow the department to take advantage of

historically low interest rates to finish the project, improving safety for motorists and encouraging economic development.

Ernest Goss, an economist at Goss & Associates and Creighton University, testified in support of the bill. He said expanding a portion of Highway 275, one of the designated expressways, would reduce crashes, decrease commute times and ease transportation bottlenecks for manufacturers and the agriculture industry.

Goss said Nebraska could save \$36 million on a 30-year, \$100 million municipal bond if it bonded at current interest rates rather than higher, historical rates.

"Any delays in borrowing are going to be penalized with higher interest rates," he said.

Josh Moenning, mayor of Norfolk, also testified in support, saying the outdated, crowded and dangerous two-lane highways included in the expressway plan are limiting economic growth in the communities they connect. He said many of the unfinished projects are in the northeast corner of the state, and residents there feel left behind.

Moenning said the build-finance model approved by the Legislature in 2019 to accelerate completion of the Lincoln South Beltway is "bonding by any other name."

"I know the south beltway project is a good project, but we should be able to do better for the rest of the state," he said. "Communities like Norfolk and Fremont and Columbus and York and many others have been waiting for decades now for their turn."

Moe Jamshidi, acting director of the state Department of Transportation, testified in opposition to LB542. Since 2013, he said, the department has used revenue received under the Build Nebraska Act to build or begin

construction on approximately 45 miles of expressway.

Jamshidi said using that revenue to pay off bond debt would reduce the department's ability to address emerging maintenance needs, make emergency repairs to roads and bridges and provide matching funds necessary to receive federal grants.

The department is not using the pay-as-you-go model for the Lincoln South Beltway because of that project's unique nature, he said, and its build-finance model is "as close as we've ever come" to bonding for a highway project during his time there.

The committee took no immediate action on the bill.

**Bill would allow tax benefits for K-12 tuition**

Nebraska educational savings plan trust accounts could be used to pay private elementary and high school tuition under a bill heard March 4 by the Revenue Committee.

The trust provides tax-advantaged 529 accounts meant to encourage saving for postsecondary education. Contributions grow tax-deferred and are exempt from state and federal taxes as long as they are used for a beneficiary's qualified higher education expenses.

Individuals may claim a state income tax deduction equal to contributions they make to an account, up to \$5,000 for those married filing separately and \$10,000 for other filers.

Under LB681, introduced by Elkhorn Sen. Lou Ann Linehan, owners could use their accounts to pay for qualified expenses at eligible postsecondary educational institutions and up to \$10,000 in elemen-



Sen. Lou Ann Linehan

tary and secondary school tuition per beneficiary per taxable year.

Linehan said 38 states and the District of Columbia allow 529 accounts to be used for elementary and secondary education after a federal tax change in 2017. She said Nebraska should join those states, partly to attract young parents, who are using 529 accounts to save for their children's education more than previous generations.

Linehan said the proposal is not intended to divert funding from public education.

"LB681 does not hurt public schools," she said. "This is about families making choices with their money for their kids."

The state Department of Revenue estimates that the bill would reduce general fund revenue by \$2.4 million in fiscal year 2021-22, \$5.2 million in FY2022-23 and \$8.1 million in FY2023-24.

State Treasurer John Murante testified in support of the proposal. He said it would encourage more people who want to use a 529 account to save for K-12 private school tuition to use Nebraska's plan rather than another state's.

"Nebraskans can invest in any program in the entire country," Murante said. "The more we put limitations on what our account holders can spend their money on, the more of a competitive disadvantage we are at."

Jeremy Ekeler testified in support of the bill on behalf of the Nebraska Catholic Conference. Ekeler said families who choose to send their children to private school must pay taxes to their local public school district in addition to tuition. LB681 would be a small step toward reducing that financial penalty, he said.

Ekeler said the bill also would help mitigate inequality of opportunity by

helping low-income and middle-class families save for private school. He said approximately 1,400 students left Nebraska's Catholic schools over the past year due to pandemic-related financial hardship.

"Often for those families it was a matter of filling a small gap in tuition that, despite historic giving by our dioceses, it just couldn't happen," Ekeler said.

Testifying in opposition to the bill was Renee Fry, executive director of OpenSky Policy Institute. Although many states have followed the federal government in allowing 529 accounts to be used for K-12 expenses, she said, only 23 of them offer a state tax benefit. Among those, Fry said, Nebraska's would be the seventh most generous.

Fry said LB681 would enable families who already send their children to private school to benefit from an immediate tax reduction.

Because there is no requirement that contributions remain in a NEST account for any length of time, she said, account owners could put money into an account and then withdraw it soon after to pay for tuition. Someone contributing \$10,000 would receive a \$684 tax deduction if they pay taxes at the top personal income tax rate, Fry said.

"I absolutely have talked to people who've said that's exactly what they would do," she said, "and I do believe that that would be done quite a bit."

Daniel Russell, deputy director of Stand for Schools, also testified in opposition. He said LB681 primarily would benefit families who already can afford to send their children to private school and reduce general fund revenue that could be used to pay for public education, health and safety.

The committee took no immediate action on the bill.

## URBAN AFFAIRS

### Bill would require home inspector registry

Home inspectors in Nebraska would be required to register with the state under a bill considered March 2 by the Urban Affairs Committee.

LB423, introduced by Omaha Sen. Steve Lathrop, would require Nebraska home inspectors to register with the Nebraska secretary of state, pay a registration fee and provide a certificate



Sen. Steve Lathrop

of general liability insurance of not less than \$250,000. LB423 would take effect Jan. 1, 2023, and violations of the bill's provisions would be a Class IV misdemeanor.

Lathrop said the bill would provide some protection for home buyers from defects that went undiscovered during an inspection.

"While the vast majority of inspections are done in a professional manner and include a thorough inspection and report, there are times when buyers are left with costly repairs due to defects that should have been discovered," Lathrop said.

Realtor Arla Meyer testified in support of LB423. She said there currently is no credentialing system in place for home inspectors in Nebraska.

"Currently, anyone can market themselves as a home inspector," Meyer said. "Registering home inspectors in Nebraska is a step toward providing consumers with another layer of protection when they are likely making the biggest investment of their lives."

No one appeared at the hearing to testify in opposition and the committee advanced LB423 to general file on a 7-0 vote. ■

# COMMITTEE HEARINGS

Current hearing schedules are available at: [NebraskaLegislature.gov/calendar](http://NebraskaLegislature.gov/calendar)

Further committee information is available at: [NebraskaLegislature.gov/committees/standing-committees.php](http://NebraskaLegislature.gov/committees/standing-committees.php)

## Tuesday, March 9

**Health & Human Services**  
**Room 1510 - 12:30 p.m.**  
 YRTC Five-Year Plan Briefing

**Revenue**  
**Room 1524 - 1:30 p.m.**  
 AM 373 to LB39

**Urban Affairs**  
**Room 1510 - 3:00 p.m.**  
 LR49 (Wayne) Provide the need for the Legislature to understand the reasons for and circumstances surrounding the natural gas shortages  
*(Note: Invited Testimony Only)*

## Wednesday, March 10

**Judiciary**  
**Room 1113 - 1:30 p.m.**  
 LB474 (Wishart) Adopt the Medicinal Cannabis Act  
 LB31 (Wayne) Authorize punitive damages as prescribed and provide for distribution

LB397 (Bostelman) Prohibit certain causes of action by motorists without liability insurance or convicted of DUI offenses, require the Department of Motor Vehicles to establish and maintain an online verification system for accessing certain private passenger motor vehicle insurance information, and authorize a disclosure of certain motor vehicle records  
 LB634 (J. Cavanaugh) Provide a cause of action for unsafe disposal of treated seed

**Natural Resources**  
**Room 1524 - 1:30 p.m.**  
*Appointment:* Randy L. Gard - Neb. Ethanol Board

## Thursday, March 11

**Business & Labor**  
**Room 1524 - 1:30 p.m.**  
*Appointments:* Aaron L. Jazyanka; Gerald Whitlock; Johnie Jason Girmus; Martin Kasl - Boiler Safety Code Advisory Board

**Judiciary**  
**Room 1113 - 1:30 p.m.**  
 LB199 (Vargas) Adopt the Face Surveillance Privacy Act  
 LB227 (Morfeld) Adopt the Doxing Prevention Act and change and provide penalties and a civil action for false reporting  
 LB370 (Sanders) Adopt the Personal Privacy Protection Act

## Friday, March 12

**Judiciary**  
**Room 1113 - 9:30 a.m.**  
 LB276 (Hunt) Eliminate a requirement that the physician be physically present in the same room when an abortion is performed ■

## SEARCH FOR BILLS

Learn more about bills considered by the Unicameral by logging on to [NebraskaLegislature.gov](http://NebraskaLegislature.gov).

The Legislature's website offers a bill search on the upper-right portion of the home page. Entering a bill number will retrieve the bill's text, fiscal note, statement of intent, votes, transcripts and more.

You also can search current laws using the keyword search found below the bill search.

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