

Legalization of medical cannabis stalls



Sen. Anna Wishart said LB474 was the Legislature's last chance to put parameters around medical cannabis before voters engage in another initiative petition drive next year.

A bill that would approve certain forms of cannabis for medical use did not advance from general file May 12 after a motion to end debate and force a vote on the proposal failed.

LB474, introduced by Lincoln Sen. Anna Wishart, would create a framework for legalizing medical cannabis use in Nebraska.

A proposed constitutional amendment to legalize medical cannabis received overwhelming support from Nebraskans, Wishart said, but was blocked by a last-minute legal challenge from appearing on the 2020 general election ballot.

She said it is time for Nebraska to view patients as sick people in need of assistance, not as criminals.

"This bill will not fail because of a lack of compromise or thoughtfulness on the part of myself and medical cannabis advocates," Wishart said. "If it fails, it is because of the political pressure from a few who wield their power to stamp out the voice of the people."

To qualify for a medical cannabis registration card under the bill, a patient must receive written certification that medical cannabis would improve their condition from a health care practitioner with whom they have an

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Proposal to assist children with developmental disabilities advanced

A bill that seeks to supplement existing services for children with developmental disabilities in Nebraska advanced from general file May 11.

LB376, as introduced by Omaha Sen. Machaela Cavanaugh, would

require the state Department of Health and Human Services to apply for a waiver to administer a home and community-based support pilot program for families of children with disabilities. The waiver would supplement existing developmental disability services and:

- have an annual budget for long-term services and supports capped at \$12,000 per person;
- offer Medicaid eligibility for children with disabilities by disregarding parental income;
- be administered by the state Division of Developmental Disabilities of DHHS; and
- allow families to self-direct services.

Nebraska currently does not have a Medicaid waiver designed for children, Cavanaugh said, leaving many families unable to afford services, treatments and equipment that often are not covered by insurance. This



Sen. Machaela Cavanaugh

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Proposal to assist children with developmental disabilities advanced

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gap in coverage has caused the state’s developmental disabilities wait list to grow to 2,964 individuals, she said, 55 percent of whom are children.

“Fifty-three percent of the individuals on the waiting list receive no services at this point and rely solely on family and friends,” Cavanaugh said. “[The Health and Human Services Committee] received absolutely heartbreaking calls from families who were forced to consider moving from the state or divorce so that they can continue to receive care for their family member.”

A Health and Human Services Committee amendment, adopted 35-0, would reduce the annual per person cap on services to \$10,000, limit the number of participants to 850 and require DHHS to apply for a three-year Medicaid waiver rather than establishing a pilot program. The family support program would be set at an intermediate care facility institutional level of care.

The amendment also would require DHHS to collaborate with private nonprofits, if private funding is available, to complete an independent evaluation of the program.

La Vista Sen. John Arch, chairperson of the committee, said the amended bill would reduce the state’s wait list, which he said has grown at an “alarming rate” in recent years.

“Individuals waiting for services ... could be waiting for anywhere from two to eight years,” he said. “Some individuals have waited for services longer than a decade.”

Sen. Lynne Walz of Fremont said the bill was innovative and would give families the ability to plan for services for their children – something not possible given the length of current wait times.

“If we keep doing things the way we have been, we’re just going to see that list continue to grow,” Walz said.

Senators advanced LB376 to select file on a 32-0 vote. ■

Correction:

On page 11 of Issue 18 of the Unicameral Update, dates for the Unicameral Youth Legislature were listed incorrectly. The event runs from June 13-16, 2021, and the registration deadline is May 28.

Further information is available on the Legislature’s Unicameral Youth Legislature page: NebraskaLegislature.gov/uyl.




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established, bonafide relationship.

Registered medical cannabis users could purchase cannabis through regulated in-state dispensaries or home delivery from out-of-state suppliers. Patients would be limited to no more than two and one-half ounces of cannabis – or a greater amount approved by a medical necessity waiver – or cannabis infused products with no more than 2,000 milligrams of THC.

Cannabis infused edible products – other than pills – and cannabis used in vaporizers would not be permitted.

LB474 would prohibit any registered user of medical cannabis from driving, operating a boat, train or aircraft, or undertaking any task that would be negligent or constitute malpractice while under the influence of cannabis. They also could not work on transportation equipment, property or facilities.

Medical cannabis would not be covered by Medicaid under the bill and private insurers would not be required to cover its costs. Any registered user who sells their medical cannabis would suffer immediate revocation of their registration card.

A pending Judiciary Committee amendment would limit the chronic illnesses that could qualify for medical cannabis use to a specific list, including epilepsy, chronic pain, cancer and PTSD that has failed all other conventional treatments.

Omaha Sen. Steve Lathrop spoke in support of LB474. If the measure fails to pass this session, he said, advocates will push successfully to legalize all forms of marijuana in the state.

“It’s time that we accept the responsibility to [pass] this and regulate it,”

Lathrop said. “If we don’t, what we’re going to have is an amendment to the [state] constitution that is simple, straightforward and won’t permit us the regulation we’d like and that we have the opportunity to do today.”

Sen. Carol Blood of Bellevue also supported the bill. Research has shown that medical cannabis can alleviate the opioid addiction crisis among veterans, she said.

“An estimated 65 percent of veterans suffer from chronic pain and are twice as likely to die from an accidental overdose caused by prescription [opioids], more so than non-veterans,” Blood said. “Our veterans are looking for alternatives. In fact, the VA has made it clear that veterans who use cannabis are not in danger of losing VA benefits – and that’s because it’s safe.”

Despite his personal objections to marijuana use, Norfolk Sen. Mike Flood said he was open to legalizing medical cannabis.

“If we want to avert recreational marijuana, we’re going to have to think about something very restrictive or we will see it everywhere and it will be bad,” he said. “I don’t want to see it in every strip mall, I don’t want to see it on every corner ... I really don’t want any of it, to be honest, but I’m not going to close my eyes to what I see as human suffering.”

Peru Sen. Julie Slama filed a motion to bracket the bill until June 11, 2021, which effectively would end debate on LB474 for this session. She said the proposal likely was unconstitutional and would improperly preempt federal regulations.

Speaking in support of the bracket motion and in opposition to the bill

was Lincoln Sen. Suzanne Geist. She said lab-created marijuana with “extraordinarily high” levels of THC is far from the natural plant curated for thousands of years and touted by proponents of LB474.

“What we’re talking about with this bill is an unlimited, uncapped THC level,” Geist said. “There’s actually no therapeutic use for highly concentrated levels of THC and this bill allows for [that].”

Sen. Tom Brewer of Gordon opposed LB474 but acknowledged that the right proposal possibly could yield good outcomes in the future.

He said he spent two years after retiring from the U.S. Army working with wounded veterans. Of the 27 soldiers he worked with, Brewer said, nine had died by suicide.

“Sometimes, leaving reality is the part that really causes you to lose track of life and its purpose,” he said. “I worry that the way we would use a self-dispensing painkiller could have negative effects, not positive.”

The bracket motion failed on a 16-27 vote.

After eight hours of debate, Wishart offered a motion to invoke cloture, which would end debate and force a vote on the bill and any pending amendments.

The cloture motion failed 31-18. Thirty-three votes were needed. A failed cloture motion results in debate on a proposal ceasing for the day. LB474 is unlikely to be placed on the agenda again this session. ■

APPROPRIATIONS

Nonprofit matching grant program amended, advanced

Lawmakers amended and advanced a bill May 13 intended to help jumpstart certain construction projects delayed by the COVID-19 pandemic.

LB566, sponsored by Omaha Sen. Mike McDonnell, would create the Shovel-Ready Capital Recovery and Investment Fund. As amended on general file, the bill would allocate \$75 million to the fund from the Coronavirus State Fiscal Recovery Fund pursuant to the American Rescue Plan Act of 2021, if allowable. It also would appropriate \$25 million in general funds.



Sen. Mike McDonnell

The bill would allow the fund to receive transfers authorized by the Legislature, as well as gifts, grants or bequests from other sources.

The grant application period would begin July 1, 2021, and end July 15, 2021, and be administered by the state Department of Economic Development. Grants would require a one-to-one match from private sources and be capped as follows:

- \$1 million for projects costing less than \$5 million;
- \$5 million for projects between \$5 million and \$25 million;
- \$10 million for projects between \$25 million and \$50 million; and
- \$15 million for projects greater than \$50 million.

Qualifying projects would be required to complete their fundraising by Dec. 31, 2021, and construction

must commence by June 30, 2022.

McDonnell offered an amendment on select file, adopted 34-0, that would lower the general fund appropriation from \$25 million to \$15 million and strike the \$75 million allocation from American Rescue Plan Act funds. Instead, the amendment would provide for allocation of an additional amount of federal funds subject to the Legislature's appropriations process.

The amendment also would lower the grant cap from \$1 million to \$500,000 on grants to projects costing less than \$5 million.

McDonnell said the changes would allow greater flexibility while accomplishing the bill's goal of assisting nonprofits that had begun fundraising campaigns to complete capital construction projects last year but were interrupted when donor dollars were diverted to more immediate needs due to the pandemic.

North Platte Sen. Mike Groene offered an amendment that would require grant funding to be distributed equally among the state's three congressional districts, with no one project receiving more than \$1 million or 10 percent of the total funds available.

He said that as a statewide initiative, the bill should benefit all areas of the state equally.

McDonnell opposed the amendment, which failed on vote of 12-19, saying it would "dramatically" change the bill without improving it.

Lawmakers also rejected an attempt by Omaha Sen. Megan Hunt to require that a qualifying organization not discriminate on the basis of race, color, religion, national origin, ancestry, citizenship status, gender, sexual orientation, gender identity or disability.

Calling the amendment "good governance that reflects the values of Nebraskans," Hunt said taxpayer dollars should not be diverted to organiza-

tions that are allowed to discriminate.

The amendment failed 14-27. Senators then voted 31-6 to advance LB566 to final reading.

Transportation department reporting requirement clears first round

A bill introduced to appropriate funds to the Nebraska Department of Transportation to speed work on the state's expressway system was narrowed to a reporting requirement before being advanced to select file May 12.

LB579, as introduced by Columbus Sen. Mike Moser, would appropriate \$70 million in general funds to NDOT to offset dollars spent to repair highways, roads and bridges damaged during flooding in 2019.



Sen. Mike Moser

The bill then would require NDOT to apply for federal emergency funds and to reimburse the state \$70 million upon receipt of those funds.

Moser said he introduced the proposal in response to indications from the department that funding constraints were at least partly responsible for slow progress on the state's expressway system.

The department also would be required to provide information about the expressway system in its annual report to the Legislature detailing the number of miles yet to be completed and expected milestone dates.

Moser offered an amendment, adopted 43-0, to remove the funding provision and add a requirement to include information in the annual report regarding the funding required to complete the expressway project.

Moser said NDOT has received almost half of its anticipated federal

emergency reimbursement funds and has indicated that it does not need the \$70 million appropriation. The new reporting requirement would provide a clearer understanding of the progress being made on the expressway system that was authorized in 1988 and has not yet been completed, he said.

“You can’t fix what you can’t measure,” Moser said. “This bill would ask that the Department of Transportation come up with a grid that shows explicitly where we’re at and how we’re doing.”

Sen. Lynne Walz of Fremont supported the bill and the amendment, saying it’s important to ensure that NDOT is being transparent with lawmakers and residents.

“Easy to understand reports give us the ability to track the [expressway] system and faith that we’re moving toward a solution,” she said.

Brainard Sen. Bruce Bostelman also spoke in support. The current state of the expressway is “unacceptable,” he said, especially since many other states have succeeded in accomplishing similar projects.

“Maybe our problem is project management,” Bostelman said.

Lawmakers voted 44-0 to advance LB579 to select file.



Digital asset depository bill advanced

A bill that would establish a state-level regulatory system for digital assets — including cryptocurrency such as Bitcoin — advanced from general file May 10.

LB649, as introduced by Norfolk Sen. Michael Flood, would allow creation of digital asset depository institu-

tions in Nebraska.

Flood said the bill would provide two pathways to managing digital currency: a state-chartered bank could create a digital asset division or a digital asset depository could be created under a new charter. Both would be regulated by the state Department of Banking and Finance.

“We’re talking about technology that is transforming the way business is done,” Flood said, adding that Nebraska would be second only to Wyoming in creating a state regulatory system for digital assets.

Among other provisions, the bill would:

- establish procedures for incorporation, operation, liquidation and dissolution of digital asset depository institutions;
- prohibit digital depository institutions from taking cash deposits or lending cash;
- require a digital depository’s headquarters and office of the chief executive officer to be established in Nebraska;
- allow digital depositories to be held by a bank holding company and allow existing bank investment in such a depository;
- require notice to customers that accounts are not insured by the Federal Deposit Insurance Corporation if applicable;
- require a surety bond or pledged investments and specified private insurance; and
- authorize digital depositories to obtain federal deposit insurance if available.

Sen. Matt Williams of Gothenburg, chairperson of the Banking, Commerce and Insurance Commit-



Sen. Michael Flood

tee, said national banks already manage digital assets but state banks in Nebraska currently cannot. He said LB649 was the result of extensive negotiations with stakeholders in the banking community and would provide ample consumer protections.

“It also opens the door to opportunities for our existing state-chartered financial institutions,” he said.

A committee amendment, adopted 39-1, would:

- establish a minimum capital requirement of \$10 million;
- allow a digital asset depository to use the term “bank” in its name only if it is clear that the entity is managing digital assets;
- allow digital depositories to apply for membership in the Federal Reserve Bank system; and
- authorize the director of the Department of Banking and Finance and the governor to set the assessment of digital depositories to cover administration costs.

Bennington Sen. Wendy DeBoer supported LB649, saying it would establish a strong regulatory framework that would provide stable cryptocurrencies. The bill also would create good, high-tech jobs, she said.

Sen. Tony Vargas of Omaha said no asset has grown faster over the past 10 years than cryptocurrency. LB649 would open Nebraska to digital currency while providing safeguards, he said.

“We have to be among those in front of these changes,” Vargas said.

Flood offered an amendment that would transfer \$712,489 from the state’s Securities Act Cash Fund to the Financial Institution Assessment Fund by Oct. 30, 2021, and \$397,089 by Oct. 30, 2022, to cover regulatory start-up costs.

Senators adopted the amendment on a 32-1 vote and advanced LB649 to select file 39-1.

BUSINESS & LABOR

Paid family medical leave proposal fails to advance

Lawmakers debated a proposal May 10 that would guarantee paid leave to Nebraskans.

LB258, sponsored by Omaha Sen. Tony Vargas, would require employers with four or more employees to provide paid sick and safe leave. Under the proposal, employees would accrue at least one hour of paid leave for every 30 hours worked. Employees could earn up to 40 hours of paid leave per year, based on hours worked.



Sen. Tony Vargas

Even in the midst of a global pandemic, Vargas said, 70 percent of low-wage workers in the state have no sick days available to them.

“[Thinking] critically about investments and how to grow the workforce will be key to economic prosperity in the coming years,” he said. “The provisions of LB258 are supported by many Nebraskans and desperately needed by our workforce.”

Qualifying employers would be required to allow an employee to use his or her paid sick and safe leave for a mental or physical illness, injury or health condition, to care for an ill family member or for an absence due to domestic abuse, assault or stalking — including psychological treatment or legal services.

Employees would be eligible to use accrued leave 60 days after beginning employment. Any unused leave time would carry over at the end of the year, but an employee could use only 40 hours of paid leave annually.

An employer with a comparable paid

sick time policy would be eligible for an exemption from the bill’s provisions.

Under an amendment offered by Vargas, the provisions of LB258 would apply only to employers with 50 or more employees.

Omaha Sen. John Cavanaugh supported the bill. Without employment protections for paid leave, he said, individuals will leave the workforce and either have to file for government assistance or reenter the workforce with significant setbacks.

“If we’re trying to create a climate where we’re incentivizing people to work and remain working and to advance in their career, we need to create structures in place that contemplate these sorts of ‘hiccups’ that can upset their progress and their continued employment,” Cavanaugh said.

Also speaking in support of LB258 was Lincoln Sen. Adam Morfeld. He said concerns that workers would take advantage of employers under the bill’s provisions were unfounded.

“I think there’s a fear that if you provide some kind of benefit that people are just going to automatically abuse it,” Morfeld said. “In my experience as an employer ... that’s simply not been the case.”

The Vargas amendment failed on a 19-16 vote. Twenty-five votes were needed.

Vargas said previous versions of the proposal have not advanced in the Legislature due to concerns that paid leave would negatively impact small businesses. He expressed frustration that opponents of LB258 did not engage in the debate so that he could address those concerns directly.

A second amendment offered by Vargas would change the earned leave time from paid to unpaid. It also was rejected by lawmakers on an 18-14 vote.

LB258 failed to advance from general file on a 17-20 vote. Twenty-five votes were needed.

EDUCATION

Classroom air filter study narrowed, advanced

A bill that would install high-quality air filters in Nebraska classrooms to study their effect on student test scores and behavior was amended and advanced to the final round of debate May 11.

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 the impact on academic performance and behavior.



Sen. Eliot Bostar

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 offered an amendment on select file that he said addressed issues raised during the previous round of debate. To ensure geographic diversity in the study, he said, no more than 50 percent of participating schools could be from the same school district.

In addition, the amendment stipulates that school participation would be voluntary and the study limited to classrooms of students in Grades 3 through 8.

North Platte Sen. Mike Groene thanked Bostar for addressing some of his concerns, including clarifying that participation would be voluntary and

not including high school students, who change classrooms frequently.

Senators voted 36-0 to adopt the amendment and advanced LB630 to final reading by voice vote.

GENERAL AFFAIRS

Sports wagering narrowed, keno parity added to casino regulation bill

A bill that would implement provisions of a constitutional gaming amendment approved in 2020 was amended May 10 and May 13 after senators twice voted to return it from final reading to select file.

Last November, Nebraska voters legalized all forms of games of chance at licensed horse racetracks through an initiative petition drive. LB561, introduced by Sen. Tom Briese of Albion, would provide the regulatory framework necessary to implement that constitutional amendment.

As amended on general file, the bill would allow individuals to play keno on an electronic ticket purchased at a licensed lottery operator using an app or debit card linked to a bank account. Currently, keno tickets must be purchased on a paper ticket with cash.

Lawmakers voted to return the bill to select file May 10 to consider an amendment offered by Sen. Mike Hilgers of Lincoln to remove those provisions. Keno regulation was not part of the ballot initiative, he said, and including it would imperil passage of the bill. The Nebraska Constitution requires a two-thirds vote for approval of a bill that substantively modifies a

measure passed by initiative petition, he said.

Sen. Tom Briese of Albion supported the amendment. He opposed adding the keno provisions during a previous round of debate and said the bill was “far too important” to jeopardize.

“There is a perception out there that allowing electronic keno tickets is an expansion of gambling,” Briese said.

Sen. John Cavanaugh of Omaha opposed the amendment. He disagreed with Hilgers that the bill did not have sufficient support to pass, and said that without the changes included in LB561, keno operators would lose revenue to newly created licensed racetrack casinos.

“This portion of this bill is designed to mitigate some of the harms that these businesses will suffer,” Cavanaugh said.

Omaha Sen. Steve Lathrop also opposed the amendment, saying it would hurt cities that rely on keno revenue for community betterment projects. He added that he would not support the overall bill if the keno portion was removed.

“Ralston Keno is going to be 10 blocks down Q Street [in Omaha] from a full-blown casino where you can play keno on your phone,” Lathrop said. “It’s real for these people.”

The Hilgers amendment was adopted on a 27-11 vote and LB561 was advanced to final reading by voice vote.

Three days later, lawmakers again voted to return the bill to select file, this time to consider an amendment offered by Lathrop intended to garner the votes necessary for passage. The amendment, adopted 31-4, would prohibit betting on Nebraska college teams when they are playing in state. It also would require that keno played at racetrack casinos operate in accor-

dance with the same state regulations that govern existing keno parlors.

Lincoln Sen. Adam Morfeld opposed the portion of the amendment relating to wagering on in-state college teams. He said the prohibition wouldn’t stop anyone from betting on those games but simply would force Nebraskans to place bets in Iowa, where such wagering is legal.

“We’re pretending like this isn’t occurring,” Morfeld said. “It’s literally puritanical nonsense.”

Among other provisions, LB561 also would rename the State Racing Commission to the State Racing and Gaming Commission, raise the legal age to wager on horse racing from 19 to 21, allow wagering on sporting events at racetracks in the state, prohibit wagering on high school youth sports, allow the use of credit cards to place bets, establish a process for allowing individuals to be excluded voluntarily from wagering, establish a system for filing complaints and classify manipulation of a game of chance or gaming machine as a Class I misdemeanor.

After adoption of the Lathrop amendment, LB561 was returned to final reading on a 39-3 vote.

GOVERNMENT, MILITARY & VETERANS AFFAIRS

Concealed carry bill scaled back, advanced

A bill introduced to allow county-level concealed carry regulation in Nebraska was narrowed and advanced from general file May 12.

LB236, as introduced by Sen. Tom Brewer of Gordon, would allow counties to authorize residents to carry a



Sen. Tom Briese

concealed weapon without a state-issued permit. A Government, Military and Veterans Affairs Committee amendment would require counties to consult with their sheriff before passing a permitless carry ordinance.



Sen. Tom Brewer

Brewer offered an amendment, adopted 44-0, to replace those provisions with elements of three other bills related to concealed carry regulation. He said he chose to revise LB236 after the Nebraska Attorney General's Office issued an opinion that the bill as originally introduced likely was unconstitutional because the regulation of firearms is a statewide concern that cannot be delegated to counties.

Brewer said there was not enough time left in the current legislative session to respond to the opinion and keep the bill's original intent.

The Brewer amendment contained provisions of LB173, sponsored by Blair Sen. Ben Hansen, that would allow the transportation of concealed firearms without a permit. The amendment would exempt



Sen. Ben Hansen

from concealed carry prohibitions the transportation of a firearm in a vehicle for lawful purposes or carrying a concealed weapon directly to or from a vehicle if the firearm is unloaded, stored in a case and kept separate from ammunition.

Brewer said the change would protect an individual who transports a concealed firearm upon purchase or who travels to the required training to obtain a concealed carry permit.

"Activities should not be criminalized when it is simply an activity as-

sociated with what you need to do to purchase [a firearm]," he said.

The amendment added provisions of LB85, introduced by Brainard Sen. Bruce Bostelman, which would require the Nebraska State Patrol to notify the holder of a concealed carry permit four months prior to the permit's expiration. It also included provisions of Elmwood Sen. Robert Clements' LB244, which would allow a 30-day grace period to renew a concealed carry permit.



Sen. Bruce Bostelman



Sen. Robert Clements

Sen. John Cavanaugh of Omaha said the amended bill would increase clarity around gun laws and make Nebraska safer.

Senators advanced LB236 to select file on a vote of 47-0.

JUDICIARY



Increased law enforcement standards amended, advanced

Lawmakers amended and advanced a bill from select file May 10 that would increase certification and training standards for Nebraska law enforcement officers.

Under LB51, sponsored by Omaha Sen. Steve Lathrop, the current 20 hours of annual continuing education required of all officers would



Sen. Steve Lathrop

increase to 28 hours in 2022, and 32 hours in 2023 and subsequent years.

The bill would require a psychological evaluation of any applicant who has not worked previously in law enforcement to determine fitness for duty. Applicants seeking entry-level law enforcement certification would be required to complete de-escalation training related to mental health behaviors, substance abuse, anti-bias, implicit bias and crisis communication.

An applicant seeking certification as a law enforcement officer would be required to testify under oath that their certification has never been revoked or suspended in another jurisdiction and they have not been separated from employment or disciplined for serious misconduct or a violation of their oath of office, code of ethics or statutory duties.

LB51 also would authorize the appointment of noncertified conditional officers, pending acceptance into a formal law enforcement training program. These officers would be required to discharge their duties under the direct supervision of a field training officer and be restricted from carrying a firearm or interacting with the public until completion of their training.

A noncertified conditional officer could, only with direct supervision and guidance from a training officer, ride in a marked police cruiser, make arrests, interview suspects, victims or witnesses or carry out other law enforcement functions. The bill would place a 16-week restriction on a noncertified conditional officer's service.

Sen. Tom Brewer of Gordon expressed concern during general file debate that the creation of a noncertified conditional officer designation would eliminate the use of reserve officers in rural areas of the state.

Reserve officers function in much the same way as a volunteer fire de-

partment, he said, and can relieve the strain on less populated counties that may have just one sheriff serving all residents.

Brewer offered an amendment on select file, adopted 27-0, to clarify that the reserve officer program would be unaffected by the creation of the noncertified conditional officer designation.

Under the amendment, a reserve officer would be barred from making arrests, issuing citations, detaining members of the public or seizing evidence unless directly supervised by a physically present certified law enforcement officer.

A second amendment offered by Brewer would direct the commission to prioritize smaller law enforcement agencies when awarding grants to offset the costs of accreditation and training.

Some counties in western Nebraska have only one law enforcement officer, he said, which means required on-site training could mean a county is without law enforcement for at least a day. Brewer said the amendment not only would offset the costs of training, but also could help counties to cover absences.

The amendment was adopted 32-0.

As amended on general file, the bill also contains provisions of LB601, originally sponsored by Omaha Sen. Terrell McKinney.



Sen. Terrell McKinney

Those provisions require the Nebraska Commission on Law Enforcement and Criminal Justice to post on its public website, by July 1, 2022, a list of all law enforcement officers who have – on or before Jan. 1, 2021 – voluntarily surrendered their certification or had it revoked, been convicted

of or pleaded guilty or no contest to a felony or Class I misdemeanor or been found to have engaged in serious misconduct.

LB51 also would prohibit a police officer from intentionally using a chokehold on a person, except when deadly force has been authorized.

Similarly, an officer would be prohibited from using a carotid restraint control hold – a method of rendering a person unconscious by restricting blood flow by compressing the carotid arteries in the neck – on any person unless the officer believes the person would cause death or bodily injury to others or deadly force has been authorized and the officer in question has been trained on the restraint technique.

Finally, the bill would require the Nebraska Commission on Law Enforcement and Criminal Justice to develop accreditation standards for law enforcement agencies. Beginning Jan. 1, 2023, the commission would publish a list of unaccredited agencies annually. An unaccredited law enforcement agency would be ineligible to receive loans, grant funds or donations from the commission until it achieves accreditation.

Senators advanced LB51 to final reading by voice vote.

COVID-19 liability protections advanced

Senators advanced a proposal from general file May 11 intended to prohibit frivolous coronavirus-related lawsuits.

LB139, sponsored by Albion Sen. Tom Briese, would provide “safe harbor” from potential lawsuits alleging that a protected



Sen. Tom Briese

individual or organization – including health care providers, first responders, schools, restaurants, businesses, churches and senior care facilities – negligently exposed an individual to COVID-19 infection.

The bill would prevent civil action unless an individual is diagnosed with a case of COVID-19 that requires inpatient hospitalization or results in death and can prove, by clear and convincing evidence, that the condition occurred through gross negligence or willful misconduct.

Briese said lawmakers must do everything possible to help the state and its residents recover from the ongoing coronavirus pandemic.

“As they struggle to recover from the impacts of the COVID-19 pandemic, many folks are faced with the threat of needless, unwarranted COVID-related lawsuits,” he said. “[LB139] can provide a level of confidence for businesses to reopen and help our economy to recover.”

A Judiciary Committee amendment, adopted 36-0, replaced the bill.

The amendment would narrow the safe harbor protections proposed in the original bill to prohibit civil actions as long as the protected individual or organization was acting in compliance with federal public health guidelines.

Peru Sen. Julie Slama supported LB139, which she said would help restart the state’s economy.

“[This would] ensure that when Nebraska says, ‘we’re open for business’ ... that our businesses, whether they be large or small, can be open and available to our communities without fear of unnecessary lawsuits,” Slama said.

Omaha Sen. Steve Lathrop offered an amendment containing provisions of his LB53 that would implement a health care crisis protocol developed by the Nebraska Medical Emergency

Operations Center.

The protocol would establish criteria for the triage and application of medical services and resources under extraordinary circumstances when the level of demand for services exceeds the available resources required to deliver the generally accepted standard of care.

Lathrop said Nebraska came dangerously close to rationing medical care last year when COVID-19 infections in the state were at their highest.

“If you are an emergency room physician, you want to make a decision that is based upon ... not value judgments of the patient in front of [you], but the likelihood that they are going to survive and benefit from the medical care,” he said.

Following the 36-0 adoption of the Lathrop amendment, senators voted 39-3 to advance LB139 to select file.

Changes to state truancy statutes advanced

Students with excessive school absences could receive additional resources under a bill advanced from general file May 10.

In 2010, the Legislature passed a bill requiring school districts to report cases to a county attorney when a student has been absent at least 20 days per year, whether the absences are excused or unexcused.

Under LB568, sponsored by Lincoln Sen. Patty Pansing Brooks, excessive absenteeism would no longer be an independent basis for a juvenile court action. It could, however, still be considered as a factor in other juvenile cases.

The bill also would replace official

references to “truancy” with “excessive absenteeism.”

Pansing Brooks said most of the juveniles in the juvenile probation system enter it because of truancy violations.

“Excessive truancy is most frequently coupled with problems going on in the home,” she said. “We can better solve these problems more effectively without sending these cases through the courts.”

Under LB568, juveniles could be referred to pretrial diversion programs and receive services to address their needs or those of their families. The bill would increase an appropriation to the Community-based Juvenile Services Aid Program from \$5 million to \$10 million to fund those expanded diversion services.

A Judiciary Committee amendment, adopted 25-11, would decrease the annual funding to its original level of \$5 million until fiscal year 2022-23. Funding would increase to \$8.5 million in FY2023-24 and each subsequent fiscal year.

Omaha Sen. Steve Lathrop said the bill would be an important reform of a statute that was “the right idea, wrong approach.”

“This isn’t about being ‘soft’ on kids,” he said. “This is about being smart with our resources and dealing with the fundamental, basic problem on a child-by-child basis instead of engaging the juvenile courts and county attorneys.”

Pansing Brooks offered an amendment that would create a new position within the Nebraska Crime Commission charged with developing regulations for diversion programs and assisting in the review of applications for grant funding.

The amendment also would expand eligibility for grant funding to programs that serve families of juve-

niles who are experiencing excessive absenteeism, and allow aid not distributed to counties to be used for statewide programs to benefit individual counties and the state’s Indian tribes.

Omaha Sen. Terrell McKinney spoke in support of LB568. Many youth with excessive absences are dealing with underlying issues in their home lives, he said.

“I do not believe that just because a student is truant, that they should end up in the justice system,” McKinney said. “We should be doing more to focus on ... those kids and their needs.”

Also speaking in support of the bill was Sen. John Cavanaugh of Omaha. He said engagement with the justice system, especially at a young age, can “desensitize” individuals, causing long-term harm.

“If we can push off the date at which a child ... finds their way into the justice system — if we can prevent them from ever entering the justice system — we can decrease the likelihood that they get into the adult [justice] system,” Cavanaugh said.

Sen. Julie Slama of Peru opposed the bill. Excessive absenteeism often is the first sign that something is wrong with a young person, she said, so early intervention is important.

“We’re eliminating a great tool for the courts to step in and intervene in a juvenile’s life when they start skipping school but before their behaviors start escalating,” Slama said.

Senators voted 25-12 to adopt the Pansing Brooks amendment.

North Platte Sen. Mike Groene also opposed LB568. He offered an amendment that would strike the bill’s original provisions. Instead, the amendment would alter existing law to allow more restrictions on juveniles participating in truancy diversion programs, including driving restrictions, mandatory drug testing, electronic



Sen. Patty Pansing Brooks

tracking and monitoring.

The current truancy system works well, Groene said, and LB568 would create more unneeded government bureaucracy.

Bayard Sen. Steve Erdman supported the Groene amendment but opposed the bill. He said he would resist any attempt to “soften” truancy laws that serve an important purpose.

“[It’s] to make young people go to school ... to offer instruction so young people can become educated and not wind up in our justice system,” Erdman said.

The Groene amendment failed on an 18-14 vote. Senators then voted 25-19 to advance LB568 to select file.

REVENUE



Phase-out of Social Security income tax amended, advanced to final round

Lawmakers added a pause to the proposed elimination of state taxation of Social Security income before giving the bill second-round approval May 11.

As amended during the first round of debate, LB64, sponsored by Omaha Sen. Brett Lindstrom, would set the exemption on such income, to the extent that it is included in federal adjusted gross income, at 5 percent in tax year 2022. The exemption would increase to 20 percent in 2023 and rise 10 percent per year until reaching 100 percent in tax year 2030.

Gering Sen. John Stinner offered an amendment during select file debate, adopted 37-0, that would pause



Sen. Brett Lindstrom

the process when it reaches 50 percent in tax year 2025.

The amendment states legislative intent to continue incremental reduction of the tax, Stinner said, but would require introduction of a new bill at that time in order to complete the process. Doing so, he said, would ensure that future lawmakers pause and review the state’s revenue capacity before eliminating the tax entirely.

“It’s a safeguard amendment,” Stinner said. “I think it gets done what we want to get done, but still allows us to take a real hard look ... in a five-year period of time.”

Following adoption of the amendment, lawmakers advanced LB64 to final reading 44-0.

Corporate tax cut proposal amended, advanced

Lawmakers gave second-round approval May 11 to a bill that would reduce Nebraska’s top corporate income tax rate after amending it to phase in a smaller cut over two years.

As amended on general file, LB432, introduced by the Revenue Committee, would cut the state’s top corporate income tax rate to 6.84 percent beginning Jan. 1, 2022.

Corporations currently pay a state income tax rate of 5.58 percent on the first \$100,000 of taxable income and 7.81 percent on income in excess of that amount.

Elkhorn Sen. Lou Ann Linehan, the committee’s chairperson, said the change would put the top corporate rate in line with the top individual income tax rate paid by passthrough entities. She said the proposal is a “baby step” toward more comprehensive tax reform next session.

Sen. Michael Flood of Norfolk supported LB432, saying the rate cut would help Nebraska compete for

business investment with neighboring states that either do not impose income tax or have lower rates.

Omaha Sen. John Cavanaugh opposed the cut and introduced an amendment to remove it from the bill. He said Nebraska could attract companies and workers more effectively by investing in workforce training, infrastructure and education.

“I don’t think that the evidence is clear that [LB432] would actually increase business investment in Nebraska,” he said.

Sen. Curt Friesen of Henderson said a corporate rate cut should be part of a larger debate that includes property tax relief and school funding reform. He said corporations do not decide to locate or expand based only on tax rates and that the cut likely would not result in economic growth.

Cavanaugh later withdrew his amendment, saying he had worked with Linehan and other senators on a compromise amendment.

That amendment, introduced by Linehan and adopted 45-0, would cut the top corporate rate to 7.5 percent for tax years beginning on or after Jan. 1, 2022, and before Jan. 1, 2023. The rate would fall to 7.25 percent for tax years beginning on or after that date.

The proposal would state the intent of the Legislature to further reduce the rate to 7 percent for tax years beginning on or after Jan. 1, 2024, and before Jan. 1, 2025, and to 6.84 percent for tax years beginning on or after that date.

Linehan said the original proposal likely did not have enough votes for a successful cloture motion, which ends a filibuster by ceasing debate and forcing a vote on a bill and any pending amendments.

“I think it’s better to take half ... than to risk not getting to cloture and

not getting anything,” she said.

Sen. John Cavanaugh supported the amendment. He said it would reduce the original proposal’s cost while also showing that the Legislature is willing to lower the top corporate rate.

“If, over the course of the next two years, I become convinced that taking it down to 6.84 [percent] would actually accomplish the stated objective,” Cavanaugh said, “I would probably bring that bill.”

Flood supported the amendment but said the provision including legislative intent “means nothing.”

“If we really want to make changes ... and we want to be more competitive, we should pick one thing and do it all,” he said.

LB432 also would create a \$2,000 refundable state income tax credit for the parent of a stillborn child if a fetal death certificate is filed for the child, the child had advanced to at least the 20th week of gestation and would have been a dependent of the individual claiming the credit.

Omaha Sen. Machaela Cavanaugh introduced an amendment that would replace the proposed credit with a grant program under which parents of stillborn children could receive up to \$10,000 to pay for funeral costs.

Her proposal would provide parents immediate help rather than force them to wait until they file their taxes the following year, Cavanaugh said.

“This makes it easier and less traumatic for families to get those financial resources that they need to have a memorial for their loss,” she said.

The amendment failed on a vote of 5-23.

Cavanaugh later introduced another amendment that would remove the stillborn tax credit from the bill. It failed on a vote of 8-20.

LB432 also would allow any rural or suburban fire protection district,

airport authority, city, village or non-profit corporation to provide and maintain enhanced cancer benefits for paid and volunteer firefighters.

Sen. Mike McDonnell of Omaha introduced an amendment that would, among other changes, require a firefighter to serve for 24 consecutive months rather than 12 to be eligible for benefits under the bill.

A qualifying firefighter also would have to have been actively engaged in fire suppression at an actual fire or training event and have worn all available personal protective equipment when fighting any fire.

Senators voted 45-0 to adopt McDonnell’s amendment.

Gothenburg Sen. Matt Williams also introduced an amendment, adopted 37-0, that includes provisions of his LB254, which would extend the sunset date for the Beginning Farmer Tax Credit Act from Dec. 31, 2022, to Dec. 31, 2025.

After adopting a technical amendment, senators advanced LB432 to final reading by voice vote.

Highway bonding proposal held until next session

The state highway commission could issue up to \$400 million in bonds over the next six years to speed completion of Nebraska’s expressway system under a bill discussed on general file May 12.

LB542, as introduced by Fremont Sen. Lynne Walz, would authorize the commission, upon recommendation of the state

Department of Transportation, to issue up to \$400 million in bonds to accelerate completion of highway construction projects under the Build Nebraska Act. Annual debt service could not exceed \$30 million.

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 could be issued between July 1, 2021, and June 30, 2027, and would be paid off by June 30, 2040.

Walz said the expressway system – one-third of which remains unfinished more than 30 years after it was approved by the Legislature – is an example of why Nebraska’s traditional pay-as-you-go highway construction model cannot meet the state’s infrastructure needs.

Unless alternative financing methods such as bonding are used to accelerate the project’s completion, she said, its cost will continue to increase due to inflation and rising construction costs.

A pending Revenue Committee amendment would increase the total amount of bonds that could be issued to \$450 million.

It also would require that at least 75 percent of the bond proceeds be used for construction of the expressway system and federally designated high-priority corridors. The remaining proceeds would be used to pay for surface transportation projects of the highest priority, as determined by the department.

Sen. Mike Hilgers of Lincoln, speaker of the Legislature, said he would “park” LB542 until next session and retain its priority status. He said lawmakers should wait to consider the proposal in light of a potential federal infrastructure bill that could include significant roads funding for states.



Sen. Matt Williams



Sen. Lynne Walz

Lawmakers moved to the next item on the agenda without voting on LB542 or the amendment.

Ethanol input tax exemption amended, advanced

A bill containing several sales and use tax exemptions advanced to the final round of debate May 11 after lawmakers amended it to clarify a provision related to ethanol inputs.

Under LB595, introduced by Thurston Sen. Joni Albrecht, state sales and use taxes could not be imposed on gross receipts from the sale, lease or rental of – and storage, use or other consumption in Nebraska of – enzymes, yeast and related products

used to manufacture ethanol.

Albrecht introduced an amendment on select file, adopted 31-0, that instead would exempt from state sales and use taxes all catalysts, chemicals and materials used in the process of manufacturing ethanol and the production of coproducts.

She said the change would provide clarity to the state Department of Revenue and ensure that the proposed exemption applies to all inputs used in ethanol manufacturing and the production of coproducts such as distillers grains.



Sen. Joni Albrecht

As amended on general file, LB595 also would exempt from state sales and use taxes the gross income received from the lease or use of towers or other structures primarily used in conjunction with the furnishing of internet access service.

Sen. Lou Ann Linehan of Elkhorn introduced an amendment to expand the exemption to include such income related to the furnishing of agricultural GPS locating services or certain over-the-air radio and television broadcasting.

After voting 34-0 to adopt Linehan’s amendment, senators advanced LB595 to final reading by a vote of 37-0. ■

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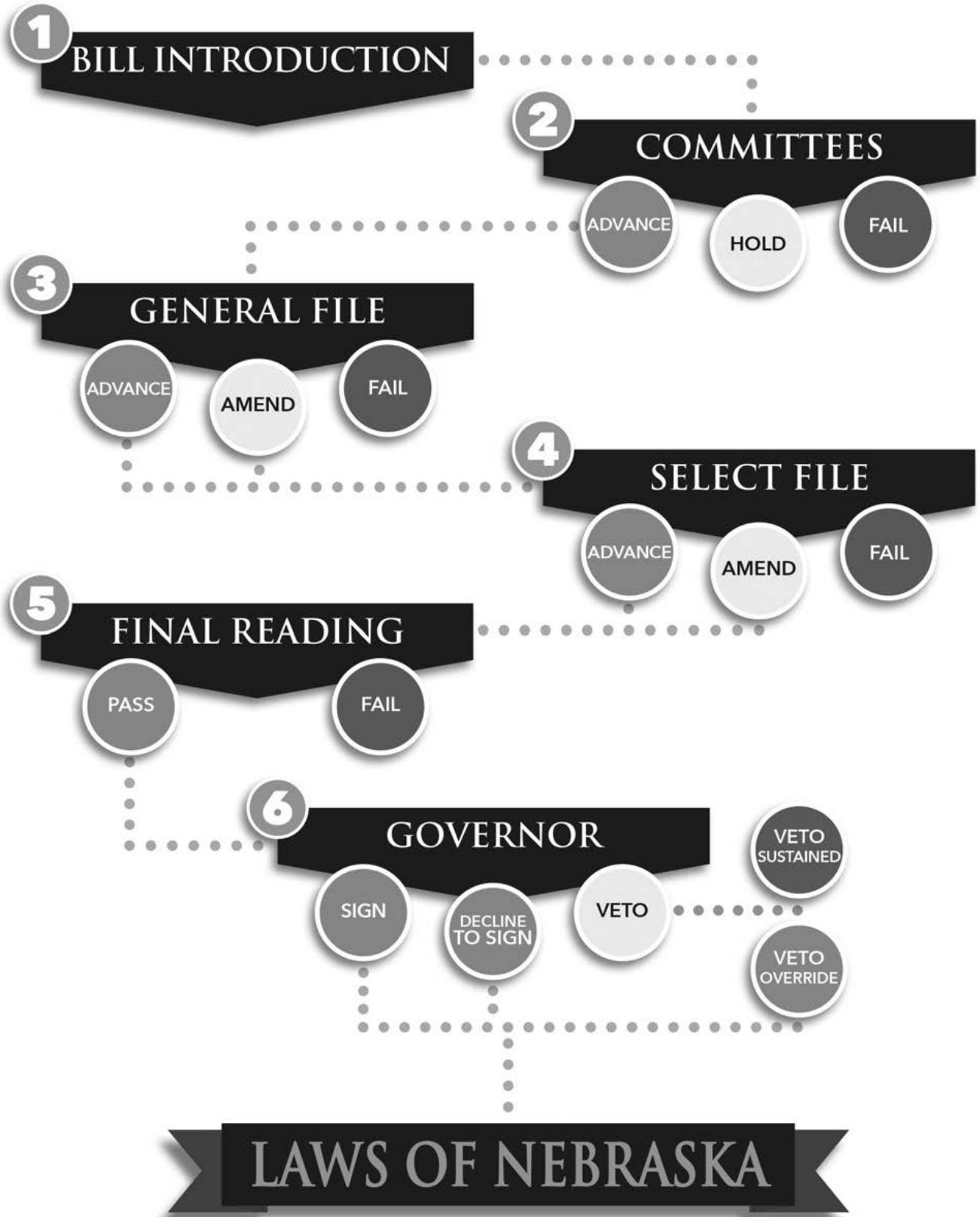
You also can search current laws using the keyword search found below the bill search.

Early adjournment announced

Speaker Mike Hilgers announced May 13 that the Legislature will adjourn sine die prior to the 90th day of the session, currently scheduled for June 10. Hilgers said based on progress made, he intends to end the 2021 session no later than May 28, with adjournment tentatively scheduled for May 27.

Sun	Mon	Tue	Wed	Thur	Fri	Sat
May						
						1
2	3 RECESS	4 DAY 71	5 DAY 72	6 DAY 73	7 DAY 74	8
9	10 DAY 75	11 DAY 76	12 DAY 77	13 DAY 78	14 RECESS	15
16	17 RECESS	18 DAY 79	19 DAY 80	20 DAY 81	21 DAY 82	22
23	24 DAY 83	25 DAY 84	26 DAY 85	27 DAY 86	28 RECESS	29
30	31 HOLIDAY					

HOW A BILL BECOMES LAW



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