

# LEGISLATIVE BULLETIN

## LEAGUE OF NEBRASKA MUNICIPALITIES

108th Legislature, First Session

April 21, 2023 - Bulletin 16



### ITEMS OF INTEREST TO MUNICIPALITIES

- **LB 77:** “Constitutional carry” bill passes the Legislature after overcoming filibuster
- **LB 775:** On April 19, bill amending the Nebraska Gaming Act passed on Final Reading, incorporating provisions of LB 72, LB 73, LB 542, LB 544 and LB 232 (a League-supported bill which allows keno to be played in a digital format)
- **LB 565:** Several bills now amended to hydrogen hub measure
- **LB 727:** Thanks to Sen. Eliot Bostar for successfully making the motion to include the provisions of a negotiated agreement between the League and the Nebraska Arts Council in LB 727

NOT ALL ITEMS OF INTEREST ARE INCLUDED ON THIS LIST.  
ALSO SEE THE REMAINDER OF THE LEGISLATIVE BULLETIN.

## LB 77: “Constitutional carry” bill passes the Legislature after overcoming filibuster

**L**B 77, introduced by Gordon Sen. Tom Brewer, allows a person to carry a concealed weapon without a permit in Nebraska. Minors and prohibited persons, defined as persons who are prohibited from possessing a firearm by state or federal law, are not allowed to carry concealed weapons. The bill outlines places or premises where a person is not allowed to carry a concealed handgun when the owner or employer of the place or premises prohibits it. Currently in Nebraska, getting a concealed-carry permit requires passing a criminal background check, paying a \$100 fee, and taking an eight- to 16-hour gun safety class.

The first section of LB 77 states that

“the regulation of the ownership, possession, storage, transportation, sale and transfer of firearms and other weapons is a matter of statewide concern.” The bill goes on to say that municipalities do not have the power to regulate firearms except as expressly provided by state law. Also, municipalities are not allowed to require registration of firearms or other weapons. Any city or village ordinance in violation of these provisions will be declared null and void. Because of this language, a League representative testified in opposition to the bill citing concerns about loss of local control. The League encouraged changes to the bill to allow each municipality to determine which

### 2023 LEGISLATIVE SESSION



firearm regulations are right for their community. The cities of Lincoln and Omaha also opposed LB 77.

On the first round of debate, the Legislature adopted an amendment that provides for an additional penalty if a person carries a firearm during the commission of a dangerous misdemeanor. With the amendment added, the Nebraska Sheriffs' Association and the Police Officers' Association of Nebraska

*Continued on page 6 / See Firearms*

## LB 775: On April 19, bill amending the Nebraska Gaming Act passed on Final Reading, incorporating provisions of LB 72, LB 73, LB 542, LB 544 and LB 232

LB 232 is a League-supported bill which allows keno to be played in a digital format

**O**n April 19, LB 775, amending the Nebraska Gaming Act, passed on Final Reading with 46 ayes, incorporating provisions of LB 72, LB 73, LB 542, LB 544 and **LB 232 (a League-supported bill which allows keno to be played in a digital format)**. Thanks to Kearney Sen. John Lowe, Chair of the General Affairs Committee; Omaha Sen. John Cavanaugh, primary introducer of LB 232; and other Senators noted in this article who strongly advocated to include the provisions of LB 232 in LB 775.

As previously reported, on March 15 and 16, Sen. Lowe outlined provisions of LB 775 during floor debate on General File. LB 775, as originally introduced, makes necessary changes and additions to the Nebraska Gaming Act; since the casino gambling initiative passed in November



*Sen. John Cavanaugh  
District 9*



*Sen. John Lowe  
District 37*

2020, there has been ongoing legislation to update the definitions and laws to be administered by the Commission, Governor and Legislature to carry out their respective statutory duties. **On March**

*Continued on page 4 / See Gaming*

## LB 565: Several bills now amended to hydrogen hub measure

Numerous bills that were heard before the Natural Resources Committee have been amended into **LB 565** which was named a Natural Resources Committee priority bill. LB 565 is currently on Final Reading. The original LB 565 would fund steps necessary to continue forward with competition for designation by the United States Department of Energy as one of four regional locations sought for a clean hydrogen hub.

Among the amendments to LB 565 was the contents of LB 289 which would authorize the Municipal Energy Agency of Nebraska (MEAN) to provide service to members such as advanced metering and cybersecurity. MEAN was formed under the Municipal Cooperative Financing Act and in order to provide these services to municipalities MEAN needed specific statutory authority. A City or Village already has the authority to provide these services on their own but many Cities and Villages want to participate and manage these services on a cooperative basis through MEAN.

The language of LB 289 now amended into LB 565 was supported by NMPP Energy, Crete City Administrator Tom Ourada, the League of Nebraska Municipalities, and the Nebraska Power Association. There were no opponents to LB 289

*Continued on page 5 / See Hydrogen*

### Sen. Moser named Chair of Transportation and Telecommunications Committee



Columbus **Sen. Mike Moser** has been selected Chair of the Nebraska Legislature's Transportation and Telecommunications Committee, replacing former Lincoln Sen. Suzanne Geist who resigned earlier this month. Sen. Moser formerly served as Vice-Chair of the committee. Photo courtesy of the Nebraska Unicameral.

## LB 727: Thanks to Sen. Eliot Bostar for successfully making the motion to include the provisions of a negotiated agreement between the League and the Nebraska Arts Council in LB 727

As previously reported, the Revenue Committee advanced **LB 727** to General File on April 5 with Standing Committee Amendments (AM1152) incorporating 20 other bills, including several bills that are League-supported or of League interest outlined in Bulletin 15. On April 5, Sen. Linehan also filed AM1217 to AM1152 as a “placeholder amendment” for provisions of other bills; the Revenue Committee voted on April 17 to include the provisions of a **negotiated agreement between the League and the Nebraska Arts Council in AM1217 to provide maximum flexibility to the Nebraska Arts Council in distributing funds from state turnback tax to municipalities with “certified creative districts,” including the Civic and Community Center**



*Sen. Eliot Bostar  
District 29*

*Continued on page 6 / See Arts*



## Gaming

*Continued from page 2*

7, the General Affairs Committee advanced LB 775 to General File with AM709 which amended LB 72, LB 73 and LB 232 into the bill. On March 16 during General File debate, Bayard Sen. Steve Erdman was successful in “dividing the question” so the provisions relating to LB 72 and LB 73, which are noncontroversial, could be adopted, requiring a separate vote on including the provisions of LB 232 allowing keno to be played in a digital format. *(A brief description of LB 72, LB 73, LB 542 and LB 544 are at the end of this article.*

When LB 775 was considered on General File, there was extensive debate about including provisions of LB 232, introduced by Sen. John Cavanaugh and co-introduced by Grand Island Sen. Ray Aguilar and Bellevue Sen. Carol Blood. LB 232 amends the Nebraska County and City Lottery Act governing keno to allow for a “digital-on-premises ticket” defined in the bill as “a digital ticket purchased in person on a mobile or other electronic device verified to be present at the location of the lottery operator or an authorized sales outlet location” in accordance with the strict controls submitted by the lottery operator for approval by the Nebraska Department of Revenue. Thanks to Sen. John Cavanaugh, North Platte Sen. Mike Jacobson, Sen. Blood, Seward Sen. Jana Hughes and Lincoln Sen. George Dungan who strongly advocated for including the provisions of LB 232 into LB 775, to authorize an OPTION for keno to be played in a digital format, on the premises of the lottery operator or licensed sales outlet location; the provisions restrict a participant from using a debit card to purchase more than \$200 of keno wagers from a lottery operator in a single day. These provisions also restrict a participant from being able to deposit more than \$200 per calendar day from a debit card into their account at a keno lottery operator’s location. Sen. John Cavanaugh and others repeatedly stated that these provisions are OPTIONAL! Notwithstanding, the first motion to include these provisions failed, receiving 21 ayes, 17 nays and 7 not voting.

**Fortunately, Sen. John Cavanaugh’s motion to**

**reconsider including the provisions of LB 232 into LB 775 to modernize keno was successful with 32 ayes, 12 nays and 0 not voting. The 12 Senators who voted no are as follows:** Albrecht, Ballard, Bostelman, Briese, Clements, Erdman, Halloran, Hardin, Holdcroft, Lippincott, Moser and von Gillern.

Throughout the extensive floor debate, Sen. John Cavanaugh and others indicated these provisions authorize an OPTION for keno to be played in a digital format, but will not speed up the game since only one game will be allowed every five minutes, as provided in current law. In addition, for keno to be offered in a digital format, the keno operator would have to develop the app according to the requirements established by the department. **The department would have to approve the app and the city would have to approve the implementation of digital keno in its community.** The operator would then have the option

to offer it, but the establishment would have the ability to decide if they want to do so. **The customer also would have the option of deciding whether to use the app.** The purpose of these provisions is to create a more efficient opportunity for businesses to sell keno tickets electronically instead of requiring servers to do so while providing food and beverages to customers.

These provisions (LB 232) provide that purchases of tickets for a keno game must be made **in person** at the location of the lottery operator or an authorized sales outlet location. The bill also provides that in addition to tickets issued on paper as currently allowed, **tickets could be issued “with the consent of the governing body of the county, city, or village conducting the lottery, digitally to a mobile or other device which, at the time of purchase, is verified to be present at the location of the lottery operator or an authorized sales outlet location” as provided in the Act.**

Currently, keno tickets only can be purchased with cash. These provisions (LB 232) also authorize tickets to be bought with “a debit card, the cash balance of a payment application, a transfer from a deposit account at a financial institution, or an account established in the name of the player



*Continued on page 5 / See Gaming*

---

## Gaming

---

*Continued from page 4*

*with the lottery operator and funded” as provided in the Act. Credit cards cannot be used to purchase keno tickets.*

### BACKGROUND

As reported in League *Legislative Bulletin* #7, the General Affairs Committee held a hearing on LB 232 on Feb. 13. After Sen. Cavanaugh’s opening remarks, the following individuals testified with a **League representative** in support of the bill: **Bill Harvey**, General Counsel for Big Red Keno; **Jack Cheloha**, Deputy City Attorney and Lobbyist of Omaha; and a keno operator from Hastings. In testifying in support of LB 232, a **League representative** emphasized that **local voters in 166 municipalities and 16 counties approved keno operations in their respective municipality or county**. The municipal/county share of funds generated by keno only can be used for important **“community betterment”** projects and programs defined in Section 9-604 of the Nebraska County and City Lottery Act. **Proponents stressed the need to modernize the keno game to compete with the WarHorse Casino, Fonner Park Casino and the other casinos that may be established in other cities with racetracks.**

**LB 72**, introduced by Sen. Aguilar, amends the definition of **gross proceeds** in Section 9-606 of the **County and City Lottery Act** to add new language excluding any admission costs collected at any location where the lottery also is available to the public free of any admission charge

from the calculation of gross proceeds. Sen. Aguilar introduced LB 72 on behalf of Fonner Park.

**LB 73**, also introduced by Sen. Aguilar on behalf of the Hall County Convention & Business Bureau as well as Fonner Park, amends Section 81-3717 to allow **County Visitors Promotion Fund dollars** to be used to improve a facility in which parimutuel wagering is conducted if such facility also services as the site of a state fair or district or county agricultural society fair. The bill strikes language currently prohibiting the fund from being granted to an organization (like Fonner Park) to promote parimutuel wagering.

**LB 542**, originally introduced by Papillion Sen. John Arch as a “shell bill,” was incorporated by AM813 into LB 775 on Select File to clarify that an employee can accept **both parimutuel wagers and sports wagers** within the designated sports wagering area within a casino.

**LB 544**, introduced by Lincoln Sen. Danielle Conrad, also was incorporated into LB 775 on Select File with AM1178 to **modernize bingo** to allow the game to be played on a bingo card OR automatically or manually entering or concealing numbers with the aid of a bingo card monitoring device, which communicates with its host system. ■

---

## Hydrogen

---

*Continued from page 3*

Also, among the amendments to LB 565 was the language of the original LB 567 which would strike the prohibition on a high-level manager employed by a public power district from serving as a member of the board of directors of another public power district. A high-level manager is defined as a person employed by a district who serves in a high-level managerial position, including chief executive

officer, president, vice president, chief financial officer, chief operations officer, general manager, or assistant general manager. The original LB 567 also would add a definition of reliable or reliability. This definition would not constitute a new standard for an electric supplier. Finally, the bill would add language regarding information that may be requested by the Nebraska Power Review Board for the annual load and

capability report that is submitted to the Power Review Board on behalf of the electric suppliers in the state.

Also among the amendments was the language of the original LB 217 which would extend the sunset date for new scrap tire projects for the purposes of disbursing grants from the Waste Reduction and Recycling Incentive Fund from 2024 to 2029. ■

---

## Firearms

---

*Continued from page 2*

moved to support the bill and the Omaha police union changed its position to neutral on the bill.

As with the previous two rounds of debate, the cities of Lincoln and Omaha raised concerns about the bill including that LB 77 may allow all weapons, including concealed-carry and other weapons, onto public transportation. The language of the bill allowing owners or employers of places and premises to prohibit concealed carry does not seem to include public transportation based on the mobile nature of public transportation. There also were concerns raised about concealed-carry weapons in municipal parks and whether LB 77 allows a municipality to prohibit concealed-carry in parks.

On all three rounds of debate, a cloture motion was needed to end debate after filibusters were launched by opponents of the bill. A cloture motion ends debate on a bill but requires 33 Senators to support it. On Final Reading, the cloture motion was adopted on a 33-14 vote. The bill was passed by the Legislature on a vote of 33-14.

The bill now goes to the Governor for his signature or veto. It is expected the Governor will sign this bill. If the Governor signs the measure, LB 77 will go into effect three months after the end of the legislative session. ■

---

## Arts

---

*Continued from page 3*

**Financing Fund (CCCFF) grants in FY 23-24. Thanks to Lincoln Sen. Eliot Bostar for making the motion for the Revenue Committee to include these important provisions in AM1217.**

Due to passage of LB 927 in the 2022 session, only municipalities with “certified creative districts” are eligible to receive CCCFF grants in FY 23-24; this eligibility requirement for CCCFF grants relating to “certified creative districts” will not apply after FY 23-24. The League’s negotiated agreement allows the Nebraska Arts Council to determine the amount of the grants which must be at least \$100,000; our agreement also amends provisions of LB 39, passed in 2021, to allow all municipalities (not just first class cities) to apply for grants from turnback tax generated from “sports complexes.” In addition, these grants would no longer be a minimum of \$1.5 million as required by LB 39; the grants would be an amount as determined by the Nebraska Arts Council which must be at least \$100,000. ■

### NEBRASKA UNICAMERAL LEGISLATURE 108<sup>th</sup> LEGISLATURE, FIRST SESSION

#### TENTATIVE SCHEDULE OF COMMITTEE HEARINGS

---

The order of the bills listed may not be the order in which they are heard that day in committee.

**Thursday, April 27, 2023**

**Transportation and Telecommunications  
Room 1113 - 4:00 p.m.**

AM1390 to LB600