UNICAMERAL UPDATE

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Senators advance state aid to schools

Senators advanced a bill April 6 that would revise the state aid formula for K-12 education, resulting in a decrease of $13 million in total funding from the current fiscal year to the next. York Sen. Greg Adams introduced LB235, the bill containing state aid funding provisions. An Education Committee amendment replaced the original provisions of the bill and would provide schools $822 million for fiscal year 2011-12 and $880 for FY2012-13. The use of federal stimulus funds last biennium brought total state aid to $950 million for FY2010-11, but those were one-time funds.

Sen. Greg Adams (left) responds to a question from Sen. Rich Pahls about state aid to schools.

The state's 251 school districts are all different, Adams said, but the cuts to state aid needed to be fair.

"When you are going to reduce state aid by the amount we are doing here, you cannot nibble around the edges," Adams said. "There are only a few mechanisms you can go to that will get the numbers down."

As amended, LB235 would:

- allow school districts with unused budget authority to spend

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Sales tax turnback for sewer projects advanced

After extensive debate this week, lawmakers narrowly advanced a bill from general file April 7 that would offer state assistance to municipalities undergoing combined sewer overflow projects.

LB682, introduced by Omaha Sen. Heath Mello, originally would have offered state assistance to finance the construction, acquisition or improvement of sewer, natural gas and water cast-iron infrastructure. Assistance would have been calculated based on the amount of state sales tax collected from increased fees and charges to complete combined sewer overflow, natural gas and water projects.

A Revenue Committee amendment, adopted 34-0, restricted the scope of the bill to combined sewer overflow projects undertaken as part of a long-term control plan approved by the state Department of Environmental Quality.

According to the Environmental Protection Agency, combined sewer systems collect stormwater and sewage in the same pipe. While most of the wastewater is transported to a sewage treatment plant, wet weather events can increase the volume of wastewater, exceeding the capacity of the sewer system or treatment plant. Consequently, combined sewer systems are designed to overflow occasionally and discharge excess wastewater to rivers and streams.

The committee amendment also would require cities to dedicate any increased local option sales tax rev-

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Senators advance state aid to schools

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2 percent of their prior year expenditures;

- eliminate the allowable growth rate for FY2011-12 and increase the rate to 0.5 percent in FY2012-13;
- eliminate the additional percentage in the cost growth factor;
- set the local effort rate to $1.0395 for FY2011-12 and FY2012-13;
- reduce the averaging adjustment and needs stabilization thresholds by 5 percent for FY2011-12;
- reduce the allocated income tax by $21 million for FY2011-12 and FY2012-13;
- expand the comparison groups by 10 larger and 10 smaller districts; and
- subtract property tax refunds from district resources beginning with FY2012-13.

Sen. Ken Haar (left) discusses LB235 with Sen. Adams.

The amendment also contains provisions originally introduced by Lincoln Sen. Bill Avery, as LB148 which would exclude lobbying expenses from the definition of general fund operating expenditures.

"There is no better lobbyist for a school district than the superintendent," Avery said.

Also included in the amendment are provisions of LB273, originally introduced by Fullerton Sen. Annette Dubas, to include converted contract students as option students and exclude receipts and LB287, originally introduced by Adams, which would include early childhood in the formula's summer school allowance beginning in FY2012-13.

Malcolm Sen. Ken Haar spoke in support of the amendment and the bill, saying it reinforces that K-12 education is a state priority.

Of the $950 million schools received this year, $150 million came from the one-time federal American Reinvestment and Recovery Act fund, Haar said. Under LB235, aid from the state's general fund actually would increase from $810 million in FY2010-11 to $822 million in FY2011-12.

"I think we need to recognize LB235 is not perfect, but it represents an increase in general fund spending," Haar said.

Cedar Rapids Sen. Kate Sullivan also supported the bill, saying schools were warned of the "cliff effect" that would result when the one-time stimulus funds were used to cover school needs in the last budget.

"What you have before you is an 18 percent reduction from current [aid]," she said. "The committee worked very diligently to be fair and spread the pain."

The committee amendment was adopted 41-0 and the bill advanced on a 41-0 vote. ■

COMMITTEE HEARINGS

Wednesday, April 13

Business & Labor
Room 2102 - 12:00 p.m.
AM1116 to LB397

Health & Human Services
Room 1510 - 1:00 p.m.
Appointment: Reel, Jill - Foster Care Review Board
Appointment: Delts, Dillard - Commission for the Deaf and Hard of Hearing
Appointment: Kasch, Amy - Commission for the Deaf and Hard of Hearing
Appointment: Coleman, Janet - State Board of Health

A CLOSER LOOK

Sales tax turnback for sewer projects advanced

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enues generated from increased sewer fees to the combined sewer overflow project in order to receive state assistance.

First class cities, second class cities and villages could apply for state assistance beginning July 1, 2011, while metropolitan class cities and primary class cities would have to wait until July 1, 2013.

Mello said LB682 would provide a mechanism to help cities finance combined sewer overflow projects at a time when the Legislature has eliminated state aid to cities and limited their taxing authority. Omaha and Plattsmouth would benefit from the bill immediately, he said.

Sen. Heath Mello explains the need for LB682.

Papillion Sen. Jim Smith spoke in support of the bill, saying it would encourage metropolitan area businesses to remain in the state and would prevent a negative economic "ripple effect" across the state.

"Please do not put businesses and jobs in a crossfire between the Legislature and Omaha leadership," Smith said.

LB682 advanced from general file on a 25-17 vote. ■

Unicameral Youth Legislature

High school students who want to learn what it's like to be a senator in the Nebraska Legislature are encouraged to register for the 2011 Unicameral Youth Legislature, which will convene June 12-15.

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

Students will learn about the inner workings of the Legislature directly from senators, staff and lobbyists. Bills will be based on legislation considered during the current legislative session.

Registration forms can be obtained from the Legislature's Unicameral Youth Legislature page: *www.nebraskalegislature.gov/education/unicamyouth.php* and the UNL Big Red Summer Academic Camps website: *liferaydemo.unl.edu/web/4hcamps/bigredcamps.* The registration deadline is May 15.

The Unicameral Youth Legislature is organized by University of Nebraska 4-H and has been supported by AmeriCorp VISTA, the Nebraska Cooperative Extension and the Southeast Research and Extension Center.

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Education

Postsecondary institutions' minimum standard requirements advanced

Senators advanced a bill April 7 that would create minimum operation standards for private and out-of-state postsecondary institutions.

York Sen. Greg Adams introduced LB637, a bill containing the Postsecondary Institution Act. An Education Committee amendment, adopted 38-0, replaced the original provisions with a revised version of the act. It would require the Coordinating Commission for Postsecondary Education to establish minimum standard requirements and levels of operations, establish rules and regulations, review applications for postsecondary institutions and investigate violators of the bill. Any private postsecondary career school or institution that is regulated by a federal agency would be exempt from the bill.

Sen. Greg Adams

Under the amended bill, if the commission finds that a postsecondary institution has violated the rules and regulations the institution's authorization to operate could be suspended or revoked.

Also included in the amendment are provisions of two bills that were originally introduced by Adams. The provisions of LB372 would enable the University of Nebraska to offer certificates in additional fields upon approval from the commission if the preponderance of the courses comprising any such certificate are above associate-degree level. The provisions of LB58 would require a study of the need for uniform policies and practices regarding dual-enrollment courses and career academies.

Adams said the bill would streamline and clarify regulations for postsecondary institutions that want to come into the state in order to provide consumer protections.

"The process that we currently have in law has not kept the pace at which different types of higher institutions have tried to enter into states," he said. "If a postsecondary institution of some kind wants to operate in our state, we [need to] have some approval methodologies."

Scottsbluff Sen. John Harms spoke in support of the amendment, saying it provides clarification and appropriate oversight that is needed in the for-profit sector of higher education. Operation standards have not been revised much since the 1970's, he said, and the for-profit sector has grown significantly since then.

Columbus Sen. Paul Schumacher opposed the amendment, saying it only would regulate postsecondary colleges with a physical presence in the state. He questioned whether it also would regulate online colleges.

"We are treading on areas that have not been defined [in this bill]," Schumacher said. "We are dealing in dangerous territory when we try and regulate information when we are not clear about what we are trying to stop them from doing."

An Avery amendment, adopted 38-0, would set provisions for the allocation of the Education Innovation Fund and would give the state Department of Education $160,000 to implement a three-year pilot project in participating school districts for the administration of a standard college admission test for 11th grade students beginning in fiscal year 2011-12.

Avery said 75 percent of students in the state currently take the ACT. Many students do not take a college entrance test because they think they cannot afford to go to college, he said, so requiring them to take the test may give them a "boost of confidence" and make them eligible for scholarships.

"If this pilot program does what

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we hope it will do, it will increase the test-taking rate throughout the state and we think it will have an impact on the college-going rate," Avery said.

The bill was advanced from general file on a 40-1 vote.

Executive Board

Time frame requirement for state agency regulations clears first round

A proposal that would require state agencies to promulgate rules and regulations within a specific time frame advanced from general file April 7.

LB617, introduced by Omaha Sen. Heath Mello, originally would have established a legislative committee to review agency rules and regulations promulgated pursuant to bills passed by the Legislature.

Sen. Heath Mello

An Executive Board amendment, adopted 33-0, replaced the bill and instead would require that a public hearing be held on any rule or regulation to be adopted, amended or repealed pursuant to a bill within 12 months of the legislation's effective date. The governor could extend the time frame for up to six months with good cause and the regulation process would have to be completed within one year of the hearing date.

An agency that did not complete the regulation process within one year would be required to submit a written explanation to the Executive Board and the legislative committee with subject matter jurisdiction over the issue. All agencies with pending rules and regulations would be required to submit yearly reports to the Legislature's Performance Audit Committee, including the status of any appropriations provided to the agency to carry out the regulation process.

Mello said at least 40 states have similar provisions to ensure the executive branch's prompt implementation of laws.

"We need to ensure that we have a good framework ... to carry out our rules and regulations in a timely and transparent manner," he said.

Scottsbluff Sen. John Harms supported the bill, saying the Legislature's Performance Audit Committee has found cases where agencies have not completed the regulation process six or seven years after enacting legislation was passed.

"Right now there is no one monitoring these rules and regulations," Harms said. "I don't think this can be tolerated anymore."

Omaha Sen. Gwen Howard also supported LB617, citing concerns over implementation of her priority bill that will require development of rules and regulations by the state Department of Health and Human Services. Howard said the department told her there currently is a backlog in the regulation process.

"I had the sinking feeling that it could be put on the back burner for years," she said, "which is really a disservice to those who need that bill put in place."

Senators advanced LB617 to select file on a 38-0 vote.

General Affairs

Bill would remove beer industry exception

Senators gave first-round approval April 5 to a bill that would remove an exception that allows a beer manufacturer also to own a beer distributorship.

Wilber Sen. Russ Karpisek said he introduced LB279 at the request of the Nebraska Liquor Control Commission in order to reinforce the state's three-tier system of requiring separate ownership of manufacturers, distributors and retailers.

Sen. Russ Karpisek

Fremont Sen. Charlie Janssen, who prioritized the bill, said the exception is an anomaly and that similar provisions have lead to litigation in other states.

"The three-tier system ensures tax compliance and better law enforcement," he said.

A General Affairs Committee amendment, adopted 36-1, would allow a beer manufacturer to have ownership interest in a wholesale operation for two years upon the death or bankruptcy of a wholesaler owner.

Karpisek said the amendment would provide a short-term exemption so a wholesale entity facing difficult circumstances could remain in business while transitioning to new ownership.

The bill advanced to select file on a 40-1 vote.

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Government, Military & Veterans Affairs

Bill to protect public utilities approved

Senators gave final approval April 8 to a bill intended to protect sensitive public utility information.

Under LB230, introduced by Sen. Kate Sullivan of Cedar Rapids, public utility infrastructure specifications or design drawings may be withheld from the public unless otherwise provided by state or federal law if such disclosure will create a substantial likelihood of endangering public safety or property.

Sen. Kate Sullivan

The bill also allows a public utility to withhold personally identified private citizen account and customer use information.

LB230 passed on a 43-0 vote.

Health & Human Services

Foster care changes advance

Senators gave first-round approval April 7 to a bill that would make several changes to the Nebraska foster care system.

Sen. Kathy Campbell

Lincoln Sen. Kathy Campbell said LB177 is intended to assist the state Department of Health and Human Services in implementing three specific requirements of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008.

A Health and Human Services Committee amendment, adopted 36-0, replaced the bill and would require HHS to notify adult relatives within 30 days of a child's removal from his or her home. An exception would be provided if an adult relative's history of domestic or family violence would make notification inappropriate.

The bill also would require that HHS and the court make reasonable efforts to place siblings together and provide visitation or ongoing interaction when siblings are not placed together. An exception would be provided if joint placement or visitation would be contrary to the safety and well being of any sibling.

Campbell said the bill's goal is to provide each child in the foster care system the best possible chance for a positive outcome.

"We all know the importance of family in our own lives," she said. "LB177 stresses that we know from best practices that placement with kin is so important."

Finally, the bill would require the department to develop an individual proposal for each child transitioning out of foster care into adulthood. Such a proposal would include assessment of a foster child's educational, employment, housing, health care and other support needs.

Omaha Sen. Gwen Howard offered an amendment, adopted 35-0, that would clarify that a foster child's family unit includes all siblings, even those who have not resided together prior to placement in foster care.

"I want to make crystal clear our intention that the right to sibling relationships is not infringed upon when the state makes placement decisions," Howard said. "[Siblings] can provide natural support and a sense of belonging to one another."

The bill advanced to select file on a 40-0 vote.

Prescription drug monitoring bill passes

Lawmakers gave final approval to a bill April 8 that requires the state Department of Health and Human Services to establish or enhance technology for a prescription medication alert system in Nebraska.

LB237, sponsored by Omaha Sen. Gwen Howard, allows HHS to collaborate with the Nebraska Health Information Initiative to add an alert screen to its existing patient medical records system in order to track prescription drug seekers.

Sen. Gwen Howard

The bill passed on a 42-0 vote.

Concussion awareness measure approved

Lawmakers passed a bill April 8 that establishes a state policy on concussions for child athletes.

LB260, introduced by Omaha Sen. Steve Lathrop, adopts the Concussion Awareness Act, which provides schools and organizations with information and training about concussions.

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Sen. Steve Lathrop

Among other provisions, the bill:

- makes concussion and brain injury training available to coaches of all organized athletic teams involving school-aged children;
- provides concussion and brain injury information to athletes, parents and guardians prior to participation in practice or competition;
- requires notification of a parent or guardian if a child is removed from an athletic activity due to suspected concussion or brain injury; and
- requires that a child athlete who appears to have suffered a concussion or brain injury be removed from practice and competition until a licensed health care professional provides written clearance for his or her return.

LB260 passed on a 43-0 vote.

State benefits for noncitizens eliminated

State benefits for some noncitizen permanent residents were eliminated by a bill passed April 8.

LB465, introduced by Lincoln Sen. Kathy Campbell at the request of the governor, eliminates state-only benefits for certain noncitizen permanent residents who are in the United States legally but do not qualify for benefits under federal guidelines.

Current federal guidelines require that permanent residents be in the U.S. for five years to qualify for benefits, but states can choose to provide benefits without using federal funds.

Lawful noncitizens who met income and other requirements were eligible to participate in Nebraska's state-option Medicaid program, Supplemental Nutrition Assistance Program, Temporary Aid to Needy Families and aid to the aged, blind and disabled regardless of when they entered the country. LB465 eliminates those benefits.

The bill passed on a 33-8 vote.

Bill promotes SNAP, increases asset limit

Senators passed a bill April 8 to promote the state's Supplemental Nutrition Assistance Program (SNAP).

Sen. Tanya Cook

LB543, introduced by Omaha Sen. Tanya Cook, requires the state Department of Health and Human Services to develop a state outreach plan to inform qualifying persons about SNAP.

The department may work with nonprofit organizations to seek gifts, grants and donations to assist in implementing the plan and will be exempt from administering it if sufficient federal or private funds are not secured.

Under the bill, an individual who qualifies for SNAP benefits may have no more than $25,000 in liquid assets in personal checking or savings accounts, money market or share accounts.

LB543 passed on a 42-0 vote.

Nursing home provider assessment advanced

Lawmakers gave first-round approval April 5 to a bill that would institute a provider assessment on Nebraska nursing facilities.

LB600, introduced by Lincoln Sen. Kathy Campbell, would adopt the Nursing Facility Quality Assurance Assessment Act.

Campbell said the bill would help offset losses that the state's nursing homes will face under proposed Medicaid provider rate cuts. The governor's proposed budget calls for a 5 percent reduction in provider rates, she said.

Under the bill, nursing facilities would pay an assessment to the state of $3.50 per day for Medicaid and private pay patients, which then would be reimbursed to facilities through a federal match. Campbell said nursing facilities would pay approximately $14 million to the state in assessments and would receive that amount in reimbursement from the state, plus approximately $20 million in federal Medicaid matching dollars.

"Without this bill, we could anticipate that some nursing facilities will close," she said.

Louisville Sen. Dave Pankonin supported the bill, saying the increased number of Medicaid patients in Nebraska nursing facilities has created a critical situation in the state. With fewer private pay patients and cuts to Medicaid provider rates, facilities are having difficulty staying in business, he said.

"There is a huge need for quality nursing care," Pankonin said. "We need to keep these facilities open."

A Health and Human Services Committee amendment, adopted 38-0,

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would require a reasonable administrative fee for enforcing and collecting the assessment and require a penalty of 1.5 percent of the assessment owed for each month that a payment is overdue.

The amendment also would require the state Department of Health and Human Services to submit an amendment to Nebraska's Medicaid state plan to include the Nursing Facility Quality Assurance Assessment Act.

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

Judiciary

Lawmakers approve meth prevention bill

A statewide electronic tracking system will be implemented for purchases of methamphetamine precursor chemicals at the point of sale under a bill approved by the Legislature April 8.

Under LB20, introduced by Omaha Sen. Beau McCoy, retailers will receive an immediate web-based notification when a person is attempting to purchase illegal amounts of pseudoephedrine, a drug found in over-the-counter cold medications that is used in meth-making.

Sen. Beau McCoy

The system automatically will issue the seller a stop sale alert. Retailers will be required to use the free system unless granted a waiver by the Attorney General.

The bill also will:

- ensure that no claim or cause of action shall arise against a seller based upon the electronic submission of information to the exchange;
- allow the retailer to store certain information obtained from the purchaser's license or identification card in case it is needed by law enforcement; and
- prohibit the sale of products containing more than 9 grams of pseudoephedrine base or 9 grams of phenylpropanolamine base during a 30-day period unless purchased pursuant to a medical order.

The bill has an effective date of Jan. 1, 2012.

LB20 was approved on a 44-0 vote.

Defense of temporary insanity from intoxication ends

Lawmakers passed a bill April 8 that eliminates the defense of temporary insanity for crimes committed while the offender is voluntarily under the influence of drugs or alcohol.

Under LB100, introduced by Lincoln Sen. Colby Coash, defendants charged with committing crimes while intoxicated may no longer use intoxication as a defense, unless they can prove by clear and convincing evidence that they did not know that a substance was a toxicant when they used it.

Sen. Colby Coash

LB100 was approved on 42-2 vote.

Commutation bill for juveniles serving life sentences stalls

A bill that would allow juveniles serving life imprisonment sentences to petition for a sentence commutation failed to advance from general file April 7.

Omaha Sen. Brenda Council introduced LB251, which originally would have increased court filing fees and costs. A Judiciary Committee amendment replaced the original bill on a 37-0 vote and would allow a person under 18 years of age who is sentenced to life imprisonment to petition the state Board of Pardons for a sentence commutation after serving at least 20 years.

Sen. Brenda Council

Council said the area of the brain that plays a critical role in decision-making has not finished developing in juveniles, so their reasoning skills and impulse control are not as sharp as adults'.

"As science develops and we understand the differences of the juvenile mind, we see what juveniles are capable of doing without thinking," Council said. "This bill is not a radical bill, it is a measured, balanced approach that recognizes the differences that exist between juveniles and adults."

Under the amended bill, persons who entered custody prior to July 1, 1994, may submit a petition beginning in 2012. The board could consider a person who:

- was convicted of first-degree murder or of aiding and abetting another person in committing such act;
- does not have juvenile felony adjudications for assault or other felony crimes with a significant potential for personal harm to victims prior to the offense;

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- committed the offense with at least one adult co-person;
- prior to the offense, had insufficient adult support or supervision and had suffered from psychological or physical trauma or significant stress;
- suffers from cognitive limitations due to mental illness, developmental disabilities or other factors that did not constitute a defense, but influenced his or her involvement in the offense;
- performed acts that tend to indicate rehabilitation or the potential for rehabilitation;
- has maintained family ties or connections through writing letters, phone calls or visits or has eliminated contact with individuals outside of prison who are involved with crime; and
- had no disciplinary actions for violent activities in the last five years in which he or she was determined to be the aggressor.

Omaha Sen. Brad Ashford, Judiciary Committee chairperson, spoke in support of the amendment.

"All this does is give a little more consideration to a person who has been sentenced to life in prison as a juvenile," Ashford said.

Omaha Sen. Gwen Howard opposed the bill, saying "redemption is in the eye of the beholder."

"Someone that commits cold blooded murder, no matter how old they are, should be facing the consequences," Howard said. "When a family can petition us to get [the victim] back, that is when I will support this bill."

Norfolk Sen. Mike Flood also opposed the bill, saying he questioned whether it would be constitutional to provide guidelines for the parole board to consider.

"I think that what [the bill] is asking us to do elevates a part of our system that is designed as a check and balance and takes it to a place where you are ignoring juries [decisions]," Flood said.

The bill failed to advance from general file on an 18-24 vote.

Sex offender registry requirements reconsidered

The Judiciary Committee heard testimony April 5 on two amendments to a bill that would revise the current sex offender registry provisions.

In 2009, senators passed a bill that required sheriffs to send all registrable sex offenders' information to the community notification division of the Nebraska State Patrol. This resulted in publication of Level 1 offenders who were not required to publicly disclose their information prior to the passage of the bill.

Sen. Brad Ashford

LB460, introduced by Omaha Sen. Brad Ashford, proposes a technical change to require registered sex offenders who move to notify the state patrol of their new residence, rather than their address.

Ashford offered two amendments to the bill. AM873 would revert back to the previous registration and community notification provisions for Level 1 sex offenders determined to have a low risk of recidivism. AM969 would reinstate the prior law altogether.

Dawn Buell supported the removal of Level 1 offenders' names. The publishing of low-risk offenders on a website impacts the victims, who often are members of the offender's family, she said.

Assistant Attorney General Corey O'Brien testified in opposition to AM969, citing a federal study showing that 70 percent of offenders who downloaded child pornography later committed physical offenses against children. The passage of the original bill in 2009, he said, was sought to curtail "grooming behaviors" of hands-on predators.

The committee took no immediate action on the amendments.

Foster care placement notification requirements advanced

Senators advanced a bill April 5 that would establish notification requirements for child foster care placement court reviews and hearings.

LB648, introduced by Imperial Sen. Mark Christensen, would require the state Department of Health and Human Services or contract agency to make a child's placement information available for courts to use when notifying foster parents of foster placement hearings. The notice must be mailed or personally delivered to the counsel or party within five days prior to the review or hearing.

Sen. Mark Christensen

The bill also would require the court to ask any present and willing foster parent, preadoptive parent or relative caring for the child about the well-being of the child at the hearing.

A Judiciary Committee amendment, adopted 38-0, eliminated a provision in

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the bill allowing a foster parent to call and cross-examine witnesses at the hearing and to appeal an adverse decision.

The committee was concerned that hearings or reviews would be held after the placement was determined and not prior to removing the child from the foster home, said Omaha Sen. Brad Ashford, chairperson of the committee. The amendment provides clarification and ensures the bill would not require the courts to hold a placement hearing, he said.

Christensen offered — and later withdrew — an amendment to the committee amendment, which would allow a foster parent to be active in foster placement hearings, but only after a foster child has been placed in their home for at least six months.

Omaha Sen. Gwen Howard opposed the amendment, saying decisions on placing foster children are made by the department and not the courts.

Lincoln Sen. Amanda McGill offered an amendment containing provisions she originally introduced in LB80. The amendment would require the department to establish that a child's case plan would be approved and would allow the court to approve the department's proposed plan.

The McGill amendment was adopted 37-0 and the bill advanced on a 35-0 vote.

Natural Resources

Boating safety education phased in

Boating safety education courses will be required for more boaters under a bill passed by the Legislature April 8.

Current law requires anyone under the age of 18 to complete a boating safety education course before operating a boat or watercraft on state waters.

LB105, introduced by Ogallala Sen. Ken Schilz, requires anyone born after Dec. 31, 1985, to complete such training before operating a boat. The bill has have an operative date of Jan. 1, 2012.

Sen. Ken Schilz

Lawmakers approved LB105 on final reading 41-2.

Constitutional amendment proposed to preserve fishing, hunting rights

The Nebraska Constitution would be amended to recognize the right of citizens to fish, trap and hunt under a proposed constitutional amendment debated on general file March 31 and April 5.

If approved by the Legislature, LR40CA, introduced by Omaha Sen. Pete Pirsch, would be submitted to Nebraska voters during the 2012 general election. The proposed amendment originally would have added a new section to Article 15 to declare fishing, trapping and hunting as rights that shall forever be preserved for the people subject to reasonable restrictions as prescribed by law.

Sen. Pete Pirsch

Pirsch said the constitutional amendment is needed to ward off "fringe groups" that have been successful in stopping bear hunting in New Jersey and coordinating legislative action to stop pheasant and dove hunting in Illinois, Minnesota, New York, Rhode Island and Wisconsin.

Pirsch offered an amendment to his proposal to add that:

- the right be subject only to laws, rules and regulations that preserve the future of hunting and fishing and promote wildlife conservation and management;
- public hunting and fishing shall be a preferred means of managing and controlling wildlife; and
- the new language could not be construed to modify laws addressing trespassing or property rights.

Holdrege Sen. Tom Carlson said 13 other states have taken action similar to LR40CA to protect against groups wishing to curtail hunting and fishing rights.

"What could be more appropriate for constitutional consideration than the threat of basic freedoms being taken away?" Carlson asked.

Lincoln Sen. Amanda McGill said the state constitution is a "sacred document" that should not be changed lightly. She introduced an amendment to include other activities that Nebraskans enjoy to demonstrate how LR40CA would modify the constitution in an unfavorable way, including swimming, farming, ranching, driving, boating, tubing, golfing, napping, parenting, learning, camping, pioneering, innovating and watching Husker football. Such activities do not belong in the constitution any more than hunting and fishing, she said.

"I don't think this rises to the level of needing an amendment to our constitution," McGill said, adding that there is no credible threat to these

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activities in Nebraska.

Lawmakers adjourned before taking any votes.

Redistricting

Redistricting resolution approved

Lawmakers approved a resolution April 8 that will guide the Legislature's 2011 redistricting efforts.

LR102, introduced by the Redistricting Committee, establishes criteria to guide the Legislature in drawing district boundaries for the U.S. House of Representatives, Legislature, Nebraska Supreme Court, University of Nebraska Board of Regents, Public Service Commission and state Board of Education. District boundaries must be redrawn every 10 years to reflect population changes throughout the state.

Sen. Chris Langemeier of Schuyler, chairperson of the committee, said the criteria would ensure that redistricting plans meet legal parameters and are constitutionally acceptable.

Among other provisions, the guidelines require that the Legislature:

- use population data and geographical information from the 2010 U.S. Census;
- not dilute the strength of any minority population;
- create districts that are substantially equal in population;
- not favor a political party or consider the political affiliation of registered voters; and
- follow county lines whenever practicable and follow traditional districting principles of compactness and contiguity.

Under the resolution, congressional districts shall be drawn with an overall population range of deviation of no more than 1 percent, with a goal of zero deviation. The remaining districts would be drawn with an overall range of deviation of no more than 10 percent.

Langemeier said the goal is to create districts that are as equal in population as possible, but that the Legislature may consider legitimate state objectives if deviation is necessary.

Lincoln Sen. Danielle Conrad agreed, saying the committee is dedicated to keeping the relative deviations between districts as small as possible.

"We see this deviation issue as a ceiling rather than a floor," she said.

Sen. Burke Harr of Omaha said allowing a high level of deviation in order to accommodate priorities such as respecting county lines runs the risk of violating the principle of one person, one vote.

"I would think that one person, one vote would supersede," he said.

Harr also suggested that technological improvements since the last redistricting should result in a lower range of deviation than was set by the 2001 Legislature and incorporated into LR102.

But Lincoln Sen. Bill Avery said a 5 percent variation between districts is within the margin of what is considered best practices for redistricting and that current technology has not made it easier to establish legislative districts of equal size.

"The software is better now," Avery said. "But the main difference between the software we have today and 10 years ago is that it's much faster."

Omaha Sen. Steve Lathrop said lawmakers should consider using census data to determine trends in Nebraska's population over the last 20 years and draw district lines in anticipation of future growth. He noted that Legislative District 39 currently contains twice the population of a standard district.

"What we should be looking at is which of the districts might grow into the deviation," Lathrop said.

Sen. Dave Pankonin of Louisville said the redistricting process likely will be less contentious than in decades past due to term limits. Approximately 30 current senators won't be seeking reelection after the process is concluded, he said.

"It's going to be different this time," Pankonin said, "because so many of us won't be affected by this."

Lawmakers adopted LR102 on a 40-0 vote.

Retirement

Omnibus retirement bill approved

Senators passed the Nebraska Retirement Systems Committee's omnibus bill April 8.

Introduced by the committee on behalf of the Nebraska Public Employees Retirement System, LB509 makes several changes to the county, state and Class V school retirement plans and the duties of the Public Employees Retirement Board and the Nebraska Investment Council.

Among other changes, the bill:

- creates the County Employees Retirement Fund for deposit of county late filing penalties;
- allows permanent and part-time

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county and state employees to participate in retirement plans at age 18;

- changes the deadline from March 15 to March 31 for the Nebraska Investment Council to provide its annual report to the Nebraska Retirement Systems Committee;
- requires the Class V School Retirement Plan board to provide comprehensive preretirement planning programs to plan members;
- removes requirements for the Class V Retirement System to file annual plan summaries;
- requires the Class V Retirement System to file an actuarial report annually rather than every four years;
- clarifies transfer language regarding direct rollover benefit distribution into an employee's deferred compensation plan;
- removes a requirement that the retirement board provide notification if a political subdivision fails to file annual pension reports; and
- allows a terminated state or county employee to receive a distribution of up to $25,000 or the balance of his or her portion of the account, whichever is less, after a grievance is filed. Following reinstatement, an employee will be required to repay any amount received.

The bill also incorporates provisions from the following three bills.

LB246, introduced by Wilber Sen. Russ Karpisek, allows continuation of benefits to a surviving spouse of a deceased state patrol member if the surviving spouse remarries.

LB532, also introduced by Karpisek, allows transfer of state Department of Labor independent retirement plan members to the State Employee Retirement System if the independent retirement plan is terminated. For vesting purposes, members will be credited for their years of service in the independent retirement plan.

LB486, introduced by Ellsworth Sen. LeRoy Louden, increases from 7 to 9 percent the salary cap in the School Employees Retirement Plan beginning July 1, 2012, and eliminates current salary cap exemptions for purposes of calculating benefits on annual compensation during the last five years of employment prior to actual retirement. The cap will be reduced to 8 percent beginning July 1, 2013.

The bill passed on a 44-0 vote.

Revenue

Bill reducing TERC members and authorizing single-commissioner hearings advances

Changes to the Tax Equalization and Review Commission (TERC) are proposed by a bill advanced from general file April 7.

TERC hears appeals of decisions made by county boards of equalization regarding property taxes and currently comprises one member from each congressional district and an at-large commissioner, for a total of four members.

LB384, introduced by Bellevue Sen. Abbie Cornett, would eliminate the at-large commissioner and authorize TERC to conduct single-commissioner hearings.

Sen. Abbie Cornett

A Revenue Committee amendment, adopted 37-1, would set Oct. 1, 2011, as the expiration date for the terms of all TERC members. Terms of the three commissioners appointed would be staggered so that one commissioner's term expires every biennium and the governor would be given the authority to set TERC commissioners' salaries.

The amendment would restrict single-commissioner hearings to appeals regarding parcels that are less than $1 million in valuation. After the TERC chair designates an appeal for a single-commissioner hearing and both sides agree, an informal single-commissioner hearing could be held. The usual common-law or statutory rules of evidence would not apply in single-commissioner hearings. Either party could request a rehearing before the entire commission.

Finally, beginning Jan. 1, 2013, the amendment would require counties with a population of at least 150,000 to mail or post on the county assessor's website a preliminary notice of valuation on or before Jan. 15 of each year and provide an opportunity to real property tax protesters to meet in-person with the assessor or staff.

In addition, real property tax protesters who protest their valuation would be given an opportunity to meet in-person with the county board of equalization or a referee.

An amendment offered by Cornett and adopted 36-0 adds that taxpayers who do not request an in-person meeting with assessor staff by Feb. 1 would waive their opportunity to do so.

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Cornett said the amended bill would provide budgetary savings and transform TERC hearings into "informal and taxpayer-friendly" proceedings. The preliminary notice provision of the bill replicates a Lancaster County program, she said, which has reduced the county's caseload of protests and TERC appeals.

Sen. Kathy Campbell, a former Lancaster County commissioner, spoke in support of the bill. She said their preliminary notice program provides a forum for taxpayers to visit with assessor staff to find errors and learn why their property was assessed at that value.

"We found this system to be a great budget helper to us," Campbell said.

Hastings Sen. Dennis Utter said informal single-commissioner hearings would make TERC more approachable to citizens. Many people are intimidated by the current hearing procedure, he said.

"TERC needs to be a taxpayer-friendly place to go to get the facts and figures regarding a property," Utter said.

Ellsworth Sen. LeRoy Louden opposed the bill, saying it would result in a backlog of cases for TERC. The commission formerly had three commissioners, he said, but it fell behind and some cases took two years to decide.

LB384 advanced from general file 36-1.

Assistance for combined sewer overflow projects debated

Municipalities undergoing select sewer improvements could apply for state assistance under a bill debated on general file April 5-6.

LB682, introduced by Omaha Sen. Heath Mello, would offer state assistance to finance the construction, acquisition or improvement of sewer, natural gas and water cast-iron infrastructure. Assistance would be calculated based on the amount of state sales tax collected from increased fees and charges to complete combined sewer overflow, natural gas and water projects.

Sen. Heath Mello

Mello said the city of Omaha will undertake what will likely be the largest infrastructure project in the state to turn its combined sewer system — which discharges raw sewage and stormwater into the Missouri River during wet weather events — into a separate sanitary sewer system. The $1.7 billion project will be financed by increased sewer fees, he said, with the average ratepayer experiencing a fee increase of more than a 200 percent.

"[LB682] is trying to stave off what will likely be the largest tax increase in the metropolitan area," Mello said.

LB682 would use a turnback of state sales tax to mitigate costs borne by Omaha ratepayers during the life of the project by $40 million, Mello said. Other cities with federally mandated combined sewer overflow projects also could receive state assistance, he said, naming the city of Plattsmouth as an example.

Papillion Sen. Jim Smith said the bill is needed to retain individuals and businesses in the metropolitan area that are considering relocation due to imminent sewer fee increases.

A Revenue Committee amendment would restrict the scope of the bill to combined sewer overflow projects undertaken as part of a long-term control plan approved by the state Department of Environmental Quality. Cities would be required to dedicate any increased local option sales tax revenues generated from increased sewer fees to the combined sewer overflow project in order to receive state assistance.

Mello offered an amendment, adopted 33-1, that changed the date after which cities of the first class, cities of the second class and villages could apply for state assistance from July 1, 2013, to July 1, 2011. His amendment would retain the July 1, 2013, date for cities of the metropolitan class and cities of the primary class to apply for assistance.

The change would allow the city of Plattsmouth to take advantage of the state assistance offered under LB682, Mello said.

Elk Creek Sen. Lavon Heidemann spoke in opposition to the bill, saying its impact to the general fund could increase from $3 million a year to $5 million over time. He also questioned whether the bill would help only the cities of Omaha and Plattsmouth. Many small towns have completed federally mandated projects without state assistance, he said.

Kearney Sen. Galen Hadley opposed LB682, saying the city of Omaha has known for 20 years that improvements were needed to prevent the dumping of sewage into the Missouri River. The improvements could have been completed by now, he said.

Omaha Sen. Brenda Council said Omaha has undertaken smaller projects to address sewer overflows, adding that the federal government directed the city to separate its sewer system only three to four years ago. The average monthly sewer fees could increase

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by $50, she said.

The Legislature adjourned before voting on the committee amendment or the bill.

Urban Affairs

Redevelopment bond repayment bill advanced

A bill intended to make the repayment time frame of a redevelopment bond more closely reflect the life of a project received first-round approval April 7.

Omaha Sen. Heath Mello, sponsor of LB54, said nearly all Tax Increment Financing (TIF) projects in Nebraska are paid for with bonds that must be repaid within 15 years. Currently, the repayment period begins on the date that a municipality's redevelopment plan goes into effect.

Under the bill, the repayment period would not begin until the date that a municipality enters into a redevelopment contract. Mello said redevelopment plans often go into effect over a year before a redevelopment contract officially is entered into by a municipality and a developer, depriving cities of revenue with which to repay financing bonds.

Mello said the bill would allow lawmakers to "sharpen a tool already in the toolbox," rather than creating a new economic development program.

Sen. Rich Pahls of Boys Town supported the bill, saying many cities in Nebraska utilize TIF financing.

"This does appear to be a very significant economic factor for the state," Pahls said.

Senators advanced the bill to select file on a 36-0 vote.

New minimum energy standard established

Lawmakers adopted a new minimum energy standard for the state April 8.

LB329, introduced by Omaha Sen. Tanya Cook, adopts the 2009 International Energy Conservation Code (IECC) as the Nebraska Energy Code. The bill also updates language regarding existing structures and historic buildings to conform to the 2009 code and provides for IECC training for builders and inspectors.

Sen. Tanya Cook

The bill passed 44-0.

New state building code approved

Lawmakers approved a bill April 8 that adopts the 2009 version of the International Residential Code as the state building code, with the exception of the mandatory sprinkler provision for new residences.

LB546, introduced by Grand Island Sen. Mike Gloor, also permits state agencies and local political subdivisions to amend their building codes to include a mandatory new-home sprinkler provision.

Sen. Mike Gloor

The bill passed on a 31-9 vote. ■

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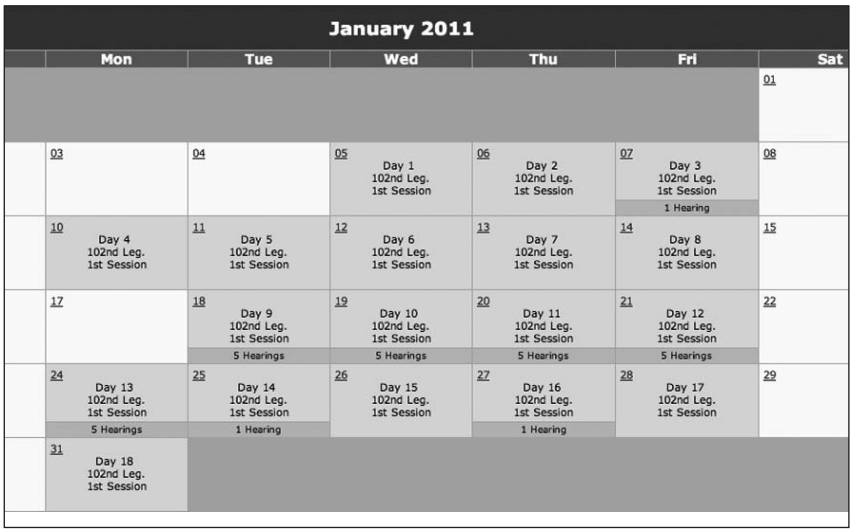

MEET THE SENATOR

A student of law, Harr turns to lawmaking

After receiving his undergraduate degree from the University of St. Thomas in Minnesota, Sen. Burke Harr had a decision to make: he could enter law school directly or take a year off to obtain some real world experience before beginning his legal studies. Harr chose the latter.

The Omaha native set course for California's Silicon Valley to participate in a program sponsored by Jesuit Volunteer Corps. Harr worked at the Peninsula Family Resource Center, which mostly served single mothers receiving assistance from the Aid to Families with Dependent Children program.

"It gave me a chance to get out and do something of substance," Harr said. "I had been pretty lucky in my life up to then and I wanted to have a chance to give back a little."

The center provided clients with rent assistance, a full food pantry and clothes for job interviews, Harr said, with the goal of helping them become self-sufficient.

"We had to teach how to budget, the importance of delayed gratification, how to open a checking account and how to use mass transit to get to work," Harr said.

Harr said the program demonstrated to him poverty's prevalence in even the richest parts of the world.

Sen. Burke Harr stands with his wife, Jennifer, and their daughters, Rita and Augusta, on the first day of session in January.

Harr enrolled in the Notre Dame Law School the following year. He moved back after graduating to take a clerkship with the Nebraska Court of Appeals.

"That's when I first got the bug of the Legislature," he said, adding that working in the same building as legislative employees showed him their love for the institution.

His subsequent jobs included prosecuting for the Douglas County Attorney's Office, practicing real estate law and starting his own business consulting firm with a friend.

The senator also is an avid outdoorsman, although his hunting activities have been curbed by the birth of his two young daughters, Rita and Augusta.

"Right now, my hobby is my family," Harr said. ■

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