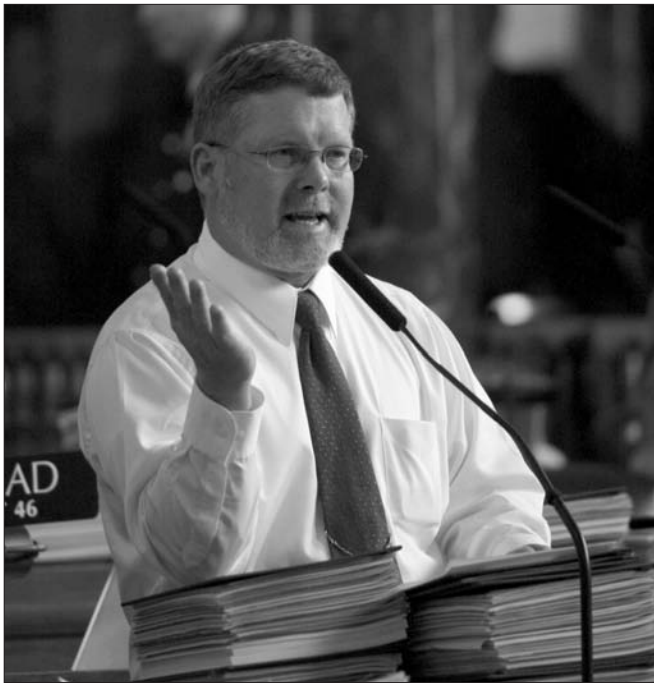


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UPDATE

State budget advanced from second round



Sen. Lavon Heidemann, chairperson of the Appropriations Committee, discusses the budget bills May 2.

A state budget that would appropriate \$7.1 billion of general funds during the next biennium advanced from select file May 5.

General funds expended in the two-year budget would increase an average of 2.6 percent per year, well below the 20-year average of 4.1 percent. By comparison, the budget proposed for fiscal year 2011-12 is \$17 million less than that for FY2008-09.

Lawmakers began the year with a \$985.5 million projected shortfall based on spending projections and revenue forecasts. Significant spending reductions made in the budget include a \$67.7 million reduction in agency operations, \$29.3 million less for health and human services provider rates and \$19.8 million less for public assistance. The budget also takes into account LB383, which eliminated state aid programs to cities, counties and natural resources districts, for a savings of \$44 million.

Medicaid and state aid to schools required additional state funds to make up for lost stimulus funds received last biennium. The proposed budget would increase Medicaid

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Senators advance labor commission reforms

Lawmakers gave first-round approval May 4 to a proposal that would make changes to the Nebraska Commission on Industrial Relations (CIR), the state's arbiter of labor disputes between public sector employees and government employers.

Omaha Sen. Steve Lathrop introduced LB397, which he described as a compromise between labor and management that arose from concerns initially raised by the League of Nebraska Municipalities.

"The first thing we did was listen to the concerns of the cities," Lathrop said. "And we deliberately listened to the league of municipalities because it was not going to be an Omaha bill, and it was not going to be a Lincoln bill, and it was not going to be a Fremont or Grand Island bill. It was going to be a bill that worked for all the cities across the state."

A Business and Labor Committee amendment, adopted 29-9, became the bill.

Lathrop said the amended bill would address three main concerns about the CIR regarding predictability, distortions in wage comparisons and the impact of employee benefits.

The CIR acts according to general guidelines found in state law, Lathrop said, but most of the rules governing their actions have been established by case law. He said the goal of LB397 is to provide specific guidelines in state law in a number of areas that impact

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State budget advanced from second round

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appropriations by \$110.5 million and \$140.8 million over the next biennium from FY2010-11 funding levels. Likewise, state funds appropriated for state aid to schools would increase by \$10.7 million and \$67.9 million from the current fiscal year, although the total appropriation still would be \$200 million less than the combined state and federal funds for FY2010-11.

Other appropriation increases would include \$20 million for the homestead exemption program and \$18.5 million for employee salary increases, which, for the most part, are scheduled to take place in FY2012-13.

The Appropriations Committee's budget package comprises eight bills. The bills were debated on general file May 2.

LB377, as amended by an Appropriations Committee amendment, would provide funding for new and existing capital construction projects, ranging from security system upgrades for the state Department of Corrections to new housing for the Hasting Regional Center Bridges Program.

Wilber Sen. Russ Karpisek offered an amendment to LB377 to remove a \$25 million appropriation proposed for the University of Nebraska to finance the renovation of the 4-H Building and construction of the Food, Fuel and Water Research Building. Both projects are part of the Nebraska Innovation Campus.

Karpisek said the \$25 million appropriation is not appropriate given the current economic climate, which has required deep cuts to education and human services. Further, he said, the Legislature made no commitment to provide funding for building maintenance and construction when it decided to move the state fair to Grand Island to make room for Innovation Campus.

Hastings Sen. Dennis Utter opposed Karpisek's amendment, saying now is the time to provide an investment to serve as a catalyst for development at Innovation Campus. Many other states are not in a position to provide funding for projects fostering public-private partnerships, he said, which could give Nebraska an advantage.

Karpisek's amendment was defeated 5-37 and LB377 advanced 40-2.

LB374, a bill to appropriate funds for state government expenses, was amended three times before it was advanced from

general file 34-0. The first amendment, offered by Heidemann and adopted 35-1, would restore half of the funding for the Public Service Commission's railroad inspection program, which was targeted for removal by LB255. The bill failed to pass on final reading, Heidemann explained, so the amendment was necessary to restore partial funding for the inspector.

Heidemann's second amendment would provide an additional \$15,000 to the Commission on Indian Affairs to carry out the provisions of LB1002, which was passed last year to support economic development, health care and law enforcement projects near Whiteclay. The amendment was adopted 34-0.

An Appropriations Committee amendment, which contained updated provisions of LB374, was adopted 34-0 and senators voted 34-0 to advance the bill.

LB379, a bill that would transfer funds from the Cash Reserve Fund, was changed by a Heidemann amendment

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Sen. Russ Karpisek proposes removing a \$25 million appropriation for the University of Nebraska's Innovation Campus.

A CLOSER LOOK

State budget advanced from second round

to reduce transfers in accordance with increased revenues projected by the Nebraska Economic Forecasting Board. The Appropriations Committee amendment, adopted 41-0, would call for transfers of \$256 million to the general fund. Heidemann's amendment reduced this amount to \$75 million.

Heidemann said the budget submitted by the Appropriations Committee does not require additional revenue, so extra funds projected by the recent positive economic forecast should be deposited in the Cash Reserve Fund. The board projected that revenues for the current fiscal year would be \$82.5 million greater than their February forecast and \$151 million greater for the next biennium. His amendment was adopted 40-0 and LB379 advanced 39-0.

LB380, a bill dealing with depreciation charges for state buildings, was amended by an Appropriations Committee amendment to repeal depreciation charges assessed to state agencies based on a percentage of capital construction costs. The depreciation surcharge was suspended for FY2009-10 and FY2010-11 and is scheduled to be reinstated at a 1 percent rate beginning in FY2011-12.

The committee amendment was adopted 39-0 and LB380 advanced from general file on a 38-0 vote.

As amended by an Appropriations Committee amendment 35-0, LB378 would provide a number of fund transfers, including:

- \$220 million from the general fund to the Property Tax Credit Cash Fund;
- \$25 million from the general fund to the Nebraska Capital Construction Fund;
- \$6.3 million from the general fund to the Ethanol Production Incentive Cash Fund;
- \$5.4 million from the general fund to the Water Resources Cash Fund;
- \$970,000 from the Tobacco Control and Prevention Cash Fund to the Health and Human Services Cash Fund; and
- \$470,000 from the Uniform Commercial Cash Fund to the Election Administration Fund.

LB378 advanced from general file on a 37-0 vote.

LB376 would appropriate funds for salaries of constitutional officers. After adopting an Appropriations Com-



Sen. Mike Flood introduced the eight bills comprising the budget package.

mittee amendment 35-0 to add funding for a new district court judge in Lancaster County, lawmakers advanced LB376 on a 38-0 vote.

LB375, which would provide for the \$12,000 annual salaries of Nebraska's 49 state senators, advanced from general file on a 40-0 vote.

The final bill in the budget package, LB373, would provide for deficit appropriations and was advanced 33-0 after an Appropriations Committee amendment was adopted 33-0. Adjustments in the amended version of LB373 include \$27 million in savings through a reduction in the FY2010-11 appropriation and \$31 million in lapsed reappropriated balances.

Technical amendments were adopted to LB374 and LB376 on general file. All eight budget bills were advanced from select file on voice votes.

The state constitution requires that the budget be passed by the 80th day of the session, which falls this year on May 17. ■

A CLOSER LOOK

Senators advance labor commission reforms

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labor disputes in order to bring greater predictability to the CIR process.

Among other provisions, the bill would set the following criteria for choosing an array for wage comparison purposes:

- remove the rule of evidence requirement;
- provide a preference for geographic proximity;
- specify a 70 percent match of duties performed and time spent performing those duties;
- set criteria for the size of comparable out-of-state cities and metropolitan statistical areas;
- allow public and private comparisons when matches are appropriate and available; and
- set the preferred array size at between seven and 13, with as few as five allowed if all array members are Nebraska employers.

If a comparison were made with an out-of-state city or metropolitan statistical area, the amendment would require that wage information be adjusted to reflect Nebraska's cost of living - a process Lathrop called "Nebraska-tizing" the numbers.

"The [current wage] distortions come primarily from getting data, or comparators, from outside the state of Nebraska," Lathrop said.

The bill also would incorporate health insurance and pension benefits into an hourly rate value. Lathrop said the provision would allow cities to receive credit for benefits provided to workers, rather than relying solely on wage comparisons within an array.

"We're reducing everything to a common denominator," he said.

Under the bill, the CIR would freeze wages of Nebraska public sector employees found to be receiving higher compensation than other comparators in an array using the hourly rate value calculation. Wages would be frozen for twice as long as the time it takes the other employees in the array to achieve a comparable hourly rate value.

Employees would be able to negotiate decreases in their retirement or health insurance plans to reduce their hourly rate value and end a wage freeze.

Omaha Sen. Brad Ashford said the possibility of negotiating retirement plans might provide relief to cities facing daunting contractual retirement obligations.

"Omaha has a pension shortfall of \$642 million," he said. "They are essentially bankrupt if they had to pay up tomorrow."

The bill also includes provisions of LB555, originally introduced by



Sens. Steve Lathrop (left) and Brad Ashford confer during debate on LB397.

Scottsbluff Sen. John Harms, intended to streamline the collective bargaining processes of Nebraska's college and university systems. Among other changes, the provisions would eliminate use of a special master, authorize appeals directly from the CIR to the Nebraska Supreme Court and tighten timelines in the dispute resolution process.

Hastings Sen. Dennis Utter supported LB397, saying he originally supported abolishing the CIR but came to

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A CLOSER LOOK

Senators advance labor commission reforms

believe that an arbiter in labor disputes is needed to determine fair wages and benefits for public employees.

"I believe that Nebraska public employees should not be the lowest paid in our state with inadequate benefits, nor should they be the highest paid with the best benefits," Utter said.

Lathrop offered a second amendment that would, among other provisions, require a protective order prohibiting dissemination of private sector employee information to those not party to a dispute. Lathrop said the provision was a response to concerns that private employer data that is subpoenaed to provide information for comparisons in a labor dispute might become public knowledge.

Omaha Sen. Beau McCoy opposed

the amendment, saying the CIR should use public data that is available for job comparisons rather than using subpoena power to access private employer information.

Sen. Tony Fulton of Lincoln agreed. Private employers use publicly available aggregated data when making decisions regarding wages and benefits, he said, and public employers should do the same.

Lathrop's amendment was adopted on a 30-9 vote.

Fulton offered and later withdrew an amendment that would have replaced provisions of LB397.

Among other provisions, the Fulton amendment would have authorized a public employer to implement their last, best and final offer if they reached an impasse in a labor dispute with public employees. The CIR would have had authority only to determine if a public employer bargained in good faith.

Fulton said his proposal would allow local officials to manage their budgets and control personnel costs, while retaining public employees' collective

bargaining rights. Local officials should have the final say in labor disputes, Fulton said, because they are elected to allocate tax dollars responsibly.

Kearney Sen. Galen Hadley expressed concern that public employees, who have no right to strike, would be left with only the option of quitting their jobs if no appeal process existed and a public employer were able to unilaterally institute a final compensation offer.

"If you underpay people, eventually they switch jobs," he said.

Lathrop said further adjustments to LB397 are possible, but he said changing the fundamental role of the CIR is not an option.

Senators voted 31-0 to advance the bill to select file. ■

“We’re reducing everything to a common denominator.”

— Sen. Steve Lathrop



Sen. Tony Fulton explains his amendment.



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Agriculture

Lawmakers approve travel surcharge for brand inspections

The Nebraska Brand Committee may implement a surcharge to cover travel costs associated with brand inspections under a bill passed by the Legislature May 5.

LB181, introduced by North Platte Sen. Tom Hansen, permits the committee to add up to a \$20 surcharge per location to the brand inspection fee to cover travel expenses incurred by brand inspectors.



Sen. Tom Hansen

Lawmakers approved LB181 on final reading 45-0.

The bill's accompanying appropriation bill, which provides \$50,000 from the Nebraska Brand Inspection and Theft Prevention Fund to implement the surcharge, also passed 45-0.

State meat and poultry inspection study passes

The state Department of Agriculture will research the feasibility of a meat and poultry inspection program under a bill approved on final reading May 5.

LB305, introduced by O'Neill Sen. Tyson Larson, requires the department to submit by Nov. 15 a report to the Legislature describing actions

necessary to implement a state meat and poultry inspection program. The department may use the Commercial Feed Administration Cash Fund for expenses related to the report and a cooperative agreement with the USDA Market News reporting program.



Sen. Tyson Larson

LB305 passed on final reading 43-1 and its appropriation bill, providing \$95,000 from the Commercial Feed Administration Cash Fund, passed 43-0.

Banking, Commerce & Insurance

Insurance coverage limits for abortions advanced

Senators gave second-round approval May 3 to a bill that would limit health insurance coverage for abortions in Nebraska.

The federal Patient Protection and Affordable Care Act allows each state to opt out of offering abortion coverage through qualified health

plans offered in the act under a health insurance exchange.

LB22, introduced by Omaha Sen. Beau McCoy, would opt out of allowing health insurance plans operating under an exchange to cover abortions unless necessary to prevent the death of a woman.



Sen. Beau McCoy

Additionally, the bill would prohibit private health insurance policies in the state from providing coverage for an abortion, except through an optional rider paid for solely by the insured. A health insurance plan issuer would be prohibited from providing any incentive or discount to an individual who chooses abortion coverage via a rider.

McCoy said the bill is an extension of existing policy prohibiting abortion coverage for Nebraska state workers.

"For 30 years, we've done with state employees what we're doing with LB22," he said.

Lincoln Sen. Danielle Conrad offered an amendment on select file that would allow a health insurance plan to offer or provide coverage specifically for an ectopic pregnancy or miscarriage.

Conrad said ectopic pregnancies, in

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which a fertilized egg attaches outside the uterus, occur in one of every 50 pregnancies. Ectopic pregnancies can jeopardize a woman's ability to successfully carry future pregnancies to term, she said.

"There are significant and serious medical issues related to pregnancy that we must recognize," Conrad said.

McCoy opposed the amendment, saying ectopic pregnancy and miscarriage already are covered under provisions of LB22 that exempt procedures related to "spontaneous abortions" or to prevent the death of a woman.

The amendment failed on a 14-26 vote.

Conrad offered a second amendment, which she said mirrored the health exception lawmakers passed last session in LB1103, a bill prohibiting abortion after 20 weeks. She said the amendment would result in a "clear and uniform set of health exceptions" in laws related to reproductive health.

McCoy opposed the second Conrad amendment, saying it contained different language with different legal definitions than those outlined in LB1103.

The amendment failed on a vote of 10-20.

Malcolm Sen. Ken Haar brought an amendment, which he later withdrew, that would have provided an exception for an abortion performed when a physician finds a complication or fetal anomaly resulting in a condition incompatible with life.

"It is unfortunate that some pregnancies end in this tragic way," Haar said, adding that decisions made in such situations should be left to families and their doctors.

Senators voted 30-8 to advance LB22 to final reading.

Portable electronics insurance bill approved

Senators gave final approval May 5 to a bill that requires vendors of cell phones and other portable electronic devices to obtain a license to offer insurance on those products.

LB535, introduced by Hastings Sen. Dennis Utter, establishes a limited lines insurance license to sell portable electronics insurance or provide similar coverage. Portable electronics insurance is defined as insurance covering repair or replacement of portable electronics due to theft, misplacement, damage, mechanical faults or similar damage.

Vendors interested in selling portable electronics insurance must apply to the state Department of Insurance for a one-year license that allows an employee or authorized representative of the vendor to offer insurance policies at each location at which the vendor sells portable electronics.

The bill passed 48-0.



Sen. Dennis Utter

also would allow involved parties to conduct hearings via telephone or video conference.

Lathrop said the space currently used for the court is not large enough to accommodate the lawyers and their staff. The Workers' Compensation Court is a cash funded agency, he said, so the move would not cost the state and would open up space for other state agencies in the Capitol.

A Business and Labor Committee amendment would eliminate the requirement that compensation court judges reside in Lancaster County unless the court approves residence outside the county. The amendment also contains provisions from two bills originally introduced by Lincoln Sen. Danielle Conrad: provisions from LB238 would eliminate the court's three judge review panel and those from LB346 would allow the court to issue contempt orders.

The amendment was adopted 35-0 and the bill advanced from general file on a 35-0 vote.



Sen. Steve Lathrop

Business & Labor

Workers' Compensation Court could be relocated

Senators advanced a bill May 3 that would remove a requirement that the Workers' Compensation Court maintain offices in the state Capitol.

LB151, introduced by Omaha Sen. Steve Lathrop, would allow the Workers' Compensation Court to maintain offices outside of the Capitol and

State claims bill advanced

Claims against the state would be approved by a bill advanced from general file May 3.

If a person sues the state of Nebraska, he or she files with the state claims board. Approved claims exceeding \$50,000 must be reviewed by the Legislature.

LB585, introduced by the Business and Labor Committee and modified by a committee amendment adopted 33-0, would approve such claims to the

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tune of \$2.5 million for tort claims and \$382,000 for workers' compensation claims. The bill also includes \$1 million in write-offs for fiscal year 2010-11.

Omaha Sen. Steve Lathrop offered an amendment to modify the claim approved for the late Joseph White, who was wrongfully convicted for the 1986 murder of Helen Wilson in Beatrice. Lathrop's amendment would direct the \$475,000 claim to White's estate.

Lathrop's amendment was adopted 32-0 and LB585 advanced from general file 35-0.

Education

Veto sustained on child lead testing bill

An attempt to override the governor's veto of a bill that would require lead testing of children failed May 3.

LB204, introduced by Omaha Sen. Brenda Council, would have required blood lead level testing of children prior to kindergarten enrollment. School districts would have been required to inform families prior to the date of school registration of the testing requirement.



Sen. Brenda Council

Under the bill, blood-lead testing would not have been required if a student submitted:

- a physician's statement that assesses a child to be considered at low-risk for elevated blood lead levels based on information provided by their parent or guardian;

- a physician's statement that blood lead testing would be injurious to their health; or
- an affidavit stating the blood lead testing conflicts with their religious beliefs.

Senators passed the bill April 20 on a 30-12 vote. Gov. Dave Heineman subsequently vetoed the measure.

In his veto message, the governor called the bill "overly broad" and said it would likely result in the testing of children who are not at risk of elevated blood lead levels. The Center for Disease Control recommends targeted screening programs, he said, in order to decrease the unwarranted blood lead testing of children who are not at risk.

Additionally, Heineman said, LB204 would require parents and guardians to cover additional costs to have such tests completed.

Council disagreed.

"LB204 focuses blood lead testing on children who are determined to be at risk and does not test those who are not considered at risk," she said.

In response to the governor's concerns about costs, she said health departments provide tests at little to no cost.

The vote to override the veto fell nine votes short, at 21-20.

Governor vetoes funding sources for schools' energy efficiency projects

On May 4, the governor vetoed a bill passed by the Legislature that would expand an existing authority of school districts to levy property taxes and issue bonds for capital projects to include energy efficiency projects.

LB283, introduced by Malcolm

Sen. Ken Haar, would include energy efficiency projects in the \$0.052 levy school districts receive for the Qualified Capital Purpose Undertaking Fund (QCPUF). Currently, QCPUF



Sen. Ken Haar

allows expenditures for environmental hazards, accessibility barriers, life safety code violations, indoor air quality and mold abatement.

In his veto message, Gov. Dave Heineman wrote that "the expanded scope and reduced oversight" in the bill could result in increased property taxes. Bond issues for energy efficiency projects should not be outside of the levy limits unless approved by a public vote, he said.

The Legislature passed the bill on a 27-19 vote April 28. Haar has not yet filed a motion to override the governor's veto.

Government, Military & Veterans Affairs

Repeal of campaign finance law discussed

Lawmakers began discussion May 3 on a bill that would repeal Nebraska's Campaign Finance Limitation Act (CFLA) and amend the Accountability and Disclosure Act.

Omaha Sen. Scott Lautenbaugh said he introduced LB142 because the CFLA has not limited the influence of money on politics in Nebraska as intended. He said the current system

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forces special interest money “underground” and sets arbitrary constraints on what candidates should spend to seek elective office.



Sen. Scott Lautenbaugh

“The CFLA is transparent and good government only in the most Orwellian sense,” he said.

Lautenbaugh said the CFLA limits contribution amounts that candidates can accept from nonindividual donors, but independent expenditure groups face virtually no limits.

He added that the complex structure of campaign finance law in Nebraska is a “huge disincentive” to the average citizen seeking political office.

“I believe the CFLA drives candidates away from the political process,” he said.

But Malcolm Sen. Ken Haar said the “fair fight” funds available to a candidate whose opponent does not abide by spending limits allowed him to carry on a campaign for a seat in the Legislature. The system helps level the playing field among candidates, Haar said.

“Most of us aren’t millionaires,” he said. “The CFLA isn’t perfect, but it’s a good starting point.”

As introduced, LB142 would require disclosure of campaign expenditures and contributions of more than \$50. The current requirement is \$250.

Electronic filing of certain reports and statements regarding expenditures and contributions would be required within five days. The bill also would require daily electronic filing of contributions and expenditures by corpora-

tions, labor or professional organizations starting voluntarily in 2012 and becoming mandatory by 2014.

The Accountability and Disclosure Commission would be required by Jan. 1, 2014, to make campaign statements available on or before the next business day after receipt.

A pending Government, Military and Veterans Affairs Committee amendment would remove all new reporting requirements outlined in the bill, including lowering reporting thresholds and requiring electronic filing of reports and statements.

Repeal of the Campaign Finance Limitation Act would remain under the amendment.

The Legislature adjourned for the day before taking any action on LB142.

Election bill approved

Senators gave final approval May 5 to a bill that makes a number of changes to Nebraska election law.

LB449, introduced by Sen. John Nelson of Omaha, prevents a person who is registered to vote with a party affiliation on or before March 1 in a general election year from pursuing a petition campaign or accepting a party’s nomination.



Sen. John Nelson

The bill also:

- increases the maximum precinct size from 1,000 registered voters to 1,750;
- allows an election commissioner to be appointed to an elective office during his or her

term as election commissioner, the acceptance of which will be deemed his or her resignation;

- requires deputy voting registrars to complete a training session offered by election commissioners and county clerks once every three years;
 - adds e-mail addresses to the voter registration form;
 - sets Dec. 1 as the earliest date for submission of candidate filing forms;
 - adds Class V school district boards to the list of offices that do not require names to be listed on the primary ballot if all candidates automatically advance to the general election;
 - opens early voting records to public inspection prior to an election;
 - adds the learning community to the list of political subdivisions that must pay the cost of nominating and electing officers;
 - requires the principal circulator of a recall petition to collect the petition forms from the election commissioner or county clerk within 20 days after receipt of the targeted official’s defense statement;
 - extends the maximum time to hold a recall election from 45 days after the notification of the targeted official to 75 days;
 - permits county clerks, election commissioners or their employees to affix their signature or initials to an early voting ballot instead of writing them; and
 - eliminates a requirement that voters print their names and addresses on early voting oaths.
- LB449 passed on a 47-0 vote.

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Judiciary

One-year limitation imposed on post-conviction relief

Senators gave final approval May 5 to a bill that imposes a one-year limitation on motions for post-conviction relief in criminal cases.

LB137, introduced by Omaha Sen. Scott Lautenbaugh, requires that a verified motion for post-conviction relief be filed within one year after the date a judgment of conviction becomes final. Currently, a post-conviction relief motion can be filed at any time.

The bill will create an exception to the one-year limitation by providing that the limitation period runs from the latter of the date:

- the judgment of conviction became final by the conclusion of a direct appeal or the expiration of the time for filing a direct appeal;
- on which the factual predicate of the constitutional claims alleged could have been discovered through the exercise of due diligence;
- on which an impediment created by state action, in violation of the federal or state constitutions or laws of Nebraska, is removed if the prisoner was prevented from filing a verified motion by such action; or
- on which the claim was initially recognized by the U.S. Supreme



Sen. Scott Lautenbaugh

Court or Nebraska Supreme Court if the newly recognized right has been made retroactively applicable to cases on post-conviction collateral review.

The bill passed on a 45-0 vote.

Striking public safety officers with bodily fluids could be assault

Senators advanced a bill May 4 that would create a crime of assault with a bodily fluid against a public safety officer – a tactic commonly used by inmates.

Under LB226, introduced by Grand Island Sen. Mike Gloor, a person who intentionally strikes a public safety officer with a bodily fluid could be found guilty of a Class I misdemeanor. If the offender knows he or she is infected with HIV, AIDS or hepatitis B or C, the offense would be a Class IIIA felony.

The bill also would allow search warrants for the collection of body fluids or medical records to prosecute such crimes.

“The U.S. Department of Justice estimates that 30 percent of inmates in the country are infected with viruses,” Gloor said. “In Nebraska, in the last four years, there have been 223 cases of [assault with bodily fluids],” he added.

“This [bill] is to make sure that safety officers are treated respectfully,” he said.

A Judiciary Committee amendment would clarify that the bodily fluid must strike a public safety officer in order for a violation to occur. If an offender’s infected fluid strikes the eyes, mouth or skin of a public safety officer and he or



Sen. Mike Gloor

she knew the fluid was infected at the time of the offense, he or she could be convicted of a felony.

The amendment also would exclude youth rehabilitation and treatment officers from the bill.

Kearney Sen. Galen Hadley offered an amendment to the committee amendment that would include employees of the Youth Rehabilitation and Treatment Centers (YRTC) in Kearney and Geneva in the definition of public safety officers.

Since 2008, approximately 200 assaults on YRTC employees resulted in injuries requiring medical attention, Hadley said, yet they are excluded from this bill.

“I believe [the bill] should have the same protection for these employees,” he said.

North Platte Sen. Tom Hansen spoke in support of the amendment, saying juveniles should face prosecution if they commit such an act. Juveniles who escape treatment facilities can be prosecuted, he said, so they should be prosecuted for throwing bodily fluids at YRTC workers.

Lincoln Sen. Colby Coash opposed the amendment and said the bill was intended to address a problem that corrections workers have experienced, not treatment workers.

“There is a difference between treating somebody and administering justice in the [state] Department of Corrections,” Coash said. “You do not make childrens’ issues better by turning them into felons.”

Omaha Sen. Brenda Council also opposed the Hadley amendment and said there are differences between a youth rehabilitation center and a secure youth detention facility.

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“In this amendment, [juveniles] would be subject to prosecution and it could create conflicts between judicial jurisdictions with the possibility of additional costs,” Council said.

Hadley’s amendment was adopted 27-13.

The committee amendment was adopted 37-3 and the bill advanced from general file on a 35-5 vote.

Juvenile truancy provisions revised

Senators gave final approval May 5 to a bill that revises juvenile truancy and excessive absenteeism policies and practices.

LB463, introduced by Omaha Sen. Brad Ashford at the request of the governor, requires that at least half of the Learning Community Coordinating Council operating funds be used for truancy intervention programs that incorporate evidence-based practices pursuant to a plan developed by participating superintendents.



Sen. Brad Ashford

The bill also requires that excessive absenteeism policies include a provision indicating how the district and the county attorney will handle cases in which excessive absences are due to documented serious illnesses.

The bill also authorizes the council to administer pilot projects related to truancy initiatives that would share information regarding at-risk youth and will provide a grant program for Court Appointed Special Advocates.

Under the bill, inspections of juveniles’ sealed records will be allowed by:

- a person who is the subject of the record;
- the court, city attorney or county attorney for purposes of collection of any remaining parental support or obligations;
- a law enforcement agency if such a person applies for employment with an agency; and
- the state Department of Correctional Services, the Office of Juvenile Services, a juvenile assessment center or a criminal or juvenile detention facility where an individual is committed.

The bill passed on a 46-0 vote.

Child enticement penalties pass

Senators gave final approval May 5 to a bill that updates the state’s criminal child enticement law.

LB665, introduced by Sen. Pete Pirsch of Omaha, prohibits attempts to solicit, coax, entice or lure a child under the age of 14 to enter a place intending to seclude him or her from a parent, guardian, legal custodian or the general public, whether or not the person knows the age of the child.



Sen. Pete Pirsch

Current law prohibits only the luring of a child into a vehicle.

Violations will be a Class IIIA felony. If a perpetrator has been previously convicted of criminal child enticement, assault or sexual assault of a child, or kidnapping or false imprisonment of a victim younger than 18, he or she could be guilty of a Class III felony.

The bill passed on a 45-0 vote.

Divorce provisions for support liens and military families advanced

Senators advanced a bill May 4 related to support liens and military families in divorce cases.

LB673, introduced by Norfolk Sen. Mike Flood, would require a court to order a judgment creditor to pay a judgment debtor’s court costs and attorney fees when the judgment creditor has refused, without a good faith reason, to execute a release of the judgment for child support, spousal support or subordination of a lien.



Sen. Mike Flood

The bill also would provide procedural protections in custody and visitation cases for military parents who are moving or deploying.

Flood said the bill was introduced to address cases where noncustodial parents have been current on their support payments but a custodial parent will not sign a lien for reasons other than good faith.

“There has to be somebody held accountable for not working with the other party,” he said.

A Judiciary Committee amendment, among other technical changes, would authorize rather than require courts to order the payment and would extend the military-related provisions to include members of the National Guard.

The amendment was adopted 39-0 and the bill advanced from general file on a 39-0 vote.

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Natural Resources

Lawmakers approve bill to increase state park permit fees

The Nebraska Game and Parks Commission is authorized to increase its annual park entry permit fees under a bill approved by the Legislature May 5.

LB421, introduced by Louisville Sen. Dave Pankonin, will increase the maximum annual entry permit fee from \$20 to \$25 for resident motor vehicles and from \$25 to \$30 for non-resident motor vehicles. The maximum fee also will increase from \$4 to \$5 for temporary resident entry permits and from \$5 to \$6 for nonresidents.



Sen. Dave Pankonin

The bill also will increase the fee collected by entities issuing permits as reimbursement for clerical work. The current range for the fee is 25 to 35 cents, which will be dropped for a standard fee of \$1.

Finally, the bill will require the placement of park permits on the driver's side of vehicle windshields.

LB421 has an effective date of Jan. 1, 2012.

Lawmakers voted 41-5 on final reading to approve the bill.

Revenue

Wind and renewable energy tax clarifications pass

Wind energy taxation and renewable energy tax credits are revised

under a bill passed on final reading May 5.

LB360, introduced by Bellevue Sen. Abbie Cornett, clarifies that depreciable tangible personal property used to generate electricity from wind is exempt from property taxes, but real property is not exempt.



Sen. Abbie Cornett

The bill also limits nameplate capacity tax credits to property taxes paid on depreciable personal property that exceed what would have been required under the nameplate capacity tax.

The provisions affecting wind energy taxation have a retroactive implementation date of Jan. 1, 2010.

The bill also strikes language limiting renewable energy tax credits to zero-emission facilities, which are facilities whose operation results in no pollution or emissions certified as harmful to the environment by the state Department of Environmental Quality.

Finally, the bill decreases the maximum amount of renewable energy tax credits from \$750,000 to \$50,000. The credit currently is 0.075 cent per kilowatt-hour for electricity generated.

Lawmakers voted 45-0 on final reading to approve LB360.

TERC membership reduced, single-commissioner hearings authorized

A bill that reduces the membership of the Tax Equalization and Review Commission (TERC), authorizes single-commissioner hearings and establishes a preliminary notifica-

tion program in Douglas County was passed by the Legislature May 5.

LB384, introduced by Bellevue Sen. Abbie Cornett, eliminates the at-large commissioner of the four-member board. Commissioners' terms will expire on Oct. 1, 2011, and the terms of the appointed commissioners will be staggered so that one ends every biennium. The governor is given the authority to set commissioners' salaries.

The bill restricts single-commissioner hearings to appeals regarding parcels valued below \$1 million. If the TERC chair designates an appeal for a single-commissioner hearing and both parties agree, then an informal single-commissioner hearing may be held. The usual common-law or statutory rules of evidence do not apply at single-commissioner hearings. Either party may request a rehearing before the entire commission.

Finally, beginning Jan. 1, 2014, the bill requires counties with a population of at least 150,000 to mail or post on the county assessor's website a preliminary notice of valuation by Jan. 15 each year and provide an opportunity for real property tax protesters to meet in person with the assessor or staff. Taxpayers who do not request an in-person meeting with assessor staff by Feb. 1 waive their opportunity to do so.

Real property tax protesters who protest their valuation must be given an opportunity to meet in person with the county board of equalization or a referee.

The bill was approved 36-11 and its appropriation bill, which reduces TERC general fund appropriations over the next biennium by \$174,000, passed 44-2.

ISSUES UPFRONT

Transportation & Telecommunications

Penalty for obstruction of a driver's view reduced to traffic infraction

Placing or hanging objects in a vehicle that obstruct or interfere with the view of the operator is a lesser offense under a bill passed by the Legislature

May 5.

Operating a vehicle with such objects previously had been considered a Class V misdemeanor, which calls for a maximum fine of \$100.

LB500, introduced by Omaha Sen. Tanya Cook, downgrades the violation to a traffic infraction and restricts it to objects that "significantly



Sen. Tanya Cook

and materially" obstruct or interfere with the view of a driver. Violators will be charged one point on their driving records and fined \$50 for first offenses, \$100 for second offenses and \$150 for subsequent offenses.

The bill also makes enforcement of the law a secondary action, meaning the driver must first be cited or charged with some other violation.

Lawmakers voted 46-0 on final reading to approve LB500. ■



TRANSCRIPTS AVAILABLE ONLINE

A recent addition to the Legislature's website provides the ability to view transcripts of floor debate and standing committee hearings.

Documents are available dating back to the 2007 session.

To search transcripts, simply go to:

www.nebraskalegislature.gov/transcripts

COMMITTEE HEARINGS

Monday, May 9

General Affairs

Room 1510 - 1:00 p.m.

Appointment: Tuma, Bryan - Liquor Control Commission

Friday, May 13

Redistricting

Room 1525 - 9:00 a.m. CDT

LB700 (Redistricting) Change boundaries of public service commissioner districts

LB701 (Redistricting) Change boundaries of Board of Regents of the University of Nebraska districts

LB702 (Redistricting) Change boundaries of State Board of Education districts

LB703 (Redistricting) Change boundaries of legislative districts

LB704 (Redistricting) Change boundaries of the Representatives in the Congress of the United States districts

VIDEOCONFERENCE SITES:

Check Redistricting Committee Website for Specific Locations in Each Town

Columbus, Norfolk, Scottsbluff, Omaha

Redistricting

Room 1525 - 1:00 p.m. CDT

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VIDEOCONFERENCE SITES:

Check Redistricting Committee Website for Specific Locations in Each Town

North Platte, Hastings, McCook, Alliance

Tuesday, May 17

Judiciary

Room 1113 - 1:00 p.m.

Appointment: Gomez, Miguel "Mike" - Board of Parole

Wednesday, May 25

General Affairs

Room 1510 - 1:00 p.m.

Appointment: Feller, Helen Abbott - State Racing Commission

BUDGET PROCESS

The primary constitutional duty of the Legislature is to pass the state budget. Before a budget is passed, however, the Legislature must consider virtually thousands of funding requests for the creation, maintenance or improvement of government services, programs, equipment and infrastructure.

This lengthy process is governed and guided by provisions of the Nebraska Constitution, state statutes and legislative rules.

BIENNIUM

Nebraska's budget cycle consists of two fiscal years, called a biennium. Biennial budgets are enacted during regular 90-day legislative sessions held in odd-numbered years. Budget adjustments are made during regular 60-day sessions held in even-numbered years. Consequently, the volume of issues and dollar value of decisions during short sessions typically is less.

The Legislature's Appropriations Committee is responsible for reviewing budget requests and presenting a budget recommendation to be considered by the full Legislature. Before submitting its recommendation, the committee considers recommendations from the governor, requests from state agencies and fiscal impacts of bills sponsored by senators.

The process begins when state agency requests come to the Legislative Fiscal Office in the fall prior to each session. Fiscal office staff study the requests and prepare briefings for the Appropriations Committee. At the same time, budget analysts from the executive branch are reviewing agency requests and working with the governor to formulate his or her budget recommendation.

GOVERNOR'S RECOMMENDATION

The governor is required to submit his or her budget recommendation by Jan. 15 in odd-numbered years, except that in the first year of office a governor may submit a proposal on or before Feb. 1. The governor communicates his or her proposals through a state of the state address and formally submits his or her recommendation to the Legislature through one or more bills, introduced by the speaker of the Legislature at the request of the governor.

The governor's appropriation bills routinely are referred to the Appropriations Committee. Other substantive bills that are instrumental to the governor's budget recommendation are referred to the standing committee having subject matter jurisdiction. Such substantive bills are not subject to the Jan. 15 deadline.

During the first 10 days of session, senators introduce other bills, which may require an appropriation to implement.

In January and February, the Appropriations Committee reviews the fiscal office analysis of each agency budget request. Under legislative rules, the committee must submit

its preliminary recommendations in a report to the Legislature 20 to 30 legislative days after the governor's budget submission.

The report includes preliminary funding levels and an overall analysis of the state's spending capacity based on current revenue forecasts, tax rate assumptions and compliance with the statutory minimum reserve, which must fall between 3 and 7 percent of available general funds. The estimates in the preliminary report become the basis of discussion during subsequent public hearings with state agencies and other interested parties.

During this time, other standing committees are conducting hearings on bills referred to them. Each bill has an accompanying fiscal note, which is an estimate of the financial impact of the legislation, including expenditures and revenues.

The fiscal note becomes the basis for estimating what appropriation may be necessary if the bill becomes law. When a committee advances a bill that has a financial impact, a companion bill authorizing an appropriation is introduced. This bill is assigned the same number as its companion along with an "A" suffix.

BUDGET PROCESS

COMMITTEE RECOMMENDATION

After issuing its preliminary report, the Appropriations Committee conducts public hearings on the budget and then reviews all preliminary decisions, information obtained during the hearings and any other information brought to its attention.

The committee meets for about two weeks to complete a set of recommendations that is offered to the full Legislature in the form of amendments to the governor's legislation or new bills.

During a long session the committee has until the 70th day to place its budget bills on general file. During a short session, the deadline is the 40th legislative day. If the committee fails to introduce its bills by the deadline, legislative rules require that senators consider the appropriation bills as introduced by the governor.

At a minimum, the Legislature must consider three appropriation bills: one for legislators' salaries; another for constitutional officers' salaries, which generally include other elected officials and judges; and a third to appropriate for all other expenditures.

However, the committee typically introduces several bills that fall under broad categories. One large bill appropriates most state funds for operations and state aid. A second bill typically is offered to make appropriations for capital construction projects. Another bill provides for deficit appropriations, which are adjustments to appropriations previously authorized for the current year. It is not unusual for the deficit bill to be considered early in the session

because some of the adjustments may be emergencies that apply to the current year.

Other bills also may be offered, including bills making appropriations for salary increases, increased benefit costs or substantive law changes — such as authorization for a fee and creation of a fund — that implement some aspect of the committee recommendation.

STATUS REPORT

After the committee's bills are placed on general file, a daily financial status report of the general fund accompanies the daily agenda. The status report indicates the amount of budgeted funds under the committee recommendation and the amount of additional spending that could be accommodated beyond the statutorily required minimum reserve.

For planning purposes, the status also indicates financial conditions for the biennium under consideration plus the two following years. Although the Legislature only considers the first two years for appropriations, simulating impacts for two additional years provides useful information on the state's ability to sustain future obligations.

During long sessions, all other bills having a general fund expenditure or a general fund revenue loss are held on final reading and may not be read until the Appropriations Committee's budget bills pass. During short sessions, other bills may be read after the 45th day.

By rule, the Legislature must pass appropriations bills by the 80th day in a long session or the 50th day in a short session. There is no penalty for

not passing appropriation bills as provided by rule, other than the holdup of bills during a long session. Circumstances such as volume of amendments, length of debate and full discussion of appropriations matters can extend passage of the appropriations bills beyond the prescribed deadlines. Appropriations bills usually carry the emergency clause, which requires 33 votes for passage on final reading. This also is true of deficit bills. Bills without the emergency clause need 25 votes to pass.

VETOES

On appropriation bills, the governor has the option of signing the bill, letting the bill become law without his or her signature, vetoing the bill or returning the bill to the Legislature with one or more line-item vetoes. Within a day of the return of appropriation bills to the Legislature with total or line-item vetoes, the Appropriations Committee must report on the impact of the vetoes and may offer a motion to override all or part of them.

Individual members of the Legislature may then offer their own veto override motions. For an override motion to succeed, two-thirds of the Legislature must vote for it.

All final appropriations ultimately enacted take effect July 1 of the designated fiscal year or, if passed without the emergency clause, three calendar months after the end of the legislative session. Deficit bills making adjustments to current-year appropriations with the emergency clause are effective immediately. ■

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STATUS OF BILLS OR RESOLUTIONS

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