

THE NEBRASKA LEGISLATURE'S  
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# UPDATE

## Public gives input on redistricting proposals

The Redistricting Committee heard testimony May 13 on five proposals that would draw new district boundaries for the state.

The Legislature is responsible for drawing governmental boundaries every 10 years after the decennial census for districts pertaining to the U.S. House of Representatives, Legislature, Nebraska Supreme Court, University of Nebraska Board of Regents, Public Service Commission and state Board of Education.

The committee's actions are guided by the provisions of LR102, a resolution adopted by the Legislature April 8.

Among other criteria, the resolution requires 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 are to be drawn with an overall population range of deviation of no more than 1 percent, with a goal of zero deviation. The remaining districts may be drawn with an overall range of deviation of no more than 10 percent.

The committee heard public testimony via videoconference from Alliance, Norfolk, North Platte, Scottsbluff and Omaha. Most com-

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Sen. Chris Langemeier, committee chairperson, reviews a proposed map.

## Remote chemical abortions could be banned

Senators advanced a bill May 10 that would prohibit chemical abortions from being administered from remote satellite locations.

LB521, introduced by Sen. Tony Fulton of Lincoln, would require that chemical abortions be administered in the physical presence of a performing physician.

"I don't think it's a safe practice," he said. "I think it has an unintended consequence of making [abortion] cavalier."

Hoskins Sen. Dave Bloomfield supported the bill, saying that the number of abortions in the state should be reduced. Furthermore, he said, not having a physician present is unsafe for the mother.

A Judiciary Committee amendment, adopted 33-9 to replace the bill, would make it a Class IV felony for a physician to knowingly or recklessly use or prescribe any instrument, device, medicine, drug or other substance to perform, induce or attempt

an abortion without being physically present in the same room as the patient.

Omaha Sen. Brenda Council opposed the amendment, calling it "constitutionally flawed."

"The intent of this is not to protect the health or safety of the woman who elects this method," she said. "The intent is to ban this practice in Nebraska and such a banning without a nexus to the health and safety of a woman is

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# A CLOSER LOOK

## Public gives input on redistricting proposals

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ments focused on LB703, which would redraw legislative district boundaries, and LB704, which would redraw congressional boundary lines.

Several testifiers spoke in opposition to a change proposed by LB703 that would divide Box Butte County and the city of Alliance between District 43 and District 47. Box Butte currently is part of District 49, which would be moved to Sarpy County under the committee's proposal.

Richard Schommer of Alliance expressed concern that the proposed boundary line runs directly through the city. He said the new boundary would reinforce existing divisions in Alliance and possibly create a greater sense of alienation from the political process among the area's low-income residents.

"When they're separated from the rest of the community, it's a lot easier to ignore them," Schommer said.

Ellsworth Sen. LeRoy Loudon testified against the division of Alliance and Box Butte County called for in LB703.

Loudon offered an alternative proposal, which he said was developed with Sen. John Harms of Scottsbluff. His proposal would keep Alliance intact and result in more compact districts, Loudon said, while maintaining an overall deviation similar to the committee's proposal.

Senators come and go, he said, but voters who live and work in legislative districts have a desire to retain communities of interest.

"The will of the people must be considered," Loudon said.

Howard Lamb of Anselmo also

testified in opposition, calling the committee's proposal "unnecessarily disruptive." He said consideration of the demographics and geography of Nebraska should lead senators to endorse the proposal put forth by Loudon and Harms.

He said the committee's proposal violates two of the redistricting criteria outlined in LR102.

"Because it violates the community of interest over most of western Nebraska and because it unnecessarily crosses county lines," Lamb said.

Mark Spurgin of Keith County testified in support of LB703, saying the proposal protects rural representation in the Legislature.

"It keeps the integrity of the panhandle ... and maintains the panhandle values," he said.

A second area of contention in the committee's bills was a proposed change contained in LB704, which would switch the eastern portion of Sarpy County to Congressional District 1 and the western portion to Congressional District 2.

Peg Lippert of Papillion testified against LB704. She said shifting Offutt Air Force Base and the city of Bellevue from the 2<sup>nd</sup> to the 1<sup>st</sup> Congressional District would violate the redistricting principle of maintaining the core of existing districts.

"What does Offutt - or Bellevue for that matter - have in common with CD1?" Lippert asked.

Don Preister of Bellevue also opposed the proposed shift, saying Omaha, Bellevue and Offutt Air Force

Base comprise the core of the current 2<sup>nd</sup> Congressional District.

"The businesses and workers have been interdependent for years," Preister said.

Bob Twiss of western Sarpy County testified in support of LB704, saying the change outlined in the bill regarding Sarpy County was not a major issue.

"It really doesn't make that much difference if it's eastern or western," he said.

Crete Mayor Roger Foster expressed a desire for his city to be placed in the 1<sup>st</sup> Congressional District. Crete is intermingled with Lancaster County and the city of Lincoln, he said, adding that the 1<sup>st</sup> Congressional District would be a better fit than the more western-oriented 3<sup>rd</sup> District.

"They would understand our needs more than CD3 would," Foster said.

The committee's proposal also includes the following bills, each with an overall population deviation of approximately 2 percent:

LB700, which would change the boundaries of the Public Service Commission;

LB701, which would change the boundaries for the University of Nebraska Board of Regents; and

LB702, which would change the boundaries for state Board of Education.

A sixth bill proposed by the committee, LB699, which would change the boundaries for the Nebraska Supreme Court districts, was advanced to the full Legislature earlier and currently is on select file. ■



# A CLOSER LOOK

## Remote chemical abortions could be banned

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unconstitutional.”

Fulton disagreed with Council and said his intent is not to ban abortion in the state.

“The bill is not changing anything with respect to the practice of abortion in Nebraska. This is not designed to strike at the right itself,” Fulton said. “This is simply a matter of safety.”

Council offered an amendment, which failed 9-34, that would have eliminated the requirement for a doctor to be in the same room with a patient during such a procedure.

Council said the telehealth act currently does not require a face to face consultation with a patient. There is no greater health risk to women without a doctor in the room than there

would be otherwise, she said.

Lincoln Sen. Amanda McGill supported Council’s amendment, saying a nurse practitioner rather than a physician generally stays with the patient for most of an in-person visit, so it is unreasonable to require the physical presence of a physician.

Lincoln Sen. Danielle Conrad, also an opponent of LB521, said the bill goes far beyond its scope.

“There are risks associated with any drug in any medical practice, so to single this out is where there is a point of disagreement,” she said. “If these health risks exist for this drug and we need to ban them, then the same is true for other telemedicine procedures.”

Fulton said remote chemical abortions should be treated differently from other telemedicine procedures because they involve

the termination of a fetus.

The bill advanced from general file on a 34-9 vote. ■



Sen. Tony Fulton introduces LB521.



Sen. Amanda McGill opposed the bill.

### COMMITTEE HEARINGS

**Tuesday, May 17**

**Government, Military & Veterans Affairs**

**Room 1507 - 9:30 a.m.**

Appointment: Schulz, Timothy M. - Accountability & Disclosure Commission

**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

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## Agriculture

### Financing program for healthful food outlets stalls

A bill that would have created a financing program to improve access to healthful foods in underserved communities failed to receive enough votes to pass on final reading May 12.

LB200, introduced by Omaha Sen. Brenda Council, would have directed the Rural Development Commission to create a financing program to increase access to fresh fruits, vegetables and other nutritional foods in low-income areas that have limited access to healthy food retailers.

Projects eligible for financing would have included new construction of grocery retail structures, grocery store renovation, expansion and infrastructure upgrades, establishment of farmers markets, community gardens, mobile markets and delivery projects that would increase capacity of food retailers to obtain fresh produce.

Qualifying applicants would have been required to provide regular offerings of fruits and vegetables and accept benefits through the Supplemental Nutrition Assistance Program and the Special Supplemental Nutrition Program for Women, Infants and Chil-



Sen. Brenda Council



dren. Applicants also would have been required to demonstrate how their projects would be implemented, a need for public financing, how incurred debt would be repaid, the extent to which the project would provide new markets for Nebraska-grown food items and the degree to which the project would have a positive economic impact on the underserved community.

The bill would have created the Nebraska Healthy Foods Financing Initiative Cash Fund, which would have been funded with annual transfers of \$150,000 from the general fund. To provide additional monies to offset the general fund transfers, the bill would have reduced the maximum tax credits offered under the Community Development Assistance Act from \$350,000 to \$200,000.

Senators voted 22-18 on final reading, three votes shy of the number needed to pass LB200.

## Appropriations

### Legislature passes budget

Lawmakers approved a state budget on final reading May 11 that will result in general fund appropriations

totaling \$7 billion during the next biennium.

General funds expended in the two-year budget will increase an average of 2.6 percent per year, while revenues are expected to increase 3.9 percent. The budget has an ending balance of \$212.3 million, which is \$17.9 million greater than the 3 percent minimum reserve.

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 increases Medicaid appropriations by \$110.5 million and \$140.8 million over the next biennium from fiscal year 2010-11 funding levels. Likewise, state funds appropriated for state aid to schools will increase by

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\$10.7 million and \$67.9 million from the current fiscal year, although the total appropriation still will be \$200 million less than the combined state and federal funds for FY2010-11.

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

The budget package comprises nine bills.

LB373 provides deficit appropriations for the current fiscal year. Adjustments in LB373 include \$27 million in savings through a reduction in the FY2010-11 appropriation. The bill was passed 41-0.

LB374, the mainline budget bill, provides the vast majority of appropriations in the budget. It passed 43-0.

LB375, which provides for the \$12,000 annual salaries of Nebraska's 49 state senators, was passed on a 43-0 vote.

LB376 appropriates funds for salaries of constitutional officers. The bill also includes funding for a new district court judge in Lancaster County. It passed 43-0.

LB377 provides \$28.6 million in general funds for new and existing capital construction projects, ranging from security system upgrades for the state Department of Corrections to radio tower and network equipment costs associated with the Nebraska Public Safety Communication System. The bill also includes a \$25 million appropriation from the Nebraska Capital Construction Fund to 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.

Lawmakers voted 42-1 to approve LB377.

LB378 provides 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 was passed 43-0.

LB379, a bill transferring funds from the Cash Reserve Fund, originally called for transfers of \$260 million to the general fund. As amended during general file debate, this amount was reduced to \$105 million. The state's cash reserve will enter FY2013-14 with a balance of \$299 million.

Senators voted 43-0 to approve LB379.

LB380 addresses 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 was scheduled to be reinstated at a 1 percent rate beginning in FY2011-12. LB380, which eliminates

the surcharge, was approved 44-0.

Lawmakers also considered LB585, introduced by the Business and Labor Committee. The bill approves \$2.5 million in tort claims, \$382,000 in workers' compensation claims and \$222,000 in miscellaneous claims against the state. LB585 also includes \$1 million in write-offs for FY2010-11.

LB585 passed on final reading 43-0.

The budget bills were sent to the governor, who has five days, excluding Sunday, to consider the bills.

## Banking, Commerce & Insurance

### Insurance coverage limits for abortions approved

Senators gave final approval May 12 to a bill that limits 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, opts 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 prohibits private health insurance policies in the

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state from providing coverage for an abortion, except through an optional rider paid for solely by the insured. A health insurance plan issuer is prohibited from providing any incentive or discount to an individual who chooses abortion coverage via a rider.

Senators voted 37-7 to pass LB22.

## Real estate brokers may form business corporations

Senators gave final approval May 11 to a bill that exempts realtors from the Nebraska Professional Corporation Act.

Sponsored by Schuyler Sen. Chris Langemeier, LB315 allows a designated broker under the Nebraska Real Estate License Act to be organized as a business corporation.

The bill passed on a 42-0 vote.



Sen. Chris Langemeier

## Consolidation of economic development reports approved

Senators gave final approval May 10 to a bill that consolidates the state's economic development reporting process.

LB404, introduced by Omaha Sen. Pete Pirsch, authorizes the state Department of Economic Development to include in its annual report the status of all programs the department administers that require reports to the Legislature.



Sen. Pete Pirsch

The bill consolidates individual reports from the following programs into one annual report:

- Rural Development Commission statutes;
- Civic, Cultural and Convention Center Financing Act;
- Nebraska Affordable Housing Act;
- Business Development Partnership Act;
- Microenterprise Development Act;
- Nebraska Operational Assistance Act;
- Agricultural Opportunities and Value-Added Partnerships Act; and
- various job-training grant statutes.

The bill also requires that the annual status report be submitted on the first working day of July rather than the first working day of October.

LB404 passed on a 44-0 vote.

## Business & Labor

### Workers' Compensation Court could be relocated

Senators advanced a bill from select file May 12 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 Cap-



Sen. Steve Lathrop

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

The bill also would eliminate the court's three judge review panel and a requirement that compensation court judges reside in Lancaster County unless the court approves residence elsewhere.

Omaha Sen. Scott Lautenbaugh offered an amendment that would have lowered the interest rate assessed against an employer when attorney fees are allowed. He said the current rate of 14 percent was established at a time when it was comparable to other interest rates, but is too high in today's economic climate.

The rate was not meant to be a penalty, Lautenbaugh said, and should reflect current interest rates.

Lathrop opposed the amendment, saying the rate is the same as that for delinquent property taxes and is used as an incentive to encourage payments from insurance companies of judgments awarded to injured workers.

"Having a significant interest rate makes that happen in a timely way," Lathrop said.

The amendment failed on a 24-14 vote, one vote short of the number required for adoption.

Lathrop offered an amendment, adopted 33-1, which removed a provision in the bill that would have allowed the court to issue contempt orders.

LB151 advanced to final reading on a voice vote.

### Job training fund approved for internships

A bill that allows certain companies to apply for job training grants to hire college students for paid internships

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received final approval May 11.

LB386, introduced by Elk Creek Sen. Lavon Heidemann at the request of the governor, allows a company eligible for benefits under the Nebraska Advantage Act to apply to the state Department of Economic Development for job training grants to assist in hiring interns for newly created positions.



Sen. Lavon Heidemann

Grants will be limited to the lesser of 60 percent of the cost of the internship or \$5,000 in distressed areas of the state, or the lesser of 40 percent of the cost of the internship or \$3,500 in non-distressed areas.

A qualifying business will be eligible for a maximum of 10 internships in any 12-month period and will be limited to five job-training grants per year at any one location. An intern must be enrolled full time in an approved college or university program.

The department may allocate no more than \$1.5 million in fiscal years 2011-12 and 2012-13 from the Job Training Cash Fund to the internship program.

Senators voted 43-0 to pass LB386.

## Education

### Veto sustained on funding school energy efficiency projects

An attempt to override a governor's veto failed May 11 on a bill 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 have included energy efficiency projects in the \$0.052 levy school districts receive for the Qualified Capital Purpose Undertaking Fund (QCPUF).



Sen. Ken Haar

QCPUF allows expenditures for environmental hazards, accessibility barriers, life safety code violations, indoor air quality and mold abatement. Under the bill, energy efficiency projects would have included:

- inspection and testing regarding energy usage;
- maintenance to reduce, control or eliminate energy usage; or
- restoration or replacement of material in new or existing school grounds or buildings that would reduce or eliminate energy usage.

Senators passed the bill April 28 on a 27-19 vote. Gov. Dave Heineman subsequently vetoed the measure.

In his veto message May 4, the governor said special bonding authority has been limited primarily to life, health and safety issues. The definition of energy projects in the bill is vague and could greatly increase the use of bonding authority, he said.

Heineman also said LB283 could result in "reduced voter oversight" in projects that could result in property tax increases. Bond issues for energy efficiency projects should not be outside of the levy limits, he said, unless approved by a vote of the people.

Haar disagreed with the governor

and argued that energy efficiency is a public health issue. A significant number of schools have old lights, he said, which can cause headaches and eyestrain in children.

Furthermore, he said, the bill would result in a property tax increase only if the school board had a public hearing and decided to use funds from QCPUF.

"There is nothing more locally controlled than school boards," Haar said.

The motion to override the governor's veto fell 6 votes short, at 24-20.

### Nebraska joins compact to remove educational barriers for military children

Senators passed a bill May 10 that will ease the transition of moving to the state for children whose parents are in the military.



Sen. Scott Price

Omaha Sen. Scott Price introduced LB575, the bill that will permit military children to:

- enroll in school when they arrive and provide a hand-carried record;
- have 30 days to obtain required immunizations;
- continue schooling at the same grade level they were in prior to transferring;
- participate in athletics and extracurricular programs, even if they are in the middle of the school year;
- have additional excused absences if a parent is preparing for or returning from deployment;
- have a power of attorney as guardianship; and

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- complete graduation requirements and receive a high school diploma from their previous school if they transferred in the middle of their senior year.

The bill also will require the state Department of Education to create and oversee a council within the department that would coordinate the state's participation in the compact. The department will be allowed to accept devises, donations or bequests to pay for costs associated with administering the compact.

The bill passed on a 43-0 vote.

## Executive Board

### Time frame requirement for state agency regulations amended, advanced

A proposal that would require state agencies to promulgate rules and regulations within a specific time frame advanced from select file May 11.

LB617, introduced by Omaha Sen. Heath Mello, 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



Sen. Heath Mello

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.

Norfolk Sen. Mike Flood offered an amendment that would:

- clarify that the one year time frame does not include the time necessary to submit rules and regulations to the attorney general or governor;
- specify that the bill's provisions do not apply to rules and regulations adopted prior to its passage;
- use the latter operative date of a bill with more than one as the starting point for the 12 month period; and
- clarify that only bills requiring adoption of rules and regulations are subject to the provisions of LB617.

Scottsbluff Sen. John Harms supported the amendment, saying that greater specificity would improve the bill.

Following passage of Flood's amendment on a 37-0 vote, senators advanced LB617 to final reading by voice vote.

## General Affairs

### Bill seeks to help Lincoln horse racing track

A bill originally introduced to clarify the terms of members of the State

Racing Commission was amended May 9 to attempt to assist Lincoln's horse racing industry.

Introduced by Wilber Sen. Russ Karpisek to harmonize the terms of two new State Racing Commission members, LB256 was amended on select file to include provisions of LB299, also introduced by Karpisek.



Sen. Russ Karpisek

The amendment would allow a racetrack licensee to contract with another licensee to conduct all but one day of live race meetings on its behalf, and would allow a racetrack licensee in a county with a city of the primary class to contract with another licensee to conduct all live race meetings on its behalf.

Lincoln is the state's only primary class city.

Karpisek explained that, under the Nebraska Constitution, racetrack facilities must conduct a certain number of live race meets every year in order to qualify to simulcast races for parimutuel wagering at their facility. Lincoln, which will lose its racetrack as a result the state fair's move to Grand Island, needs time to build a new facility, he said.

State Fair Park will close at the end of the 2012 season, Karpisek said, and the amendment would allow Lincoln to contract with another licensee to conduct all its live races until 2027, allowing time to finance and build a new facility.

Omaha Sen. Jeremy Nordquist supported the amendment, saying the horse racing industry employs approximately 3,000 people in the state and should be given the chance to succeed.

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“This is an industry that is up against the ropes,” he said. “This is an industry that’s important to the state of Nebraska.”

Sen. Beau McCoy of Omaha offered an amendment that would have required all simulcast licensees to conduct at least one day of live race meetings to maintain their status.

McCoy sought an attorney general’s opinion on the constitutionality of removing the live race meet stipulation, and said the opinion indicated that doing so would violate the state’s constitutional requirement that simulcasting take place only at a licensed racetrack enclosure.

Karpisek disagreed, saying the State Racing Commission makes decisions regarding simulcast qualifications.

“The attorney general can’t say one way or the other whether this is constitutional or not,” he said.

The McCoy amendment failed 18-21.

Sen. Scott Lautenbaugh of Omaha supported Karpisek’s amendment, saying it would provide assistance to a struggling industry at no expense to taxpayers.

“It would be helpful if we stopped putting impediments in the way of this industry,” he said.

The Karpisek amendment was adopted 26-8 and the bill advanced to final reading by voice vote.

## Bill continues support of wine and grape industry

Out-of-state liquor shipping application fees will continue to be directed to the state’s Winery and Grape Producers Promotion fund under a bill passed May 12.

Currently, individuals who apply for a license to ship liquor from out of state directly to a customer in Nebraska are charged a \$500 application fee. Diversion of the fee to the Winery and Grape Producers Promotion fund is scheduled to end April 30, 2012.

LB286, introduced by Omaha Sen. Bob Krist, removes the sunset date.

The bill passed on a 45-0 vote.

## Changes to keno operation advanced

A bill that would permit players to access keno tickets from a machine was amended and advanced from general file May 9.

LB490, introduced by Wilber Sen. Russ Karpisek, originally would have reduced the minimum time between keno games from five minutes to one minute.

A General Affairs Committee amendment debated March 14 would have removed the time reduction between games. The amendment instead would have incorporated provisions of another Karpisek bill, LB681, to create the Live Horseracing Endowment Fund to support purses for live thoroughbred race meets at Nebraska racetracks. The endowment fund would have been funded by a portion of the state’s keno tax.

During May 9 debate, Karpisek offered an amendment to the committee amendment that removed all changes except allowing players to access keno tickets from a machine. Karpisek said



Sen. Bob Krist

senators made clear to him after the previous debate that an attempt to assist the horse racing industry through keno proceeds was problematic.

“The sticking point with LB490 appeared to be the horse racing component,” he said. “All this [amendment] does is leave the kiosk for the operators to use if they would like to.”

Following adoption of the Karpisek amendment 30-0, lawmakers adopted the committee amendment and advanced the bill, both on 31-0 votes.

## Government, Military & Veterans Affairs

### Campaign finance law compromise advances

Lawmakers rejected a bid to repeal Nebraska’s Campaign Finance Limitation Act (CFLA) May 9, choosing instead to amend the state’s campaign finance law.

As introduced by Omaha Sen. Scott Lautenbaugh, LB142 would have repealed the CFLA and amended reporting provisions under the Accountability and Disclosure Act.



Sen. Scott Lautenbaugh

A Government, Military and Veterans Affairs Committee amendment, adopted 37-0, removed all new reporting requirements outlined in the bill, but retained provisions to repeal the Campaign Finance Limitation Act.

Omaha Sen. Scott Lautenbaugh

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said he introduced LB142 because the CFLA has not limited the influence of money on politics in Nebraska as intended. CFLA limitations on contributions that abiding candidates can accept from nonindividual donors forces special interest money “underground” by channeling it through independent expenditure groups, he said.

“We are not taking money out of politics with the CFLA,” Lautenbaugh said. “Groups are going to spend what they want to spend on a given race.”

Sen. Bill Avery of Lincoln opposed the CFLA repeal, saying removing limits on contributions from nonindividual donors would give voters the impression that candidates have been “bought and paid for” by special interest money.

“Citizen involvement in campaigns would become irrelevant,” Avery said.

But Sen. Scott Price of Bellevue said voters are capable of deciding whether contributions have an undue influence on a candidate.

“There’s no guarantee that if you have a lot of money, you’re going to win,” he said. “I believe in the voter; I believe in the process.”

Sen. Charlie Janssen of Fremont offered an amendment to the committee amendment, adopted 31-0, which removed provisions that would have repealed the CFLA. Instead, the Janssen amendment would increase the cap on nonindividual contributions from 50 percent to 75 percent of the overall spending limitation for a given office.

Avery called the amendment “a classic compromise,” saying it was a middle ground between maintaining the CFLA in its current form and repealing the law.

“The CFLA remains a law that deserves to be preserved,” he said. “The

compromise does not do serious harm to the law as it exists.”

LB142 advanced to select file on a 37-0 vote.

## Campaign rule violators may be charged hearing costs

Violators of Nebraska’s campaign accountability laws may be ordered to pay hearing costs in contested cases under a bill passed May 10.

LB176, introduced by Lincoln Sen. Bill Avery, allows the Nebraska Accountability and Disclosure Commission to issue an order requiring a person who has violated the Political Accountability and Disclosure Act, and who does not appear personally or is not represented by counsel, to pay hearing costs in a contested case. Funds received will be deposited in the commission’s cash fund.

The bill passed on a 43-0 vote.

## Health & Human Services

### Enhanced disease and immunization monitoring approved

Senators gave final approval May 12 to a bill meant to improve the sharing of electronic health information in Nebraska.

LB591, introduced by Grand Island Sen. Mike Gloor, requires the state Department of Health and Hu-

man Services to set standards for using electronic health records to analyze medical data to detect or anticipate disease outbreaks.

The bill also authorizes use of the Nebraska Statewide Immunization Registry to share immunization information with health care professionals, schools, licensed childcare facilities, electronic record systems, public health departments and Indian health services.

LB591 passed on a 46-0 vote.



Sen. Mike Gloor



Sen. Bill Avery

## Judiciary

### Cultural history added to adoption records

Lawmakers passed a bill May 11 that adds a child’s cultural history to the information included in an adoption record.

LB124, introduced by Lincoln Sen. Bill Avery, amends Nebraska adoption placement law to include in a child’s medical history the race, ethnicity, nationality, Indian tribe – when applicable and in compliance with the Nebraska Indian Child Welfare Act – or other cultural history of either or both biological parents.

The bill passed on a 44-0 vote.

### Drunken driving provisions could be revised

Senators advanced a bill May 10 that would revise provisions related to driving under the influence (DUI).

Norfolk Sen. Mike Flood intro-

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duced LB667, a bill containing new DUI provisions. A Judiciary Committee amendment replaced the bill and, among other changes, would:



Sen. Mike Flood

- create a new offense of motor vehicle homicide of an unborn child;
- make motor vehicle homicide and DUI-serious bodily injury separate crimes from DUI;
- increase the 12-year look-back limitation to 15 years in the DUI enhancement statutes;
- create penalties regarding boating while under the influence;
- create the enhanced punishment of a Class III-A felony and a minimum of 30 days imprisonment for procuring when it proximately causes serious bodily injury or death;
- revise the administrative license revocation (ALR) process and make ignition interlock devices a condition of bond;
- make ignition interlock devices mandatory for first and second DUI offenses; and
- create penalties for tampering with an ignition interlock device if it is required under ALR.

Under the amendment, a person who is driving under an ignition interlock permit and has no prior DUI convictions could operate a vehicle only for purposes of employment, education, substance abuse treatment, parole or probation supervision, health care for themselves or their dependents, court-ordered community service obligations and ignition interlock servicing.

Flood said requiring interlock devices for DUI offenders could make the roadways safer. A significant number of DUI offenders who have had their driver's license suspended will still continue to drive under suspension, he said.

"Let's use the technology available so offenders are not drinking while operating a motor vehicle in this state," he said.

Fullerton Sen. Annette Dubas spoke in support of the amendment and said requiring interlock devices for DUI offenders provided a degree of accountability.

"Punishing [offenders] by removing their driving privileges is not effective," she said. "These devices provide an ability for them to get to where they need to be in a safe manner."

Omaha Sen. Burke Harr also supported the amendment, saying it takes a practical approach in dealing with penalties for DUI offenders.

"Most [DUI] bills are written for the worst case scenario and this bill addresses situations that happen every day," he said. "This is well thought out and a step forward from where we were before."

The amendment was adopted 40-0 and the bill advanced from general file on a 41-0 vote.

## **Court provisions could be revised**

Senators advanced a bill May 9 that would revise state and county court provisions.

Norfolk Sen. Mike Flood introduced LB669, a bill that originally contained provisions for sealing juve-

nile records. A Judiciary Committee amendment, adopted 28-0, replaced the bill's original provisions with those from four other court-related bills.

Provisions from LB451, originally introduced by Omaha Sen. Brad Ashford, would:

- allow for a divorce decree to be entered without a hearing if certain requirements are met;
- expand the state Supreme Court's options for funding sources to compensate court interpreters;
- provide for clerks and staff of the district and country courts to assist one another on court services;
- create a new position of Judicial Hearing Officer and allow the court to appoint officers as needed;
- provide courts greater scheduling flexibility; and
- eliminate the requirement that divisions of a county court be located outside the county seat and that certain cases be filed with the county court clerk in the county seat.

Also introduced by Ashford, provisions from LB339 would authorize a court to order that a juvenile be placed directly with the state Department of Health and Human Services to obtain a pre-adjudication evaluation. The provisions also would clarify the responsibilities of the county and the state for covering costs incurred during a juvenile's detention period prior to adjudication.

Provisions from LB349, originally introduced by Omaha Sen. Scott Lautenbaugh, would provide various deadlines for filing a jury demand in civil cases depending on the role of

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the litigant doing the filing.

Also introduced by Lautenbaugh, provisions from LB476 would clarify the authority for delivery of service by a commercial courier.

Ashford said the bills were suggested by the state Supreme Court and other state offices.

The amended bill advanced from general file on a 28-0 vote.

## Penalties for driving under the influence could be increased

Senators advanced a bill May 10 that would revise penalties for drinking and driving under the influence and the duty to stop at motor vehicle accidents.

LB675, introduced by Omaha Sen. Pete Pirsch, would increase penalties for DUI offenders with prior convictions and would create felony penalties for a failure to stop after an accident that results in serious injury or death.



Sen. Pete Pirsch

Pirsch said approximately 83 Nebraskans die per year due to alcohol-related crashes, adding that 116 “serial drunk drivers” in the state have between 10 and 18 prior convictions.

“This bill is designed to target the most dangerous of drunk drivers – the habitual drunk drivers who really have no interest in changing their behavior,” he said.

A Judiciary Committee amendment would:

- increase a probation fine to \$2,000;
- increase the fine amount for Class W misdemeanors from the

current range of \$400 to \$600 to a proposed \$500 to \$1,000 range;

- change the look back period for sentence enhancement purposes to 15 years;
- create a new offense of a prior DUI offender with a blood alcohol content level of .02 or higher, which would be a Class IIIA misdemeanor; and
- require a person who has at least four prior convictions to serve a minimum of two years and complete a diagnostic evaluation before being eligible for parole.

Omaha Sen. Brad Ashford, chairperson of the committee, called subsequent offenders “serious and dangerous.”

“We need to get them off of the streets,” he said. “That message is being sent through this amendment.”

Omaha Sen. Gwen Howard spoke in support of the amendment and said it deals with a matter of someone who excessively drinks and causes harm.

“The stakes are high and the penalties should be high as well,” she said. “I think a lot of families will appreciate this bill.”

The amendment passed 34-0 and the bill advanced from general file on a 38-0 vote.

## Natural Resources

### Bill requiring state application to Environmental Trust for water funding approved

The state Department of Natural Resources will apply to the Nebraska Environmental Trust Fund to receive funds for water projects under a bill

approved May 11.

LB229, introduced by Valentine Sen. Deb Fischer, requires the department to submit an application to the trust for a three-year \$9.9 million grant to aid management actions taken to reduce consumptive uses of water, enhance stream flows, recharge groundwater or support wildlife habitats in any fully appropriated or overappropriated river basin.



Sen. Deb Fischer

The application will be awarded 50 points in the project ranking process if the Legislature provides matching \$3.3 million annual appropriations for three years. Funds will be transferred to the Water Resources Cash Fund.

In order to provide \$3.3 million to match the trust grant, the bill provides two appropriations of \$600,000 from the general fund to the Water Resources Cash Fund to complement existing appropriations of \$2.7 million per year. It also directs the department to apply to the trust for another three-year grant if:

- projects and activities funded by the first grant contribute to the conservation, enhancement and restoration of Nebraska’s ground water and surface water resources;
- the Legislature’s Natural Resources Committee submits by Dec. 1, 2012, a report detailing water needs, funding sources and recommendations for legislation; and
- the department provides a report verifying that natural resources districts provided matching funds for projects, 10 percent or less of the matching funds were pro-

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vided by in-kind contributions and all other projects received matches of at least 40 percent from other funding sources.

Lawmakers voted 39-5 on final reading to approve LB229.

## Conservation program for at-risk youth approved

Lawmakers gave final approval May 11 to a bill creating a conservation program for at-risk youth.

LB549, introduced by Omaha Sen. Brenda Council, creates the Nebraska Youth Conservation Program to be administered by the state Game and Parks Commission. The program will employ at-risk youth between the ages of 16 and 21 to contribute to projects that conserve or develop natural resources and enhance land and water under the commission's jurisdiction.

Special effort will be given to select youth who reside in rural and urban high-poverty areas. Program participants will be paid at least minimum wage.

The program is supported by a transfer of \$994,400 from the State Settlement Cash Fund to the newly created Nebraska Youth Conservation Program Fund.

Lawmakers passed LB549 on a 44-0 vote.

## Redistricting

### Supreme Court redistricting bill clears first-round

Senators advanced from general file May 12 the first of six redistricting bills that lawmakers will consider

this session.

LB699, introduced by the Redistricting Committee, would redraw boundary lines for the six judicial districts of the Nebraska Supreme Court.

Under guidelines adopted in LR102, district lines are to be drawn in accordance with 2010 census data and adhere as closely as possible to the principle of one person, one vote.

Sen. Chris Langemeier of Schuyler, chairperson of the committee, said census data indicated that each district should contain approximately 304,000 people. He said that all of the six districts deviate less than 1 percent from that goal.

Lincoln Sen. Bill Avery, a member of the redistricting committee, said representatives of the state bar association testified against the committee's plan. He said the bar association suggested that boundary lines should reflect the number of lawyers within a proposed district, a position Avery rejected.

"There is nothing, nothing, I repeat, in our procedures that would allow us to consider occupations of the residents of those districts," he said.

Sen. Danielle Conrad of Lincoln, also a committee member, said the bar association's plan was mischaracterized as an attempt to change the redistricting standard to "one lawyer, one vote."

Supreme Court justices are appointed from the ranks of attorneys in a given judicial district, she said, which may allow for other considerations than simple population equality.



Sen. Chris Langemeier

"It's clear in case law that there is a separate and distinct difference between legislative districts and Supreme Court districts," she said.

Committee member Sen. Scott Lautenbaugh of Omaha said that one person, one vote should remain a priority for judicial districts because Supreme Court justices face periodic retention votes after their appointments.

LB699 advanced to select file on 34-0 vote.

## Revenue

### Telecommunications occupation taxes restricted

Members of the Legislature approved a bill May 12 to cap telecommunications occupation taxes and restrict their application to telecommunications services.

LB165, introduced by Valentine Sen. Deb Fischer, will restrict telecommunications occupation taxes to telecommunications services and cap the tax rate at 6.25 percent, unless city voters approve a 0.25 percent increase.

The bill has an effective date of Jan. 1, 2013.

The bill passed on a 42-1 vote.

### Business incentives removed from bill permitting contracts with tax services

The state Department of Revenue would be permitted to enter into contracts with businesses that identify uncollected revenue under a bill narrowly advanced from general file May 11.

LB642, introduced by Bellevue

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Sen. Abbie Cornett, would allow the department to use revenues identified by such businesses for fees associated with revenue identification services.



Sen. Abbie Cornett

As introduced, contracts would not be subject to state statute governing contingency fee contracts, which declares such contracts void if they are not executed by the highest executive officer after 30 days public notice.

Lincoln Sen. Bill Avery offered an amendment, adopted 36-0, to eliminate language exempting revenue identification contracts from contingency fee contract law.

Cornett said the intent of LB642 is to identify uncollected revenue using technology and software that the private sector offers.

"This is contracting for resources and technology that we do not have," Cornett said, adding that the department still would be the collector of revenue identified.

Elk Creek Sen. Lavon Heidemann said the department should ask for a greater appropriation so that it could perform data mining itself, instead of outsourcing such procedures to the private sector.

A Revenue Committee amendment would have added a provision to allow the department to contract for the recruitment of businesses that would generate sales tax if determined by the governor to be in the best interest of the state. Such contracts would not have been subject to competitive bidding requirements.

Bellevue Sen. Scott Price raised

concerns about the competitive bidding exemption, saying contracts should be awarded only when there is competition among all interested entities. He also said the amendment could result in contracts that turn back all of the sales tax revenue generated by participating businesses.

Cornett said recruitment contracts have been used by states and municipalities to attract businesses. She offered and withdrew an amendment to clarify the recruitment contracts and conform them with existing incentive programs.

Louisville Sen. Dave Pankonin offered an amendment, adopted 38-0, to remove the recruitment contract provision, leaving in the amendment provisions that would make technical changes to the bill.

The committee amendment was adopted 33-0 and LB642 advanced on a 25-7 vote.

## Transportation & Telecommunications

### Motorcycle safety course reimbursement ends

A \$75 state subsidy for motorcycle education providers is discontinued by a bill approved on May 12.

LB170, introduced by Valentine Sen. Deb Fischer, will eliminate the Motorcycle Safety Education Fund on Jan. 1, 2012, and allocate 25 percent of its balance to the Department of Mo-

tor Vehicles Cash Fund and 75 percent to the Highway Trust Fund. The fund is currently used to reimburse motorcycle safety course providers up to \$75 for each student who successfully completes a course.

The bill also broadens the DMV's regulatory authority over motorcycle safety courses and reduces from 48 months to 24 months the duration of the driving test waiver granted to those who complete courses.

Senators voted 44-0 to approve LB170.

### Sales tax dollars for roads projects approved

The state will direct 0.25 cents of its 5.5-cent sales tax to roads projects two years from now under a bill approved by the Legislature May 11.

LB84, introduced by Valentine Sen. Deb Fischer, directs sales tax dollars to roads projects from fiscal year 2013-14 through FY2032-33.

Eighty-five percent of these funds will be deposited in a new State Highway Capital Improvement Fund. The remaining 15 percent of the new revenue will go to the Highway Allocation Fund.

At least 25 percent of the revenue directed to the State Highway Capital Improvement Fund must be used for the Nebraska Expressway system and federally designated high-priority corridors. The remainder of the fund will be dedicated to roads projects prioritized by the state Department of Roads.

LB84 passed 33-10 on final reading. ■



Sen. Deb Fischer

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