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# UPDATE

## Low-income prenatal care clears two rounds



Sens. Bob Krist and Kathy Campbell discuss LB599 during select file debate.

Senators gave second-round approval April 5 to a bill that would establish a program to offer prenatal services to low-income women regardless of immigration status. The bill advanced from general

file April 3.

Lincoln Sen. Kathy Campbell, sponsor of LB599, said the bill was intended to allow Nebraska to cover the cost of prenatal and pregnancy-related services connected to the health of an

unborn child.

Campbell explained that the state was notified two years ago that its means of determining Medicaid eligibility for the families of pregnant women was in violation of federal guidelines. She said the notification from the federal government made it clear, however, that Nebraska could establish a state-based program.

“For well over 20 years the practice in Nebraska has been to cover the cost of prenatal care for the unborn children of low-income women,” she said, and LB599 would re-establish that practice.

Under the bill, the state Department of Health and Human Services would be required to establish a program under the Children’s Health Insurance Program (CHIP) solely for the unborn children of mothers

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## Voters could approve more local option sales taxes

Senators passed a bill April 5 that will allow additional local option sales taxes but will make them subject to the approval of the local city council as well as the voters. The bill was first debated in 2011 and was carried over from last session.

The original provisions of LB357, introduced by Omaha Sen. Brad Ashford, were replaced by an amendment he introduced this year. Adopted 32-10, the new provisions allow local option sales taxes to be levied at 1.75 percent and 2 percent, with 75 percent approval of the members of the municipality’s governing body. The proposal then would be submitted to voters for approval.

Current law permits cities to impose a local option

sales tax of 0.5 percent, 1 percent or 1.5 percent with voter approval.

As amended, LB357 requires that cities of the metropolitan and primary classes designate proceeds from any increased sales tax revenue to projects completed under interlocal agreements. Omaha is the state’s only metropolitan class city, and Lincoln in the state’s only primary class city.

Increased sales tax revenue in cities of the metropolitan class will be used to:

- reduce existing taxes with the first 0.25 percent of additional revenue;
- fund public infrastructure projects with the next 0.125 percent of additional revenue; and

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# Low-income prenatal care clears two rounds

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who are ineligible for coverage under Medicaid.

Eligibility for service would be determined using an income budgetary methodology of no greater than 185 percent of the federal poverty guideline.

Benefits would include:

- laboratory testing;
- outpatient hospital care;
- pharmaceuticals and prescription vitamins;
- radiology, ultrasound and other necessary imaging;
- services related to conditions that could complicate the pregnancy; and
- professional fees and hospital costs related to labor and delivery.

The bill would require the department, within 30 days of passage of LB599, to seek federal approval of a state plan amendment or waiver for Nebraska's program.

Campbell said faith-based groups and non-profit organizations have stepped up to provide prenatal care for women no longer covered in Nebraska, but responsibility for unborn children belongs with the state.

"All of these people cannot continue to indefinitely assume the responsibility for this cost, nor should they," she said.

Lincoln Sen. Tony Fulton opposed the bill. Fulton acknowledged that providing prenatal care to needy pregnant women is a societal responsibility, but said society includes churches, fathers and others who could and should fill that role.

"Is the government the only mechanism by which this care can be provided?" he asked.

Ogallala Sen. Ken Schilz also



Sens. Tony Fulton (left) and Ken Schilz discuss LB599.

opposed the bill, saying Nebraska taxpayers should not be asked to pay for healthcare for illegal immigrants seeking a better life for their children.

"There is a cost to all of this and that cost has to be borne by someone," Schilz said.

Sen. John Harms of Scottsbluff said recent studies indicate that immigrants do not settle in areas because of the generosity of public benefit programs. Instead, he said, they go where the jobs are. Illegal immigrants would not flock to Nebraska if LB599 passes, he said.

"That argument really doesn't hold together," Harms said.

Norfolk Sen. Mike Flood also supported the bill, saying that while the proposal represented a tension between pro-life beliefs and concerns about illegal immigration, respect for life should trump other concerns.

"I believe that when you have life and health in the balance, you err on the side of life," Flood said.

Sen. Brenda Council of Omaha said the issue of a pregnant woman's immigration status was irrelevant under the bill because only care related to the health and



From left: Sens. Amanda McGill, Jeremy Nordquist, Kathy Campbell and Heath Mello strategize the advancement of the prenatal care bill.

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# Voters could approve more local option sales taxes

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- fund projects under interlocal agreements with the next 0.125 percent of additional revenue.

For cities of the primary class, the first 15 percent of additional tax revenue will be dedicated to funding non-public infrastructure projects under interlocal agreements. The remaining proceeds will be designated for public infrastructure projects.

Cities of the first class, second class and villages will dedicate all increased sales tax revenue to funding public infrastructure projects.

If a city votes to increase the local option sales tax, it will be subject to a 10-year sunset date. If the increased revenue has been dedicated to paying bonds incurred for an infrastructure project, the tax will terminate once the bonds have been paid.

During select file debate April 2, Ashford said the recent economic downturn and the resulting discontinuation of state aid to cities have created funding constraints for city projects.

“We’ve come through a rough patch and we all know that it’s critical we do things differently,” Ashford said. “The idea of engaging citizens in this process makes a lot of sense.”

Lincoln Sen. Bill Avery supported the bill, saying it gives authority to cities that have no more room for spending cuts.

“It would force governments to engage their citizens when it comes to increasing taxes,” Avery said. “We need to invest in our public infrastructure and this bill allows us to do that.”

Elk Creek Sen. Lavon Heidemann opposed the bill.

He said cities should consider raising property taxes before increasing local option sales taxes.

“We have given these cities the authority to access a certain level of property tax, but they just don’t want to do that,” he said.

Omaha Sen. Heath Mello introduced an amendment that would have dedicated Omaha’s first 0.25 percent of increased sales tax revenue to funding a combined sewer overflow project.

Mello said a pending \$1.7 billion infrastructure project threatens to drive up sewer utility fees and would have a devastating impact on homeowners.

“This helps meet an existing obligation before the city of Omaha embarks



Sen. Brad Ashford said LB357 allows citizen input on tax increases.

on any new infrastructure projects,” Mello said. “If we do nothing, residential rate payers could see an increase in sewer utility fees from \$120 per year to \$700 per year.”

Omaha Sen. Steve Lathrop opposed the amendment, saying citizens should be able to decide how increased tax revenue should be spent.

“We can’t give authority to every community but tell Omaha they must use it for a particular project,” Lathrop said. “It would constrain Omaha in a way we’re not constraining any other community.”

The Mello amendment failed on an 8-33 vote and senators advanced the bill to final reading 29-14.

The bill passed April 5 on a 30-15 vote. ■



Sen. Heath Mello proposed an amendment to direct increased sales taxes to Omaha’s sewer overflow project, but it failed.

## Low-income prenatal care program advances

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well-being of the unborn child would be covered.

“Help me understand what illegal activity the unborn child in this situation has engaged in,” Council said. She added that the state would save money in the long run if the bill passes by reducing the incidence of premature births, low-birth weights and other complications resulting from lack of prenatal care for babies who will be American citizens once they are born.

Sen. Beau McCoy of Omaha introduced an amendment during general file debate that would have replaced the word “fetus” with “unborn child” in all other areas of state statute. He said the amendment would make state law consistent and reinforce Nebras-

ka’s commitment to pro-life values.

Omaha Sen. Burke Harr challenged the amendment, saying it was not germane to LB599.

Legislative rules stipulate that only amendments found to be germane, or relevant, to a bill may be considered during debate. Harr said McCoy’s amendment addressed many areas of law beyond those addressed in LB599.

Harr’s challenge was upheld and the bill advanced to select file on a 30-16 vote.

During select file debate April 5, opponents of the bill offered a series of amendments to LB599.

An amendment offered by Schilz that would have required a pregnant woman to provide an attestation of immigration status prior to obtain-

ing prenatal care under the bill was defeated on a vote of 11-12.

Sen. Charlie Janssen of Fremont offered an amendment that contained provisions of LB221, a bill he introduced that would have required screening for controlled substances of certain recipients of public benefits. The amendment was defeated on a 15-13 vote.

An amendment offered by Omaha Sen. John Nelson that would have striken all references to immigration status in LB599 was defeated 15-14.

After several additional pending amendments were withdrawn, senators advanced the bill to final reading by a vote of 29-16. ■

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## Senators override Gov. veto of state claims

Senators voted April 3 to override a gubernatorial line-item veto of a provision in the state claims bill. LB1072, introduced by the Business and Labor Committee as part of the Legislature’s budget package, approves claims exceeding \$50,000 authorized by the state claims board.

Senators approved the measure March 27 on a 42-4 vote. Gov. Dave Heineman subsequently vetoed a provision approving 50 claims totaling \$2.5 million made by subcontractors of Boys and Girls Home – a former lead contract agency with DHHS that since has declared bankruptcy.

In his veto letter, the governor said the subcontractors were not directly engaged in a contract with the state of Nebraska and that paying them would make taxpayers responsible for debts incurred by a private organization.

Furthermore, Heineman said, payment of subcontractor claims would violate the Nebraska Constitution by creating a closed class and appropriating funds based on a moral obligation rather than a state responsibility.

Omaha Sen. Steve Lathrop, chairperson of the committee, filed a motion to override the governor’s veto, saying the state has a responsibility to pay the claims because the

providers rendered services required by law.

“The state of Nebraska has a statutory duty to provide these services and to pay for them,” he said. “We need to pay our bills; it’s that simple.”

Sen. Tom Carlson of Holdrege agreed. When the state takes custody of a child, he said, a legal obligation is created to pay for the services that the child requires. Further, he said, the state ultimately is responsible for oversight of all contracts in the child welfare system.

“I believe we must make it right with these subcontractors,” he said. “It’s the right thing to do and it’s never wrong to do the right thing.”

Norfolk Sen. Mike Flood opposed the override motion, saying the state had fulfilled its contractual obligation by paying Boys and Girls Home the amount the agency was owed. The failure of Boys and Girls Home in turn to pay their subcontractors created a “miserable situation,” he said, but not a legal obligation on the part of the state.

Senators voted 31-12 to pass LB1072, notwithstanding the objections of the governor. Thirty votes were necessary to do so. ■



## Appropriations

### Checkoff increases approved

Senators gave final approval April 4 to bills increasing checkoff funds for commercial wheat and corn sales.

LB905, introduced by Holdrege Sen. Tom Carlson, changes the Nebraska Wheat Board's current excise tax levy of 1.25 cents per bushel of wheat to 0.4 percent of the net market value of wheat sold through commercial channels in Nebraska. The board may make additional rate adjustments up to 0.5 percent of the net market value after Oct. 1, 2014.

The bill also creates the Nebraska Wheat Development, Utilization and Marketing Fund and allows certain noncheckoff revenues – such as licensing fees and royalties – to be remitted to the fund.

The bill passed on a 44-0 vote.

LB1057, also introduced by Carlson, increases the current fee limit of 0.4 cents per bushel of corn to 0.5 cents per bushel levied by the Nebraska Corn Board.

The bill passed 45-0.

### Change to mandatory tractor permitting passed

Agricultural tractors of 100 horsepower or greater are subject to a mandatory permitting process under a bill passed by the Legislature April 2.

Currently, agricultural tractor models of 40 horsepower or more are subject to the mandatory permit. Only permitted tractors are eligible for the state's sales tax exemption on agricultural machinery.

LB907, introduced by Holdrege



Sen. Tom Carlson

Sen. Tom Carlson, raises the minimum threshold from 40 to 100 horsepower.

Under the bill, vendors have the option to permit tractors with less than 100 horsepower. Customers are still able to purchase unpermitted tractors, but cannot claim the agricultural machinery sales tax exemption.

Senators passed the bill on a 46-0 vote.

## Banking, Commerce & Insurance

### Insurance coverage of oral cancer drugs approved

Insurance coverage of oral cancer medications will be required under a bill passed by the Legislature April 2.

LB882, sponsored by Omaha Sen. Jeremy Nordquist, requires that a health policy, certificate, contract or plan provide coverage for a prescribed, orally administered anticancer medication that is used to kill or slow the growth of cancerous cells on a basis no less favorable than intravenously administered or injected cancer medications that are covered as medical benefits.

The bill also prohibits an insurance provider from reclassifying an anticancer medication or increasing a coinsurance, copayment, deductible or other out-of-pocket expense to offset the cost of complying with the bill.

LB882 takes effect Oct. 1, 2012, and sunsets Dec. 31, 2015.

The bill passed on a 46-0 vote.



Sen. Jeremy Nordquist

### Bill to expand tax review report passes

Lawmakers passed a bill April 2 that adds categories to the annual tax review report produced by the state Department of Revenue.

LB962, introduced by Sen. Rich Pahls of Boys Town, requires information in a state Department of Revenue review of major tax exemptions to specify categories in relation to sales and use tax.

The bill also names the legislative Tax Rate Review Committee and requires that its annual report be appended to the Department of Revenue's tax expenditure report.

LB962 passed on a 44-0 vote.

### Bill clarifies regulation of ancillary auto products

Senators gave final approval April 4 to a bill meant to clarify the regulatory framework for motor vehicle ancillary product contracts.

LB1054, introduced by Omaha Sen. Beau McCoy, specifies that service contracts for ancillary motor vehicle products are not insurance and not otherwise subject to the state's insurance code.

The bill defines ancillary products as a protective chemical, substance, device, system or service installed on or applied to a motor vehicle, which is designed to prevent loss or damage from a specific cause.

Such products include, but are not limited to:

- additives;



Sen. Rich Pahls



Sen. Beau McCoy

- alarm systems;
- steering locks;
- fuel and ignition kill switches;
- part marketing products; and
- electronic, radio and satellite tracking devices.

Also included in the bill's ancillary auto product definition are contracts or agreements for repair or replacement of:

- windshields damaged by road hazards;
- inoperable or lost keys or key fobs;
- tires or wheels damaged by road hazards; and
- dents, dings or creases using paintless dent removal.

The bill passed 44-0.

## Business & Labor

### Immunity for employer referrals passes

Employers providing job references for a current or former employee will receive civil immunity under a bill passed by the Legislature April 4.

LB959, introduced by Fremont Sen. Charlie Janssen, provides immunity to a current or former employer who provides certain information to a prospective employer only upon written consent of the prospective employee.



Sen. Charlie Janssen

A consent form will be provided during the application process and will be valid only for the length of time that the application is considered active by the prospective employer but no longer than six months.

Information that may be provided includes:

- employment date and duration;

- job description and duties;
- pay rate and wage history;
- attendance information;
- drug and alcohol test results;
- threatening or harassing behavior;
- whether the employee is eligible for rehire; and
- the most recent written performance evaluation, if provided to the employee.

An employer providing information pursuant to a written consent will be immune from civil liability and presumed to be acting in good faith. The good faith presumption may be rebutted upon a showing by a preponderance of the evidence that the information was known to be false or that the employer acted with malice or reckless disregard for the truth.

LB959 passed 45-0.

## Education

### Progress measurement for schools passed

A bill that creates an educational accountability system based on student progress, in addition to universal benchmarks, was passed by the Legislature April 2.

LB870, introduced by York Sen. Greg Adams, broadens the criteria used to assess a school's effectiveness.



Sen. Greg Adams

Schools currently are held accountable for students' results on content area assessments. LB870 adds additional measures, including student growth and improvement and graduation rates. Schools will be required to report the data annually.

The bill:

- makes data collected by the

statewide accountability system available to all citizens;

- requires that all probationary teachers – regardless of school classification – be evaluated once per semester; and
- provides stronger authorization to the state Department of Education to create and support career academies.

The accountability system will be implemented for the 2013-14 school year.

Senators passed the bill on a 46-0 vote.

### Exit interviews required for high school dropouts

Students dropping out of high school will undergo an exit interview under a bill passed by the Legislature April 3.

Currently, a student may terminate school enrollment with the notarized consent of a parent or guardian at age 16. LB996, introduced by Lexington Sen. John Wightman, provides a mechanism for students wanting to drop out of school for financial or health reasons.



Sen. John Wightman

Any parent or legal guardian wishing to withdraw a student from school must notify the student's school district. An exit interview will be conducted between the student, parent or legal guardian, superintendent and school principal.

The parent or guardian must provide evidence that the student is facing either a financial hardship that requires that the student be employed to support the student's family or an illness making attendance impossible or improbable.

During the exit interview, the superintendent must provide information about alternative educational opportunities, reduced future earning potential and likelihood for unemployment for high school dropouts. If the parties wish to continue with the withdrawal, both the parent or legal guardian and the student must sign the withdrawal form.

Senators passed the bill on a 27-20 vote.

### Career education programs receive funding approval

A bill that appropriates funds to the state Department of Education for the creation of career bridge programs was passed by the Legislature April 2.

LB1079, introduced by Omaha Sen. Heath Mello, designates funding for programs that assist adult students in obtaining academic, career and technical skills.



Sen. Heath Mello

The bill defines a bridge program as a structured career pathway program, developed in partnership between the provider of the adult education program and a nonprofit social services organization, which assists students in obtaining academic, employability and technical skills needed to enter and succeed in postsecondary education and training and the labor market.

The bill requires that a bridge program:

- provide the English reading and writing and math skills required to succeed in a postsecondary credentialing or degree program;
- lead to the attainment of college credit and a recognized postsecondary educational credential or an industry-recognized credential;

- be open only to low-income participants who are co-enrolled in adult education, developmental education or English as a second language;
- target the specific workforce needs of an occupational sector within the state and provide services aimed at improving education, skills and employment prospects for low-income adults;
- use educational best practices, including contextualized instructional strategies, team teaching, modularized learning or reduced student-teacher ratios; and
- provide for supportive services needed for student educational and employment success, including job coaching and personal needs.

Funding of \$200,000 will annually be distributed via competitive grants awarded by the state Department of Education through fiscal year 2015-16 and be subject to reevaluation. Qualified bridge programs will be required to provide data illustrating the outcomes of participants to the department.

Senators passed the bill on a 42-4 vote.

## Executive Board

### Senators' salaries, term limits will be decided by voters

Two constitutional changes passed by the Legislature April 4 will be placed on the November 2012 general election ballot for voter approval.

LR358CA, introduced by Holdrege Sen. Tom Carlson, allows voters to extend the state constitution's current limit of two consecutive



Sen. Tom Carlson

four-year terms for state senators to three consecutive four-year terms.

LR373CA, introduced by Omaha Sen. Scott Lautenbaugh, would increase each senator's salary to \$22,500 with voter approval. Senators currently earn \$12,000 annually.



Sen. Scott Lautenbaugh

The proposed constitutional amendments were passed 31-14 and 31-15, respectively.

## General Affairs

### Flavored malt beverages to be taxed as beer

Flavored malt beverages will be taxed at the same rate as beer under a bill passed by the Legislature April 2.

LB824, introduced by Wilber Sen. Russ Karpisek, ensures that flavored malt beverages will be taxed at the same rate as beer rather than the higher hard liquor rate.



Sen. Russ Karpisek

The bill places restrictions on the amount of alcohol in a flavored malt beverage that can be derived from flavorings or distilled alcohol. A malt beverage with more than 6 percent alcohol by volume may not contain more than 1.5 percent of alcohol by volume derived from flavoring.

LB824 includes a provision that changes the trigger date for payment of state excise tax to align with the federal trigger date. State excise tax will be levied when the product is shipped from its bonded location.

Senators passed the bill on a 37-6 vote.

## Government, Military & Veterans Affairs

### Restructuring of OPS board of education stalls

A bill that would have restructured the Omaha Public Schools (OPS) board of education stalled on general file April 3.

LB720, introduced by Omaha Sen. Scott Lautenbaugh, would have reduced the size of the board from 12 members to five. The bill also called for term limits of two consecutive four-year terms and a \$20,000 annual salary for all board members.

A Government, Military and Veterans Affairs Committee amendment instead would have reduced the board to seven members from 12, while making no mention of term limits or salaries for board members.

Lautenbaugh said he believes student achievement issues at OPS could be addressed by a more innovative and creative board of education.

"I'm not telling you change will come tomorrow, but OPS is in desperate need of new ideas and new blood," Lautenbaugh said.

Omaha Sen. Brenda Council opposed the bill, saying that reducing the size of the board would not achieve that goal.

"To change the size of the board without a compelling reason is not action we should be taking at this time," she said, noting the recent hiring of a new OPS superintendent and the impending election of at least four new board members. "Where's the guarantee that you get new ideas and new blood by reducing the number of members?"

Council moved to bracket the bill until April 12. The motion failed on

a 15-23 vote.

After prolonged debate, Lautenbaugh moved to refer LB720 back to the committee and senators obliged without objection.

### Unclaimed military medal bill approved

Senators passed a bill April 4 meant to address the handling of unclaimed military medals.

Under LB819, introduced by Bellevue Sen. Scott Price, any unclaimed military medal, decoration or award removed from a safe deposit or collateral deposit box in Nebraska will be delivered to the state treasurer's office.

Unclaimed medals will be reported on the same schedule as other unclaimed property and the treasurer's office may designate a veterans' organization or other entity as custodian of any unclaimed medals after 10 years.

The bill passed on a 47-0 vote.

### New state contracting requirements approved

Lawmakers passed a bill April 2 seeking to improve the procedure by which state agencies contract for services.

Introduced by Lincoln Sen. Bill Avery, LB858 applies to contracts valued at more than \$15 million and requires the involvement of the state Department of Administrative Services (DAS).

The bill requires a state agency to submit a copy of a proposed contract and a proof-of-need analysis to DAS,



Sen. Scott Price



Sen. LeRoy Louden



Sen. Bill Avery

which must certify a submitted analysis as complete before an agency may proceed with contracting services.

The bill also removes a current exemption from state bidding requirements for state contracts with direct providers of medical, behavioral or developmental health services, child care or child welfare service to an individual.

Priority for vending contracts in state- or federally-owned buildings will be given to blind or visually impaired bidders if the product price in a submitted bid is comparable in price to the other bids for products sold in similar buildings or on similar property and the qualifications and capabilities of the vendors bidding the contract are similar to other bidders.

LB858 passed 46-0.

### Nebraska Tourism Commission created

A commission dedicated solely to promoting tourism in Nebraska is created under a bill passed by the Legislature April 5.

LB1053, introduced by Ellsworth Sen. LeRoy Louden, creates the Nebraska Tourism Commission. All powers and duties currently held by the travel and tourism division of the state Department of Economic Development are transferred to the newly formed commission.

Members will be appointed by the governor and confirmed by the Legislature. All current employees of the travel and tourism division will become employees of the commission.

Senators passed the bill on a 47-0 vote.



## Health & Human Services

### Medicaid cost containment bill passed

Lawmakers passed a bill April 5 designed to bolster the fiscal integrity of Nebraska's Medicaid program.

Introduced in 2011 by the Health and Human Services Committee, LB541 was advanced to final reading last session. Lawmakers returned the bill to select file Feb. 24 and amended it to require the state Department of Health and Human Services (DHHS) to report to the Legislature by Dec. 1, 2012 on the status of all contracts authorized by the bill.

LB541 requires DHHS to contract with one or more recovery audit contractors for the following services:

- provider claim review and overpayment recovery;
- cost avoidance through identifying third-party liability;
- cost recovery of third-party liability through postpayment reimbursement; and
- identification and recovery of claims that were the result of accident or neglect and payable to a casualty insurer.

The bill limits contingent fees to no more than 12.5 percent of amounts recovered. All amounts recovered and savings generated from the contracts will be returned to the state's Medicaid program.

LB541 passed 49-0.

### Respiratory therapy services extended to health professionals

Additional health professionals can order respiratory therapy services due to a bill passed by the Legislature April 4.

LB788, introduced by Lincoln Sen. Kathy Campbell, changes current state statute to reflect the standards adopted by the federal government and Centers for Medicare and Medicaid Services.



Sen. Kathy Campbell

The scope of practice is extended to include physicians assistants, nurse practitioners and certified residential nurse anesthetists.

Senators passed the bill on a 49-0 vote.

### Foster care changes approved

Lawmakers approved a bill April 5 addressing foster care needs in Nebraska.

Under LB820, introduced by the Health and Human Services Committee, the state Department of Health and Human Services (DHHS) is required to apply for a federal waiver for a foster care demonstration project by Sept. 30, 2013.

The bill also requires DHHS to create a Foster Care Reimbursement Committee to develop a statewide standard rate structure for children in foster care and require licensure of all foster parents not related to a child by blood, marriage or adoption.

Finally, the bill will provide a \$3.10 rate increase for foster parents starting July 1, 2013. A 25 cent administrative fee authorized in the bill for foster care agencies will be in addition to the foster parent payment increase, rather than deducted from it.

LB820 passed 49-0.

### Child welfare strategic plan and oversight approved

A bill intended to provide a strate-

gic plan and legislative oversight for child welfare programs in Nebraska was given final approval April 5.

LB821, sponsored by the Health and Human Service Committee, creates a 22-member Nebraska Children's Commission tasked with creating a statewide strategic plan to reform child welfare programs and services in the state.

Among other issue areas, the commission will be required to create committees to examine foster care reimbursement rates and state policy regarding prescription of psychotropic drugs to state wards. The commission is required to report on the strategic plan to the Legislature and the governor by Dec. 15, 2012.

The bill also creates the Office of Inspector General within the Office of Public Counsel, also known as the Ombudsman's Office.

The inspector general will be appointed by the public council and approved by the Legislature. The office is authorized to investigate allegations of possible misconduct, death or serious injury in foster homes, private agencies, child-care facilities and programs.

The office also will review the role and effectiveness of the state's youth rehabilitation and treatment centers, analyze data and report to the Legislature and the governor annually.

Under the bill, law enforcement agencies and prosecuting attorneys are required to cooperate with investigations conducted by the inspector general, regardless of any criminal investigation or prosecution in progress.

LB821 passed on a 49-0 vote.

### Improved access to public benefit programs approved

The state Department of Health and Human Services (DHHS) is required to increase staff at local of-

offices to provide more assistance with the state's system for accessing public benefit programs – known as ACCESSNebraska – under a bill given final approval April 5.

LB825, introduced by Fullerton Sen. Annette Dubas, requires the department to adequately staff existing local offices and included guidelines to determine the appropriate number of staff needed to provide in-person assistance to clients at each existing office.



Sen. Annette Dubas

The bill also requires:

- call centers to take appointments for in-person interviews upon request;
- a dedicated caseworker to be assigned upon request to a client with chronic physical or mental disorders, the elderly who require continuing care and complex cases;
- local office caseworkers to interview clients, assist with applications, determine program eligibility and answer questions; and
- DHHS to contract with community-based organizations to act as satellite offices for department caseworkers.

During select file debate April 3, Dubas offered an amendment, adopted 33-0, which removed provisions that were amended into the bill on general file. Originally introduced by Sen. Tanya Cook of Omaha as part of LB1041, the stricken provisions would have required DHHS to:

- coordinate eligibility requirements;
- expand information sharing across programs;
- simplify documentation requirements by using the same or

similar documents to verify information across programs; and

- re-establish program eligibility more easily by reopening cases that have been closed in the previous 30 days rather than requiring reapplication.

Dubas said senators raised questions about the financial impact of the changes and that LB825 was too critical a measure to risk jeopardizing due to fiscal uncertainty.

Cook disagreed with aspects of the amended bill's fiscal note, but said she understood the need to remove the provisions agreed to on general file.

LB825 was approved on a 38-4 vote April 5.

### **Credentialing review program updated**

The process used to propose credentials and changes in scope of practice will be expanded under a bill passed by the Legislature April 2.

LB834, introduced by Grand Island Sen. Mike Gloor, changes the Credentialing Review Program.



Sen. Mike Gloor

The bill changes the current process by:

- changing the role of the Technical Review Committee (TRC) to clearly state that it can make investigations it deems necessary;
- requiring the TRC to recommend whether the proposal will benefit the public;
- allowing the TRC to weigh the evidence in total to recommend denial or approval of an application;
- changing TRC membership to allow no more than one member of the applicant group or profes-

- sion seeking to be regulated or changing its scope of practice;
- updating the funding mechanism to allow all administrative costs associated with credentialing activity to be paid from the Professional and Occupational Credentialing Cash Fund;
- expanding the oversight of the program beyond health care professions to include other professions that are or could be regulated by the state Department of Health and Human Services;
- simplifying application requirements and including information regarding the status of third-party reimbursements and other states' scopes of practice;
- changing the scope of practice criteria to remove the "risk of harm" requirement; and
- extending the time frame from nine months to 12 months for the department to make a final recommendation.

A Health and Human Services Committee amendment made the following changes to the bill:

- clarified that clergy are not considered health professionals under the program;
- added criteria to the scope of practice criteria that "the health, safety and welfare of the public is inadequately addressed" by the present scope of practice; and
- clarified that the report from the TRC will include written findings on all criteria.

Senators passed the bill on a 46-0 vote.

### **ADC work requirements will include class, study hours**

Senators passed a bill April 2 that extends the termination date for self-

sufficiency activities under the Welfare Reform Act from Sept. 30, 2012 to Dec. 31, 2016.

Under LB842, introduced by Scottsbluff Sen. John Harms, recipients of the state Aid to Dependent Children (ADC) program may count hours spent pursuing an associate degree toward their work activity requirements.

The program will be evaluated prior to the new termination date.

The bill passed on a 45-0 vote.



Sen. John Harms

**Changes to child welfare budget process approved**

Lawmakers gave final approval April 3 to a bill that seeks to tighten budgeting standards for the state's child welfare system.

Scottsbluff Sen. John Harms, chairperson of the Legislative Performance Audit Committee, introduced LB949 on behalf of the committee. He said the bill contains recommendations stemming from a performance audit of child welfare privatization efforts recently undertaken by the state Department of Health and Human Services (DHHS).

Among other provisions, LB949 requires DHHS's division of children and family services to include a strategic plan in its budget request to the Legislature for the next two budget cycles. The plan must identify the main purpose of each program in the division, goals for measuring progress and benchmarks and time frames for meeting those goals.

Under the bill, the division is required to provide quarterly updates to the Legislature's HHS and Appropriations committees beginning in

October 2012 on any movement of funds greater than \$250,000 into the child welfare subprogram from other budget programs.

LB949 passed on a 48-0 vote.

**Return of child welfare case management to DHHS approved**

The state Department of Health and Human Services (DHHS) is required to provide case management for most of Nebraska's child welfare system under a bill passed by the Legislature April 3.

LB961, introduced by the Health and Human Services Committee, returns case management to DHHS by April 1, 2012, except in the eastern service area, in which the department will be allowed to contract for lead agency case management as a pilot project.

Monitoring and evaluation of the pilot project will mirror requirements for DHHS case management outlined in the bill. The department is required to review the pilot project before April 1, 2013, and make recommendations to the Legislature regarding alteration and continuation of the project.

The bill also addresses the issue of caseload size.

Under LB961, both the department and the pilot project lead agency are required to reduce caseload size to between 12 and 17 cases per worker by Sept. 1, 2012. If children in a family receive services in the home, all children will be considered one case. If any child is placed out of the home, each child will be considered one case.

The bill passed 48-0.

**Foster care review office established**

Nebraska's current Foster Care Review Board will be replaced by a

Foster Care Review Office under a bill approved by the Legislature April 5.

The 11-member Foster Care Review Board was created by the Legislature in 1982 as an independent agency to provide oversight to the state's foster care system.

LB998, introduced by Omaha Sen. Bob Krist, abolishes the board and establishes a Foster Care Review Office. Terms of the current 11-member Foster Care Review Board will be terminated.



Sen. Bob Krist

Under the bill, the newly created office will be a non code agency within the executive branch. All staff except the executive director will be transferred from the Foster Care Review Board to the Foster Care Review Office.

The bill also creates a Foster Care Advisory Committee. Lists of potential appointees will be submitted to the governor by the Legislature and members will be limited to two consecutive three-year terms.

No member of the advisory committee may have a financial interest in the foster care system or be employed by the state Department of Health and Human Services, a county, court, child-caring agency or child-placement agency.

The bill has an operative date of July 1, 2012.

LB998 passed 45-0.

**Lead testing and outreach bill passed**

A bill creating a lead poisoning prevention program was passed by the Legislature April 4.

LB1038, introduced by Omaha Sen. Brenda Council, authorizes the state

Department of Health and Human Services (DHHS) division of public health to create an education and outreach program for school children.



Sen. Brenda Council

Under the program, a coordinated plan to prevent childhood lead poisoning will:

- educate health care providers, child care providers, public school personnel and parents about the risks of lead poisoning;
- provide a standard to be used in identifying elevated blood-lead levels; and
- recommend that a child be tested for elevated blood-lead levels if the child resides in a zip code with a high prevalence of children with elevated blood-lead levels or if the child meets one of the criteria in a screening questionnaire developed by DHHS.

The department is not required to pay the cost of elevated blood-lead testing except for children who participate in the medical assistance program established under the Medical Assistance Act.

Senators passed the bill on a 44-0 vote.

### Children's health and treatment bill approved

Senators gave final approval April 5 to a bill that creates the Children's Health and Treatment Act.

LB1063, introduced by Omaha Sen. Tanya Cook, requires that the guidelines and criteria used by the state Department of Health and Human Services (DHHS)



Sen. Tanya Cook

to determine medical necessity for Medicaid services be published on the department's website and those of managed care contractors and the state Department of Administrative Services.

The bill also requires 60 days' prior notice to providers of changes to treatment guidelines and quarterly DHHS reports on authorization and denial rates for behavioral health services for children under age 19.

The bill passed on a 44-0 vote.

### State-funded nursing care for family, friends approved

A bill meant to clarify permitted practices under the Nebraska Nurse Practitioner Act was given final approval April 4.

Hoskins Sen. Dave Bloomfield said he introduced LB1083 to clarify for the state Department of Health and Human Services that they may hire licensed nurses to provide home health care to family members or friends.



Sen. Dave Bloomfield

The bill passed on a 45-0 vote and takes effect immediately.

### Marriage and family therapist certification changes approved

Lawmakers gave final approval April 4 to a bill that changes Nebraska's supervision requirement for attaining certification as a marriage and family therapist.

LB1148, introduced by Grand Island Sen. Mike Gloor, amends the definition of a



Sen. Mike Gloor

qualified supervisor and specifies that the current 3,000 hours of supervised experience include:

- 1,500 hours of direct client contact during the five years preceding application for certification;
- at least 100 hours of supervisor-supervisee contact hours with a qualified supervisor; and
- supervision provided at least one hour per week or two hours every two weeks.

The bill passed 45-0.

### Managed care contract bill passed

Senators passed a bill April 5 that outlines the parameters of future medical assistance contracts for delivery of behavioral health services in Nebraska.

LB1158, introduced by Omaha Sen. Bob Krist, will require an at-risk managed care model for behavioral health managed care contracts entered into by the state Department of Health and Human Services after July 1, 2012.

Among other provisions, the bill:

- caps administrative contract spending at 7 percent, or 10 percent if necessary to improve the health status of the population being served;
- restricts contract profits to a maximum of 3 percent per year as a percentage of aggregate income and revenue;
- provides for a minimum medical loss ratio of 85 percent; and
- requires that a minimum of 0.25 percent of contract payment be contingent on performance metrics.

The bill passed 48-0 and takes effect immediately.



**New child welfare data system approved**

Lawmakers approved a bill April 5 that requires development of a new child welfare data system.

Under LB1160, introduced by the Health and Human Services Committee, the state Department of Health and Human Services (DHHS) is required to develop and implement a web-based, statewide automated information system to integrate child welfare data.

Among the objectives for the new system are access to real-time information and improved reporting, accountability and case review capabilities. The system also is required to provide automated interfaces for the courts, Medicaid eligibility, financial processes and child support.

The department is required to obtain an evaluation of the state's child welfare system by a nationally recognized entity and to report to the Legislature regarding the completed evaluation and plans for the new data system by Dec. 1, 2012.

The bill also includes provisions of LB774, originally introduced by Omaha Sen. Gwen Howard, which requires the Health and Human Services Committee to report to the governor, the Legislature and the chief justice on progress made by DHHS toward recommendations contained in the committee's report on child welfare reform.

Reports will be required for three years, with the first due on Dec. 15, 2012.

LB1160 passed 45-0.



Sen. Gwen Howard

**Judiciary**

**Clarification of DNA collection requirements passed**

Senators gave final approval April 5 to a bill that changes provisions relating to the collection of DNA samples from individuals convicted of a felony or other specified offense.

LB66, sponsored by Bellevue Sen. Abbie Cornett, specifies that probation officers are responsible for taking DNA samples from convicted felons placed on probation who do not enter into a prison, jail, detention facility or other institution.

In counties without a city of the metropolitan class, an individual not placed on probation who receives a fine or a penalty of time served will have a DNA sample collected by the county sheriff.

In addition, a county jail, detention facility or other institution that collects the sample will not be held financially responsible for the cost of the DNA sample kit if the court waives the cost of taking a DNA sample for any reason.

The bill passed on a 49-0 vote.

**"Bath salts" drug banned**

A bill passed April 2 makes the drug known as "bath salts" an illegal substance.

LB670 originally dealt with the Nebraska Juvenile Code but was amended to contain provisions originally introduced by Ogallala Sen. Ken Schilz as LB814.

The amended



Sen. Abbie Cornett



Sen. Ken Schilz

bill expands the Uniform Controlled Substances Act to ban the compounds that are used to make bath salts, which are chemically altered substances that have similar effects as methamphetamines, LSD and PCP. The product is manufactured and marketed as bath salts to skirt current drug laws.

The penalty for possessing bath salts is now a Class IV felony and manufacturing or trafficking the drug is a Class III felony.

The bill passed 47-0 and goes into effect immediately.

**Fine deductions from bonds approved**

Senators passed a bill April 4 that authorizes the deduction of fines or costs from a defendant's bond.

Under LB722, introduced by Lincoln Sen. Colby Coash, courts are allowed to deduct fines or costs owed by an offender from his or her cash bond as an alternative to ordering a lump sum payment of court costs.

The bill applies to all bonds except those encumbered by a valid lien, levy, execution or assignment to counsel of record or the person who posted the bond.

The bill passed 49-0.



Sen. Colby Coash

**Bill restricting frivolous lawsuits by inmates advances**

A bill aimed at restricting inmates from filing frivolous lawsuits at public expense was given first-round approval April 2.

Under LB793 as introduced by Omaha Sen. Scott Lautenbaugh, an inmate who previously has filed three civil lawsuits deemed by a court

to be frivolous would be prohibited from filing a civil case at the public's expense. An inmate could continue to file civil suits at his



Sen. Scott Lautenbaugh

or her personal expense.

Exceptions to the rule would include criminal appeals and cases when an inmate could prove an imminent danger of bodily harm. A Judiciary Committee amendment, adopted 32-1, removed the requirement that a threat of bodily harm be imminent.

If approved, the "three-strike" rule would apply only to lawsuits filed after passage of the law.

Lautenbaugh said frivolous lawsuits clog the state's justice system and cost counties - particularly Douglas, Lancaster and Johnson - a considerable amount of money. One inmate filed 665 cases, he said, including 88 cases in one year.

"That is an extreme example and I don't know if we'll see the likes of him again," Lautenbaugh said, "but I think it's important that we do try to put some limit in place."

Sen. Brenda Council of Omaha opposed the bill, saying it would place unnecessary limits on inmate's access to the courts. While a few inmates may intentionally have abused the system in the past, she said, courts and judges already have the means to constrain those individuals without potentially restricting access to others who simply may not understand the intricacies of the legal system.

"We're talking about inmates ... they're not lawyers, they don't know how to frame the allegations," Council said.

Lautenbaugh said the bill sets a high bar for denying an inmate the ability to file a lawsuit at public

expense and is not intended to deny meritorious claims.

The bill advanced on a 36-1 vote.

### **Child abuse penalties enhanced**

Senators passed a bill April 2 that refines child abuse penalties.

LB799, introduced by Bellevue Sen. Abbie Cornett, makes child abuse resulting in serious bodily injury a Class IIIA felony and a Class III felony if the offense is committed negligently and results in the death of a child.

The bill clarifies that criminal negligence refers to a person who knew or should have known the danger involved and acted recklessly with respect to the safety or health of the child.

The bill passed 46-0.

### **Pari-mutuel wagering on historic horse races approved**

Senators passed a bill April 5 that authorizes the state Racing Commission to license and regulate pari-mutuel wagering on historic horse races.

An historic horse race creates a pari-mutuel pool via instant racing terminals from wagers placed on a previously held race at a licensed racetrack.

LB806, introduced by Omaha Sen. Scott Lautenbaugh, establishes a Historic Horse Racing Distribution Fund comprising taxes collected from the races and licensing fees, which would be \$1,000 per machine.

Half of the fund's proceeds will be credited to the Racing Commissions Cash Fund to be used for programs that facilitate equine therapy for youth and veterans and the other half will be directed to the Compulsive Gambler's Assistance Fund.

Under the bill, historic horse racing will end if it is found by a court to

allow any additional Class III gaming as defined in the federal Indian Gaming Regulatory Act.

Authority to license and regulate historic horse racing also will terminate if specific criteria are not met within four years of continuous use of instant racing terminals, including:

- construction of a race track enclosure in a county that contains a city of the primary class;
- a 25 percent increase in purses compared to 2011; and
- a 30 percent increase in the number of live horse racing days at tracks with instant racing terminals in counties other than Douglas, or a 40 percent increase in Douglas County.

The bill passed 26-18, one vote more than required for passage.

### **Judicial pay increase approved**

Judges within the state court system will see a 2 percent salary increase under a bill passed by the Legislature April 5.

LB862, introduced by Lincoln Sen. Colby Coash, provides for an increase in salary commensurate with the increase proposed for state employees in fiscal year 2012-13.

The pay increase applies to state Supreme Court judges. All other state judges' salaries are based on Supreme Court salaries.

Senators passed the bill on a 48-0 vote.

### **Truancy procedures updated**

Senators passed a bill April 2 that revises the state's student truancy provisions.

In 2010, the Legislature passed a bill requiring school districts to report cases to a county attorney when a student has been absent 20 days or more

per year, whether the absences are excused or unexcused.

LB933, introduced by Omaha Sen. Brad Ashford, requires that the report indicate whether:

- the absences are due to documented illness or are otherwise excused;
- the school requests more time to work with the student before the county attorney intervenes; or
- the school has used all reasonable efforts to address the child's absence from school without success and recommends intervention by the county attorney.

If further action is needed after the 20-day report, the county attorney, the parents and the school representative will meet at a location determined by the school.

The bill passed 44-0.

### Youth rehabilitation centers will see increased collaboration

A bill that will promote administrative collaboration at each of the state's youth rehabilitation and treatment centers (YRTCs) was passed by the Legislature April 4.

Currently, the state Department of Health and Human Services, through the Office of Juvenile Services (OJS), oversees YRTCs in Kearney and Geneva.

LB972, introduced by Omaha Sen. Brad Ashford, authorizes the Department of Correctional Services to provide training to OJS employees on the safety and security of youth living at YRTCs. OJS is required to submit an annual status report to the Legislature.

Senators passed the bill on a 49-0 vote.



Sen. Brad Ashford

### Child advocacy center protocol changed

A bill that expands and creates protocols for the state's seven child advocacy centers was passed by the Legislature April 5.

Under LB993, introduced by Omaha Sen. Brad Ashford, each county child advocacy center must have a location for conducting forensic interviews and medical evaluations for alleged child victims of abuse and neglect.

The bill requires that each county have protocols to:

- outline mandatory reporting of child abuse;
- define the roles and responsibilities of law enforcement, child protective services and other response agencies; and
- ensure that coordination of these teams is occurring at all levels of the community response.

The bill requires advocacy centers to report the name and address of each team member and the number of times the team met within a calendar year to the Nebraska Commission on Law Enforcement and Criminal Justice.

The increased services at the centers are estimated to cost \$870,000.

Senators passed the bill on a 48-0 vote.

### Power of attorney provisions updated

A bill revising power of attorney provisions was passed by the Legislature April 5.

LB1113, introduced by Norfolk Sen. Mike Flood, provides definitions



Sen. Mike Flood

for various areas of authority that can be granted to a power of attorney agent and identifies certain areas of authority that can be granted because of the propensity of such authority to dissipate the principal's property or alter the principal's estate plan.

The bill also provides statutory forms to be used by lawyers and laypersons.

LB1113 passed 47-0.

### Human trafficking bill passed

Senators passed a bill April 5 intended to increase awareness of human trafficking and enhance penalties for pandering.

Under LB1145, introduced by Lincoln Sen. Amanda McGill, forcing or enticing a person into prostitution will be a Class IV felony for a first offense. If the victim



Sen. Amanda McGill

is younger than 18, it will be a Class III felony for the first and subsequent offenses. Pandering currently is a misdemeanor offense in Nebraska.

The bill also establishes a commission on human trafficking and requires training for government officials. The National Human Trafficking Resource Center Hotline number will be posted in key establishments throughout the state.

The bill passed on a 45-0 vote.

## Natural Resources

### Oil pipeline land reclamation bill passed

Lawmakers passed a bill April 2 that addressed reclamation requirements following oil pipeline construction in Nebraska.

LB845, sponsored by Cedar Rapids Sen. Kate Sullivan, strengthens requirements currently outlined in the Oil Pipeline Reclamation Act.



Sen. Kate Sullivan

Among other provisions, the bill requires that:

- genetically appropriate and locally adapted native plant materials and seeds be used based on site characteristics and vegetation as determined by a preconstruction site inventory;
- final grading, topsoil replacement, installation of erosion control structures, seeding and mulching be completed within 30 days of backfill except when weather conditions, extenuating circumstances or unforeseen developments prevent it;
- all reclamation including choice of seed mixes, method of reseeding, weed and erosion control measures and monitoring be conducted in accordance with the Federal Seed Act, the Nebraska Seed Law and the Noxious Weed Control Act; and
- mulch be installed as required by site contours, seeding methods and weather conditions or when requested by a landowner.

The bill passed on a 46-0 vote and takes effect immediately.

### **Appropriation of Republican River repayments approved**

Reimbursement payments from Republican River natural resource districts (NRDs) will be dedicated to funding future water projects under a bill passed by the Legislature April 5.

LB950, introduced by Imperial Sen. Mark Christensen, ensures all

reimbursement payments will be transferred from the general fund to the Water Resources Cash Fund. A transfer of \$4.7 million



Sen. Mark Christensen

will go to the cash fund in fiscal year 2012-13 and \$3.3 million in subsequent years through FY2018-19.

The bill also directs the state treasurer to transfer \$1.4 million from the general fund to the cash fund by June 30, 2013.

Senators passed the bill on a 47-0 vote.

### **Tax refunds on nonirrigated land advanced**

Landowners would be eligible for occupation tax refunds under a bill advanced from general file April 4.

Currently, natural resource districts (NRDs) with integrated management plans can levy occupation taxes on irrigated lands. Owners of nonirrigated land can have their land certified as nonirrigated by March 1 each year to receive an exemption from the tax.

LB1125, introduced by Imperial Sen. Mark Christensen, would allow landowners with nonirrigated land to receive a refund of incorrectly levied taxes.

A Natural Resources Committee amendment, adopted 30-0, would establish a formal mechanism for landowners to receive the tax refund. Under the amendment, any acre that is enrolled in a local, state or federal temporary irrigation retirement program that prohibits the application of irrigation water would be exempt from the occupation tax levied during that year.

Under the amendment, any landowner that has been incorrectly taxed

may present evidence of nonirrigation to the natural resource district within 12 months after the tax has been levied. If the occupation tax has been levied and paid within the previous year, the landowner would not be eligible for an exemption.

The amendment establishes a sunset date of Oct 1, 2012.

Christensen brought an amendment that would have prohibited districts from providing occupation tax exemptions in certain cases. The amendment failed 7-18.

LB1125 advanced to select file on a 33-0 vote.

### **Oil pipeline regulation bill amended, advanced**

Lawmakers advanced a bill from select file April 5 related to oil pipeline routing in Nebraska.

LB1161, sponsored by Papillion Sen. Jim Smith, would make changes to law enacted during a November 2011 special session called by Gov. Dave Heineman to regulate oil pipeline routing in Nebraska.



Sen. Jim Smith

Concern over the state's lack of oil pipeline regulation was sparked by TransCanada's proposed Keystone XL pipeline, which is intended to carry crude oil from Canada to Gulf Coast oil refineries.

Lawmakers passed LB4 during the special session, authorizing the state Department of Environmental Quality (DEQ) to collaborate with a federal agency in a review under the National Environmental Policy Act involving a supplemental environmental impact statement (EIS) for oil pipeline projects within the state.

The bill also specified that Nebras-



ka would fully fund the state portion of the process and the preparation of the supplemental EIS, to avoid any appearance of impropriety.

Smith said he introduced LB1161 in response to action taken at the federal level since Nebraska's November special session. DEQ had hired a consultant for the supplemental EIS regarding TransCanada's permit application for the Keystone XL pipeline, he said, when the federal government abruptly halted the process.

As amended on general file, the bill would broaden DEQ's authority to study proposed pipeline routes and allow a DEQ study to determine the route of an oil pipeline within the state to be included in an application to a federal agency or agencies.

The bill also would have changed the effective date of the Major Oil Pipeline Siting Act, passed as LB1 during the special session. A select file amendment removed that provision.

Under the act, the Public Service Commission (PSC) is responsible for evaluating and approving pipeline siting applications, as well as holding public hearings to gather citizen input. In addition, an approved application is required prior to a company being granted eminent domain rights.

During select file debate, Smith offered several iterations of an amendment meant to address concerns raised about the bill during the previous round of debate.

In response, Sen. Ken Haar of Malcolm filed a motion to return LB1161 to the Natural Resources Committee. Haar said the series of amendments contained major changes to the bill and should be subject to a public hearing.

"We have had no time to look at this," he said.

Sen. Danielle Conrad of Lincoln supported the motion, saying the

public and members of the committee with jurisdiction over pipeline issues should weigh in on substantive changes to the bill. She said lawmakers were confused by the different versions of the amendment and should not rush a major public policy issue.

In response to senators' concerns, Schuyler Sen. Chris Langemeier offered an amendment that replaced the bill and Haar withdrew his motion to return LB1161 to committee.

Langemeier said his amendment, adopted 34-1, would address a range of concerns about the bill as amended on general file and would streamline the pipeline application process.

"The goal ... is to take a system and not set new policy, but try and make it clear [how] to apply for a pipeline," he said.

The amendment removes provisions changing the effective date of LB1, passed during special session.

As amended, LB1161 also would require:

- that a carrier's eminent domain rights be terminated if they remain unused two years after approval of a pipeline application;
- PSC to make public any documents or records relating to a major oil pipeline unless federal law provides otherwise;
- DEQ to hold at least one public hearing on an application under review by the department; and
- a carrier to reimburse DEQ for the cost of an evaluation within 60 days after notification of the cost.

Langemeier said the effect of the amendment is that all future pipeline applications will be subject to the provisions of LB4. Following a review by DEQ, an application will go to the governor, who may approve the application or refer it to the PSC for

further review under the provisions laid out in LB1.

He said the changes would remove concerns about creating a closed class by doing away with automatic designations based on dates that would have determined which special session bill would apply to a pipeline application.

Following adoption of the Langemeier amendment, LB1160 was advanced to final reading by voice vote.

## Retirement

### Lancaster County retirement match reduced

Senators approved a bill April 2 allowing certain counties containing a city of the first class to reduce the employer's contribution to the county employees retirement plan.

LB867, introduced by Wilber Sen.

Russ Karpisek, affects only Lancaster County and caps the contribution rate at 100 percent of the employee's contribution for individuals hired after



Sen. Russ Karpisek

July 1, 2012. The current contribution rate is set in state law as 150 percent of an employee's contribution.

The bill passed 46-0.

### State retirement plan updates passed

Senators gave final approval April 2 to a bill that makes Internal Revenue Code compliance updates for county, judge, state patrol, school and state employee retirement provisions.

LB916, introduced by the Nebraska Retirement System Committee:

- removes per diems as compensation for purposes of retirement;
- allows terminated or retired

plan members to rollover funds into a Roth IRA;

- allows a lump sum direct transfer of a death benefit into a qualified retirement plan;
- requires employers to notify the Public Employees Retirement Board upon the termination of an employee member;
- allows a non-spousal beneficiary to make a direct transfer or rollover of the member's death benefit into a qualified retirement plan; and
- allows a member's beneficiary to be entitled to an additional death benefit that he or she would be entitled to had the member been employed during the period of qualified military service when the death occurred.

Included in the measure are provisions of two additional bills:

- LB1063, introduced by Omaha Sen. Jeremy Nordquist, which provides an additional opportunity for active county and state defined



Sen. Jeremy Nordquist

contribution plan members to opt in to the cash balance plans between Sept. 1 and Oct. 31, 2012; and

- LB973, introduced by Lincoln Sen. Colby Coash, which allows a judge to order civil payment from a portion of a convict's state or county benefits and annuities plan if he or she is a



Sen. Colby Coash

state or county employee who is convicted of or pleads guilty to felony assault, sexual assault, kidnapping, child abuse, false imprisonment or theft by embezzlement and is found civilly liable for resulting damages.

Benefits and annuities necessary for the support of the employee or appointee or his or her beneficiaries would be exempt from payment.

LB916 takes effect immediately and passed on a 46-0 vote.

## Revenue

### Tax exemption approved for nonprofit clinics

Nonprofit health clinics are exempt from paying sales and use taxes under a bill passed by the Legislature April 5.

Under LB40, introduced by Kearney Sen. Galen Hadley, clinics must meet two requirements to qualify for the tax exemption. First, the clinic must be owned by one or more hospitals operating the clinic as a nonprofit. Second, the health clinic must be licensed under the Health Care Facility Licensure Act.

Senators passed the bill on a 49-0 vote.

### Some cities can delay refund of job credits

A bill meant to ease the financial strain on city governments was passed by the Legislature April 5.

Under LB209, introduced by Bellevue Sen. Abbie Cornett, cities of the first and second class, as well as villages, can delay payment of job credit tax refunds by one year. Nebraska cities are

classified by population as follows:

- first class cities have populations between 5,000 and 100,000;
- second class cities have populations between 800 and 5,000; and
- villages have populations between 100 and 800.



Sen. Abbie Cornett

An installment repayment option is allowed for any refund exceeding 25 percent of a city's total sales tax receipts.

Cities will be notified of pending job credit tax refunds one year in advance. The bill also permits a certified municipal employee to obtain confidential sales tax return information from the state tax commissioner on behalf of his or her municipality.

Senators passed the bill on a 49-0 vote.

### Department of Revenue statutes updated

A bill that updates numerous state Department of Revenue statutes was passed by the Legislature April 5.

LB727, introduced by Bellevue Sen. Abbie Cornett, updates current state statute and establishes new provisions as they relate to the department. The bill:

- eliminates certain motor fuels tax collection commissions if a notice of a deficiency assessment issued has become a final assessment;
- changes to the 20th day the due date for motor fuel producers, suppliers, distributors, wholesalers, importers and exporters to file their motor fuel tax returns;
- changes the source of data required to update the department's calculation of the whole-

- sale price of gasoline;
- changes the due date for the department to update its biennial tax burden study to Dec 1, 2013, and every two years thereafter;
- clarifies the sales tax exemption for sales of prepared food by parent or student organizations at elementary or secondary schools;
- repeals the state statute that currently requires the department to appoint a committee to oversee the operation of the motor fuel trust fund;
- eliminates statutory requirements that the department must use certified mail for mailing certain notices, including a notice of a proposed deficiency determination;
- adds first-class mail to the list of authorized forms of mail that the department can use whenever it is required to give any notice under the Nebraska Revenue Act; and
- includes an emergency clause.

The bill also exempts youth sports events and youth competitive educational activities from sales and use taxes.

Senators passed the bill on a 49-0 vote.

**New occupation taxes will require voter approval**

Occupation tax revenue projected to exceed established thresholds will be subject to a public vote under a bill passed by the Legislature April 5.

LB745, introduced by Valentine Sen. Deb Fischer, requires that any proposed occupation tax be subject to a vote of the people, have a specific purpose and indicate a sunset



Sen. Deb Fischer

date. Any change in the rate of a current occupation tax also will be subject to a vote. The bill does not eliminate occupation taxes currently in place.

Municipalities will be able to adjust the rate of an occupation tax imposed for a specific project which is not deposited in the municipality's general fund or to terminate an existing occupation tax without submitting it to a public vote.

A proposed occupation tax will be subject to a public vote if the projected revenue exceeds:

- \$6 million for cities of the metropolitan class;
- \$3 million for cities of the primary class;
- \$700,000 for cities of the first class; and
- \$300,000 for cities of the second class and villages.

Senators passed the bill on a 46-0 vote.

**Clarification of farm home site valuations passed**

The comparable properties that may be used in farm home site valuations is clarified under a bill passed by the Legislature April 4.

LB750, introduced by Bellevue Sen. Abbie Cornett, clarifies the types of property that can be used as comparable lands for the purpose of valuating farm home sites. The bill specifies that residential land located within a platted and zoned residential subdivision is not comparable to land that is part of a farm home site.



Sen. Abbie Cornett

The bill defines farm home site or rural residential site as land contiguous to a farm site which includes an inhabitable residence and improvements used

for residential purposes and which is located outside of urban areas or outside a platted and zoned subdivision.

Sales of land that do not include a farm home site will not constitute a comparable sale when determining the actual value of farm home sites. The state Department of Revenue will be required to conduct an annual analysis on market premiums to ensure accurate valuation of farm home sites.

Senators passed the bill on a 48-0 vote.

**Median value will no longer appear on property valuation notices**

Notifications of property valuation will be changed by a bill passed by the Legislature April 4.

Currently, when a property is assessed at a value different from the previous year, the county assessor must notify the property owner. The notice includes the old and new assessed values, dates to file a protest and the median value of all property in the county.

York Sen. Greg Adams said he introduced LB822 on behalf of county assessors who reported confusion among property owners about the median value. Under the bill, the median value figure will be removed from the notifications completely.



Sen. Greg Adams

Senators passed LB822 on a 49-0 vote.

**Biochips are tax exempt**

Biochips used for genetic and protein analysis of livestock will be exempt from sales tax under a bill passed by the Legislature April 5.

LB830, introduced by Kearney Sen. Galen Hadley, categorizes biochips as an agricultural input, which is not subject to state sales taxes.



Sen. Galen Hadley

The original bill would have applied only to livestock, plants and companion animals raised for commercial purposes. A Hadley amendment later removed the “commercial purposes” language.

Senators passed the bill on a 49-0 vote.

**Income tax reduction passed**

Many Nebraskans will see a modest tax reduction under a bill passed by the Legislature April 5.

LB970, introduced by Bellevue Sen. Abbie Cornett at the request of the governor, establishes new individual income tax brackets that will lower income taxes slightly. Existing tax rates were adjusted to the following rates for 2013:

- 2.46 percent for an individual making up to \$2,400 or a married couple making up to \$4,800;
- 3.51 percent for an individual making between \$2,400 and \$17,500 or a married couple making between \$4,800 and \$35,000;
- 5.01 percent for an individual making between \$17,500 and \$27,000 or a married couple making between \$35,000 and \$54,000; and
- 6.83 percent for an individual making more than \$27,000 or a married couple making more than \$54,000.

For families earning the median household income of \$48,000, sena-

tors estimated the reduction will equate to a savings of \$24 in 2013 and \$52 in 2014.

Senators passed the bill on a 39-9 vote.

**Research and development tax credit extended**

Businesses taking advantage of a research and development tax credit have more time to claim the credit under a bill passed by the Legislature April 2.

Currently all research and development associated with an eligible project must be completed within four years. LB983, as originally introduced by Bellevue Sen. Abbie Cornett, would have removed the time requirement completely.

A Revenue Committee amendment replaced the provision in the original bill to repeal the time requirement and instead places a 20-year deadline for the completion of all research and development.

Senators passed the bill on a 47-0 vote.

**Summer food grants for students approved**

Lawmakers gave final approval April 5 to a bill that will provide grants in support of a federal summer food program for children eligible for free or reduced-price school meals.

LB1090, introduced by Cortland Sen. Norm Wallman, will provide \$140,000 for grants to be awarded by the state Department of Education in support of the U.S. Department of Agriculture’s Summer Food Service Program.



Sen. Norm Wallman

Grant funds of up to \$15,000 per

service institution site may be used for nonrecurring expenses incurred to initiate or expand services under the federal program, including:

- acquiring equipment;
- training staff;
- purchasing vehicles to transport food to schools; and
- engaging in outreach efforts to publicize programs.

LB1090 passed on a 26-15 vote.

**Mental health centers will be tax exempt**

The taxation of nonprofit mental health centers is clarified under a bill passed by the Legislature April 5.

Under LB1097, introduced by Omaha Sen. Pete Pirsch, purchases made by nonprofit mental health centers are not subject to sales and use taxes.



Sen. Pete Pirsch

Senators passed the bill on a 43-0 vote.

**Low-income area investment incentives passed**

Investors certified as community development entities can receive income, corporate and premium tax credits under a bill passed by the Legislature April 5.

LB1128, introduced by Columbus Sen. Paul Schumacher, provides tax credits to entities that invest in low-income rural and urban areas.

Under the bill, community development entities must be certified by the state tax commissioner to receive the tax credit. To achieve



Sen. Paul Schumacher



certification, the development entity must provide:

- evidence of its certification as a qualified community development entity;
- a copy of the allocation agreement executed by the entity;
- a description of the proposed amount, structure and purchaser of the equity investment or long-term debt security; and
- a nonrefundable application fee of \$5,000.

The tax credit may be used against the financial institutions' tax, insurance premium tax and income taxes. Credits may not be claimed for the first two years of investment, but may be claimed for the next five years.

Certified development entities will receive a 7 percent tax credit during the third year and an 8 percent tax credit for the next four years. The total amount of credits awarded by the state cannot exceed \$15 million in any fiscal year.

Senators passed the bill on a 41-0 vote.

## Transportation & Telecommunications

### Longer combination vehicles will have special permits

Permits will be granted for longer vehicles hauling seasonally harvested products under a bill passed by the Legislature April 4.

LB740, introduced by Ogallala Sen. Ken Schilz, allows longer combination vehicles that are up to 10 percent greater than the maximum length specified by law to carry an additional 15 percent of the maximum weight



Sen. Ken Schilz

allowed for up to 70 miles.

Such permits are valid for up to 120 total days per calendar year.

Under the bill, semitrailer combinations can exceed the 40-foot limitation without exceeding a length of 59.5 feet, including the load, while transporting baled livestock forage.

Senators passed the bill on a 49-0 vote.

### Motor carrier updates, ignition interlock changes pass

Senators passed a bill April 2 that brings state motor carrier statutes up-to-date and changes ignition interlock provisions.

LB751, introduced by Valentine Sen. Deb Fischer, adopted:

- handicapped parking permit physical standards;
- the International Registration Plan for apportioned vehicles in interstate commerce;
- federal rules and regulations pertaining to commercial motor vehicles and commercial driver licenses;
- federal rules and regulations pertaining to hazardous materials, agricultural operations and exceptions for nonspecification packagings used in intrastate transportation; and
- more specific language on what federal provisions the State Patrol is authorized to enforce.

The bill was amended to include provisions of five other bills, all introduced by Fischer.

LB718 authorizes the handling of certificates of title in any county or the state Department of Motor Vehicles (DMV) and changes the distribution



Sen. Deb Fischer

of title fees.

LB724 makes corrections to the medical certification program for commercial motor vehicle drivers and prohibits texting while driving a commercial motor vehicle.

LB726 eliminates the requirement that the DMV send out certain notices by certified or registered mail.

LB748 repeals two sections of statute requiring the courts to remit a list of outstanding arrest warrants to the department each month.

LB769 removes county treasurers' authority to issue duplicate or replacement driver's licenses.

The bill also requires department employees who verify or produce driver's licenses or state identification cards to submit their fingerprints to the FBI for a criminal history background check and prohibits juveniles who violate the Motor Vehicle Operator's License Act from being eligible for an ignition interlock permit.

The bill passed on a 45-0 vote.

### Motorists must remain three feet from pedestrians and cyclists

Drivers will be required to maintain a minimum distance from pedestrians and cyclists under a bill passed by the Legislature April 4.

LB1030, introduced by North Platte Sen. Tom Hansen, requires that drivers keep a minimum distance of three feet when passing a pedestrian, bicycle or electric assistive mobility device traveling in the same direction on a roadway.

Violators could be fined \$100 to \$300, depending upon the frequency of the offense in one year.



Sen. Tom Hansen

Senators passed the bill on a 45-0 vote.

### Prepaid wireless phones surcharge approved

Retailers selling prepaid wireless phones will be required to collect surcharge fees under a bill passed by the Legislature April 5.

Under LB1091, introduced by Valentine Sen. Deb Fischer, prepaid wireless phones are subject to both the wireless E911 fee and the telecommunication relay system fee. The fees will be collected at the point of sale.

Senators passed the bill on a 44-0 vote.

## Urban Affairs

### Bill to increase natural gas capacity approved

Lawmakers passed a bill April 4 that allows jurisdictional utilities to construct and authorize natural gas

pipeline facilities.

Under LB1115, introduced by Norfolk Sen. Mike Flood, a jurisdictional utility may implement a plan to construct rural natural gas infrastructure. Prior to constructing a natural gas facility, the jurisdictional utility will be required to consider factors such as the environmental impact on the area and the project's economic feasibility.

Following a determination that an area is unserved or underserved, the bill requires a jurisdictional utility to make a tariff filing with the Public Service Commission (PSC) that adjusts the utility's residential and commercial customer rates to recover costs.

A jurisdictional utility will be required to file proposed rural infrastructure surcharge tariffs with the PSC consistent with the proposed rate increases negotiated in an agreement with a community prior to undertak-



Sen. Mike Flood

ing rural infrastructure development.

A rural infrastructure surcharge tariff or gas supply adjustment tariff will become effective immediately upon filing of all required items with the PSC, including a copy of the agreement with the community and a map of the underserved area.

The bill also:

- ensures that tariffs are consistent with the proposed rate increase negotiated in an agreement;
- limits a jurisdictional utility's ability to recover costs to only the customers in a city who are benefitting from the development;
- provides for a refund to rate payers determined to have overpaid for an infrastructure development; and
- limits PSC authority to one annual public hearing and determination of whether rural surcharges reflect the annual cost of development.

LB1115 passed on a 49-0 vote. ■

## UNICAMERAL YOUTH LEGISLATURE



High school students who want to learn what it's like to be a senator in the Nebraska Legislature are encouraged to register for the 2012 Unicameral Youth Legislature, which will convene June 10-13.

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

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

Registration forms can be obtained from the Legislature's Unicameral Youth Legislature page: [www.nebraskalegislature.gov/education/unicamyouth.php](http://www.nebraskalegislature.gov/education/unicamyouth.php) The registration deadline is May 15.

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

# 2012 Legislative Session

Sun	Mon	Tues	Wed	Thur	Fri	Sat
<b>January</b>						
1	2	3	4 DAY 1	5 DAY 2	6 DAY 3	7
8	9 DAY 4	10 DAY 5	11 DAY 6	12 DAY 7	13 RECESS	14
15	16 HOLIDAY	17 DAY 8	18 DAY 9	19 DAY 10	20 DAY 11	21
22	23 DAY 12	24 DAY 13	25 DAY 14	26 DAY 15	27 DAY 16	28
29	30 DAY 17	31 DAY 18				

Sun	Mon	Tues	Wed	Thur	Fri	Sat
<b>February</b>						
			1 DAY 19	2 DAY 20	3 DAY 21	4
5	6 DAY 22	7 DAY 23	8 DAY 24	9 DAY 25	10 RECESS	11
12	13 DAY 26	14 DAY 27	15 DAY 28	16 DAY 29	17 RECESS	18
19	20 HOLIDAY	21 DAY 30	22 DAY 31	23 DAY 32	24 DAY 33	25
26	27 DAY 34	28 DAY 35	29 DAY 36			

Sun	Mon	Tues	Wed	Thur	Fri	Sat
<b>March</b>						
				1 DAY 37	2 RECESS	3
4	5 DAY 38	6 DAY 39	7 DAY 40	8 DAY 41	9 RECESS	10
11	12 RECESS	13 DAY 42	14 DAY 43	15 DAY 44	16 DAY 45	17
18	19 DAY 46	20 DAY 47	21 DAY 48	22 DAY 49	23 RECESS	24
25	26 RECESS	27 DAY 50	28 DAY 51	29 DAY 52	30 DAY 53	31

Sun	Mon	Tues	Wed	Thur	Fri	Sat
<b>April</b>						
1	2 DAY 54	3 DAY 55	4 DAY 56	5 DAY 57	6 RECESS	7
8	9 RECESS	10 DAY 58	11 DAY 59	12 DAY 60	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

## Federal & State Holidays

January 16 – Martin Luther King Jr. Day  
 February 20 – Presidents' Day

## Legislative Recess Days

January 13  
 February 10, 17  
 March 2, 9, 12, 23, 26  
 April 6, 9

\*The Speaker reserves the right to revise the session calendar

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