

# UNICAMERAL UPDATE

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## Tax cuts, new ag land valuation method debated

The Legislature debated a bill April 21 that would change the way agricultural land is assessed and cut the state's top income and corporate tax rates if projected state revenue growth meets certain targets.

As introduced by Sen. Jim Smith of Papillion, LB461 proposed a technical change to state tax law. A Revenue Committee amendment would replace the bill and incorporate provisions from several other bills, including:

- LB338, introduced by Bancroft Sen. Lydia Brasch on behalf of Gov. Pete Ricketts, which would change the state's method for valuing agricultural and horticultural land to an income-based approach;
- LB337, introduced by Smith also on behalf of the governor, which would use economic growth rates to trigger income tax cuts; and
- LB452, introduced by Omaha Sen. Brett Lindstrom, which would change income tax rates and per-



Revenue Committee chairperson Sen. Jim Smith (right), sponsor of LB461, confers with Sen. John Stinner, Appropriations Committee chairperson, during floor debate April 21.



Sen. Brett Lindstrom

sonal exemption amounts.

Smith said the proposed tax cuts would grow the state's economy by helping Nebraska compete with its neighbors when attracting and retaining businesses and workers. Changing the state's method of valuing agricultural land would, over the long term, help to relieve the disproportionate burden of property taxes on farmers and ranchers, he added.

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## Lethal injection drug provider privacy discussed

A bill that seeks confidentiality for certain records relating to the state's lethal injection protocol was considered by lawmakers on general file April 19.

Under LB661, introduced by Heartwell Sen. John Kuehn, records containing any information that reasonably would lead to the identity of any person or entity that manufactures, supplies, compounds or prescribes the substances, medical supplies or medical equipment used to perform a lethal injection would be confidential and exempt from disclosure under the state's public records laws.

Kuehn said the bill would protect providers of drugs used in a lethal injection protocol from harassment and



Sen. John Kuehn

threats, while still making the identity of the drug and any lab analysis publicly available.

"Only the identity of the individual or the entity [would remain] confidential," Kuehn said, adding that 15 of the 31 states with a lethal injection protocol have such shield laws.

Harassment by death penalty opponents has resulted in the commercial unavailability in the U.S. of certain drugs used in lethal injection, he said, so a shield law regarding the identity of drug providers could increase the availability of such drugs for other purposes as well.

"LB661 is written specifically only to address public records statutes," he said. "It does not affect the judicial application, sentencing or court processes regarding the death penalty."

Venango Sen. Dan Hughes supported the bill, noting

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# Lethal injection drug provider privacy discussed

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that he was involved in the initiative petition process that overturned the Legislature's 2015 abolition of the death penalty. Voters have clearly indicated their desire to have the death penalty carried out in Nebraska, he said, and lawmakers have a duty to make that happen.

"I was one who carried a petition to get this issue back on the ballot," Hughes said. "During that process the pledge that I made to those that I talked to was that the law was not broken, the process was broken," Hughes said. "And if indeed the voters of the state of Nebraska gave us this law back, I would do whatever I could to fix the process."

Sen. Adam Morfeld of Lincoln opposed the bill. Manufacturers and pharmacies involved in lethal injection are not private actors whose privacy should be protected, he said, but rather entities that should be considered "agents of the state" who must comply with public records laws.

"When the state is executing its own citizens, the process should be as transparent as possible," Morfeld said.

But Lincoln Sen. Mike Hilgers

said the state already deviates from the principle of transparency in government when there is a compelling reason to do so. Full disclosure of drug manufacturers has led to a lack of high quality drugs with which to do the state's business, he said.

"Transparency is a core operating principle for our government but it's not a universal principle," Hilgers said.

Kuehn agreed, noting that current deviations from full transparency include correspondence between state senators and their constituents, names of stockholders in companies that receive tax incentives and the identity of finalists for some high-paying state jobs.

"We all know and can agree that there are instances where that privacy [interest] outweighs the need for transparency and full disclosure," Kuehn said.

Omaha Sen. Ernie Chambers opposed the bill and offered a series of amendments in an effort to extend debate. The courts have stated that open records laws should be applied liberally when it comes to the expenditure of public funds, he said, because

the public has a right to know how that money is spent.

"[This bill] is designed to deprive the public of information it ought to have about how its government is carrying out the most solemn, the most consequential, act that a government can perform," Chambers said.

Sen. Kate Bolz of Lincoln raised questions regarding the ability of the state Department of Correctional Services to properly administer lethal injection drugs without knowing their source.

A recent state audit uncovered serious mismanagement of existing pharmaceutical procedures within the department, Bolz said, which should be a cause of concern regarding how the new lethal injection protocol would be carried out under the bill.

"Can we trust this [agency] to implement these medications as they should be, especially when there is not clarity and transparency about the source of these drugs?" Bolz said. "In other words, is this the right time to discuss this policy change?"

The Legislature adjourned for the day without taking action on LB661. ■

## UNICAMERAL UPDATE

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# Tax cuts, new ag land valuation method debated

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“We have a tax problem in the state,” Smith said. “The answer is not simple and can only be found through a compromised and consistent effort. And it must be both reasonable and affordable to meet the standards of Nebraska’s businesses and Nebraska’s citizens.”

The bill would collapse the bottom two personal income tax brackets – with rates of 2.46 percent and 3.51 percent, respectively – into one bracket, which would pay a rate of 3.25 percent, in 2019. The bill also would decrease the state’s top corporate income tax rate from 7.81 percent to 7.59 percent that year.

To help pay for those cuts, the bill would eliminate income tax exemptions for some high earners, Smith said. LB461 also would suspend two tax credit programs: the New Markets Job Growth Investment Act and the Nebraska Job Creation and Mainstreet Revitalization Act.

Nebraska’s top individual income tax rate would be reduced in eight increments by roughly 0.1 percent per year beginning in 2020 if the expected rate of revenue growth from year to year exceeds 3.5 percent. Assuming cuts were triggered every year, the rate would drop from 6.84 percent in 2020 to 5.99 percent in 2027, for a total reduction of 0.85 percent.

The bill would give tax credits to low-income earners and increase the earned income tax credit from the current 10 percent to 11 percent in 2019 and 12 percent in 2020.

Also beginning in 2020, the bill would reduce the top corporate income tax rate by 0.2 percent per year if the projected rate of state revenue growth exceeds 4 percent for the next fiscal year. The cuts would continue

until the rate reaches 5.99 percent.

Beginning in 2018, agricultural and horticultural land would be assessed using an income-based approach instead of the current market value approach.

A new committee led by the state tax commissioner would establish capitalization rates for each class of agricultural or horticultural land, including irrigated cropland, dryland cropland, grassland

used for grazing, grassland use for haying, wasteland, nurseries, feedlots and orchards.

The committee would ensure that aggregate agricultural use value for each class of land is between 55 and 65 percent of the actual value and the bill would cap annual growth in aggregate agricultural use value at 3.5 percent.

Brasch supported the proposal, saying that income-based valuations would better reflect farmers’ ability to pay their taxes and provide them some relief from the high property taxes they have paid in the last decade due to increasing valuations. Income-based valuation methods – which are used in nine other states, including Nebraska’s neighbors – are tried and sound, she said.

“Had it been done 10 years ago, we wouldn’t be standing here in this situation today,” Brasch said.

Venango Sen. Dan Hughes also supported the bill, although he said he is concerned that the proposed valuation method relies on an arbitrary



Sen. Lydia Brasch said the income-based valuation method would be a more fair and accurate way to assess agricultural and horticultural land.

capitalization rate set by a committee. Even though LB461 is not perfect, he said, it would provide needed relief to the state’s agriculture industry.

“Right now, property taxes are killing our No. 1 industry,” Hughes said.

Sen. Burke Harr of Omaha opposed the bill, saying that a recent report commissioned by the state Department of Economic Development recommended that the Legislature focus on improving education, health care, housing and workforce development for economic growth. It did not recommend tax cuts, he said.

“Do you really think that’s going to drive [growth]?” Harr said. “Or do we want to be focused like a laser and say we want to incentivize high-demand, high-skill, high-wage jobs?”

Lincoln Sen. Kate Bolz also spoke against LB461, saying that it would be financially irresponsible to tie income tax cuts to projected growth rather than actual growth.

“Revenue projections are more art  
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# MEET THE SENATOR

## Hilgers follows his heart back to Nebraska

Sen. Mike Hilgers doesn't take the sometimes contentious nature of legislative floor debate personally. As a practicing litigator for the past 13 years, the Omaha native has learned that those who oppose you one day may be on your side the next.

"In my line of work, people are literally paid to oppose me and my client's interests," Hilgers said. "It is a great training ground to learn that you can respect your opponents and have collegial relationships no matter how adversarial the situation gets."

That focus on harmonious relationships started long before his current professional or legislative careers. As the middle child in a family of high-achieving siblings - including several doctors and lawyers - Hilgers found ways to develop strong family ties. So much so that all five siblings attended Baylor University as undergraduates.

Turns out, though, it wasn't necessarily academics that were the draw.

"My brothers were there and the weather was warm - it wasn't a sophisticated calculus," he laughed. "But, I did meet my wife Heather there, so it was the best decision I could have made."

Though they met and were friends in college, the two didn't date until meeting again several years later in Dallas after he'd graduated from law school at the University of Chicago. She also is an attorney and, by the new senator's estimation, an "all-star" at juggling career, family and extensive community involvement. And he appreciates how lucky he is.

"Convincing a Texan to move to Nebraska is maybe my biggest achievement," he joked.

Since coming back to Nebraska, Hilgers and his wife have started a family and are the parents of three young girls: 5-year-old Alice, 2-year-old Elsie and 7-month-old Clara Jane. With two active parents, it's a juggling act, he said.

"The youngest is my alarm clock now," Hilgers said, adding that the couple has learned to cut out anything extraneous in their lives. For his part, the senator has developed a motto for getting through session: "If it's not an emergency, I'll see you in June."

When asked if there's anything he might enjoy doing when session finally does end, Hilgers offered an animated response.

"I'm excited to take my oldest daughter on a trip around the state to see the sights and the history," he said. "The best trip my family ever took was several years ago when my siblings and I all piled into an SUV and spent a week hitting the backroads of Nebraska. We had no plan and only two rules: avoid interstates and big cities - the trip was the destination. I'm excited to share that experience with her."

The best part, he said, was having no cell phone service and really connecting with family. They took photos of small town signs, stopped at neglected historical markers and went where the road took them.

"People tend to take for granted how beautiful and full of history this state is," he said. "I don't want to do that. With young children and a growing small business, I want to spend my time in the Legislature making sound decisions that enhance the quality of life in Nebraska." ■



Sen. Mike Hilgers, his wife Heather and their three daughters attended an Easter egg hunt at North American Martyrs Catholic Church in Lincoln.

## EDUCATION

### Adjustments to state aid to schools amended, advanced

Lawmakers amended and advanced a bill April 19 that would adjust the state's school funding formula to match budget projections.

As introduced by Sen. Mike Groene of North Platte, LB409 would modify two components of the formula the state uses to distribute money to school districts.



Sen. Mike Groene

The base limitation rate — the rate at which school budgets are allowed to grow from year to year — currently is 2.5 percent. LB409 would decrease that rate and increase the local effort rate, which accounts for a district's property tax capacity.

An Education Committee amendment, adopted 34-0, replaced the bill and would reduce the base limitation rate for school fiscal year 2017-18 and FY2018-19 to 1.5 percent and increase the local effort rate to approximately \$1.02. It also would calculate net option funding by multiplying the net number of option students by 95.5 percent of the statewide average basic funding per student for those years.

Groene said the bill would increase state aid to schools by 2.1 percent — or approximately \$20.8 million — next year. He said the amendment also includes community achievement plan aid for schools in the Omaha learning community that lost funding after the elimination of the learning community's common levy.

Sen. Adam Morfeld of Lincoln supported the amendment and the bill.

He said it represents a compromise between balancing the state budget and maintaining education funding, but he said such small increases in education spending are unsustainable.

"We cannot sustain just 1 or 2 percent increases in education spending and maintain the high-quality education that we've been able to provide to our children," Morfeld said.

Gering Sen. John Stinner also spoke in support, saying that the modification to the state's school aid formula is necessary to match the 2.1 percent increase in education funding in the Appropriations Committee's budget proposal.

"Our support of ... school funding is still the most significant increase in our budget," he said. "It remained a top priority."

Sen. Lou Ann Linehan of Elkhorn also supported the amendment and the bill, but she said the Legislature needs to re-examine its school aid formula, which she said directs much of the state funding to a few school districts and little to the rest.

"Supporting this today does not mean that we don't need changes," she said. "We do need changes."

Senators then voted 38-0 to advance the bill to select file.

### Levy exemption for teachers' early retirement advanced

Senators advanced an education omnibus bill April 18 after amending a proposal to place voluntary termination agreements under school district levy and budget limits.

As introduced by the Education Committee, LB512 was drafted to make several technical changes to education law. A committee amendment adopted on general file incorporated the provisions of several other education-related bills into LB512.

These included LB457, introduced

by Sen. Tom Briese of Albion, which would remove a budget and levy limitation exemption for the money a school district agrees to pay teachers and administrators in exchange for voluntary termination of employment. He said placing voluntary termination payments within a school district's levy and budget limits would provide more control of and accountability for school spending.



Sen. Tom Briese

Briese introduced an amendment, adopted 33-0, that would — for fiscal year 2018-19 — exempt from budget and levy limits the amounts levied to pay for 75 percent of the funds used for voluntary termination agreements. That would decrease to 50 percent for FY2019-20 and 25 percent for FY2020-21.

Briese said the amendment is a compromise that would give school districts at or near their levy and budget limits time to move voluntary termination payments back under those limits.

Omaha Sen. Burke Harr supported the amendment but said that it would too strictly limit a tool that school districts use to save money by encouraging older, higher-paid teachers to retire. He said the measure is used predominantly by urban districts that have reached their levy limit.

Harr introduced an amendment that would allow school districts already at their maximum levy to exempt from budget and levy limitations up to \$35,000 of payments for a teacher's voluntary termination agreement that is not part of a collective bargaining agreement.

Sen. Sue Crawford of Bellevue supported the amendment. She said voluntary termination agreements help growing school districts that already are at their levy limits to hire

more teachers by paying older, higher paid teachers to retire early.

“This is a really important tool for those districts in areas where the population is growing rapidly,” Crawford said.

Briese opposed the amendment, saying it contradicts the original intent of his bill, which is to reduce property taxes by controlling school spending.

“Either these amounts should be within the levy lid or budget limits or they shouldn’t,” he said. “I don’t care what amount we’re talking about—they should be within the lid and limits.”

Senators voted 30-6 to adopt Harr’s amendment.

Lincoln Sen. Adam Morfeld introduced an amendment, adopted 33-0, that would modify provisions of his LB175, which also was incorporated into LB512 on general file. These would prohibit operators of websites, online services or mobile or online applications from using student data for targeted advertising or creating student profiles for non-educational purposes.



Sen. Adam Morfeld

The amendment would exclude from that prohibition any websites and online services operated by a post-secondary institution with a physical presence in Nebraska.

Lawmakers then adopted a technical amendment and advanced LB512 to final reading on a voice vote.

**Bill defining dyslexia in education law advanced**

Lawmakers gave first-round approval April 20 to a bill that would provide a legal definition for dyslexia, which causes difficulty in acquiring and processing language.

Dyslexia currently is included as a specific learning disability in state law,

but it is not defined. Introduced by Lincoln Sen. Patty Pansing Brooks, LB645 would define dyslexia, in part, as a learning disability with a neurobiological origin that is characterized by difficulty with accurate or fluent word recognition and by poor spelling and decoding abilities.



Sen. Patty Pansing Brooks

Pansing Brooks said adding the definition to state statute would send a clear message that dyslexia is a specific learning disability that needs attention.

“It is my hope that LB645 will be the first step in a more ambitious effort to later provide assessments and early intervention to improve reading outcomes for our kids in the state of Nebraska.”

Sen. Lou Ann Linehan of Elkhorn supported the bill, saying it is a small step toward ensuring that schools identify dyslexic students early and give them the help they need.

“Most kids that have difficulty reading – if they are exposed to intensive phonics early – will do quite well,” she said.

Senators adopted a technical amendment and then voted 32-0 to advance the bill to select file.



**Withholding of law enforcement officer addresses advanced**

A law enforcement officer could apply to have his or her home address withheld from the public under a bill advanced from general file April 20.

Introduced by Sen. Anna Wishart of Lincoln, LB624 would direct county assessors and registers of deeds

to withhold from the public the residential address of a law enforcement officer who applies and pays a \$25 fee unless the address is requested in writing.



Sen. Anna Wishart

Officers would be required to renew their applications every five years.

Wishart said the nature of law enforcement officers’ work sometimes puts officers and their families in danger. The bill would prevent someone from simply looking up an officer’s address on a county assessor’s website, she said.

“The added step of having to request the address in writing will hopefully make a person with bad intentions stop and think twice about what they are doing,” Wishart said. “A request made in writing would also take away the anonymity that the internet provides.”

A Government, Military and Veterans Affairs Committee amendment, adopted 34-0, eliminated the proposed fee.

Lawmakers voted 32-0 to advance the bill to select file.



**Prescription drug monitoring changes advanced**

Lawmakers advanced a bill April 18 that would make changes to the state’s drug monitoring program.

Heartwell Sen. John Kuehn, sponsor of LB223, said the bill would make technical and procedural changes to



Sen. John Kuehn

the law governing the state's Prescription Drug Monitoring Program (PDMP) system, established in 2016 to enable prescribers and pharmacies to check for suspected abuse.

Kuehn said the bill would continue to ensure successful implementation of the PDMP in Nebraska and further the program's goals of improved patient safety and the promotion of information sharing and best practices among providers.

A Health and Human Services Committee amendment, adopted 40-0, replaced the bill. Kuehn said the amendment reflected additional work done since LB223 was introduced.

"[The amendment] represents a number of people working together to ensure continued implementation of this major undertaking to ensure patient health and safety," Kuehn said.

As amended, the bill would require individuals to be trained before accessing the PDMP. Training would be conducted by the statewide health information exchange. The bill would strengthen provisions requiring that information transmitted to the exchange meet Health Insurance and Portability and Accountability Act (HIPAA) standards.

If a patient opts out of the statewide health information exchange, prescription information regarding that patient would not be accessible by participants in the statewide health information exchange.

The bill also would allow members of a patient care team to access the PDMP on behalf of a prescriber, if he or she is a licensed or registered health care professional who is credentialed in Nebraska. Veterinarians would be required to report dispensed controlled substances under the bill beginning July 1, 2018.

Omaha Sen. Sara Howard, who prioritized the measure, spoke in sup-

port of LB223. The bill strengthens and builds upon a law first passed in 2011 by her mother who was then a state senator, she said, two years after the death of Howard's sister due to an opioid overdose.

She said the bill would keep Nebraska "light years ahead" of other states in dealing with opioid addiction.

"Right now we have one of the best prescription drug monitoring programs in the country," Howard said.

Following adoption of the amendment, LB223 advanced to select file on a 38-0 vote.

### **More federal funds for emergency transports advanced**

A bill that would allow public and nonprofit emergency medical transporters to be reimbursed by Medicaid at the same rate as hospitals and other medical providers was advanced to select file April 18.

LB578, introduced by Omaha Sen. Mike McDonnell, would establish a Ground Emergency Transport Program in Nebraska to allow eligible providers to receive supplemental Medicaid reimbursement for ground emergency medical transport services.

McDonnell, who served 24 years as a firefighter, said several states have established similar programs as a way to capture higher reimbursement rates for ground transport of Medicaid patients in emergency situations. Currently, the supplemental reimbursement is available only to a hospital, physician or nursing facility.

Most of the state's emergency responders are financially strapped, answering an average of 350 calls per day across Nebraska, McDonnell said.

"They are there to help anyone that calls them, and they will never turn down a 911 call," he said, but they need funds to pay for fuel, replace equipment and train responders. LB578 would enable departments to recoup more of their costs, he said.

A Health and Human Services Committee amendment, adopted 34-0, became the bill. As amended, LB578 would require the state Department of Health and Human Services (DHHS) to design and implement an intergovernmental transfer program relating to Medicaid managed care to increase capitation payments in order to increase reimbursement to eligible providers.

The program would apply to providers owned or operated by the state or a city, county, rural or suburban fire district, hospital district, federally recognized Indian tribe or other unit of government. Participation by local government entities would be voluntary.

DHHS would be required to submit a state plan amendment by Jan. 1, 2018, to provide for a supplemental reimbursement rate and to submit necessary materials to the federal government annually.

Bellevue Sen. Sue Crawford supported the bill, saying it would allow emergency responders to be reimbursed for a "dry run" - in which first responders are able to stabilize a patient when called to a location without having to transfer the individual to a hospital.

"LB578 is part of an important step to rethink how we reimburse [emergency medical] services to recognize that those services that are given to stabilize someone - and not have to transport them - are very valuable and deserve to be reimbursed," Crawford said.

Ralston Sen. Merv Riepe, chairperson of the Health and Human Services Committee, said some ques-



Sen. Mike McDonnell

tion remains regarding whether the federal government will allow the reimbursement authorized by the bill. As a result, Riepe said, he would be withholding support until a determination could be made.

The bill advanced to select file 36-0.

## JUDICIARY



### Bills considering defendants' ability to pay fines advanced

A bill that would expand the authority of county courts to determine a person's competency to stand trial was amended April 19 to include provisions of several bills addressing defendants' ability to pay fines.

Currently, if a party files a motion to determine a defendant's competency to stand trial in county court, a separate civil motion is filed in district court. The criminal case is put on hold while the competency determination is made by a district court judge.

Judges who hear a criminal case in district court, however, have the authority to consider a competency challenge similar to any other motion.

LB259, introduced by Lincoln Sen. Matt Hansen, would allow county court judges to determine competency without filing a separate civil motion in district court. It also would allow city attorneys to question a defendant's competency.



Sen. Matt Hansen

Hansen said allowing county courts to determine competency would be more efficient and protect the defendant's right to a speedy trial.

A Judiciary Committee amendment, adopted 26-3, incorporated

into the bill provisions of Hansen's LB145, which would require a court to determine a defendant's ability to pay a fine before imposing a jail sentence for nonpayment. If the defendant is found to be unable to pay the fine, that court could authorize an installment payment plan or community service as an alternative to payment of the fine.

Hansen said this would address the problem of unnecessary detention in county jails and help counties reduce costs of these prolonged jail sentences.

"There are people sitting in jail for offenses that carry no jail time, simply because of their inability to pay fines and fees," he said. "This amounts to jail time that is de facto based on income."

The committee amendment incorporated provisions of two additional bills.

LB526, introduced by Lincoln Sen. Adam Morfeld, would prohibit the detention of a debtor unless he or she is found to be willfully in contempt of court. It also would require court appointed counsel for indigent debtors in the event of a contempt hearing that could result in imprisonment.



Sen. Adam Morfeld

Also introduced by Morfeld and added by the amendment is LB395, which would require judges to consider a defendant's ability to pay as a factor in setting bond. Morfeld said it is unfair to detain people because of financial restraints.

"This will make it so that nonviolent criminals who may not be able to pay their fines, but would otherwise, would not be held in jail for 30 or 60 days," he said.

Following the adoption of a technical amendment, senators advanced the bill to select file on a 26-4 vote.

### Medicaid reimbursement from hidden assets advanced

Before lawmakers passed LB72 in 2015, the state could recover only assets from a probate estate to settle a Medicaid debt. That bill adopted the federal definition of an estate to include additional assets in an attempt to combat the hiding of assets.

Senators advanced a bill from general file April 19 that would provide guidance on implementing the expanded asset recovery program. Introduced by Columbus Sen. Paul Schumacher, LB268 specifically itemizes which assets would be eligible for recovery by the state Department of Health and Human Services (DHHS).



Sen. Paul Schumacher

Schumacher said the bill would provide clarity and address ethical dilemmas faced by estate planners when asked to hide their clients' assets.

"If you have money, it should first go to paying your bills at the nursing home," he said. "Only after those bills are paid, should it go to the heirs."

Under the bill, a person applying for Medicaid assistance would be required to disclose all interest in real estate, trusts, corporations, limited liability corporations or other entities, as well as any income derived from them. Failure to disclose such interests would result in any received assistance being declared illegally obtained and subject to recovery by the state.

If an applicant for assistance retains an interest in an asset that has been transferred to a relative for less than a commercially reasonable price, the income derived from the asset transfer also would be subject to recovery.

DHHS could bring an action to recover unlawfully obtained medical as-



sistance against the estate of a Medicaid recipient within five years after his or her death and any remaining spouse.

LB268 would define a recipient's estate as any real estate, personal property or other asset in which the recipient had any legal title or interest at or immediately prior to the time of the recipient's death, including insurance policies and annuities in which the recipient had an interest.

Gothenburg Sen. Matt Williams supported the bill, saying recovery of assets has been a difficult issue facing Nebraska for years. Estate planners often are asked to place their clients' personal interest above professional ethics.

A Judiciary Committee amendment adopted 29-0, clarified that assets eligible for recovery under the bill would include securities, bank accounts, intellectual property rights, contractual or lease rights and other similar types of assets. The amendment also provides a mechanism to appeal any DHHS decision as to whether a transfer of assets is commercially reasonable.

Senators advanced the bill to select file on a 37-0 vote.

**Self-storage lien modernization advanced**

A bill that would allow self-storage facility owners to impose liens on personal property was advanced from general file April 20.

LB492, introduced by Omaha Sen. Burke Harr, would allow an operator of a self-storage facility to impose a lien on all of an occupant's personal property located at the facility to recover delinquent rent, late fees and other



Sen. Burke Harr

charges related to the preservation, sale or disposition of the personal property.

Harr said currently self-storage facility owners operate under the same contract provisions as traditional landlord rental agreements to resolve disputes. Establishing lien procedures specific to the storage industry would help Nebraska modernize its system, he said.

"This would provide clarity for self-storage operators as to the process they need to follow," Harr said. "That will benefit both the renters and the facility [operator]."

Under the bill, self-storage rental agreements would include language notifying a renter of the lien and its enforcement if a renter is found to be in default for more than 45 days. The facility operator would be required to give written notice to the renter of default and allow the renter an additional 45 days to pay all delinquent charges.

If the charges are not satisfied within that time frame, the facility operator may conduct a commercially reasonable sale of the personal property.

Omaha Sen. Bob Krist supported the bill, saying it would benefit active duty military members who may unintentionally miss payment deadlines due to their deployment.

Following the adoption of a technical committee amendment, senators advanced the bill to select file on a 31-0 vote.

**Bill to consider intent for knife possession charge advanced**

A bill that would clarify the intent of Nebraska's deadly weapon statute was advanced from general file April 20.

Currently, Nebraska statute considers possession of any knife with a blade longer than 3.5 inches to be a deadly weapon, regardless of the owner's intent. LB558, sponsored by Columbus Sen. Paul Schumacher, would clarify

that the intended use of the knife should be considered when charging a person with a crime.

He said carrying a knife in a tackle box or picnic basket could result in a felony charge for possession of a deadly weapon under current statute. LB558 would correct this by taking into consideration a person's intended use of such a knife when determining whether or not to file criminal charges, Schumacher said.

The bill was advanced to select file on a 34-0 vote.

**Legalization of medical cannabis stalls**

A bill that would approve certain forms of cannabis for medical use stalled on general file April 19. Cannabis is a plant that produces tetrahydrocannabinol (THC), a chemical compound known to have a variety of psychological and physiological effects on the human body.

LB622, as introduced by Lincoln Sen. Anna Wishart, would authorize the state Department of Health and Human Services to register only one cannabis manufacturer in each of the state's three congressional districts. Each manufacturer would be required to contract with an independent laboratory — subject to approval by DHHS — to test the safety and efficacy of its product.



Sen. Anna Wishart

Additionally, DHHS could register up to four cannabis dispensaries in each congressional district. All medical cannabis would be dispensed by a licensed pharmacist.

Any county, city or village governing body would be authorized to adopt a resolution or ordinance prohibiting

the operation of a manufacturer or dispensary or both within its boundaries.

Wishart said commonly prescribed drugs such as opioids have become one of the leading causes of accidental deaths in the United States. However, in states that have legalized medical cannabis, she said, opioid overdose deaths have decreased by 25 percent.

“It would be unreasonable, arbitrary and capricious for the [federal Drug Enforcement Agency] to stand between people suffering and medical cannabis,” Wishart said.

A pending Judiciary Committee amendment would permit cannabis only in liquid, oil, pill or vaporized form. A seven-person, governor-appointed Medical Cannabis Board would advise the department regarding medical cannabis regulations.

Patients with qualifying conditions could apply to DHHS for enrollment on a proposed patient registry. Qualifying medical conditions would include amyotrophic lateral sclerosis (ALS) or severe and persistent muscle spasms, including those associated with multiple sclerosis (MS); epilepsy and seizures; pain, nausea and wasting associated with cancer; glaucoma; HIV or AIDS; Crohn’s disease; Tourette’s syndrome; post-traumatic stress disorder; anxiety; and any other illnesses for which cannabis provides relief as determined by a health care practitioner.

Also eligible would be terminally ill patients with a probable life expectancy of under one year if the illness or its treatment produces severe or chronic pain, nausea, severe wasting, hepatitis C, lupus, Huntington’s disease, Parkinson’s disease, Lyme disease, spinal cord injury or opioid addiction.

A designated caregiver administering the drug to a patient would be at least 21, agree to possession of cannabis only for purposes of assisting the patient, not be a caregiver for more than

one patient unless they reside in the same home and would pass a criminal background check. Parents and legal guardians would not be required to register with the department but would be subject to a background check.

Lincoln Sen. Mike Hilgers opposed the bill, saying there is no significant scientific evidence to back up the anecdotal evidence given by its supporters. It would be premature for the Legislature to act, he said, before the Federal Drug Administration (FDA) has adequately studied the issue.

“We currently have a process to determine what types of drugs should be available for public consumption and that process is through the FDA,” he said. “This Legislature is not equipped to make this type of clinical determination.”

Sen. Adam Morfeld of Lincoln supported the bill, saying that the lack of evidence is a result of political pressure. Withholding a medical treatment from a patient who could receive relief from medical cannabis is impossible to justify, he said.

“There is no reason why a Nebraskan mother or father should risk going to prison to help their children based on the advice of their doctor,” Morfeld said. “That is exactly what is happening right now.”

In opposition to the bill, Gothenburg Sen. Matt Williams said empathy for suffering people cannot outweigh what is best for all Nebraskans. Legalizing a Schedule I drug like cannabis is a slippery slope that could lead to unintended consequences, he said.

“One of the concerns I have is the fact that every state that has legalized medical marijuana has now either legalized or has pending legislation to legalize recreational marijuana,” Williams said.

But Omaha Sen. Joni Craighead said legalizing cannabis for medical use

would not lead to a drastic increase in recreational use. Medical cannabis has very low levels of the hallucinogenic compound THC, she said, which causes the high that marijuana is known for.

“Medical cannabis will not cause people to become weed smokers,” Craighead said, “But there is a number of cancer patients and people suffering from seizures who could benefit from it.”

Manufacturers and dispensaries would pay a \$25,000 application fee to be remitted to a Medical Cannabis Regulation Fund to offset the cost to implement the bill. The fund also would collect annual operating fees of no more than \$75,000 from manufacturers and \$25,000 from dispensaries, to be collected by DHHS.

Under a proposed amendment presented by Wishart, manufacturers would be replaced by up to 10 cannabis producers and 10 processors in each congressional district. Additionally, the amendment would authorize up to eight dispensaries, in each congressional district. A \$40,000 annual fee would be imposed on each producer and processor.

Senators moved on to other bills on the agenda without taking action on the bill.



### Repeal of tax exemption for political events advanced

Food and admissions fees at political events no longer would be exempt from sales taxes under a bill advanced from general file April 20.

Introduced by Sen. Jim Scheer of Norfolk, LB63 would eliminate a sales and use tax exemption for admission, fees and food sold at political events held

by ballot question committees, independent committees and political party committees.

Scheer said the bill likely would have a small financial impact because hosts of political events often pay sales taxes on food anyway.

“But I think if we as politicians and legislators are going to try to have others work on our budget problems, then we should be part of the solution as well,” he said.

Sen. Mike Groene of North Platte supported the bill. He said an often-heard complaint among Americans is that politicians exempt themselves from the laws they make.

“This is just a simple message to the people of Nebraska [that] we don’t exempt ourselves from the taxes that they pay,” Groene said.

LB63 advanced to select file 32-0.

**Property tax fund for additional school aid debated**

The Legislature debated a bill April 18 that would direct more state aid to schools that rely on property taxes for more than 55 percent of their general fund revenue.

As introduced by Sen. Mike Groene of North Platte, LB640 would decrease the maximum levy for school districts and direct money in a property tax credit fund—which is funded by state income and sales taxes—to increase state aid to districts that lose money as a result.

Groene said the bill is intended to more fairly distribute funding under the state’s school aid formula. As



Sen. Jim Scheer

valuations on agricultural land have increased over the last decade, he said, rural schools have received less and less state aid because they can rely on property taxes to meet their needs. This has placed a disproportionate burden on rural property taxpayers, Groene said.

“[LB640] puts equity back into funding of our schools for every single property tax payer in the state,” he said.

A pending Revenue Committee amendment would replace the bill, reducing the maximum levy for school districts from \$1.05 per \$100 of taxable valuation of property in a district to 98.7 cents per \$100 beginning in fiscal year 2018-19.

For tax year 2017, \$224 million would be transferred from the property tax credit fund to the school aid fund. A school district could qualify for property tax relief aid if its property tax receipts exceed 55 percent of its total revenue. A school district that receives property tax relief aid would decrease the amount of property taxes it collects by the same amount.

For years in which a temporary reduction in aid is in place, a district could levy up to an additional 3 cents above the maximum levy after a public hearing and approval by two-thirds of the district’s board.

Henderson Sen. Curt Friesen supported the bill and the committee amendment. Friesen said that no schools in his district receive equalization aid, which is state aid intended to cover the needs of school districts that cannot be met by other resources, such as property taxes. He said LB640 would be a small way to address the shift in state aid from rural districts to urban districts.

“If [LB640] would go into effect, it would bring more state aid to all those non-equalized districts that currently receive none,” he said.

Sen. Roy Baker of Lincoln opposed

the bill, saying that it would channel more state aid to some rural districts that have more resources and away from poorer districts. In his district, he said, Tri County Public Schools outside DeWitt would receive property tax relief aid under LB640 even though its tax levy is far less than that of Beatrice Public Schools.

“This is like a reverse Robin-Hood bill,” Baker said.

Lincoln Sen. Kate Bolz also opposed the bill. By directing all of the money in the property tax credit fund to school aid, Bolz said, LB640 effectively would increase property taxes on homeowners in her district.

“I’m struggling to understand how I could talk to my neighbors about why this legislation works for them and how I can keep my commitment to that property tax credit program,” she said.

Sen. Dan Hughes of Venango, who supported the bill, acknowledged that property taxes in some urban districts could increase if LB640 is implemented, but he said property taxes on agricultural land in many cases have doubled in the last five years.

“I don’t think that asking for a little bit of that shift back from the urban homeowner is out of line,” Hughes said.

The Legislature adopted a technical amendment but moved on to other bills on the agenda without voting on the committee amendment or LB640.



**New mowing restriction advanced**

A bill that would help encourage wildlife habitat growth and fight soil erosion got first-round approval from

the Legislature April 20.

LB584, introduced by Henderson Sen. Curt Friesen, would prohibit counties and townships from mowing ditches before July 1 each year. Friesen said the bill could result in a cost savings to counties while benefiting local wildlife.



Sen. Curt Friesen

“It would encourage the growth of habitat for upland birds, pollinators and song birds,” he said. “It also could help reduce soil erosion and create bioswale buffers, which help reduce silt and pollution runoff water.”

The bill would not prohibit private landowners from mowing roadside vegetation on road shoulders, intersections or entrances.

A Transportation and Telecommunications Committee amendment,

adopted 37-0, would require landowners to mow roads and drainage ditches at least twice annually, in July and September of each year.

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

## URBAN AFFAIRS

### Bill to extend infrastructure repayment period advanced

Lawmakers advanced a bill from general file April 20 that would allow certain cities more time to repay special assessments levied for infrastructure projects.

Cities can create a special assessment district to finance infrastructure projects including improvement of streets, alleys, storm sewers and sidewalks. Financing provided by the city

at the beginning of a project then is repaid through a special assessment levied upon property owners located within the special assessment district.

Currently, special assessments of more than \$5,000 must be paid within 10 years. LB159, introduced by Omaha Sen. John McCollister, would extend the repayment period to 20 years. He said the expanded time frame would make it easier for property owners, in conjunction with the city, to repay city infrastructure projects.



Sen. John McCollister

The first installment payment would be due 50 days after the initial levy date, with subsequent payments due after one year and annually after that. ■

# Tax cuts, new ag land valuation method debated

(continued from page 3)

than science some years,” she said. “In fact, we rarely get it close to target.”

Bolz said the proposed triggers would have cut income taxes in 2002 when the state faced a \$750 million shortfall and again in 2008 when the shortfall reached \$377 million.

Also in opposition to the bill was Sen. Patty Pansing Brooks of Lincoln. She said she would be in favor of the proposed tax cuts if the state were not facing a large budget shortfall and if the cuts would not disproportionately benefit wealthy Nebraskans.

“I do appreciate the fact that Sen. Smith is trying to add the [earned income tax credit] in ... but in relation to what’s happening to the wealthy people, it’s a crumb,” Pansing Brooks said.

Sen. Bob Krist of Omaha said he is concerned about the complexity of the proposal and that it could shift the tax burden from agricultural landowners to residential and commercial taxpayers.

“My biggest concern is the shift in tax to our residential areas,” he said. “In some of your small towns, in some of your counties, there is nothing to shift to.”

Krist filed a motion to recommit the bill to the Revenue



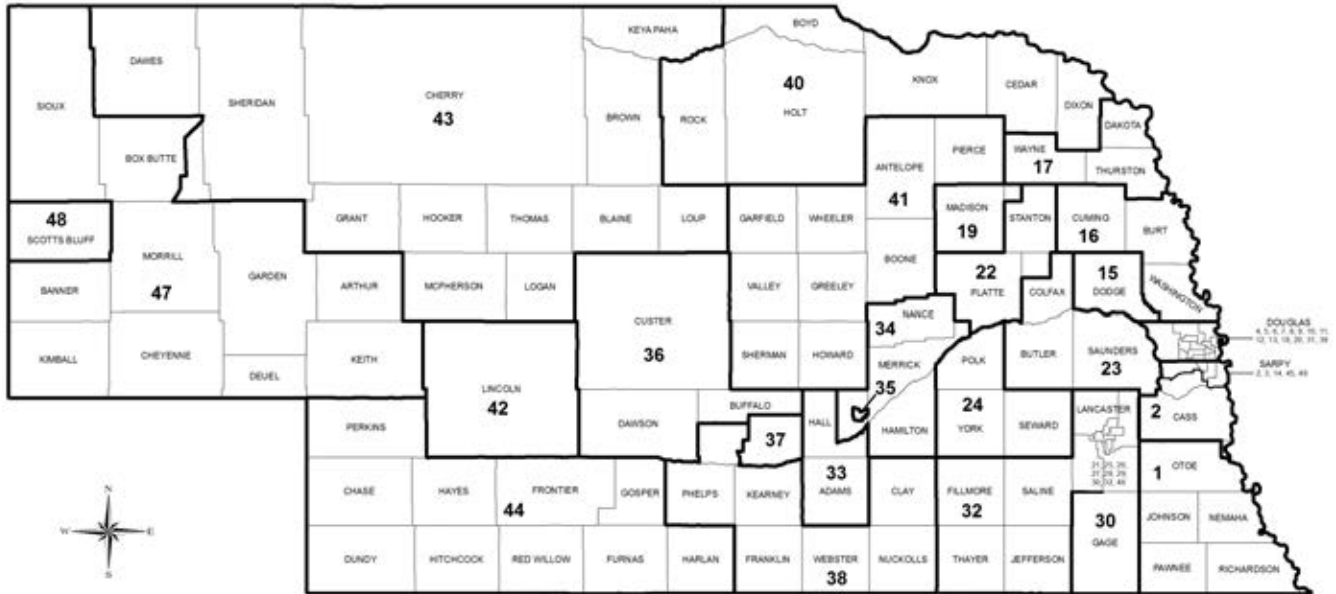
Sen. Burke Harr said it is not clear that the proposed tax cuts would lead to economic growth and that the state instead should focus on developing its workforce.

Committee for additional work, saying that a vote on the motion could be seen as a test of the bill’s support. The motion failed 15-29. Thirty-three supporters are needed to break a filibuster of the bill.

Lawmakers adjourned for the week before taking further votes. Several amendments are pending. ■

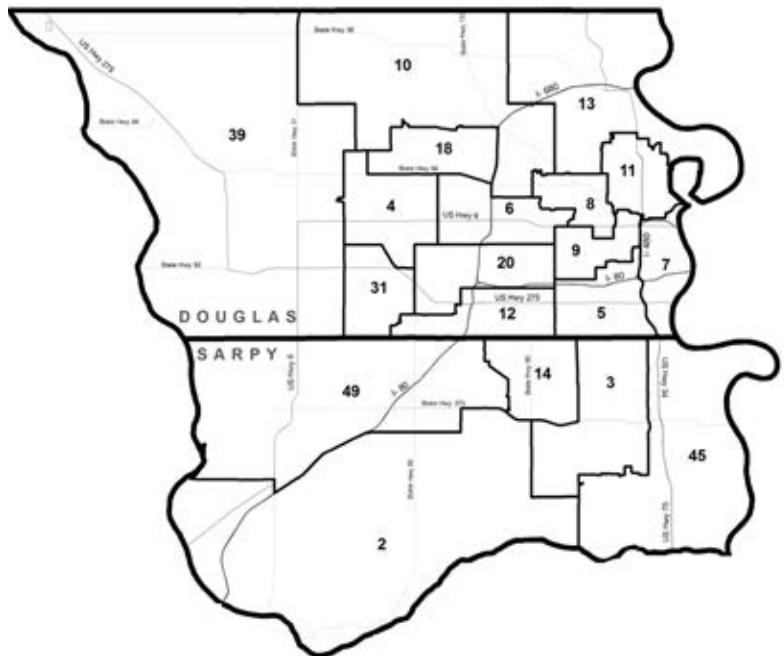
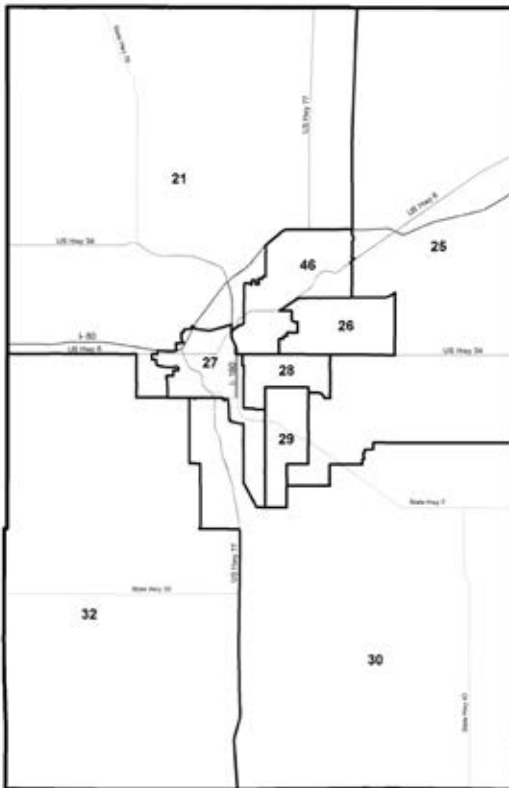
# LEGISLATIVE DISTRICTS

For larger versions of these and other district maps, visit the maps clearinghouse page on the Legislature's official website: [www.nebraskalegislature.gov/maps](http://www.nebraskalegislature.gov/maps)



LINCOLN\*

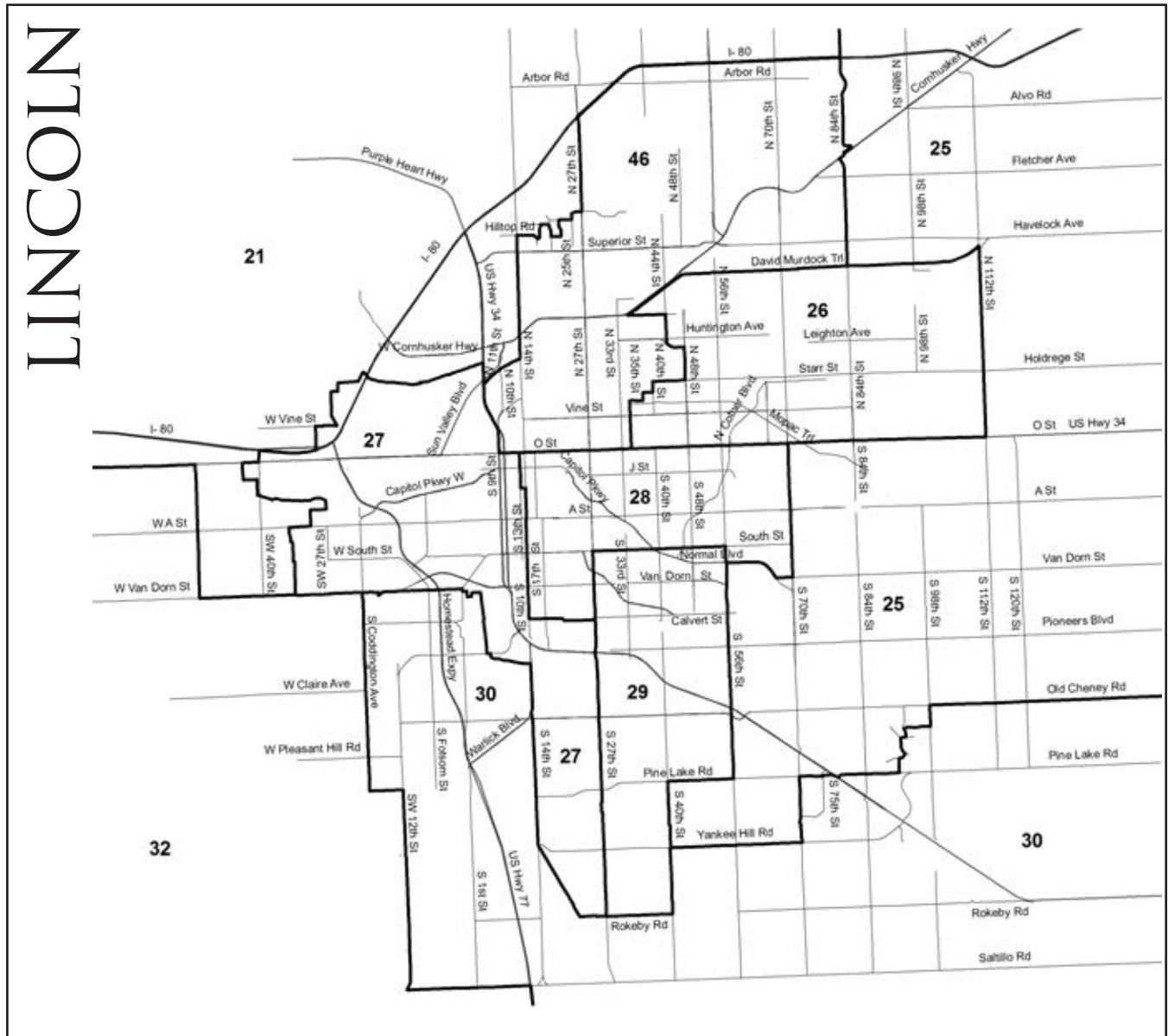
OMAHA AND VICINITY\*



\* See enlarged versions on pages 14-15.

# METRO-AREA LEGISLATIVE DISTRICTS

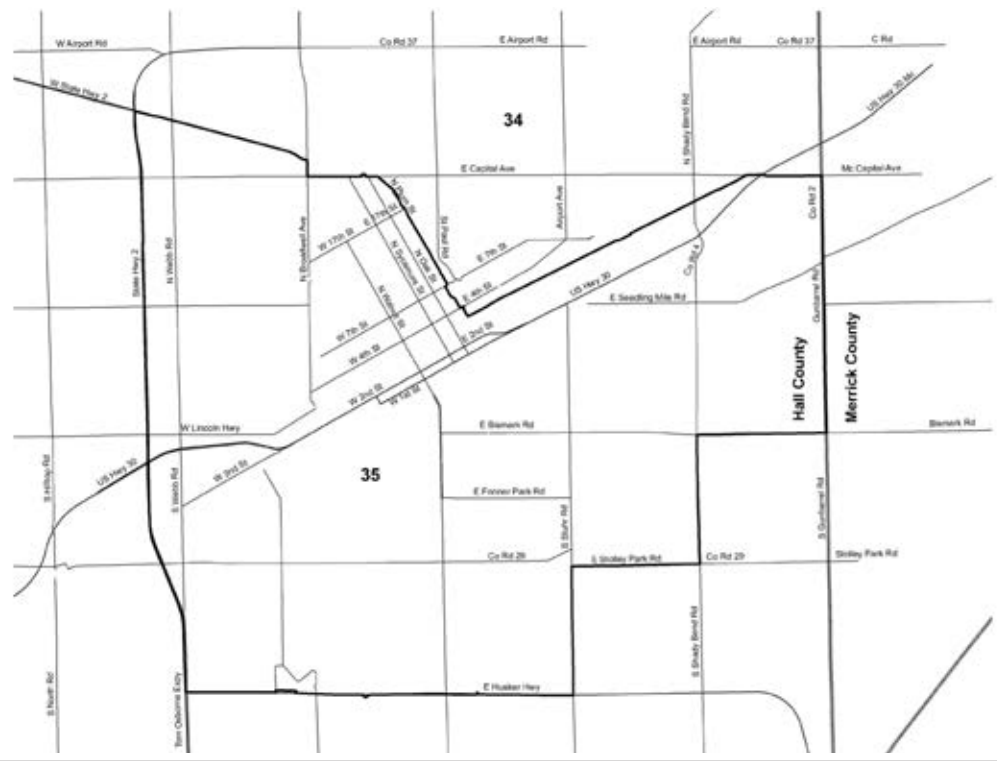
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Former senators were invited to the Norris Chamber April 19 to be recognized for their service to the state.