

## Mainline budget bill advanced after cloture



Appropriations Committee chairperson Sen. John Stinner answers a question from Sen. Patty Pansing Brooks regarding Title X funding.

**L**awmakers began debate April 25 on the state's \$8.9 billion budget package. The state budget is structured on a two-year basis, with the budget enacted during legislative sessions held in odd-numbered years.

As introduced, the Appropriations Committee budget proposal would result in a financial status at the end of fiscal year 2018-19 that is \$3.5 million above the 3 percent minimum reserve. The budget package represents a 1.0 percent growth rate in spending over the biennium.

Gering Sen. John Stinner, chairperson of the Appropriations Committee, said the goal of the proposed package was to return the budget to a positive structural balance and meet the minimum reserve requirement in the face of a nearly \$1 billion projected budget shortfall.

This was accomplished, he said, by higher than normal transfers to the state's general fund from agency cash funds and a \$172 million transfer

from the Cash Reserve Fund to the General Fund.

### Mainline budget bill

LB327, introduced by Speaker Jim Scheer on behalf of the governor, is the mainline budget bill. An Appropriations Committee amendment replaced the bill and contains recommendations for state operations and state aid.

Among other provisions, the amendment includes the following increases to baseline appropriations over the biennium:

- \$62.4 million for the Tax Equity and Educational Opportunities Support Act (TEEOSA);
- \$35.6 million for Medicaid;
- \$15.4 million for staffing, programs and equipment for the state Department of Correctional Services; and
- \$11.4 million for the courts under the Justice Reinvestment Act.

Among other reductions, the amendment also includes proposed

cuts of \$24.7 million to state agencies, \$13 million to the university system and \$9 million in foster care contracts with private providers of kinship placements for state wards.

Stinner said the proposal reflects the committee's commitment to K-12 education, property tax relief and continuing efforts to fix the state's corrections system. State boards, commissions and agencies were committed to making the budget work in difficult circumstances, he said.

"To an agency, they expressed a concern about the budget," Stinner said. "They wanted to be part of the solution with the budget and the deficit shortfall, and they are really the ones that I want to acknowledge. They have to carry the ball from here. They have to make the tough decisions based on a limited amount of resources."

Debate focused on proposed changes to the Appropriations Committee amendment.

Sen. Curt Friesen of Henderson, chairperson of the Transportation and Telecommunications Committee, offered an amendment that would have reduced by \$4.4 million in FY2017-18 and \$2.1 million in FY2018-19 an appropriation from the Highway Cash Fund to the Roads Operations Cash Fund.

Friesen said the purpose of the amendment was to prevent the use of motor fuel tax receipts from being diverted for purposes other than roads infrastructure.

"The amendment properly adjusts the Highway Cash Fund appropriation to match program infrastructure projects and roads operations," he said, adding that he had supported

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the 2015 bill that increased the state's motor fuel tax.

"I believed then and believe now that the increase was good policy and I've always been supportive of the concept of the gas tax being used to pay for roads and being solely dedicated to that purpose," he said.

Friesen said that without the amendment – and another pending on LB331 that would reduce transfers from the Roads Operation Fund to the General Fund – the variable gas tax rate would need to be set to match the higher appropriations and transfer levels, resulting in a higher overall gas tax rate.

Brainard Sen. Bruce Bostelman supported the amendment, saying the transfer in LB327 represents a "historic departure" from the policy of using gas tax receipts solely for infrastructure needs.

"This has the potential to have detrimental impacts to various infrastructure projects around the state," he said, including the need to expand U.S. Highway 30 to accommodate agriculture needs and improve safety.

Omaha Sen. Burke Harr opposed the amendment, saying that although he understands the importance of

roads, all aspects of government need to be included in the cuts necessary to balance the budget.

"I don't know how people can feel that they don't need to be part of the solution," he said. "We're all in this together. We are slowing down the growth of government with this bill."

Sen. Kate Bolz of Lincoln also opposed the Friesen amendment, saying the committee's proposal makes significant investments in roads funding elsewhere in the budget, including adding Amazon sales tax revenue to the State Highway Capital Improvement Fund.

"Highway construction [funding] increases by \$45 million for the biennium," she said. "I just want everyone to work from the facts."

The amendment was defeated on a 20-27 vote.

An amendment brought by Columbus Sen.

Paul Schumacher was debated April 26. It would have removed a provision stating that, to the extent permissible under applicable federal regulations, the state Department of Health and Human Services (DHHS) is to prioritize the use of all funds associated with the Federal Title X Program to federally qualified health centers, community health centers, hospitals, tribal government entities and state and local government entities.

Title X funds are used to subsidize Pap smears – and treatments and procedures for the follow-up of abnormal



Sens. Kate Bolz and Bob Krist discuss the budget during general file debate April 26.

## UNICAMERAL UPDATE

The Unicameral Update is a free, weekly newsletter published during the legislative session. It is produced by the Clerk of the Legislature's Office through the Unicameral Information Office. For print subscriptions, call 402-471-2788 or email [uio@leg.ne.gov](mailto:uio@leg.ne.gov). Visit us online at [Update.Legislature.ne.gov](http://Update.Legislature.ne.gov) and follow us on [Twitter.com/UnicamUpdate](https://twitter.com/UnicamUpdate).

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Columbus Sen. Paul Schumacher said stand-alone clinics provide important services for low-income Nebraskans.

Pap smears – as well as the diagnosis and treatment of sexually transmitted diseases, cancer screenings and family planning services. General funds provided under Title X cannot be used to perform, facilitate, counsel or refer for abortion services.

Schumacher said the omission of stand-alone clinics in the priority list would allow DHHS to de-fund entities that provide health care to tens of thousands of low-income Nebraska women. Such a policy change should have come in the form of a legislative

bill that would have had a focused public hearing, he said.

“A budget should be about how we spend money, not about how we change policy on highly sensitive issues,” Schumacher said. “This should not have been tried this way.”

Omaha Sen. Bob Krist agreed, saying the language appeared to be targeted at a specific provider of Title X services.

“I think this is a deliberate attempt to take funding away from Planned Parenthood,” he said. “I think it’s a deceitful way to do it.”

Sen. John Murante of Gretna opposed the amendment, saying the new language simply would prioritize how Title X funds are allocated and would not change the services that are provided or access to those services. In addition, he said, Appropriations Committee hearings are open to the public.

“I don’t know how that process differs from any other process on any other bill that we’ve had this year,” Murante said. “That’s how our system

of government works.”

Sen. Mike Hilgers of Lincoln agreed, saying the language that would be stricken by the Schumacher amendment was included in the budget bill as introduced. There was public notice, he said, and an opportunity for the public to be heard. More importantly, he said, the change is good public policy.

“I think there’s a good case for why we would want to prioritize some of these centers,” Hilgers said, because they have a broader range of services than those that can be provided at stand-alone clinics.

The amendment was defeated on a vote of 17-19.

Lincoln Sen. Patty Pansing Brooks then said she would offer an amendment to add stand-alone clinics to the list of entities that could be prioritized for Title X funding and remove the words “up to” before the amounts appropriated for the program.

She said the change would help ensure that stand-alone clinics in Grand Island, Kearney, Crete, and North Platte could continue to operate so that low-income women would not have to travel long distances for services.

“My intent with the amendment is to cover everyone who is currently covered,” Pansing Brooks said.

After continued discussion, Norfolk Sen. Jim Scheer offered a motion to invoke cloture, or cease debate and vote on the bill. He encouraged senators to work together before select file to find a solution to the Title X funding issue and others.

“This budget is going to drive the state of Nebraska for the next two years. What we do will have consequences ... for all Nebraskans, in one form or another,” Scheer said. “We have to show fiscal restraint; we also have to show compassion.”

The cloture motion was adopted on

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Sens. Jim Scheer (left) and Bob Krist confer during debate on the mainline budget bill.



# MEET THE SENATOR

## Linehan trades federal experience for state service

Sen. Lou Ann Linehan cannot remember a time when politics and history did not fascinate her.

She graduated from high school in May 1973, the month of the Watergate hearings in Washington, D.C. After waking at 5:30 every morning to help milk cows on her family's dairy farm near Crab Orchard, she spent her afternoons in front of the television watching the hearings.

"I was just mesmerized by it all," she said.

Linehan has been active in the state Republican Party since she served as volunteer coordinator for Ally Milder in the 1988 Republican congressional primary. Linehan became Milder's campaign manager in 1990 when Milder ran for the 2nd District congressional seat.

In early 1993, Linehan met a Nebraska businessman named Chuck Hagel who was interested in running for the U.S. Senate. He asked Linehan, who by then had developed a knack for running campaigns, to help him get elected. "I just want somebody who knows how to win a county sheriff's race — and you do," he told her.

Hagel won, becoming the first Nebraska Republican elected to a Senate seat in 24 years. He asked Linehan to be his chief of staff and, after flying back and forth between

Hagel's Omaha and Washington offices for a few years, she and her family moved to Fairfax, Va., in 2001.

At around the same time, the Bush administration appointed Linehan to serve as deputy assistant secretary at the U.S. State Department under Colin Powell. She worked as a liaison between the department and the Senate for the next 18 months, until Hagel again asked her to work for him. She was his chief of staff until 2007 and then returned to the State Department.

In 2008, Linehan was assigned to Provincial Reconstruction Team Baghdad. She helped screen department managers being sent to Iraq and traveled around the country, again acting as a liaison, this time with the Army.

Linehan said the essence of her work at the State Department was getting groups of people — diplomats, soldiers, politicians — to talk to each other and work together.

"That's every success in life — and not just talking, but listening," she said.

Linehan retired from federal service in 2012 and returned to Elkhorn, Nebraska. She had planned to spend more time with her grandchildren, read books, garden and tutor dyslexic children — she had trouble reading as a child — but ran

for office because she wants to reduce the state's property and income taxes, which she says are unsustainably high.

After spending years working in the U.S. Senate, Linehan knew much of what to expect about working in a legislative body. One striking difference, Linehan said, is the efficiency of the Unicameral compared to the U.S. Congress.

"It's wonderful," she said. "Compared to two houses? It's much better."

Linehan said George Norris was right when he spoke of the murkiness of the conference committee, in which legislation from the two houses of a bicameral legislature is reconciled in secret.

"Everything here is right out in the open," she said. ■



Sen. Lou Ann Linehan spends an autumn day at the pumpkin patch with husband Kevin, son Patrick and grandsons Jack, Luke and Mitch.



## Hybrid seed corn definitions, violations updated

Senators passed a bill April 24 that updates the definition of hybrid seed corn and allows a restraining order or injunction to be imposed on anyone who sells or represents corn seed as a hybrid variety that does not meet identity standards.

Introduced by Sen. Joni Albrecht of Thurston, LB276 clarifies the definition of hybrid seed corn and the process of cross fertilization as it relates to hybrid seed corn. Hybrid seed corn is limited to seed of the first generation of a cross involving two, three or four different inbred lines of corn or their combinations.

Under the bill, a district court in the county where the violation occurs has jurisdiction to grant a restraining order or a temporary, permanent or mandatory injunction against that person. That is in addition to an existing criminal penalty against such a violation.

The bill requires the state Department of Agriculture – when he or she has reasonable belief that a violation is occurring – to report that belief to the attorney general or the county attorney in which the violation is occurring. The attorney general or county attorney then could pursue legal action.

The bill passed on a 49-0 vote.



Sen. Joni Albrecht



## Insurance companies must cover telehealth

Lawmakers passed a bill April 24 that prohibits insurance providers from excluding coverage for a service based solely on its deliverance through telehealth.

LB92, sponsored by Seward Sen. Mark Kolterman, requires health insurance companies to cover any service provided via telehealth if the service is covered for an in-person consultation. The bill also removes an existing Medicaid coverage restriction for children if a child has access to services within 30 miles of his or her place of residence.

The bill does not apply to policies that provide coverage for a specified disease or other limited-benefit coverage.

LB92 passed 49-0.



Sen. Mark Kolterman

## Security law updates approved

Senators passed a bill April 24 that makes updates to security law.

LB148, sponsored by Columbus Sen. Paul Schumacher, is based on recommendations from an interim study in 2016 and makes numerous changes to the Nebraska Securities Act.

Current law excludes from the securities act individuals with no place of business in the state who effect transactions exclusively with other broker-dealers, specified types of financial institutions and other



Sen. Paul Schumacher

institutional buyers. LB148 adds credit unions to the list of entities to which sales can be made without triggering registration requirements.

Among numerous technical changes and updates, the bill also:

- updates references to federal securities acts and regulations;
- authorizes the director of the state Department of Banking and Finance to issue a notice of abandonment if an applicant for registration fails to respond to a notice within 100 days; and
- authorizes the department to deny, suspend or revoke the registration of a broker-dealer, issuer-dealer, agent, investment adviser or investment adviser representative if the director finds that such person meets any one of 12 listed criteria.

The bill also included provisions of Schumacher's LB187 that increase from \$250,000 to \$750,000 the cap on proceeds from all sales of securities by an issuer under a registration exemption for small offerings. The capped amount could be increased in the future and a security issued through an exempted transaction will not be considered a security for purposes of determining professional malpractice insurance premiums.

The bill passed on a 49-0 vote.

## Biotech startup funds, economic development task force approved

The Legislature gave final approval to a bill April 24 that provides financial assistance to the state's bioscience industry.

LB641, introduced by Sen. Adam Morfeld of Lincoln, creates the Bioscience Innovation



Sen. Adam Morfeld

Program under the Business Innovation Act. The bill creates a fund to provide financial assistance to bioscience-related businesses in the state.

Funding for the program will come from loan repayments to the Nebraska Progress Loan Fund as authorized by the federal Small Business Credit Initiative Act. The state Department of Economic Development estimates that approximately \$1.5 million in loan repayments will be received in fiscal year 2017-18 and \$1 million in FY2018-19. The program will terminate after its funds are exhausted.

The bill includes provisions of LB230, introduced by Sen. Dan Watermeier of Syracuse, that creates a task force that will work with the state departments of Economic Development and Labor to identify the state's economic development priorities. The task force will meet at least every three months when the Legislature is not in session.

Senators voted 31-5 to pass the bill.



Sen. Dan Watermeier

## BUSINESS & LABOR

### Grants to address rural housing shortage authorized

Grant funds for communities looking to address workforce housing shortages were authorized under legislation passed April 24.

Under LB518, introduced by Gothenburg Sen. Matt Williams, rural communities in counties of fewer



Sen. Matt Williams

than 100,000 people can apply for grant funds to build workforce housing. Workforce housing is defined as an owner-occupied home that costs no more than \$275,000 to construct or a rental housing unit that cost no more than \$200,000 to construct.

Grants will be available to non-profit development organizations in eligible communities. The maximum amount awarded may not exceed \$1 million to any one organization over a two-year period and no more than \$2 million through fiscal year 2020-21. Eligible applicants must provide one-to-one matching funds to be considered for a grant.

Priority will be given to communities that have demonstrated an ongoing need for housing through a housing study, a low unemployment rate, difficulty filling vacancies, a demonstrated commitment to growing their housing markets and potential projects that could be ready for occupancy within two years.

The bill also creates the Rural Workforce Investment Fund, which will be funded by a one-time transfer of \$7 million from the Affordable Housing Trust Fund.

LB518 passed on a 49-0 vote.

### Employment preference approved for military spouses

A bill intended to help military families become established in Nebraska was passed by the Legislature April 24.

LB639, introduced by Brainard Sen. Bruce Bostelman, gives preference to active-duty service members when seeking employment with the state or its governmental subdi-



Sen. Bruce Bostelman

visions. Military veterans currently are eligible for such a preference.

Spouses of active-duty service members also are preference eligible during the service member's active-duty term and for the first 180 days immediately following the service member's discharge or separation from service.

The bill passed on a 48-0 vote.

## EDUCATION

### Physical restraint of unruly students debated

Lawmakers debated a bill April 24 that would authorize teachers to restrain violent students and remove unruly students from the classroom without facing legal action.

Introduced by Sen. Mike Groene of North Platte, LB595 would allow teachers and administrators to use physical force or restraint to subdue a student who becomes violent toward himself or herself, another student, a teacher or an administrator. A teacher or administrator also could restrain a student who is destroying school property.



Sen. Mike Groene

The proposal also would allow a teacher to remove a student from class if the student's behavior has repeatedly interfered with the teacher's ability to communicate with students or with other students' ability to learn.

Groene said he brought the bill after discussions with teachers and parents about situations in which violent or unruly students threatened the safety of a classroom or the ability of other students to learn. Teachers technically are allowed to use physical



force to stop a violent student, he said, but many do not know that or do not take action for fear of a lawsuit.

"Nebraska's teachers want statutory guidance as to what they can do to maintain civility in their classrooms," Groene said.

A student removed from a classroom for disruptive behavior could be placed into another classroom, in-school suspension or an alternative education program, but a principal could not return the student to the classroom from which he or she was removed without the teacher's consent.

A pending Education Committee amendment would clarify that a teacher or administrator would be protected from legal action or administrative discipline only if he or she was acting in a reasonable manner.

The amendment also would clarify that students would be allowed to return to a classroom without a teacher's consent if required by the Special Education Act or federal Individuals with Disabilities Education Act. If a teacher refuses to consent, a conference would be held within two school days with the teacher, principal and parents or legal guardian to develop a plan that addresses the student's conduct. The principal could re-admit the student to the classroom after the conference.

Albion Sen. Tom Briese supported the proposal, saying that it would help teachers remove unruly students who interfere with their classmates' education. By authorizing teachers to use only reasonable force, he said, the committee amendment would ensure teachers are held accountable for their actions.

"We need to give our teachers the tools they need to control the classroom," he said.

Sen. Lydia Brasch of Bancroft also supported the bill and the committee amendment. She said the proposal's

intent is not to give teachers license to hurt children but to provide teachers with protection from prosecution if they remove a violent or unruly student from the classroom in a reasonable way.

"I do not believe that this is a bill that permits a child to be injured by any means by any adult in the classroom but [that it] prevents them from injury," Brasch said.

Sen. Roy Baker of Lincoln opposed the bill, saying that minority students, the disabled and those with mental health problems are most likely to be subjected to physical handling by school staff.

"Physical restraint of students as a classroom management technique is ill-advised," he said. "The skilled teacher wants to de-escalate aggressive behavior, not escalate."

Baker said state law already allows teachers and administrators to take actions that are reasonably necessary to aid a student or to prevent interference with the educational process.

A 1999 Nebraska Supreme Court case determined that current law authorizes teachers and administrators to use physical contact short of corporal punishment to the degree necessary to preserve order and control in the school environment, he said. Baker introduced an amendment that would put language from that case into statute.

Sen. Lynne Walz of Fremont also opposed the bill, saying that it ignores the root of student behavioral problems: the lack of mental health and behavioral health services in schools.

"We need to concentrate on how we can proactively alleviate the behavior situations, rather than regressing to punitive alternatives found in LB595," she said.

Also in opposition was Omaha Sen. Ernie Chambers, who said that the 1999 ruling gives teachers and

administrators precise guidance on what actions they can take to control a classroom. LB595 does not provide a standard that defines or describes the use of force by school staff or the student actions that would justify it, he added.

"When you talk about physical force, you have to have standards," Chambers said. "You have to have definitions."

Chambers filed a motion to recommit the bill to the Education Committee, saying that a vote on the motion could show whether the bill had the 33 supporters needed to break a filibuster. Chambers' motion failed 14-24.

The Legislature adjourned for the day before taking further action on the bill.

## EXECUTIVE BOARD

### Donation of Norfolk property to community college approved

A bill that directs the state to donate 43 acres of excess land at the Norfolk Regional Center to Northeast Community College passed April 24.

Introduced by Norfolk Sen. Jim Scheer, LB376 requires the state Department of Administrative Services to seek authorization from the governor and the Legislature to donate the land, which will be used to develop a technology park.

If the community college sells the property within 10 years after the donation, all proceeds will be remitted to the state's General Fund.

The bill passed on a 43-0 vote and takes effect immediately.



Sen. Jim Scheer

## Whiteclay public health task force approved

A special task force to research the public health implications of alcohol sales on the Whiteclay community was authorized by legislation passed April 24.

The unincorporated village of Whiteclay, Nebraska is home to four liquor stores despite having a population of only 11 people. Although alcohol is banned on the Pine Ridge Reservation, a large number of tribal members travel the two miles across the South Dakota border to patronize Whiteclay's liquor stores.

The state Liquor Control Commission unanimously denied the renewal of liquor licenses for the four stores April 19. An appeal is expected.

LB407, introduced by Lincoln Sen. Patty Pansing Brooks, will examine the impact of alcohol sales in Whiteclay and its surrounding communities and make recommendations to the Legislature on how to solve



Sen. Patty Pansing Brooks

the economic and social issues facing the area. Members of the task force will collect, examine and analyze data on fetal alcohol syndrome rates, access to treatment services and the risk of alcoholism for children raised in the area.

The task force will include the chairpersons of the Legislature's State-Tribal Relations, Health and Human Services, Appropriations and Judiciary committees. An additional member of the State-Tribal Relations Committee also will serve on the task force.

The bill passed on a 48-0 vote.

## Reporting authority expanded for inspector general

A bill that gives the inspector general of the Nebraska Correctional Sys-

tem expanded reporting capabilities was passed by the Legislature April 24.

Currently, the inspector general's office investigates allegations of possible misconduct, malfeasance, statute violations, injury and deaths that occur in the state's facilities. The findings are then published in the office's annual report.

LB539, introduced by Omaha Sen. Bob Krist, expands the reporting requirement to include all cases that result in death, serious injury, hospitalization or urgent medical treatment required by an employee acting in his or her official capacity.



Sen. Bob Krist

The inspector general may release investigative findings if it is determined to be in the public's best interest. The bill also protects employees who provide information for such a report from negative employment consequences.

The bill passed on a 42-2 vote.



## Third-party candidates to have greater ballot access

A bill intended to ease ballot access for third-party political candidates was passed by the Legislature April 24.

Under current law, a candidate who is a registered voter of a particular political party may be placed on a primary election ballot in Nebraska if the party received at least 5 percent of the total votes cast in either of the two previous statewide elections.

LB34, introduced by Crete Sen. Laura Ebke, automatically allows access

to the primary election ballot if a party has at least 10,000 registered members as indicated by state voting records.

Ebke said the bill would allow maintenance of ballot access for parties so that they can field candidates at all levels in Nebraska primary elections.

The bill passed 48-0.



Sen. Laura Ebke

## Ex-felon voter waiting period eliminated

A bill that restores voting rights upon completion of a felony sentence or probation was given final approval April 24.

LB75, introduced by Omaha Sen. Justin Wayne, eliminates the current two-year waiting period.

The bill passed on a 27-13 vote.



Sen. Justin Wayne

## Agencies must report corrective action after audit

A bill intended to make audited agencies more responsive to recommendations by the state auditor's office was passed April 24.

As introduced by Sen. John Stinner of Gering, LB151 requires entities subject to a comment or recommendation by the auditor of public accounts to electronically submit a written report detailing any corrective action it has taken or plans to take in response. State colleges and the University of Nebraska are excluded from the requirement. Agencies must submit the report no more than six months after the comment or recommendation was issued.

The auditor of public accounts



then will evaluate the report and submit findings to the governor and the appropriate legislative committee. The bill also requires the auditor to deliver the report to the Legislature's Appropriations Committee so that it may be entered into the record during the committee's budget hearing process.

The bill was amended to include provisions from four additional bills.

LB27, introduced by Sen. John Murante of Gretna, allows the state auditor's office to penalize governing bodies that do not provide the auditor with requested information regarding trade names under which the body operates and any interlocal agreements to which it is a party by Sept. 20 of each year. The auditor may assess a late fee of \$20 per day, up to a maximum penalty of \$2,000.

LB89, introduced by Sen. Dan Hughes of Venango, reduces the period of public notice that a governing body is required to provide before holding a hearing on its proposed budget statement from at least five days to at least four calendar days.

LB90, also sponsored by Hughes, requires a public entity under audit or examination by the auditor of public accounts to provide the auditor with accommodations at the location where the requested records are kept. The accommodations must include desks or tables and chairs, electrical outlets and internet access if it is available.

LB101, also introduced by Stinner, prohibits state agencies from extending a contract for services for a period of more than 50 percent of the initial contract term.

As amended, LB151 also prohibits the auditor of public accounts from revealing sealed or confidential court

records contained in working papers.

Senators voted 49-0 to pass the bill.

### **Tourism Commission to be restructured**

A restructuring of the Nebraska Tourism Commission was approved by lawmakers April 24.

LB222, introduced by Gering Sen. John Stinner, expands the commission's membership from nine to 11 governor-appointed members. Four are required to have professional, volunteer or public-service experience related to the governance duties of the commission and seven must be affiliated with the tourism industry.

Thirty days after its effective date, the bill will dissolve the current commission membership and create 11 districts based on geography and tax lodging revenues to ensure statewide representation. Members will serve four-year terms and be limited to two successive terms.

The bill also clarifies grant guidelines, requires the commission to adopt written policies governing expenditure of appropriated funds and stipulates that contracts awarded by the commission follow rules established by the state Department of Administrative Services.

The commission is required to review its strategic plan annually and update as necessary. Under the bill, the strategic plan must include:

- marketing strategies for promoting tourism;
- methods to expand existing tourism capacity;
- an examination of best management practices for the tourism industry;



Sen. John Stinner



Sen. Dan Hughes

- a review of revenue in the State Visitors Promotion Cash Fund available for tourism development at the state level; and
  - recommended strategies to provide technical assistance, marketing services and state aid to local governments and the tourism industry in Nebraska.
- LB222 passed 48-0.

### **Veterans' services to be consolidated**

A bill to consolidate veterans' services in Nebraska was given final approval April 24.

LB340, introduced by Gretna Sen. John Murante on behalf of the governor, transfers all programs, services and duties of the state Department of Health and Human Services Division of Veterans' Homes to the state Department of Veterans' Affairs, effective July 1, 2017.

The bill also creates the Department of Veterans' Affairs Cash Fund to receive all money paid to the state by members of the Nebraska veterans' homes. Division employees will be considered employees of the Department of Veterans' Affairs after the transition and retain their rights and service under the state personnel system.

LB340 passed on a 49-0 vote.



Sen. John Murante

### **Election administration clarifications advanced**

The Legislature advanced a bill from general file April 25 that would change how legislative vacancies are filled.

Currently, when a legislative seat becomes vacant, the governor appoints

a person to serve in that seat. If the vacancy is created more than 60 days before a general election, then the seat would be permanently filled by the candidate who wins the election. If it 60 days or less before a general election, the appointee serves the rest of the term.

LB451, introduced by Gretna Sen. John Murante, would set an earlier deadline of Feb. 1. He said the bill would provide more time for commissioners to properly administer elections and for voters to make well-informed choices as to their elected representatives.

The provisions for filling legislative vacancies also would apply to the University of Nebraska's Board of Regents.

Omaha Sen. Tony Vargas opposed changing the process for filling legislative vacancies. He said constituents should have a say in who represents them as soon as reasonably possible.

"I'm concerned that the alternative to making sure there's enough time and the right process in place is an appointed person would serve longer," he said. "That doesn't really give the public more control over who is serving the district."

Murante and Vargas agreed to work on a compromise amendment before the bill is debated again.

The bill would enable county election commissioners to run for elected office in counties of more than 100,000 people. Douglas, Sarpy and Lancaster are the only counties that currently meet the population threshold.

Candidates filing for political office would be required to file a statement of financial interest before March 1 of the year in which the election will be held, or before filing for election, if the filing deadline is after March 1. Failure to do so would result in the candidate not appearing on the ballot.

The bill also would change from July 1 to June 15 the date in even-numbered years that certain political subdivisions must certify the political offices to be

filled in an upcoming election. The provision would apply to each reclamation district, county weed district, village, county under township organization, public power district with an annual gross revenue of less than \$40 million and educational service unit.

Finally, the bill makes several technical changes to the delivery and returning of early voting ballots.

A Government, Military and Veterans Affairs Committee amendment would remove provisions from the bill allowing election commissioners to file for office, while still allowing them to campaign for that office.

The committee amendment also incorporated into the bill provisions of LB314, also introduced by Murante, which lengthened the time before an election in which a city must file a proposed economic development plan with the election commissioner or county clerk. As amended, the plan must be filed no later than 50 days prior to a special election, no later than March 1 prior to a primary election and no later than Sept. 1 prior to a general election.

The amendment also would increase the number of days prior to an election that an election notice must appear in the relevant newspaper from 40 to 42.

Sen. Suzanne Geist of Lincoln expressed concern that allowing election commissioners to campaign for office while serving in their official capacity could create an appearance of impropriety.

In response, Murante introduced an amendment that would completely reinstate the prohibition on election commissioners filing for and campaigning for elected office while serving as commissioner.

Following the adoption of the Murante amendment on a 30-0 vote, senators adopted the committee amendment 34-0 and advanced the bill to select file 37-0.



## Omnibus health licensing bill approved

An omnibus health care licensure bill was given final approval April 24.

Introduced by Bellevue Sen. Carol Blood, LB88 allows military spouses to obtain temporary licensure in Nebraska in a variety of health professions



Sen. Carol Blood

under the Uniform Credentialing Act.

The bill includes provisions from four other measures:

- LB61, introduced by Seward Sen. Mark Kolterman, which authorizes Nebraska to join the Interstate Medical Licensure Compact;
- LB425, introduced by Bellevue Sen. Sue Crawford, which updates provisions for licensure and practice requirements within the current Nurse Practitioner Practice Act;
- LB283, introduced by Ralston Sen. Merv Riepe, which allows licensed practical nurses to provide intravenous therapy and would eliminate the Licensed Practical Nurse-Certified Practice Act; and



Sen. Sue Crawford



Sen. Merv Riepe

- LB342, introduced by Bayard Sen. Steve Erdman, which amends portions of the state's Nurse



Sen. Steve Erdman

Practice Act to allow Nebraska to join the Enhanced Nurse Licensure Compact when it takes effect — either on Dec. 31, 2018, or when 26 states have joined.

The bill removes a requirement that a licensed audiologist obtain a second, specialist license in order to sell hearing instruments.

It also removes a requirement that nurses educated in a foreign country pass a specific examination or hold a certificate from the Commission on Graduates of Foreign Nursing Schools. Instead, an applicant will be required to pass a board-approved examination and provide satisfactory evaluation from a board-approved foreign credentials evaluation service.

LB88 passed on a 49-0 vote and takes effect immediately.

### Newborn health screening requirements updated

Lawmakers passed a bill April 24 that changes provisions related to infant health screenings in Nebraska.

LB91, sponsored by Omaha Sen. Robert Hilkemann, updates the definition of inherited or congenital infant or childhood-onset diseases and defines pharmaceutically manufactured foods as



Sen. Robert Hilkemann

those that are chemically synthesized or processed for the treatment of inborn errors in metabolism.

The bill includes provisions of Hilkemann's LB401, which adds X-linked adrenoleukodystrophy (X-ALD), mucopolysaccharidoses type 1 (MPS-1) and Pompe disease to the list of diseases screened for by the state's screening program.

The bill also raises the maximum fee that can be charged by the state Department of Health and Human Services to administer the newborn screening program. The fee, currently capped at \$10, may be raised to \$20 under the bill.

LB91 passed on a 48-0 vote.

### Pharmacy regulations updated

State law regulating pharmacy practice in Nebraska was updated by a bill passed April 24.

LB166, introduced by Seward Sen. Mark Kolterman, amends and updates the Pharmacy Practice Act and the Uniform



Sen. Mark Kolterman

Controlled Substances Act.

Among other provisions, the bill:

- requires that a pharmacist intern be supervised at all times;
- allows a hospital to provide the unused portion of a drug to a patient upon discharge under certain circumstances;
- allows more than one drug to be placed in a container in certain circumstances;
- specifies that 60 days be the quantity of drug indicated for a long-term care facility resident;
- extends the time available to fill the remainder of a partially dispensed controlled substance prescription from 72 hours to 30 days after the prescription date;
- authorizes a pharmacist to enter into a practice agreement with

a qualified licensed health care practitioner to provide pharmaceutical care independently; and

- requires that a registered pharmacy in which controlled substances are stored or dispensed complete a controlled-substances inventory when there is a change in the pharmacist in charge.

The bill also clarifies that a Schedule II controlled substance may be dispensed in an emergency situation in which a prescribing practitioner determines that no appropriate alternative treatment is available, immediate administration of the controlled substance is necessary and it is not possible to provide a signed prescription for the dispenser.

LB166 passed on a 49-0 vote and takes effect immediately.

### Breast density notification required

A bill that requires mammography patients to be notified of their breast density was given final approval by lawmakers April 24.

LB195, sponsored by Omaha Sen. Joni Craighead, requires all health care facilities that perform mammography to include in the mammography report the patient's individual breast tissue classification based on the Breast Imaging Reporting and Data System established by the American College of Radiology.



Sen. Joni Craighead

The bill passed 48-0.

### Child welfare changes approved

Several changes to the state's child welfare system were approved under a bill passed April 24.



LB225, sponsored by Bellevue Sen. Sue Crawford, extends an alternative response pilot program and authorizes it to be used statewide.



Sen. Sue Crawford

Alternative response allows the state Department of Health and Human Services to provide services to families that meet certain screening requirements and are the subject of a child abuse or neglect investigation where the risk to the child is considered minimal.

The bill expands Nebraska's alternative response pilot to a statewide program and extends the authorized use of alternative response until Dec. 31, 2020. The bill also requires that the mandatory evaluation of the program be presented to the Nebraska Children's Commission by Nov. 15, 2018.

The bill includes three additional child-welfare related measures:

- LB296, sponsored by Omaha Sen. John McCollister, creates the Children and Juveniles Data Feasibility Study Advisory Group as a pilot project;
- LB298, sponsored by Lincoln Sen. Roy Baker, renames the Normalcy Task Force as the Nebraska Strengthening Families Act Committee under the Nebraska Children's Commission and adds a juvenile facility representative to the committee; and
- LB336, sponsored by Ralston



Sen. John McCollister



Sen. Roy Baker

Sen. Merv Riepe, allows DHHS to charge a maximum \$3 fee to conduct a central registry check. The bill passed 48-0.

### Nursing home flu shot requirements expanded

A requirement for offering onsite flu shots in Nebraska was expanded by a bill passed April 24.

Current law requires all hospitals, intermediate care facilities and nursing and skilled nursing facilities to offer onsite influenza and pneumococcal disease vaccinations to residents and inpatients prior to discharge.

LB267, introduced by Elkhorn Sen. Lou Ann Linehan, expands the influenza vaccination requirement to all nursing and skilled nursing facility employees. Facilities are not required to offer vaccines if contraindicated in an individual case or if there is a national vaccine shortage.

The bill passed on a 48-0 vote.



Sen. Lou Ann Linehan

### HHS clean-up bill approved

A bill intended to improve the efficiency of the state Department of Health and Human Services was given final approval April 24.

LB417, introduced by Ralston Sen. Merv Reipe, makes numerous technical changes, incorporates operational efficiencies and removes outdated reporting requirements.

Among other provisions, the bill:

- eliminates waiver reporting requirements for relative foster care;



Sen. Merv Reipe

- replaces the term "nursing assistant" with "nurse aid" in state law;
- provides for electronic notifications under the Uniform Credentialing Act;
- removes the term "companion" and make various changes to the newly-named Senior Volunteer Program Act; and
- mandates that the department make aging services annual grants in an amount not to exceed \$25,000.

LB417 passed on a 47-0 vote.

### Perinatal hospice bill approved

A bill that would provide information regarding perinatal hospice to a pregnant woman diagnosed with a lethal fetal anomaly was passed April 24.

Under LB506, introduced by Thurston Sen. Joni Albrecht, a physician who diagnoses a lethal fetal anomaly may provide information regarding perinatal hospice services, which the bill defines as comprehensive support from the time of diagnosis through the death of an infant and the postpartum period.

A lethal fetal anomaly is defined as a condition diagnosed before birth that will – with reasonable certainty – result in the death of an unborn child within three months of birth.

Under the bill, the state Department of Health and Human Services (DHHS) is required to provide an information support sheet of available programs and services, which also will be posted on the department website.

The bill also contains provisions of LB287, introduced by Lincoln Sen. Anna Wishart, that allow the DHHS Child and Maternal Death Review Team to enter into written agreements



Sen. Joni Albrecht

to provide secure electronic storage of information and records collected by the review team.

LB506 passed on a 49-0 vote.



Sen. Anna Wishart

## JUDICIARY

### Family visitation rights approved

A bill that ensures that family members have access to loved ones under the care of a caregiver or health care facility was passed April 24.

LB122, introduced by Lincoln Sen. Patty Pansing Brooks, prohibits caregivers from arbitrarily denying visitation to family members of individuals under in-home or nursing home care.



Sen. Patty Pansing Brooks

If a family member is denied visitation, he or she can petition the court to compel visitation unless the court finds that visitation is not in the individual's best interests or the individual communicates a desire to not have visitation with the petitioner.

The bill applies to a patient's spouse, adult child, adult grandchild, parent, grandparent, sibling, aunt, uncle, niece, nephew, cousin or domestic partner.

The bill passed on a 48-0 vote.

### Statute of limitations exception for child sex assault amended, advanced

Retroactive provisions were removed from a bill that would provide child victims of sexual assault more

time to seek damages file April 25.

LB300, introduced by Omaha Sen. Bob Krist, would eliminate the statute of limitations for any civil action brought against a perpetrator of sexual assault against a child. Under the bill, civil action against any person or entity other than the individual perpetrator could be brought only within 12 years of the victim's 21st birthday.



Sen. Bob Krist

Krist introduced an amendment on select file, adopted 35-0, that removed a provision added in previous debate that would have allowed the bill's provisions to be applied retroactively to cases that had exceeded the statute of limitations.

Krist said he proposed the removal to address concerns about the constitutionality of applying the bill retroactively.

The bill was advanced to final reading by voice vote.

### First responders' health insurance to be retained

Injured first responders can keep their health insurance coverage under a bill passed April 24.

LB444, introduced by Fremont Sen. Lynne Walz, prohibits cities and counties from canceling existing health insurance coverage for any law enforcement officer who suffers serious bodily injury as a result of an assault while in his or her official capacity. The bill also covers injured sheriffs, deputy sheriffs, firefighters and mental health care providers.



Sen. Lynne Walz

Cities and counties are now obligat-

ed to provide health insurance while first responders remain employed with the agency and return to work within one year of the original injury.

The bill includes provisions of LB244, originally introduced by Lincoln Sen. Kate Bolz, which extends workers' compensation benefits to employees of the state Department of Correctional Services and Department of Health and Human Services who regularly and directly interact with high-risk individuals.

A high-risk individual includes a person in state custody with a history of violent or physically intimidating behavior, including a committed offender, regional center patient and a committed juvenile offender.

The bill passed on a 31-8 vote.



Sen. Kate Bolz

### Drug overdose immunity passed

A bill that provides legal immunity to anyone seeking help for a drug overdose was passed April 24.

Under LB487, introduced by Lincoln Sen. Adam Morfeld, a person experiencing a drug overdose and those present will receive legal immunity if they seek medical assistance and remain on the scene until assistance or police arrives and cooperate fully. The bill does not apply to any other drug-related offense such as the manufacturing or distribution of drugs.



Sen. Adam Morfeld

No emergency responder or law enforcement officer can be held criminally or civilly liable for the treatment of a person experiencing a drug overdose, unless such person behaves in a

willfully or grossly negligent manner.

The bill contains provisions of several bills, including LB296, originally introduced by Omaha Sen. John McCollister, which provides civil immunity to any physician, health care professional or pharmacist who prescribes or dispenses non-patient-specific medication for response to life-threatening asthma or anaphylaxis to a school, educational service unit or early childhood education program.



Sen. John McCollister

Provisions added from LB293, originally introduced by O'Neill Sen. Tyson Larson, add a synthetic opioid known as U-47700 as a Schedule I drug under the Uniform Controlled Substances Act to mirror federal regulations.



Sen. Tyson Larson

Finally, provisions added from LB167, originally introduced by Crete Sen. Laura Ebke, make cannabidiol a Schedule V controlled substance.



Sen. Laura Ebke

The bill passed on a 34-5 vote.

## NATURAL RESOURCES

### Drinking water program clarification passed

Senators passed a bill April 24 that clarifies the qualifications for a program that provides financial assistance to cities to build safe drinking water projects.

The previously enacted Drinking

Water State Revolving Fund Act authorized the state Department of Environmental Quality to provide grants and make and forgive loans to political subdivisions that operate public water systems for safe drinking water projects.

LB182, introduced by Sen. Dan Hughes of Venango, clarifies that the department may provide loans, grants and loan forgiveness to a political subdivision if its public water system serves a population of 10,000 or less. The bill passed 49-0.



Sen. Dan Hughes

### Nebraska joins wildlife management compact

Nebraska will work with other states to enforce wildlife management laws under a bill passed by the Legislature April 24.

As introduced by the Natural Resources Committee, LB566 authorizes the state Game and Parks Commission to join the Interstate Wildlife Violator Compact on behalf of the state. Under the compact, an officer may issue a citation for the violation of wildlife management laws to any person who lives in a participating state.

The bill includes provisions from LB635, a bill introduced by Sen. Bruce Bostelman of Brainard that increases penalties for violating



Sen. Bruce Bostelman

certain game management laws in Nebraska.

The hunting of elk out of season is now a Class II misdemeanor, and the fine increases from at least \$500 to at least \$1,000 for each violation. Any

person who illegally takes game or has such game in his or her possession is now guilty of a Class III misdemeanor and will be fined at least \$50 for each animal. Additionally, the fine for shooting at wildlife from a highway or roadway increases from at least \$100 to at least \$500.

Senators voted 49-0 to pass the bill.

## REVENUE

### Tax credit carry-over extended

Businesses that make large capital investments in Nebraska can carry over unused tax credits for a much longer period under a bill passed April 24.

LB161, introduced by Sen. Curt Friesen of Henderson, extends the income tax credit carry-over period for companies that file a Tier 6 application under the Nebraska Advantage Act from one year to 16 years after the end of the entitlement period. The change applies to all Tier 6 project applications filed before, on or after the bill's effective date.



Sen. Curt Friesen

The state Department of Revenue estimates that the bill would reduce state tax revenue by \$1.8 million in fiscal year 2023-24 and another \$1.89 million in FY2024-25.

Tier 6 is meant to encourage companies to make significant capital investments and bring high-paying jobs to the state. To qualify for Tier 6 benefits, companies must invest \$10 million and create 75 new jobs or invest \$109 million and create 50 new jobs.

The bill passed on a 44-2 vote.



## Revenue changes to homestead exemption, housing approved

A bill related to homestead exemptions that was amended to include provisions from several tax-related bills received final approval by the Legislature April 24.

Introduced by Sen. Burke Harr of Omaha, LB217 gives a property owner 30 days after a county assessor receives approval from a county board to remove or reduce a homestead exemption from the tax rolls to pay taxes owed without accruing interest.

LB217 also includes the provisions of seven other bills.

LB228, also introduced by Harr, requires the owner of a rent-restricted housing project to file an electronic statement containing income and expense data for the prior year and other information. It also requires the state Department of Revenue to forward those statements to the county assessor of each county in which a rent-restricted housing project is located.

LB233, introduced by Sen. Jim Smith of Papillion, makes several technical changes to current tax law. It updates statute related to raffles and lotteries; clarifies the method of claiming a tax credit for employers that hire former recipients under the Temporary Assistance for Needy Families program; and allows for the electronic filing of a report with the Property Tax Administrator regarding unused homestead exemption tax credits, among other changes.

LB387, introduced by Sen. Brett



Sen. Burke Harr



Sen. Jim Smith

Lindstrom of Omaha, makes several changes to programs administered by the state Department of Economic Development. It requires the department to make its best efforts to allocate at least 30 percent of funds from the Affordable Housing Trust Fund to each congressional district.

These provisions also remove references to distressed areas in the Angel Investment Tax Credit Act and change the percentage of refundable tax credits available to all qualified small businesses to 40 percent.

LB387 also allows the Department of Revenue's Business Recruitment Division to withhold information regarding business recruitment, location, relocation and expansion projects from the public until a public announcement is made about the project or until negotiations between the business and the division or government entity regarding the project have been completed.

LB49, introduced by Sen. Paul Schumacher of Columbus, requires the state tax commissioner to submit a report to the Legislature within 60 days of the enactment of an amendment to the Internal Revenue Code. The report will describe the changes and their impact on state revenue and on various classes of taxpayers. The requirement does not apply if the amendment's impact on state revenue for that year is less than \$5 million.

LB238, introduced by Sen. Steve Erdman of Bayard, requires a county assessor to file a tax levy certifica-



Sen. Brett Lindstrom



Sen. Paul Schumacher

tion to a governing body or board by mail, electronically or by placing the certification on the county assessor's website.

LB288, also sponsored by Harr, makes technical changes to law governing tax certificate sales.

Provisions of Harr's LB251 also were incorporated. These require a parcel of land primarily used for agriculture or horticulture to be assessed without regard to whether the parcel is platted and subdivided into separate lots.

As amended, LB217 also clarifies current law regarding the ownership and transfer of affordable housing tax credits.

The bill passed 47-0.



Sen. Steve Erdman

## TRANSPORTATION & TELECOMMUNICATIONS

### Transportation-related changes approved

A bill enabling car dealers to electronically provide titling and registration services was passed April 24.

LB263, introduced by the Transportation and Telecommunications Committee, requires the state Department of Motor Vehicles (DMV) to create an electronic dealer services system. The system will allow dealers to provide titling and registration services following the sale of a vehicle, in addition to collecting title and registration fees, sales taxes and motor vehicle taxes. Any car dealer participating in the electronic dealer services system can charge a service fee of up to \$50.

The bill also allows the owner of a motor vehicle that is more than 30

years old to apply for issuance of a title when no major component parts have been replaced and the DMV shows no record of a previously issued title. A title can be issued following presentation of a notarized bill of sale, completion of a title inspection and payment of a \$25 fee.

Provisions of 10 additional transportation-related bills are contained within LB263, including:

- LB54, introduced by Columbus Sen. Paul Schumacher, which excludes the owner of a vehicle equipped with a keyless ignition from the duty to lock and remove a key from the ignition before leaving a vehicle unattended on a highway;
- LB70, introduced by Lincoln Sen. Patty Pansing Brooks, which allows for judicial discretion to forego the current one-year revocation of operating privileges in cases of a first offense of driving with a revoked driver license;
- LB143, introduced by Henderson Sen. Curt Friesen, which requires that the vehicle registration for a vehicle with a public power district license plate be kept at the principle place of business of the public power district;
- LB164, introduced by Lincoln Sen. Suzanne Geist, which amends several technical DMV provisions relating to commer-



Sen. Paul Schumacher



Sen. Patty Pansing Brooks

cial driver license disqualification, motor vehicle accident reports and motor vehicle records administration;

- LB294, introduced by Papillion Sen. Jim Smith, which allows the DMV to enter into an agreement of mutual recognition of operator licenses with foreign countries;
- LB355, introduced by Lincoln Sen. Kate Bolz, which authorizes the DMV to create "Native American Cultural Awareness and History" license plates;
- LB418, introduced by Albion Sen. Tom Briese, which updates state statute with federal regulations adopted within the last year;
- LB459, introduced by Smith, which expands the responsibilities of the state fire marshal in carrying out the One-Call Notification Act;
- LB460, also introduced by Smith, which authorizes the state Department of Health and Human Services or any organization or agent contracted by the department to contract



Sen. Suzanne Geist



Sen. Jim Smith



Sen. Kate Bolz



Sen. Tom Briese

for non-medical emergency transportation with a contract carrier authorized by the Public Service Commission (PSC); and

- LB483, introduced by Lincoln Sen. Mike Hilgers, which provides to the PSC an exemption from the Nebraska Administrative Procedures Act for purposes of granting or denying a petition for intervention.

The bill passed on a 49-0 vote.

### Streamlined road construction process approved

A bill that expedites road construction projects throughout the state was passed by lawmakers April 24.

LB271, introduced by Lincoln Sen. Mike Hilgers, authorizes the Nebraska Department of Roads (NDOR) to assume responsibility to conduct environmental, social and economic reviews for proposed transportation projects from the U.S. Department of Transportation.



Sen. Mike Hilgers

The reviews currently are conducted at the federal level under the National Environmental Policy Act (NEPA).

In exchange for assuming total responsibility for the review process, the NDOR will sign a limited waiver of sovereign immunity, which provides the state's consent to federal jurisdiction in any case concerning compliance with and enforcement of federal guidelines established under NEPA.

The bill passed on a 48-0 vote.

### Aeronautics, Roads departments to merge

Lawmakers passed a bill April 24 that creates a unified state transporta-

tion department.

Under LB339, introduced by Henderson Sen. Curt Friesen, the state Department of Aeronautics will merge with the state Department of Roads, effective July 1. The combined agencies will be renamed the Nebraska Department of Transportation.



Sen. Curt Friesen

The newly formed department will be administered by the director-state engineer for the state Department of Transportation. This position will be filled by the current director-state engineer for the state Department of Roads.

Any person hired to serve as the director of the aeronautics division within the department will require legislative confirmation.

The bill passed on a 47-0 vote.

## URBAN AFFAIRS

### Radon task force authorized

A bill intended to ensure radon levels are mitigated in new homes, schools, offices and other buildings received final approval by the Legislature April 24.

Introduced by Sen. Bob Krist of Omaha, LB9 creates a task force that will develop minimum standards for radon-resistant new construction in Nebraska. The standards will be designed so that they could be enforced by a county, city or village as part of its local building code.

The task force will provide its recommendations to the governor and



Sen. Bob Krist

## Budget advanced (continued from page 3)

a 42-6 vote. Senators then voted 46-1 to adopt the committee amendment and 36-1 to advance the bill to select file.

### Additional provisions

The committee's budget package comprises six additional bills, four of which were advanced to select file April 25. LB328, advanced 35-0, would provide for the \$12,000 annual salaries of Nebraska's 49 state senators. LB329, advanced 40-0, would fund salaries and benefits for judges and constitutional officers.

Also advanced was LB330, on a 40-0 vote, which would appropriate funds for reaffirmed and new capital construction projects.

An Appropriations Committee amendment, adopted 37-0, replaced the bill and would provide funding for several projects initiated in prior years, including:

- \$12.1 million each year for the state's share of deferred maintenance and repair projects at the University of Nebraska and state colleges;
- \$15.6 million in FY2018-19 for the State Capitol HVAC project; and
- \$20.8 million for the last two years of funding for the Lincoln Community Corrections Center housing unit.

Also advanced was LB149, introduced by Stinner, which contains additional adjustments to previous cuts made in LB22 to the state's budget for the current fiscal year. A committee amendment, adopted 43-0, became the bill and would restore \$1 million in lapsed reappropriations to the Legislative Council, among other changes.

LB149 advanced 44-0.

Three additional budget-related bills have yet to be debated:

- LB331, which would create funds and make certain fund transfers;
- LB332, which would make transfers to and from the state's Cash Reserve Fund; and
- LB171, which would provide for payment of claims against the state.

Continued debate on the budget is scheduled for May 2. ■

the Legislature's Health and Human Services and Urban Affairs committees by April 15, 2018. The task force disbands May 1, 2018.

Lawmakers voted 35-4 to pass the bill.

### Day care building code alignment approved

A bill intended to align the state building code with state agency regulations was passed by the Legislature April 24.

LB590, introduced by Bellevue Sen. Sue Crawford, brings the state building code occupancy classifications for in-home day cares into alignment with

state Department of Health and Human Services (DHHS) regulations. The bill also clarifies that state agencies may adopt and enforce regulations that conflict with the building code when authorized by state law to do so.

The bill raises the number of occupants for a care facility to 12, which conforms with DHHS regulation for in-home child care providers.

LB590 passed 47-0 and takes effect immediately. ■



Sen. Sue Crawford



# CRAFTING THE STATE BUDGET

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

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

## BIENNIUM

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

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

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

Revenue forecasts generated by the Fiscal Office are reviewed by the Nebraska Economic Forecasting Advisory Board along with forecasts developed by the state Department

of Revenue. The board's estimates become the basis for planning General Fund budget conditions for the current and next biennium.

## GOVERNOR'S RECOMMENDATION

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

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

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

In January and February, the Appropriations Committee reviews

the Fiscal Office analysis of each agency budget request. Under legislative rules, the committee must submit its preliminary recommendations in a report to the Legislature 20 to 30 legislative days after the governor's budget submission.

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

## "A" BILLS

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

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

COMMITTEE  
RECOMMENDATION

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

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

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

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

However, the committee typically introduces several bills that fall under broad categories. One large bill appropriates most state funds for operations and state aid. A second bill typically is offered to make appropriations for capital construction projects. Another bill provides for deficit appropriations, which are adjustments to appropriations previously authorized for the

current year. It is not unusual for the deficit bill to be considered early in the session because some of the adjustments may be emergencies that apply to the current year.

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

## STATUS REPORT

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

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

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

By rule, the Legislature must pass

appropriations bills by the 80th day in a long session or the 50th day in a short session. There is no penalty for not passing appropriations bills as provided by rule, other than the holdup of bills during a long session. Circumstances such as volume of amendments, length of debate and full discussion of appropriations matters can extend passage of the appropriations bills beyond the prescribed deadlines. Appropriations bills usually carry the emergency clause, which requires 33 votes for passage on final reading. This also is true of deficit bills. Bills without the emergency clause need 25 votes to pass.

## VETOES

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

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

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

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P.O. Box 94604  
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