

## Legislature adjourns mid-biennium

The first session of the 105th Legislature adjourned sine die May 23, the 86th day of the scheduled 90-day session.

Speaker Jim Scheer said among their many accomplishments this session, senators passed legislation to add a juvenile court judge in Douglas County, authorize new economic development districts on riverfronts and add a definition of dyslexia to the state's education law.

Most importantly, he said, the Legislature addressed the budget shortfall and passed a balanced budget that does not raise taxes.

"I think it's fair to say that not a single member of this body was completely happy with the final budget," Scheer said. "Many wanted more cuts, some wanted fewer cuts, but we did what we were able and what we had to do."

Despite the session's slow start, Scheer said, the Legislature was able to



Speaker Jim Scheer said that, despite the session's slow start, the Legislature was able to debate all bills advanced by committees and address a nearly \$1 billion budget shortfall.

debate all the bills advanced to general file by the committees.

Scheer admitted that there were times when the session seemed never-ending, while other times it seemed too short. He said the body has

changed significantly with the replacement of two-thirds of the senators who were in office when he was elected, but he said the body is now in a better position to address tough issues.

"As a body, there is a greater push

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## Governor's line-item budget vetoes sustained

Lawmakers declined to override any of the governor's line-item vetoes of the state budget package May 17.

Several bills comprising the \$8.9 billion, two-year budget package were passed last week and sent to Gov. Pete Ricketts. The governor vetoed \$56.5 million in line items from the budget. The Appropriations Committee offered override motions on two of those vetoes.

Among the provisions vetoed in LB327, the mainline budget bill, was \$33.6 million in general funds that lawmakers had approved for Medicaid, child welfare, behavioral health and developmental disability providers. The governor's veto amounts to a 3 percent cut in provider rates in the four categories.

In his May 15 veto message, the governor said the change

would return the level of funding for provider rates to the amounts recommended in his budget proposal. Ricketts said that prudent fiscal management calls for less general fund spending in light of a recent downturn in state tax revenue.

Gering Sen. John Stinner, chairperson of the Appropriations Committee, offered a motion to override \$32.4 million of those cuts to provider rates for Medicaid, behavioral health and developmental disability providers.

While a 3 percent cut may seem reasonable, Stinner said, rates for Nebraska Medicaid providers are the sixth lowest of all the states that provide such information. Nursing homes - particularly in rural areas of the state - are stressed financially by those low rates, he said.

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to challenge the status quo, to take a step back and ask: 'Why are we doing this,' or 'Why don't we do things this way?'" Scheer said.

Gov. Pete Ricketts, in his address to the Legislature, thanked senators for taking time away from their families to serve their fellow citizens.

He said the executive and legislative branches worked together this session to grow Nebraska's economy and make government more efficient by creating a grant program to build workforce housing in rural counties, passing occupational licensing reform and combining the state Roads and Aeronautics departments.

Ricketts thanked the Appropriations Committee and its chairperson, Gering Sen. John Stinner, for their work in making cuts to the current fiscal year's state budget and in passing a balanced budget for the next two fiscal years after facing a \$900 million shortfall earlier this year. He especially appreciated the speed with which the committee recommended the initial round of budget cuts made in early February to begin addressing the shortfall.

"Working together, we did something that was unprecedented," Ricketts said. "No one can ever remember when we have passed two budget bills in one legislative session."

Ricketts said the biennium budget prioritizes funding for public schools, property tax relief and correctional services reform without raising taxes. He said he would work with senators over the interim to modify a proposal to cut the state's top personal income

and corporate tax rates and change the way agricultural land is valued in an effort to reduce property taxes. The bill failed to advance from general file this session.

"We need to continue to work on how we're going to provide that tax relief to our Nebraska families," Ricketts said.

The second session of the 105th Legislature is scheduled to convene Jan. 3, 2018. ■



Gov. Pete Ricketts greets senators as he departs the Norris Chamber after his speech.

## UNICAMERAL UPDATE

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# Governor's line-item budget vetoes sustained

(continued from front page)

"With an aging population, nursing homes need to be preserved at least at a flat rate," Stinner said, which the bill as passed by the Legislature would have done.

Sen. Mark Kolterman of Seward supported the motion, saying an override was warranted in this case. Many critical access hospitals and nursing homes in rural areas are the largest employers in their towns, he said, and some are in danger of failing because of Medicaid provider rates.

"How are we going to recruit people to an area where the largest employer in many cases is struggling to keep their doors open?" Kolterman said.

Omaha Sen. Robert Hilke also supported the override motion, saying the state is not "broke" and should not balance its budget by cutting rates to providers who take care of the state's most vulnerable.

"Even if we do this override, we're still going to have \$350 million in our rainy day fund," he said. "To what end? It's a rainy day."

Sen. Lynne Walz of Fremont said it has taken 200 years of advocacy to open doors to employment, education and housing for people with developmental disabilities. Speaking in support of the override motion, she said Nebraska parents and providers have long fought against abuse and neglect and for community acceptance and access to services.

"What a step backward - for families, for advocates and for people needing services due to a disability," Walz said.

Elkhorn Sen. Lou Ann Linehan opposed the override motion, saying she does not believe that the state's economic condition will improve anytime soon.

"These are hard, difficult votes,"

she said. "But if we take [the cash reserve fund] down to 2.5 percent and have to come back in October and make the very cuts that we're doing today - painful as they are - they're not going to be less painful in October. They'll be more painful," she said. "We have to face the reality that we're in. We aren't broke, but we shouldn't let ourselves get quite so close."

The motion failed on a vote of 27-21. Thirty votes were required for adoption.

The other committee motion would have restored \$300,000 vetoed from the Office of Probation Services. Stinner said the amount reflects a 0.5 percent across-the-board cut to most state agencies that was included in the governor's line-item vetoes.

"Probation services provides constructive change through rehabilitation, collaboration and partnership to enhance and maintain the safety of our communities," Stinner said. "Bringing an additional cut to those services will not serve the mission of Nebraska."

Crete Sen. Laura Ebke supported the motion. A robust probation system with sufficient services is important to avoid expensive lawsuits related to prison overcrowding and the possible need to construct additional prison facilities, she said.

"It's important for us to keep our eyes on the big picture," Ebke said.

The motion failed 23-25.

Omaha Sen. Bob Krist then offered a motion to override \$6.4 million in cuts to developmental disability aid. He said the funds provide important support and services to the state's most vulnerable residents in every legislative district.

"This is the essence of what we are in business to do - to protect the innocent," he said.

Sen. Matt Hansen of Lincoln supported the override motion, saying the governor had an unlimited number of choices in how to re-balance the budget with his line-item vetoes but chose cuts that impact individuals who cannot advocate for themselves.

"The governor had his choices and he made them," Hansen said. "And I hope he is comfortable with [it]."

The motion failed on a vote of 27-21.

A number of additional motions were offered and withdrawn, including motions to override vetoes of:

- \$5.8 million for the University of Nebraska;
- \$1.3 million for child welfare provider funding;
- \$716,000 for juvenile justice transportation funding; and
- \$26,800 in general funds for the state's specialized court system.

Following a vote on a second motion to override the veto of child welfare funding, which failed 19-23, all of the governor's line-item vetoes were sustained.

Among other vetoes was a \$6.5 million reduction to the Highway Cash Fund appropriation contained in LB327. Ricketts said the change - along with a \$15 million line-item reduction in transfers from the Roads Operations Cash Fund to the General Fund in LB331 - would prevent an increase in the state's variable gas tax.

The governor also line-item vetoed \$11 million in general funds appropriated in fiscal year 2018-19 in LB330 for the ongoing Capitol building heating, ventilating and air conditioning system renovation project. Ricketts said the veto would not cancel or delay the project.

No motions were offered to override those vetoes. ■

# MEET THE SENATOR

## Farmer returns to Lincoln for lawmaking

For a farm kid from Albion, even the promise of a lucrative law career could not deter Sen. Tom Briese from a life working the land.

Following high school graduation, Briese had moved to Lincoln to earn his degree in agricultural economics from the University of Nebraska-Lincoln. He earned his law degree from UNL three years later, clerking for a federal judge and practicing law, before returning to his first love.

“Once agriculture gets in your blood, it never disappears,” Briese said. He returned home to the Boone County family farm and never looked back.

Briese — a fourth-generation farmer — and his wife Joan continue their family’s agricultural tradition, growing corn and soybeans outside of Albion. Being outdoors with his wife, two children — son Adam and daughter Ashley — their spouses and his two grandsons is where Briese is happiest. Besides farming, he loves to hunt and fish.

Golfing is another favorite past time, but he admits he will never be confused for a professional.

“I have fun, that’s all that matters,” he laughed.

Briese’s interest in running for office began in high school, when he regularly kept up with the legislative action in Lincoln. He has been active in his community for years, including serving on the Boone County

Farm Service Agency Committee and the Boone Central School Board.

After decades of farming and raising his family, he finally felt that the time was right to make good on his teenage ambitions and run for a seat in the Legislature.

The daily life of a state senator can be hectic, but he welcomes the opportunity to listen and learn. Briese said he is here to represent his constituents and understands the great importance of having an open mind.

“I believe we make better decisions when we are educated on all sides of an issue,” he said. “I am always willing to listen.”

Despite his full legislative schedule, he continues to stay engaged in civic organizations that are important to him, like the Boone County Foundation Fund and Boone County Philanthropy Council.

Briese is busy wrapping up his first session in the Legislature, but true to form, he already is looking ahead. He says he has made progress on some issues this year, but is working on future legislation to address concerns brought to him by constituents, including property tax relief.

Achieving compromise with 48 fellow senators is rarely easy, but at the end of the day Briese remembers the advice his parents gave him:

“Always work hard and do your best. It really is that simple.” ■



Sen. Tom Briese and wife Joan love spending time with their family — including grandson Jaxson — on their farm outside of Albion.



## EDUCATION

### Education omnibus bill approved

An education omnibus bill that restricts a levy limit exemption for teachers' voluntary termination agreements received final approval from the Legislature May 16.

As introduced by the Education Committee, LB512 was drafted to make several technical changes to education law. As amended, it includes the provisions of several other education-related bills.

LB457, introduced by Sen. Tom Briese of Albion, restricts a budget and levy limitation exemption for the funds a school district agrees to pay teachers and administrators in exchange for voluntary termination of employment.

As amended, it exempts from budget and levy limits the amounts levied to pay for 75 percent of the funds used for voluntary termination agreements for fiscal year 2018-19. That would decrease to 50 percent for FY2019-20 and 25 percent for FY2020-21.

The bill also allows 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.

Provisions of LB123, introduced by Lincoln Sen. Patty Pansing Brooks, authorize the Coordinating Com-



Sen. Tom Briese



Sen. Patty Pansing Brooks

mission on Postsecondary Education to assess a fee on for-profit postsecondary institutions in the state and direct the proceeds to a cash fund. The commission then may receive, evaluate and pay claims to students to recover lost tuition and fees resulting from the closure of a for-profit institution.

LB175, introduced by Sen. Adam Morfeld of Lincoln, prohibits technology companies that contract with schools from using student data for targeted advertising or creating student profiles for non-educational purposes.

LB235, introduced by Sen. Lynne Walz of Fremont, authorizes recipients of a grant under the Summer Food Service Program to spend a grant's full amount when starting or expanding a summer food program. As amended, the bill reduces the amount of money appropriated to the program from \$140,000 to \$100,000 per year.

LB398, introduced by Omaha Sen. Justin Wayne, requires that someone currently certified in first aid, CPR and drowning risk prevention be present at every swimming pool owned, rented, leased or otherwise used by a school district for practice, competition or other school function.

The bill passed 47-0.



Sen. Adam Morfeld



Sen. Lynne Walz



Sen. Justin Wayne

## EXECUTIVE BOARD

### Special investigative committee approved to oversee Corrections

The Legislature adopted a resolution May 18 that will establish another committee to oversee the state Department of Correctional Services. The Executive Board heard testimony on the resolution May 16.

LR127, as introduced by Omaha Sen. Bob Krist, proposed a new Nebraska Justice System Special Investigative Committee to study the issues addressed by previous investigative committees and review the role of state agencies and their involvement in the justice system.

The Legislature had authorized the Department of Correctional Services Special Investigative Committee in 2013 to study the circumstances of Nikko Jenkins' incarceration and release, as well as the administration of good time laws, policies relating to inmate segregation and the availability of rehabilitative and mental health programs. The committee was re-authorized in 2015 to continue its work until Jan. 19, 2017.

Despite the work of the previous investigative committees, Krist said in the May 16 hearing, issues such as staffing, overcrowding, mental and behavioral health, programming and restrictive housing continue to plague the department.

"This is an attempt to gain a greater understanding of state agencies and their involvement in the [department's] programs and policies," he said. "This is critical since the work of these agencies impacts the [depart-



Sen. Bob Krist

ment] on a daily basis.”

Mike Marvin, executive director of the Nebraska Association of Public Employees, testified in support of the resolution. He said excessive amounts of staff overtime, combined with prison overcrowding, has created a perpetually unsafe environment for corrections staff, inmates and the general public.

“This would continue to hold the department accountable,” Marvin said. “It would ensure that the safety of the public, inmates and staff is continued to be looked over.”

Opposing the resolution at the hearing was Scott Frakes, director of the Department of Correctional Services. He said the department already has implemented many of the recommendations suggested by previous investigative committees.

“I recognize the importance and value of legislative oversight of our branch, but all of this is currently being accomplished without a special committee,” Frakes said.

The committee voted May 17 to advance the bill to general file on a 6-3 vote.

An Executive Board amendment, adopted 26-7 on general file May 18, changed the proposed committee from one with investigative authority to one with oversight authority, removing the committee’s ability to issue subpoenas. It also established the chairperson of the Legislature’s Judiciary Committee as chair of the special oversight committee.

O’Neill Sen. Tyson Larson opposed the resolution, saying that the department still is implementing recommendations from previous investigative committees. Patience and faith in Department Director Scott Frakes is what is needed at this point, he said.

“They are doing what we’ve asked them to do and sometimes it takes time to continue on that path,” Larson said. “[Frakes] was very clear when he

said that another one of these committees will just continue to take time and resources away from the department that could be used to fix the issues that are there.”

Sen. Patty Pansing Brooks of Lincoln, who served as chairperson of the former special investigative committee, supported LR127. She said the issue is not whether there is faith in Frakes’ ability, but the fact that the problems facing the department have become more serious and pronounced.

“I don’t have faith that we have the necessary resources to help [Frakes] do his job,” she said. “There is continuing overcrowding, which leads to understaffing, which leads to a difficulty in hiring sufficient people and potential harm to the staff.”

Lincoln Sen. Kate Bolz also spoke in favor of the resolution. She said it is the Legislature’s responsibility to take a broader view of the issues facing the department. Not taking into account how the various state agencies impact the department and incarceration is short-sighted, Bolz said.

The Legislature voted 28-11 to adopt the resolution.

On May 23, the Executive Board appointed the following seven members of the Legislature to serve on the committee:

- Sen. Laura Ebke of Crete (as chairperson);
- Sen. Kate Bolz of Lincoln;
- Sen. Tom Brewer of Gordon;
- Sen. Suzanne Geist of Lincoln;
- Sen. Mike Hilgers of Lincoln;
- Sen. Dan Hughes of Venango; and
- Sen. Justin Wayne of Omaha.

The committee will brief the Judiciary and Appropriations committees in December 2017 and 2018 and issue a final report of recommendations to the Legislature before disbanding Jan. 19, 2019.



### State boards and commissions modified, eliminated

Various state-established boards and commissions are modified or eliminated by a bill passed May 18.

LB644, introduced by Gretna Sen. John Murante, is the result of a statutorily-required review of all state boards and commissions that is designed to determine which of them are outdated or obsolete.



Sen. John Murante

Boards and commissions eliminated include the: community gardens task force; advisory committee for value-added agricultural promotion and development; Carbon Sequestration Advisory Committee; Perfusionist Committee; Nebraska Exchange Stakeholder Commission; Intergovernmental Poverty Task Force; Health Advisory Board; Medicaid Reform Council; Aging Nebraskans Task Force; Nursing Home Advisory Council; and Health Care Data Base Advisory Committee.

The bill passed 48-0.

### Norfolk veterans’ home park gift accepted

A resolution to approve a gift from the Norfolk Veterans’ Home Foundation for construction of a park was approved by lawmakers May 16.

LR251, introduced by Gretna Sen. John Murante, accepts the gift of \$300,000 in material, labor and in-kind services so that a World War II and Korean War Memorial may be

added to the Flag Plaza at the entrance of the Norfolk Veterans' Home.

Murante said the project would be completed with no cost to the state and would improve the quality of life for veterans served by the home.

"These memorials will serve as a constant reminder of the sacrifices our service men and women have made in the name of freedom," he said.

Norfolk Sen. Jim Scheer supported the resolution, noting that most of the funds were raised in the Norfolk area and all were private funds.

"[It] is a tribute to those individuals who are staying in the veterans' home there," he said. "It gives them a place to go out and reflect."

The resolution was adopted on a 34-0 vote.

## HEALTH & HUMAN SERVICES

### Developmental disability changes amended, approved

Senators approved a bill May 18 that makes several changes related to services for individuals with developmental disabilities.

Under current law, the state Department of Health and Human Services (DHHS) must perform an independent medical review of an individual's disability if he or she is denied benefits by the federal Social Security Administration based on the duration of the disability.

An individual may then qualify for and receive short-term assistance from the State Disability Program for up to 12 months. The program currently has 16 active participants and includes medical and cash assistance.

LB333 originally would have eliminated the state's short-term disability

program, at a savings of approximately \$7.4 million over two years. The bill was introduced by Ralston Sen. Merv Riepe on behalf of Gov. Pete Ricketts as part of his proposed budget modification program.



Sen. Merv Riepe

Omaha Sen. Bob Krist expressed concern during general file debate April 26 that elimination of the program would result in counties being responsible for the financial support of individuals with short-term disabilities.

"This will put an unfunded mandate on your counties," he said.

Krist offered an amendment during debate May 15, adopted 44-0, that retained the State Disability Program. The amendment left intact provisions from two additional Riepe bills that were added through a Health and Human Services Committee amendment.

The committee amendment, adopted 42-0, added provisions from LB417 that change requirements for DHHS from coordinating quality review teams to coordinating the development and implementation of a quality management and improvement plan for individuals with developmental disabilities.

The amendment requires DHHS to develop and implement a plan to promote and monitor the quality of services and quality of life for people with developmental disabilities. The plan will rely on data gathered by independent evaluators collected from people who receive services and their families.

The plan will be delivered to the Legislature by Sept. 30, 2017, and - beginning in 2018 - annual reports regarding outcomes and improvement priorities will be provided.

The provisions also require that representatives of the following organizations be added to the state Advisory Committee on Developmental Disabilities:

- Nebraska's designated protection and advocacy organization;
- the Nebraska Planning Council on Developmental Disabilities; and
- the University Center for Excellence in Developmental Disability Education, Research and Service.

Also included in the committee amendment were provisions of LB495, which clarifies funding priorities for individuals with developmental disabilities who are eligible for services through the DHHS Medicaid and community-based services waiver.

These provisions update definitions for developmental and intellectual disabilities and pause for two years a state entitlement program for high school graduates with developmental disabilities under the waiver program.

Riepe said the changes will ensure that the state is in compliance with federal regulations. Currently, Nebraska has a state-funded program that prioritizes high school graduates with developmental disabilities and enrolls them into the waiver immediately upon eligibility, he said.

"The current acting waiver, submitted and approved under the prior administration, does not have prioritization categories approved by CMS [Centers for Medicare and Medicaid Services]," he said. "We are out of compliance."

Riepe offered an amendment during select file debate May 16, adopted 36-0, to ensure that the high school graduate entitlement program does not expand to include more individuals.

Bellevue Sen. Sue Crawford supported the amendment, which she

said would continue the state’s commitment to the families of those with developmental disabilities while being compliant with federal regulations.

“It will allow us to maintain entitlement language for those students who are leaving our high schools – in our statutes – with a date of July 1, 2019, so we are sure that we can come back and make sure that those kids are taken care of,” Crawford said.

Following adoption of the Riepe amendment, LB333 advanced to final reading by voice vote. Senators then passed the bill May 18 on a vote of 48-0.

**Bill seeking more federal funds for emergency medical transports passed**

A bill that allows public and non-profit emergency medical transporters to be reimbursed by Medicaid at the same rate as hospitals and other medical providers passed May 16.

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



Sen. Mike McDonnell

The bill requires 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.

Capitation payment is defined as a payment the state makes periodically to a contractor on behalf of each

beneficiary enrolled under a contract and based on the actuarially sound capitation rate for the provision of services under the state plan, and which the state makes regardless of whether the particular beneficiary receives services during the period covered by the payment.

The program applies 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 is voluntary.

DHHS is 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.

The bill passed on a 41-0 vote.

**JUDICIARY**

**Additional juvenile court judge approved**

A bill increasing the number of juvenile court judges in Omaha was passed by the Legislature May 16.

LB10, introduced by Omaha Sen. Bob Krist, adds one juvenile court judge in counties with populations of at least 400,000 people. Douglas County currently is the only county to qualify.



Sen. Bob Krist

The bill passed on a 43-3 vote.

**Medicaid reimbursement from hidden assets approved**

Prior to legislation passed 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.

A bill passed May 16 provides guidance on implementing the expanded asset recovery program. Introduced by Columbus Sen. Paul Schumacher, LB268 specifically itemizes which assets are eligible for recovery by the state Department of Health and Human Services (DHHS).



Sen. Paul Schumacher

Under the bill, a person applying for Medicaid assistance will 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 will 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 will be subject to recovery.

DHHS can bring an action to recover unlawfully obtained medical assistance against the estate of a Medicaid recipient within five years after his or her death and any remaining spouse.

LB268 defines 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.

Assets eligible for recovery under the bill include securities, bank ac-



counts, intellectual property rights, contractual or lease rights and other similar types of assets. Determinations by DHHS as to whether a transfer of assets is commercially reasonable can be appealed.

The bill passed on a 37-11 vote.

**Stronger human trafficking penalties adopted**

Lawmakers passed a bill May 16 that addresses the rise in human trafficking in the state.

LB289, introduced by Lincoln Sen. Patty Pansing Brooks, increases penalties for a number of crimes, including pandering and human trafficking for labor or sexual exploitation.



Sen. Patty Pansing Brooks

The penalties for pandering or trafficking of an adult increase from a Class III to a Class II felony, punishable by 1 to 50 years in prison.

The bill imposes even stronger penalties for sex trafficking offenses involving a minor. Previously a Class II felony, sex trafficking or solicitation of a minor is categorized as a Class IB felony, punishable by a minimum of 20 years in prison to life imprisonment.

The definition of sex trafficking also is updated to include solicitation.

Provisions of three additional bills dealing with sexual assault and domestic violence are included in LB289.

The first is LB191, originally introduced by Pansing Brooks, which prohibits the withdrawal of a petition for a protection order except upon order of the court. A victim of domestic abuse can file a petition and affidavit to renew a protection order up to 30 days before the expiration of the pre-

vious order to ensure there is no gap in protection. A renewed order will be effective for a period of one year, commencing on the first day following expiration of the previous order.

Provisions of LB178, originally introduced by Lincoln Sen. Kate Bolz, allow a victim of sexual assault to file for civil protection orders against the perpetrator. The order will prohibit a perpetrator from contacting or communicating with the victim.



Sen. Kate Bolz

Provisions of LB188, originally introduced by Omaha Sen. Sara Howard, allow for the parent of a child conceived as a result of a sexual assault to petition for termination of parental rights of the perpetrator.



Sen. Sara Howard

The bill passed on a 48-0 vote.

**Judicial salary increase approved**

Judges will receive a pay raise under a bill passed by the Legislature May 16.

LB647, introduced by Lincoln Sen. Patty Pansing Brooks, increases by 1 percent the salary of Nebraska Supreme Court justices, effective July 1. The raise will result in an annual salary of \$173,694 annually. An additional 1.5 percent raise will take effect Jan. 1, 2019, increasing the justices' salary to \$176,299.

The salaries of lower-court judges are tied to those of the Supreme Court justices and will increase by the same percentages.

The bill passed on a 42-1 vote.



**Omnibus retirement bill approved**

A bill that makes numerous changes to the state's retirement plans received final approval May 18.

LB415, introduced by Seward Sen. Mark Kolterman, creates a new "Rule of 85" with a minimum retirement age of 60 for new school employees. The change applies only to employees hired on or after July 1, 2018. Under the rule, an employee may retire at age 60 if their age plus their years of creditable service equal 85 or higher.



Sen. Mark Kolterman

Also included are provisions of six additional measures introduced by Kolterman that make changes to the various state retirement plans, including:

- LB31, which makes changes in the school employees retirement plan related to creditable service;
- LB32, which changes the frequency and method of calculation of county prior service annuity payments in the County Employees Retirement Act;
- LB110, which eliminates the obligation of political subdivisions to file annual reports on defined contribution plans after Dec. 31, 2017, and delete the requirement for the Public Employees Retirement Board to design and provide the annual reporting form;
- LB278, which clarifies the definition of disability in the

- county, state and school plans;
- LB413, which makes technical and clean-up changes to the judges and state patrol retirement plans; and
- LB532, which makes changes regarding military service in the judges and state patrol plans.

Also included are provisions of LB219, introduced by the Nebraska Retirement Systems Committee, which make changes related to authorized benefit elections and actuarial assumptions.

The bill passed 48-0 and takes effect immediately.

## REVENUE

### City bankruptcy tied to pension funding level

Cities with pension plans not funded to a certain level may not file for bankruptcy under a bill passed by the Legislature May 18.

Introduced by Columbus Sen. Paul Schumacher, LB72 initially proposed a statutory lien on government bonds to ensure that bondholders are paid first if the issuing government entity goes bankrupt. Current law authorizes counties, cities, villages and other Nebraska political subdivisions to file a petition in U.S. bankruptcy court.



Sen. Paul Schumacher

Senators had expressed concern during general file debate about prioritizing bondholders over a city's pensioners and services.

So Schumacher introduced an amendment on select file, adopted 30-0, that instead will prevent a city or village with a defined benefit retire-

ment plan from filing for bankruptcy unless the plan's funded ratio reaches a certain percentage. The ratio will increase incrementally from approximately 52 percent for any petition filed between 2020 and 2023 to 90 percent after Jan. 1, 2038.

Schumacher said the rules determining which of a city's creditors get paid first in the event of bankruptcy are unclear, creating uncertainty for a city's bondholders and pensioners. The amendment will reduce that uncertainty by removing a city's ability to declare bankruptcy unless it follows a path toward a higher level of pension funding, he said.

"Don't follow it, continue underfunding your pensions, and you're going to be stuck without the right to declare bankruptcy under our law," Schumacher said.

The proposal will protect bondholders, pensioners and the state if either of its two largest cities would go bankrupt, he added. Lincoln's pension plan is approximately 75 percent funded, Schumacher said, but Omaha's is only about 50 percent funded, which he said is too low.

The amendment also will allow a city or village without a pension plan — which Schumacher said is typical of most cities and villages in the state — to declare that its general obligation bonds would be equally and ratably secured by property taxes levied from year to year by the city or village. Those bonds would have a first lien on the property taxes levied.

Sen. Mark Kolterman of Seward supported the amendment, saying that it would help address the issue of underfunded city pension plans. He said the Legislature should continue to discuss pension reform because several Nebraska cities have plans that are only 50 to 60 percent funded.

"It's all about keeping these plans

solvent and stable so we don't have to worry about bankruptcy," Kolterman said.

Sen. Sue Crawford of Bellevue supported the amendment but said that Omaha and Lincoln do not because it could have unintended consequences for those cities' bond ratings.

"The city of Omaha and the city of Lincoln have good bond ratings and are able to get bonds right now," she said. "It's not a concern they have and we don't want to create that problem for them."

After adoption of the amendment May 15, senators advanced LB72 to final reading by voice vote.

The bill then passed May 18 on a 41-4 vote.

## URBAN AFFAIRS

### Tax incentive for workforce housing construction stalls

A bill that would allow certain cities to use tax increment financing (TIF) to support the construction of workforce housing stalled after a failed cloture motion May 16.

Introduced by Gering Sen. John Stinner, LB496 would authorize cities of the first and second class and villages to include the construction of single-family or multi-family housing as part of a redevelopment project eligible for tax increment financing.



Sen. John Stinner

The bill would require a municipality to conduct a housing study, prepare an incentive plan for the construction of housing meant for new or existing workers and hold a public hearing on the plan.

After the hearing, the municipality would be required to determine that the plan is necessary to prevent the spread of blight and substandard conditions within the municipality, would promote additional safe and suitable housing for people employed there and would not result in the unjust enrichment of any individual or company.

Stinner said the final provision would ensure that the incentive program cannot be used to pad builders' profits.

"This standard ensures that the funding is used to buy down the home price or absorb some of the risk of building spec housing," he said.

Bellevue Sen. Carol Blood supported the bill, saying that using TIF to build housing would boost economic development. She said Bellevue has used TIF for several projects — including apartment complexes, a retirement community and a business park — after ensuring that they were viable and would benefit the community.

"Whether you like it or not, [TIF] is one of the few [economic development] tools that we have," she said.

Sen. Curt Friesen of Henderson opposed the bill, saying that it would

divert property tax revenue from public schools, natural resources districts and other entities. It also would distort a community's property valuations and make it difficult for builders that do not use TIF to compete with those that do, he said. Friesen said he supports the use of TIF for residential projects only if it is used for infrastructure such as streets and sewer systems.

"Now we're taking it one step further and we're starting to subsidize the building itself," he said. "And that's where I think we take the wrong direction."

Friesen introduced an amendment on select file that would allow only the property taxes collected by a city or village to be diverted for the construction of a workforce housing project using TIF.

Also in opposition was Sen. Mike Groene of North Platte, who said the bill is designed to help developers maximize their profits. He said his constituents are asking for property tax relief, not additional housing.

"Do you care how [LB]496 looks to the landowners out there and the average property tax payer?" Groene said. "You are giving an incentive in tough times to an industry [in which]

every contractor is fully employed."

Sen. Matt Williams of Gothenburg supported the bill, saying that TIF helped draw four Fortune 500 companies to the Gothenburg area. He said using TIF for housing projects is intended to benefit communities, not increase profits for bankers and realtors.

"I have yet to see a case where anyone has seen any unjust enrichment from a [TIF] project," Williams said.

He also filed an amendment on select file that would define workforce housing as an owner-occupied home that costs no more than \$275,000 to build or a rental housing unit that costs no more than \$200,000 to build. The definition was used in other legislation passed this session.

After general file debate May 15, Stinner filed a motion to invoke cloture, or cease debate and vote on the bill. It succeeded 33-9.

Senators then adopted a technical amendment and voted 31-8 to advance the bill to select file.

Stinner again filed a cloture motion on the second stage of debate May 16. It failed 32-9. Thirty-three votes were needed. The bill remains on select file. ■



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