

THE NEBRASKA LEGISLATURE'S
WEEKLY NEWS PUBLICATION

Stories published daily at
update.legislature.ne.gov

UPDATE

Bill diverting sales tax revenues to roads projects reduced, advanced

After extended debate, senators invoked cloture April 20 to cease further discussion on a roads funding bill. The proposal was amended to dedicate half the amount of sales taxes to roads projects originally proposed in the bill and was advanced from select file.

LB84, introduced by Valentine Sen. Deb Fischer, originally would have dedicated 0.5 percent of the state's 5.5 percent sales tax to fund roads projects from fiscal year 2013-14 through FY2032-33. Fischer brought an amendment that reduced the allocation to 0.25 percent, which would provide approximately \$63 million in the first year. Provisions to finance the investment with bonded debt also were removed by the amendment.

The amendment, adopted 39-9, would direct 85 percent of these funds to a new State Highway Capital Improvement Fund, 75 percent of which would be dedicated to roads projects prioritized by the state Department of Roads. The remaining 15 percent



Sen. Danielle Conrad (left) asks Sen. LeRoy Louden about his proposed amendment to LB84.

of the new revenue would go to the Highway Allocation Fund.

The amendment also would change the allocation for the Nebraska Expressway system and federally designated high-priority corridors from \$15 million to 25 percent of the funds received from revenues generated by 0.25 cents of the state's sales tax.

Fischer said her amendment is a reasonable and workable solution for the bill. Without new revenues for roads, she said, Nebraska highways and bridges will fall into disrepair.

Kearney Sen. Galen Hadley sup-
(continued on page 2)

Constitutional amendment to preserve fishing, hunting advanced

Nebraska voters would have an opportunity to vote on a constitutional amendment to protect fishing and hunting rights under a legislative resolution advanced from general file April 18.

LR40CA, introduced by Omaha Sen. Pete Pirsch, originally would have submitted to Nebraska voters during the 2012 general election an amendment to declare fishing, trapping and hunting as rights that shall forever be preserved for the people subject to reasonable restrictions as prescribed by law.

The proposed amendment was modified by an amendment offered by Pirsch, adopted 29-8, that would hold that the right to hunt and fish be subject only to laws, rules and regulations that preserve the future of hunting and fishing and promote wildlife conservation and management. The constitutional amendment also would declare public hunting and fishing as a preferred means of managing and controlling wildlife and could not be construed to modify laws addressing trespassing or property rights.

Pirsch said the purpose of his proposed amendment is to preserve and protect the right to hunt and fish in the state constitution.

Kearney Sen. Galen Hadley spoke
(continued on page 3)

A CLOSER LOOK

Bill diverting sales tax revenues to roads advanced

(continued from front page)

ported the bill and Fischer's amendment. The Legislature made a promise to construct an expressway system 20 years ago, he said, and LB84 could help fulfill that commitment.

Scottsbluff Sen. John Harms said a lack of good roads is a barrier for Nebraska businesses. Extra funding for infrastructure is needed to attract



Sen. Deb Fischer introduces LB84.

businesses and economic growth to the state, he said.

Lincoln Sen. Danielle Conrad opposed Fischer's amendment and the underlying bill, saying they amount to an unconstitutional earmark of general funds. The state has a long tradition of funding roads with "user fees," or a gas tax, she said, and the proposal in LB84 would stray from that.

Omaha Sen. Jeremy Nordquist also opposed the bill, citing slow economic growth that he said will not be suffi-

cient to support a quarter-cent redirection of sales tax revenues. Global Insight, whose data the Legislature uses for economic forecasting, decreased its projection for national gross domestic product growth from 3.2 percent to 2.8 percent in the past month, he said.

"Our economy is still on shaky ground and we are spending and earmarking money into the future that we just don't have at this point in time," Nordquist said, adding that the amended bill could result in a budget shortfall of \$250 million in FY2013-14.

Speaker Mike Flood designated LB84 as a speaker's major proposal, meaning the speaker determines the order in which amendments and motions are considered. A number of amendments proposing alternative funding sources and capping the amount of sales tax directed to roads were defeated.

Conrad offered an amendment that would have permitted the Legislature to appropriate up to \$65 million to the State Highway Capital Improvement Fund. She said her amendment would offer flexibility to allocate funds to roads when revenues are available. It was defeated on a 13-18 vote.

Ellsworth Sen. LeRoy Loudon offered an amendment that would have funded the bill with a 5-cent increase in the gas tax. Roads should continue to be funded by user fees like the gas tax, Loudon said, adding that the bill would amount to a subsidization of the

transportation industry.

Fischer opposed Louden's amendment, saying revenues from the gas tax are no longer sufficient, as improvements in fuel efficiency and alternative power sources have resulted in declining gas sales.

Louden's amendment failed 4-38.

Omaha Sen. Heath Mello offered an amendment that would have eliminated the quarter-cent sales tax allocation and instead made automatic transfers to the cash reserve fund. Under current law, state revenues at the end of a fiscal year that exceed those set by the economic forecasting board are deposited to the state's cash reserve fund.

Mello's amendment would have redirected half of these transfers to the State Highway Capital Improvement Fund. Such transfers would have provided an average of \$47 million annually since 2001, he said.

Fischer opposed Mello's amendment on the grounds that it would be an unreliable source of funding.

Lawmakers rejected Mello's amendment on a 10-33 vote.

Omaha Sen. Brenda Council offered yet another funding source for LB84: the Property Tax Credit Cash Fund, which is currently used to provide a credit for property taxes on real property. Council's amendment would have transferred \$230 million from the Property Tax Credit Cash Fund to the State Highway Capital Improvement Fund.

Council said her amendment would provide funding to maintain

(continued next page)

A CLOSER LOOK

Sales tax to roads projects (cont'd.)

roads infrastructure without causing budgetary problems.

"I believe that if we are serious about taking some immediate action to address these issues ... [my amendment] provides us with the avenue to address those in an effective, efficient and financially responsible manner," she said.

Council's amendment failed on a 5-32 vote.

After another amendment offered by Mello to dedicate the quarter-cent of sales tax to a homestead exemption was ruled not germane, lawmakers considered a motion by Conrad to bracket the bill until Jan. 5, 2012.

Conrad said the bracket motion would provide additional time to determine whether the state's economic growth will be sufficient to fund Fischer's proposal.

Fischer said the Legislature has failed to provide adequate funds for road maintenance and construction in the past, so the need for a new funding commitment has become urgent.

Conrad's motion to bracket the bill was defeated 11-28.

Nordquist offered an amendment that would have capped the bill's annual allocation of the state sales tax at \$10 million per fiscal year. He said the limitation would make the bill more manageable.

After lawmakers invoked cloture to cease debate on a 39-9 vote, Nordquist's amendment was defeated 10-38. Fischer's amendment was adopted 39-9 and LB84 advanced from select file 36-12. ■

Constitutional amendment to preserve fishing, hunting advanced

(continued from front page)

in support of LR40CA, saying similar amendments offered in other states were approved with overwhelming majorities. Such support is due to the perceived threat to hunting and fishing from groups like the Humane Society of the United States (HSUS), he said.

Omaha Sen. Steve Lathrop said LR40CA would be appropriate as a statute, but not as a constitutional amendment, which would affect the state's governing principles. Further, the absence of a safety provision in the amendment would nullify state laws regarding hunter's safety requirements, he said.

"The constitution is not a place to make a point. It is the place where we put our controlling principles," Lathrop said. "We make a mockery of our constitution when we put stuff like this in it."

Pirsch disagreed with Lathrop, saying the state constitution plays a different role than the broader federal constitution. In addition, public safety powers are inherent, regardless of whether they are explicitly stated, he said, so hunter's safety statutes still would be valid.

Omaha Sen. Brenda Council also opposed LR40CA, saying Article I, Section I, of the state constitution already protects the right to bear arms for hunting.

"We don't amend our constitution on the basis of a perception," Council said. "We amend it because there are real issues facing the citizens of Nebraska."

If the proposal's purpose is to protect against HSUS's agenda of preventing the consumption of animals, she said, protections for farming and ranching should be considered before hunting and fishing. She offered an amendment that failed on a 5-27 vote to add to the constitution the right to eat cows, pigs, chickens and sheep.

Lincoln Sen. Amanda McGill introduced an amendment she later withdrew to include in the constitution protections for swimming, farming, ranching, driving, boating, tubing, golfing, napping, parenting, learning, camping, pioneering, innovating and watching Husker football. McGill said she offered the amendment to demonstrate that there is no threat to activities like hunting and fishing.

LR40CA advanced on a 32-6 vote. ■



Sen. Pete Pirsch



ISSUES UPFRONT

Appropriations

Lower child care reimbursement rates advance

Nebraska child care reimbursement rates would be lowered under a bill given first-round approval April 18.

Under LB464, introduced by Lincoln Sen. Kathy Campbell at the request of the governor, the state Department of Health and Human Services would no longer be required to set rates at a level between the 60th and 75th percentile of a market survey.



Sen. Kathy Campbell

The bill as introduced would have repealed the requirement that rates be set according to the survey.

An Appropriations Committee amendment, adopted 42-0, instead would lower to the 50th percentile the minimum rate that HHS could pay for the next two years, beginning July 1, 2011. In addition, the rate paid to child care providers could be no lower than the rate paid in the preceding fiscal year.

Elk Creek Sen. Lavon Heidemann, chairperson of the committee, said the amendment would result in a savings of \$3.6 million during the current budget cycle as opposed to \$5.6 million under the bill as introduced.

“We won’t save quite as much,” Heidemann said, “but the savings are



still there.”

Campbell supported the amendment and said the Legislature will continue to examine the provision of early childhood care in Nebraska.

“It isn’t enough just to look at the subsidy,” she said. “We also need to look at the quality of care.”

Lawmakers advanced the bill to select file on a 40-0 vote.

Banking, Commerce & Insurance

Surplus lines insurance provisions updated

Lawmakers gave final approval April 20 to a bill that bring Nebraska’s Surplus Lines Insurance Act into compliance with federal law.

LB70, introduced by Boys Town Sen. Rich Pahls at the request of the state Department of Insurance, amends several sections of the Surplus Lines Insurance Act to



Sen. Rich Pahls

conform to federal law.

Among other provisions, the bill allows the state director of insurance to join the Nonadmitted Insurance Multi-State Agreement (NIMA) and repeals a tax levied by Nebraska in order to comply with a NIMA requirement that participating states have a single tax rate.

LB70 takes effect July 21, 2011.

The bill passed on a 46-0 vote.

Commercial site development bill approved

Senators gave final approval April 20 to a bill intended to facilitate development of industrial sites and buildings in Nebraska.

LB388, introduced by Lexington Sen. John Wightman at the request of the governor, creates the Site and Building Development Fund to provide financial assistance to public and nonprofit developers for land and infrastructure costs associated with development.



Sen. John Wightman

The fund will be administered by the state Department of Economic

ISSUES UPFRONT

Development (DED) and will provide loans, grants, subsidies, credit enhancements and other financial assistance.

Qualifying developers will be required to provide 100 percent matching funds and at least 40 percent of the fund is earmarked for nonmetropolitan areas, defined as counties with a population under 100,000.

The bill transfers \$1 million per year for two years from the Affordable Housing Trust Fund to the Site and Building Development Fund. Continued funding will be provided by directing to the development fund 25 cents of every \$1.75 remitted to the state annually from the Real Estate Documentary Stamp Fee.

Finally, the bill creates the Industrial Recovery Fund. The fund will be administered by DED and consist of up to \$1 million per year of unused funds remitted from projects receiving Affordable Housing Trust Fund dollars.

LB388 passed on a 46-0 vote.

Portable electronics insurance bill advances

Senators gave first-round approval April 18 to a bill that would require vendors of cell phones and other portable electronic devices to obtain a license to offer insurance on those products.

LB535, introduced by Hastings Sen. Dennis Utter, would establish a limited lines insurance license to sell portable electronics insurance or



Sen. Dennis Utter

provide similar coverage. Portable electronics insurance would be defined as insurance covering repair or replacement of portable electronics due to theft, misplacement, damage, mechanical faults or similar damage.

Utter said the bill would create a licensing framework under which vendors could offer this specialized insurance.

"This model is consistent with a national trend that we have seen with respect to regulation of this product," he said.

A Banking, Commerce and Insurance Committee amendment, adopted 40-0, became the bill and would establish the Portable Electronics Insurance Act.

Under the bill as amended, vendors interested in selling portable electronics insurance would apply to the state Department of Insurance for a one-year license, which would have an initial fee of no more than \$100. The license would allow an employee or authorized representative of the vendor to offer insurance policies at each location at which the vendor sells portable electronics.

The bill also would require vendors to disclose information to consumers covering topics such as deductible amounts, how to file a claim and how to return a device.

Violators of the bill's provisions could be subject to administrative fines of up to \$1,000 per violation. The bill would have an operative date of Jan. 1, 2012.

Following adoption of a technical amendment offered by Imperial Sen. Mark Christensen, senators voted 36-0 to advance LB535 to select file.

Business & Labor

Bill seeks use of job training fund for internships

A bill that would allow certain companies to apply for job training grants to hire college students for paid internships received first-round approval April 21.

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



Sen. Lavon Heidemann

Heidemann said the bill would encourage Nebraska college students to remain in the state upon graduation by connecting them with targeted industries such as manufacturing, information technology and development companies.

"With this bill, we will show them ... that there are opportunities here," he said. "This is about keeping young people in the state."

Under the bill, an intern would be required to work at least 200 hours in a 12-week period but not more than 1,000 hours in a 50-week period and would be paid at least the federal minimum wage. An intern also would have to be enrolled full time in a two- or four-year Nebraska college, or a four-year college or university in another state

ISSUES UPFRONT

if he or she has Nebraska residency.

A job-training grant would be limited to the lesser of 40 percent of the cost of the internship or \$3,500. Training grants in distressed areas would be limited to the lesser of 60 percent of the cost of the internship or \$5,000. An eligible company would be limited to two grants per intern.

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

Heidemann offered an amendment, adopted 30-2, which would allow all businesses eligible for benefits under the Nebraska Advantage Act to apply for internship grants under the bill. The amendment also would increase from five to 10 the maximum number of internships an eligible company could grant in any 12-month period. A company would be limited to five job-training grants per year at any one location.

A Business and Labor Committee amendment, adopted 30-0, would clarify that a distressed area includes counties with fewer than 100,000 inhabitants.

The amendment further clarified that interns attending two-year colleges must have completed at least half of the credit hours required to complete an associate degree and that Nebraska interns attending an out-of-state institution must have achieved at least junior level status to qualify.

Omaha Sen. Gwen Howard questioned why internships should be limited to private business, suggesting that students could benefit from exploring opportunities at state agencies as well.

“There are many jobs that interns would like to do in the ombudsman’s

office or at the vet’s center,” she said.

Kearney Sen. Galen Hadley supported the measure, saying it would encourage college students to explore opportunities rather than leave the state.

“This is a chance for students to look at companies and companies to look at students,” he said. “We want our best and brightest to stay in Nebraska.”

Senators advanced the bill to select file on a 35-1 vote.

Education

Blood lead level testing required for all students

A lead testing bill was passed April 20 that requires testing of children attending public and parochial schools.

LB204, introduced by Omaha Sen. Brenda Council, requires blood lead level testing of children prior to kindergarten enrollment. School districts are required to inform families prior to the date of school registration of the testing requirement.

Under the bill, blood-lead testing will not be required if a student submits:

- a physician’s statement that assesses a child to be considered at low-risk for elevated blood lead levels based on information provided by their parent or guardian;
- a physician’s statement that blood lead testing would be injurious to their health; or
- an affidavit stating the blood lead testing conflicts with their religious beliefs.



Sen. Brenda Council

Students who have not met the testing requirements may be provisionally enrolled if they have a test scheduled.

The bill was passed on a 30-12 vote.

Senators pass state aid to schools

Senators gave final approval April 20 to a bill that would revise the state aid formula for K-12 education, resulting in a decrease of \$13 million in total funding from the current fiscal year to the next. York Sen. Greg Adams introduced LB235, the bill containing state aid funding provisions. The bill provides schools \$822 million for fiscal year 2011-12 and \$880 million for FY2012-13.



Sen. Greg Adams

LB235 will:

- allow school districts with unused budget authority to spend 2 percent of their prior year expenditures;
- eliminate the allowable growth rate for FY2011-12 and increase the rate to 0.5 percent in FY2012-13;
- eliminate the additional percentage in the cost growth factor;
- set the local effort rate to \$1.0395 for FY2011-12 and FY2012-13;
- reduce the averaging adjustment and needs stabilization thresholds by 5 percent for FY2011-12;
- reduce the allocated income tax by \$21 million for FY2011-12 and FY2012-13;
- expand the comparison groups by

ISSUES UPFRONT

- 10 larger and 10 smaller districts;
- subtract property tax refunds from district resources beginning with FY2012-13;
- exclude lobbying expenses from the definition of general fund operating expenditures;
- include converted contract students as option students and exclude receipts; and
- include early childhood in the formula's summer school allowance beginning in FY2012-13.

The bill passed on a 41-2 vote.

Civic education requirements passed

Senators passed a bill April 20 that adds requirements to high school civic education curricula.

LB544, introduced by Boys Town Sen. Rich Pahls, requires that high school students take civics courses in at least two grade levels and that the courses include students' active participation in improving their society and the practice of civil discourse between opposing interests.

The bill passed 42-0.

Allowance provisions change for focus and magnet schools and programs

Senators passed a bill April 20 that allows multiple-member school districts to collaborate on focus and magnet schools and programs.

Under LB558, introduced by Omaha Sen. Jeremy Nordquist, a focus or magnet school or program that participates in a diversity plan could be eligible for a focus school and program allowance.

The focus school and program allowance for each school district in a learning community must equal the sum of the allowances calculated and operated by the school district for the fiscal year that aid is being calculated.

The bill also requires multiple-member school districts collaborating on a focus or magnet school or program to form a joint entity to assign legal, financial and academic responsibilities as well as assign students who reside in nonparticipating school districts to districts that participate in such schools or programs.

The bill was passed on a 42-0 vote.

Compact to remove educational barriers for military children advanced

Senators advanced a bill April 21 that would ease the transition of moving to the state for children whose parents are in the military.

Omaha Sen. Scott Price introduced LB575, the bill that replicates the federal requirements contained in the Interstate Compact on Educational Opportunity for Military Children. An Education Committee amendment, originally introduced as LB63 by Bellevue Sen. Abbie Cornett, replaced provisions of the bill.

The amendment would permit military children to:



Sen. Jeremy Nordquist

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

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

Military families are mobile, said York Sen. Greg Adams, so when they move into the state parents need assurance that their children's educational rights will be protected.

The amendment was adopted 32-0 and the bill advanced from general file on a 34-0 vote.

General Affairs

Beer industry exception repealed

Senators repealed an exception April



Sen. Scott Price

ISSUES UPFRONT

20 that allowed a Nebraska beer manufacturer also to own a beer distributorship.

LB279, introduced by Wilber Sen. Russ Karpisek at the request of the Nebraska Liquor Control Commission, repeals the exception but allows a beer manufacturer to have ownership interest in a beer wholesale operation for two years upon the death or bankruptcy of a wholesaler owner.

The bill passed on a 46-0 vote.

Liquor control changes pass

Senators passed a bill April 20 that makes several changes to Nebraska's Liquor Control Act.

LB407, introduced by Wilber Sen. Russ Karpisek, eliminates a requirement that the Liquor Control Commission correspond with municipalities through certified mail regarding license applications. The bill instead allows correspondence through regular mail and electronic delivery.

Correspondence with other entities or individuals also may be conducted through regular mail and by electronic means if prior consent is given.

The bill contains provisions from two additional Karpisek bills.

LB249 allows a waiver to the state's 300-foot restriction on alcohol sales near college or university campuses. Currently, only beer may be sold on or off-sale within the 300-foot zone.

The commission is authorized to grant waivers to the 300-foot restriction, taking into consideration the impact on current and prospective students, economic development op-



Sen. Russ Karpisek

portunities and the academic mission of the college or university.

A written waiver application will be required and the governing body of the affected college or university must be notified of the application by the commission. If the physical location of the property associated with the waiver is surrounded by property owned by the college or university, written approval of the institution's governing board is required for a waiver to be granted.

LB336 allows certain commission employees to obtain part-time employment at a business that holds a liquor license, unless the business receives more than 50 percent of its gross revenue from the sale or dispensing of alcohol.

LB407 passed a 46-0 vote.

Savings promotion bill approved

Lawmakers gave final approval April 20 to a bill that allows Nebraska credit unions to conduct a savings promotion raffle.

Under LB524, introduced by Lincoln Sen. Amanda McGill, Nebraska credit unions are authorized to conduct a savings promotion raffle - a contest in which depositing a specific amount of money into a savings account or program earns an individual a chance to win a designated prize.

Each entry must have an equal chance of winning and raffle terms and conditions must be disclosed to participants. Credit union employees are prohibited from participating and credit unions may limit the number of chances to win a prize but not the



Sen. Amanda McGill

number of deposits.

LB524 passed on a 45-0 vote.

Government, Military & Veterans Affairs

Greater flexibility for public audits approved

Certain audits currently required to be performed annually or biennially will be performed when the state auditor deems them necessary under a bill passed April 20.

Under LB337, introduced by Lincoln Sen. Tony Fulton, the following audits will be conducted when the auditor of public



Sen. Tony Fulton

accounts determines them necessary:

- State Highway Commission;
- Nebraska Motor Vehicle Industry Licensing Fund;
- aid given to Indians for law enforcement and jail operations;
- funds expended by the Motor Fuel Tax Enforcement and Collection Division;
- post audits of investment transactions for the Nebraska State Funds Investment Act; and
- money received from the sale of cigarette stamps and tax meter impressions.

LB337 passed 46-0.

Bill would allow larger voting precincts

Voting precincts could serve a

ISSUES UPFRONT

greater number of voters under a bill debated on general file April 18.

LB449, among other provisions, originally would have declared persons registered with a political party as of March 1 in a general election year ineligible for nomination by petition for a partisan office. These provisions, introduced by Omaha Sen. John Nelson, were replaced by those in a Government, Military and Veterans Affairs Committee amendment that was adopted 27-0.



Sen. John Nelson

The amended bill would:

- increase the maximum precinct size from 1,000 registered voters to 1,750;
- allow an election commissioner to be appointed to an elective office during his or her term as election commissioner, the acceptance of which would be deemed his or her resignation;
- require deputy voting registrars to complete a training session offered by election commissioners and county clerks once every three years;
- add e-mail addresses to the voter registration form;
- set Dec. 1 as the earliest date for submission of candidate filing forms;
- add Class V school district boards to the list of offices that do not require names to be listed on the primary ballot if all candidates automatically advance to the general election;
- open early voting records to public inspection prior to an election;

- add the learning community to the list of political subdivisions that must pay the cost of nominating and electing officers;
- require the principal circulator of a recall petition to collect the petition forms from the election commissioner or county clerk within 20 days after receipt of the targeted official's defense statement;
- extend the maximum time to hold a recall election from 45 days after the notification of the targeted official to 75 days;
- permit county clerks, election commissioners or their employees to affix their signature or initials to an early voting ballot instead of writing them; and
- eliminate a requirement that voters print their names and addresses on early voting oaths.

Nelson said the larger maximum precinct sizes would afford county election officials more flexibility in locating precincts. He also said the greater time period for recall elections would aid scheduling and improve voter turnout.

Committee chairperson Sen. Bill Avery of Lincoln said the provision of the bill allowing county election officials to affix their signatures to early voting ballots would save hundreds of hours dedicated to manual signatures. During the 2008 General Election, the Douglas County election commissioner reported that 40,000 ballots were distributed via mail, he said, adding that the number is expected to increase to 80,000 in 2012.

Nelson offered and later refiled an amendment to retain a provision of the original bill that would prohibit persons registered with a political party to mount

write-in campaigns for partisan offices.

Primary elections have meaning, Nelson said, and candidates belonging to a political party should not subvert primaries by opting for petition campaigns.

"If you choose to be a member of a party and you don't get on the primary ballot, then you are out [under the amendment]," Nelson said.

Avery said Nelson's amendment would run contrary to a 1977 court decision that requires a compelling state interest to place restrictions on candidates. He also said the amendment could violate the first amendment to U.S. Constitution, specifically the freedom of association.

LB449 advanced from general file on a 25-0 vote.

Election procedures changed

Senators gave final approval April 20 to a bill that changes several election procedures and requirements.

LB499, introduced by Bellevue Sen. Scott Price, makes the following changes:

- harmonizes voter registration deadlines;
- requires that military voters include absent voters in addition to overseas voters;
- prohibits an elected official from running for the same office while he or she is in the middle of a term;
- requires a candidate petitioning to be placed on the ballot to file a sample copy of the petition with the filing officer prior to circulation;
- requires that affidavits to remove a person's name from a petition be submitted by the

ISSUES UPFRONT

time the petition is submitted for verification; and

- requires a voter who is present in his or her county on Election Day to vote at an assigned polling site, unless he or she is returning a ballot for early voting.

LB499 passed on a 45-0 vote.

Health & Human Services

Health care peer review bill passes

A bill that addresses confidentiality in the health care peer review process received final approval April 20.

LB431, introduced by Kearney Sen. Galen Hadley, adopts the Health Care Quality Improvement Act, which is intended to protect individuals and the confidentiality of records during a peer review process.



Sen. Galen Hadley

Under the bill, no health care provider, individual or employee who acts without malice while serving on a peer review committee or supplying information to a committee may be held liable or subject to legal action for activities within the scope the committee.

A peer review committee must be created by the governing board of a health care facility and the review process is not subject to discovery or evidence in a civil action. In addition, an incident or risk management report created specifically for a peer review process cannot be

subject to discovery or be admissible as evidence in a civil action for damages for injury, death or loss to a patient.

A person who prepares or has knowledge of the contents of an incident or risk management report cannot testify as to the contents of the report in any civil action.

Senators voted 46-0 to pass LB431.

Nursing home provider assessment approved

Lawmakers gave final approval April 20 to a bill that institutes a provider assessment on Nebraska nursing facilities.

LB600, introduced by Lincoln Sen. Kathy Campbell, adopts the Nursing Facility Quality Assurance Assessment Act.

Under the bill, nursing facilities will pay an assessment to the state of \$3.50 per day for Medicaid and private pay patients, which then will be reimbursed to facilities through a federal match.

The bill also requires the state Department of Health and Human Services to submit an amendment to Nebraska's Medicaid state plan to include the act.

HHS will charge a reasonable administrative fee for enforcing and collecting the assessment and require a penalty of 1.5 percent of the assessment owed for each month that a payment is overdue.

LB600 passed 44-1.

Judiciary

One-year limitation on post-conviction relief advanced

Senators advanced a bill April 21

that would impose a one-year limitation to bring a motion for post-conviction relief in criminal cases.

LB137, introduced by Omaha Sen. Scott Lautenbaugh, would require that a verified motion for post-conviction relief be filed within one year after the date a judgment of conviction becomes final. Currently, a post-conviction relief motion can be filed at any time.



Sen. Scott Lautenbaugh

Lautenbaugh said the bill would eliminate frivolous and abusive post-conviction relief claims while protecting legitimate claims.

A Judiciary Committee amendment would create an exception to the one-year limitation under the bill by providing that the limitation period runs from the latter of the date:

- the judgment of conviction became final by the conclusion of a direct appeal or the expiration of the time for filing a direct appeal;
- on which the factual predicate of the constitutional alleged claims could have been discovered through the exercise of due diligence;
- on which an impediment created by state action, in violation of the federal or state constitutions or laws of Nebraska, is removed if the prisoner was prevented from filing a verified motion by such action; or
- on which the claim was initially recognized by the U.S. Supreme Court or Nebraska Supreme Court if the newly recognized right has been made retroac-

ISSUES UPFRONT

tively applicable to cases on post conviction collateral review.

Those previously convicted could file a motion within one year after the bill's effective date.

Omaha Sen. Burke Harr spoke in support of the amendment, saying that once a claim has been dismissed, criminals often will come forward with more claims because there is no time limit for filing a claim. The amendment would still grant protections for those who have been wronged, he said, but would prevent criminals from abusing the system.

The amendment passed 38-0 and the bill advanced from general file on a 42-0 vote.

Minor assault victims can give consent for treatment

Senators passed a bill April 20 that changes provisions for minors who are victims of sexual or domestic assault.

Under LB479, introduced by Omaha Sen. Steve Lathrop, a victim of sexual or domestic assault who is at least 18 years of age can be examined and treated by a physician without the consent or notification of a parents or guardian.

The bill passed on a 46-0 vote.

Mental health records accessible in firearm purchases

Senators passed a bill April 20 that makes mental health records accessible when conducting background checks for firearm purchases.

LB512, introduced by Imperial Sen.

Mark Christensen, removes a maximum five-year retention requirement for mental health records at the state Department of Health and Human Services.



Sen. Mark Christensen

Records include whether a person is disqualified from purchasing or possessing a handgun and will be made available to the National Instant Criminal Background Check System. The Nebraska State Patrol can access the system when determining a person's eligibility to own a gun.

The bill enables a person who has been barred from buying or possessing a gun for mental health reasons to re-submit an application if he or she no longer suffers from the disqualifying condition.

Additionally, the bill allows valid handgun permits issued by previous states of new state residents to be recognized in Nebraska.

The bill passed on a 43-0 vote.

Child enticement penalties advance

Senators advanced a bill April 18 that would change provisions of the state's criminal child enticement law.

LB665, introduced by Sen. Pete Pirsch of Omaha, would prohibit attempts to solicit, coax, entice or lure a child under the age of 14 to enter a place intending to seclude him or her from a parent, guardian, legal custodian or the general public,



Sen. Pete Pirsch

whether or not the person knows the age of the child.

Current law prohibits only the luring of a child into a vehicle.

Violations would be a Class IIIA felony. If the perpetrator has been convicted of criminal child enticement, assault or sexual assault of a child, kidnapping or false imprisonment of a victim younger than 18, he or she could be guilty of a Class III felony.

"There are real dangers that exist for children in our state," Pirsch said. "LB665 is a bill that is intended to better protect children."

The bill was advanced from general file on a 39-0 vote.

Natural Resources

City-owned mid-sized electric facilities considered as separate air polluters

Mid-sized electric generation facilities owned by municipalities are considered separate air pollution emitters under a bill passed on final reading April 20.

Under the Nebraska Clean Air Act, facilities that produce certain emissions are required to pay a per ton fee to the state Department of Environmental Quality. There are two caps on emission fees paid: 400 tons for mid-sized electric generating facilities and 4,000 tons for large facilities.

LB156, introduced by Hastings Sen. Dennis Utter, expands the definition of mid-sized electric generating facility so facilities that are permitted with another general unit larger than 115 megawatts under separate ownership are considered a separate emis-

ISSUES UPFRONT

sion source for the purpose of paying emission fees.

Lawmakers approved LB156 on a 46-0 vote.

Retirement

Increased school, state patrol retirement contributions advance

Employee contribution rates for the school employee, Class V school employee and state patrol retirement plans would increase under a bill given first-round approval April 18.

Introduced by Omaha Sen. Jeremy Nordquist at the request of the governor, LB382 is part of the governor's budget recommendation to the Legislature.

Under the bill as introduced, the employee contribution rate for the School Employee Retirement System would increase to 9.28 percent on Sept. 1, 2011. The rate then would decrease to 8.28 percent on Sept. 1, 2013, and to 7.28 percent on Sept. 1, 2014. School districts match the employee contribution rate at 101 percent.

The employee contribution rate for the State Patrol Retirement System would increase 3 percent to 19 percent of an employee's monthly compensation on July 1, 2011. The state's contribution rate also would increase to 19 percent. On July 1, 2013, contribution rates for both employees and the state would decrease to 16 percent.

Nordquist said state patrol members do not participate in the Social Security program, causing their retirement contribution rates to be considerably higher than those of other state employees.

A Nebraska Retirement Systems Committee amendment, adopted 41-0, would make the following adjustments related to school employee retirement plans.

Beginning Sept. 1, 2011, the member contribution rate in the School Employees Retirement System would increase 0.6 percent to 8.88 percent. The rate then would increase to 9.78 percent on Sept. 1, 2012 and remain in effect through August 31, 2017, when the contribution rate would be reduced to 7.28 percent.

In addition, the amendment would extend to fiscal year 2016-17 the 1 percent state contribution rate in the school employee plan and the Omaha Class V School Employee Retirement System, currently scheduled to sunset in FY2013-14. The rate would return to 0.7 percent on July 1, 2017.

State funding for the purchasing power cost-of-living allowance in the Class V school plan would sunset in FY2013-14.

Finally, the amendment incorporated into the bill provisions of LB510, introduced by the committee, which would increase the contribution rate for members of the Class V school plan by 1 percent to 9.3 percent beginning Sept. 1, 2011.

Nordquist said the bill reflects the willingness of school employees and members of the state patrol to do their fair share to help alleviate the state's budget crisis. Nebraska retirement plans lost approximately \$1.5 billion in investments during the recent market downturn, he said.

"[This bill] certainly is not a silver bullet," Nordquist said, "but it gets us on a pathway to shore up these plans."

Wilber Sen. Russ Karpisek sup-

ported the bill, saying increased contribution rates will not be easy for teachers and patrol members to absorb, but that both groups were willing to compromise.

"They have come to the table and they have worked it out," he said.

LB382 advanced to select file on a 42-0 vote.

Revenue

Match requirements, limitations and uses relaxed for civic center fund

A retooled Local, Civic, Cultural and Convention Center Financing Fund will provide larger grants with reduced local match requirements under a bill passed on final reading April 20.

The fund is supported by a turn-back of 30 percent of new state sales tax generated by arenas constructed under the Convention Center Facility Financing Assistance Act and the Sports Arena Facility Financing Assistance Act and retailers near the arenas. Grants from the fund are awarded to communities based on the project's readiness, financial support and likelihood of attracting new activity to Nebraska.

LB297, introduced by Fullerton Sen. Annette Dubas, renames the fund as the Civic and Community Center Financing Fund and changes the purpose of the fund from supporting projects that attract new civic, cultural and convention activity from outside of Nebraska to support-



Sen. Annette Dubas

ISSUES UPFRONT

ing projects that foster maintenance or growth of communities.

The bill also reduces the cash match required of local funds from 80 percent to 50 percent. In addition, language prohibiting the use of fund assistance for planning is eliminated, planning is added as a criterion for project selection and libraries are added to the list of eligible projects.

The bill also will adjust the maximum grants awarded under the act if the balance of the fund reaches \$2.5 million. Until the fund recedes below \$1 million, the maximum grants for cities will be:

- \$2.25 million instead of \$1.5 million for primary class cities;
- \$1.125 million instead of \$750,000 for cities with a population between 40,000 and 100,000;
- \$750,000 instead of \$500,000 for cities with a population between 20,000 and 40,000;
- \$600,000 instead of \$400,000 for cities with a population between 10,000 and 20,000; and
- \$375,000 instead of \$250,000 for cities with a population less than 10,000.

Lawmakers passed LB297 on a 46-0 vote.

Bill would clarify wind turbine taxes

Wind turbine sites could not use credits for real property taxes paid to reduce their nameplate capacity tax liability under a bill advanced from general file April 21.

Prior to the passage of an omnibus wind energy bill last session, wind turbines were taxed via personal property

taxes. The personal property taxes were replaced by a nameplate capacity tax of \$3,518 per megawatt, which was intended to offset personal property tax revenue.

When the nameplate capacity tax was created, a provision was added that permitted property tax paid on wind turbines that exceeded the nameplate capacity tax to be used as a credit toward the nameplate capacity tax.

As amended by a Revenue Committee amendment, adopted 35-4, LB360 would clarify that depreciable tangible personal property used to generate electricity would continue to be exempt from property taxes, but real property would not be exempt. The bill was introduced by Bellevue Sen. Abbie Cornett.



Sen. Abbie Cornett

The bill also would limit nameplate capacity tax credits to property taxes paid on depreciable personal property that exceed what would have been required under the nameplate capacity tax.

The bill would take effect Jan. 1, 2010.

Lawmakers advanced LB360 on a 33-0 vote.

State energy conservation program suspended

The Low-Income Home Energy Conservation Act will be suspended for three years and expire five years later under a bill approved 46-0 on final reading April 20.

The act offers grants to public and nonprofit electric utilities providing matching funds to complete energy

conservation improvements for Nebraska homeowners whose income is at or below 150 percent of the federal poverty level. The fund receives revenues of up to 5 percent of state sales taxes collected on electricity bills of participating utilities.

LB385, introduced by Hastings Sen. Dennis Utter at the request of the governor, suspends the program until July 1, 2014, at which point the Legislature will appropriate \$250,000 to the fund each biennium. Utilities participating in the program may dedicate up to \$50,000 per fiscal year to be matched by the fund.

The bill will terminate the act on July 1, 2019.

Transportation & Telecommunications

Bill changing oversized vehicle permits passes

Permits authorizing overweight and oversized loads and tows will be expanded by a bill passed on final reading April 20.

LB35, introduced by Scottsbluff Sen. John Harms, increases to 210 days the maximum life of a state Department of Roads overweight or overlength permit for hauling loads of grain, sugar beets and other seasonally harvested products.



Sen. John Harms

Currently, such permits may be purchased for 30 or 60 days and renewed for a maximum of 120 days per year.

The bill also addresses towing load restrictions.

ISSUES UPFRONT

Current law exempts from standard length and weight limits wrecked or disabled vehicles that, combined, do not exceed 150 feet.

The bill exempts from the 150-foot limitation tows of single vehicles to a place of repair or storage. It also exempts tows of multiple vehicles and permitted oversize vehicles as long as such vehicles are towed to the first and nearest location that can accommodate them. Afterwards, a special single trip permit may be acquired to transport an oversize vehicle.

Towing companies are held severally liable for injuries or damages resulting from the operation of tow trucks while exceeding length, width, height and weight requirements.

Lawmakers approved LB35 on a 46-0 vote.

PSC motor carrier exemptions for HHS service contractors approved

Three new exemptions from Public Service Commission (PSC) motor carrier regulations were approved under a bill passed 46-0 on final reading April 20.

LB112, introduced by Lincoln Sen. Colby Coash, creates exemptions from PSC regulation for residential care transportation services, supported transportation services and licensed care transportation services.

Escort services are renamed under the bill as attended services, and the exemption for such services is extended to motor carriers with a subcontract with HHS or any agency

organized under the Nebraska Community Aging Services Act.

The bill also requires motor carriers providing licensed care transportation services to meet PSC minimum driver standards, equipment standards and insurance requirements, which must be consistent with HHS requirements for attended services, residential care transportation services and supported transportation services.

Bill to eliminate PSC railroad inspection program fails

The state Public Service Commission will continue conducting a railroad inspection program after a bill failed to garner the requisite number of votes on final reading April 20.

LB255, introduced by the Transportation and Telecommunications Committee, would have deleted language in current law requiring the commission to investigate railroad accidents and enforce federal railroad safety standards.

LB255 failed on a 23-19 vote, two votes fewer than the number required for passage.

Bill would authorize operation of low-speed vehicles on state roads

Low-speed vehicles could operate on state roads under a bill advanced from general file April 18.

LB289, introduced by Omaha Sen. Heath Mello, would authorize the operation of low-speed vehicles on highways with a speed limit of 35 mph or less. Under the bill, local governments and the state Department of Roads could restrict low-speed vehicle use

further for public safety purposes.

Mello said 35 other states permit the use of low-speed vehicles on state roads. The vehicles promote “positive urban design” and are used extensively on military bases, college campuses and at airports, he said.

“As fuel prices continue to rise and Nebraska families and business look to save money, [low-speed vehicles] present an alternative mode of transportation that has many potential uses,” Mello said.

The definition of low-speed vehicles would include federally compliant four-wheeled vehicles with maximum speeds greater than 20 mph but less than or equal to 25 mph and gross vehicle weights less than 3,000 pounds.

Low-speed vehicle operators would need to have a valid operator’s license and liability insurance coverage. The vehicles would be subject to titling requirements, a registration fee of \$15 and a new alternative fuel fee of \$75 for vehicles using a source of energy not taxed under the motor fuel laws. The alternative fuel fee would replace the alternative fuel tax.

Mello said the alternative fuel tax requires those registering a vehicle propelled by alternative power sources to obtain a permit from the state Department of Revenue. The alternative fuel fee, which would be collected during vehicle registration by the state Department of Motor Vehicles, would be less burdensome to vehicle owners, he said.

The bill would have an operative date of Jan. 1, 2012.

A Transportation and Telecom-



Sen. Heath Mello



Sen. Colby Coash

ISSUES UPFRONT

munications Committee amendment, adopted 35-0, would require smaller license plates for low-speed vehicles and institute a base fee of \$50 for the motor vehicle tax and \$10 for the motor vehicle fee associated with low-speed vehicles.

LB289 advanced from general file 35-0.

Bill clarifying motor vehicle manufacturer/dealer agreements passes

Lawmakers passed a bill April 20 affecting agreements between motor vehicle manufacturers and dealers.

LB477, introduced by Valentine Sen. Deb Fischer, prohibits motor vehicle manufacturers from requiring new motor vehicle dealers in the state to:

- retain parts or accessories that were not obtained through a

specific order and not sold within 12 months;

- maintain exclusive sales facilities or display space, personnel, service, parts or administrative facilities for a line-make, unless it is justified by reasonable business considerations; or
- enter into any agreement with a manufacturer, factory branch, distributor, distributor branch or one of its affiliates that gives site control of the dealer premise and does not terminate under certain conditions.

Manufacturers are required to compensate new dealers for warranty



Sen. Deb Fischer

and recall obligations related to repair, service and installation. A dealer's claim for warranty compensation may be denied only if:

- it is based on a nonwarranty repair;
- the dealer lacks documentation for the claim; or
- the dealer fails to comply with specific substantive evidence that the claim is intentionally false, fraudulent or misrepresented.

The bill prohibits franchisors from sharing or selling private customer information obtained by dealers unless agreed to by the originating dealers. Franchisors also may not prohibit a dealer from acquiring a line-make of new vehicles solely because the dealer owns another dealership of the same line-make in a contiguous market.

The bill passed 46-0. ■

COMMITTEE HEARINGS

Monday, May 2

Natural Resources

Room 1525 - 12:45 p.m.

Appointment: Anderson, Douglas -

Environmental Quality Council

Appointment: Baker, John -

Environmental Quality Council

Appointment: Kinter, John -

Environmental Quality Council

Appointment: Turnbull, John -

Environmental Quality Council

Appointment: Williams, Donald -

Environmental Quality Council

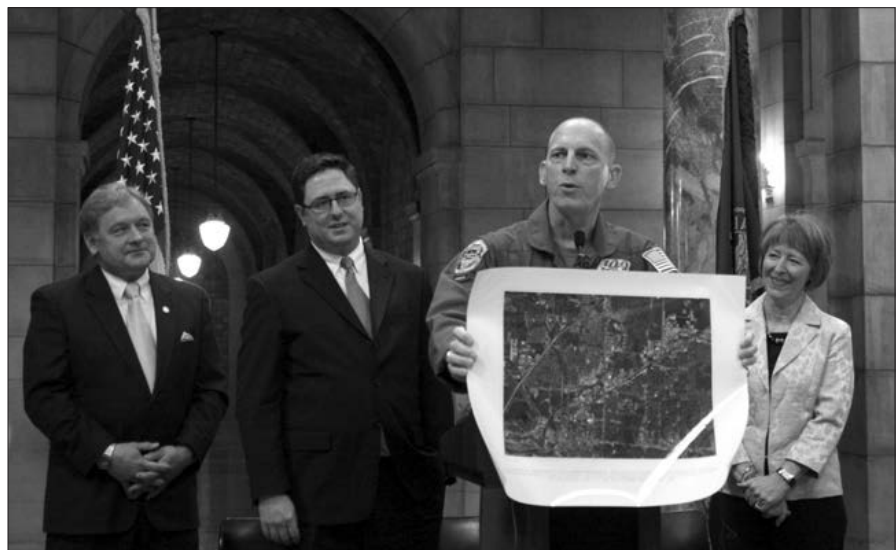
Monday, May 9

General Affairs

Room 1510 - 1:00 p.m.

Appointment Tuma, Bryan -

Liquor Control Commission



NASA astronaut and Nebraska native Clayton Anderson is pictured holding a photograph that he took from space of the state's capital city. He is pictured in the rotunda with (from left) Sens. Bob Krist of Omaha, Mike Flood of Norfolk and Kate Sullivan of Cedar Rapids.

Anderson visited the Nebraska State Capitol April 20 to present a state flag to the Legislature. The flag had traveled 64 million miles in space with Anderson on the Atlantis Shuttle. He had borrowed the flag from the Capitol before his journey and promised he would bring it back.

"To the wonderful people of the great state of Nebraska, I proudly return your flag," he said.

Unicameral Information Office
Nebraska Legislature
P.O. Box 94604
Lincoln, NE 68509
03-23-05

PRESRT STD
U.S. POSTAGE PAID
LINCOLN, NE
PERMIT NO. 212

UNICAMERAL UPDATE

The Unicameral Update is a free newsletter offered weekly 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 e-mail uio@leg.ne.gov.



On Twitter at
twitter.com/UnicamUpdate



By RSS feed at
update.legislature.ne.gov



Online at
update.legislature.ne.gov



E-mail unicameralupdate+subscribe@googlegroups.com to subscribe to a weekly summary

Clerk of the Legislature: Patrick J. O'Donnell

Editor: Heidi Uhing

Contributors: Nicole Behmer, Bess Ghormley,
Kate Heltzel and Kyle Petersen

Assistance provided by the Clerk of the Legislature's Office, the Legislative Technology Center, committee clerks, legal counsels, journal clerks, pages, transcribers, mail room and bill room staff and the State Print Shop.

LEGISLATIVE RESOURCES

STATUS OF BILLS OR RESOLUTIONS

Legislative Hot Line - (402) 471-2709 or (800) 742-7456
www.nebraskalegislature.gov/bills

BILLS, RESOLUTIONS OR LEGISLATIVE JOURNALS

Subscriptions: State Capitol, Room 2018 or (402) 471-2271
Individual copies: 24-Hour Request Line at (402) 471-2877

LIVE VIDEO STREAM OF THE LEGISLATURE

www.nebraskalegislature.gov

SENATOR WEB PAGES

www.nebraskalegislature.gov/senators

SENATORS' MAILING ADDRESS

Senator Name
District #
State Capitol
P.O. Box 94604
Lincoln, NE 68509-4604

NEBRASKA BLUE BOOK

Nebraska Blue Book Office: (402) 471-2220
www.nebraskalegislature.gov/about/blue-book.php

STUDENT PROGRAMS AT THE LEGISLATURE

Unicameral Information Office: (402) 471-2788
www.nebraskalegislature.gov/education/student_programs.php