

THE NEBRASKA LEGISLATURE'S  
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# UPDATE

## Senators override veto of nursing home provider assessment

Lawmakers voted April 28 to override the governor's veto of a bill that institutes a provider assessment on nursing home facilities.

Under LB600, introduced by Lincoln Sen. Kathy Campbell, 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 new assessment.

Senators passed the bill April 20 on a 44-1 vote. Gov. Dave Heineman subsequently vetoed the measure.

In his veto message, the governor referred to the assessment as a "shell game," in which the federal tax dollars returned to the state are seen as "free money" when those funds actually are Nebraska citizens' federal tax dollars.

The governor also expressed concern that the state will be responsible for replacing the increased rates fi-



Sen. Kathy Campbell encourages lawmakers to override the governor's veto of LB600.

nanced in LB600 should the federal reimbursement program end.

Campbell said the financing mechanism outlined in LB600 is based on a model used by 39 other states and is a legitimate option for leveraging federal tax dollars. She acknowledged that the federal government is considering ending the reimbursement program, but said the bill specifically prohibits the use of general fund dollars should that happen.

"LB600 presents no liability to the state if the federal program is ended,"

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## Travel and tourism development bill advanced

A bill that would establish a committee to promote travel and tourism in Nebraska cleared the first round of legislative debate April 27.

LB684, introduced by Ogallala Sen. Ken Schilz, would establish the Travel and Tourism Division Advisory Committee. The committee would be required to develop a statewide strategic plan to cultivate and promote tourism in Nebraska including:

- a comprehensive inventory of local tourism boards;
- a review of existing and potential funding sources for state and local tourism;
- criteria for local tourism boards regarding appointments and grant awards;
- an examination of other states' tourism funding models and marketing strategies; and
- a proposal for expanding existing tourism and creating new capacities.

The board would include representatives from the Nebraska Travel Association, Nebraska Hotel and Motel Association, the largest tourist attraction in the state and the largest convention facility in the state, as determined by the state Department of Economic Development.

A Banking, Commerce and Insur-

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# A CLOSER LOOK

## Travel and tourism development bill advanced

(continued from front page)

ance Committee amendment, adopted 37-0, altered the composition of the proposed board.

Under the amendment, the advisory committee would be expanded to include a representative from the Game and Parks Commission. In addition, the representative from the largest tourist attraction would be replaced by one from a tourism attraction that records at least 2,000 out-of-state visitors per year. Finally, the representative of the largest convention facility would be replaced by one from the Nebraska Association of Convention and Visitors Bureaus.

The amendment also would authorize DED to hire a consultant to assist with the statewide strategic plan.

Sen. Annette Dubas of Fullerton offered and later withdrew an amendment that would have removed authorization for DED to hire an outside consultant, which the department estimated would cost \$75,000.

Dubas said department employees should be capable of producing the plan outlined in the bill without outside assistance.

“I know the staff at DED is very capable, talented and committed,” she said.

Schilz said the funds would come from a DED cash fund dedicated to tourism promotion and that an outside expert could bring fresh ideas to the state’s tourism industry.

“If we’re going to be serious about tourism – about a \$3.8 billion industry in our state – then we need to be serious about promoting it,” Schilz said.

Scottsbluff Sen. John Harms supported the bill, saying the state needs



Sen. Ken Schilz said tourism is the state’s third largest industry.

a coordinated plan to market its attractions in a comprehensive way.

The bill advanced on a 42-0 vote. ■

## Senators override veto of nursing home provider assessment

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she said.

Sen. Galen Hadley of Kearney supported the override motion, saying the bill allows a return of federal tax dollars to Nebraska, much like stimulus dollars or highway funds.

“What we have here is a mechanism that is available to us to enhance funding for nursing homes that desperately need it,” he said.

Speaking in support of the override motion, Louisville Sen. Dave Pankonin said nursing facilities are large employers that are important to the state’s economy. In

addition, he said, many of the 45 nursing facilities owned by Nebraska cities and counties have outstanding bond obligations that will remain should facilities be forced to close.

Omaha Sen. Brenda Council also supported the override motion. She said the bill is a way to control costs for private pay patients while honoring the state’s duty to care for vulnerable citizens.

“I can think of no more vulnerable population in our state than our low-income elderly,” she said.

Senators voted 44-0 to override the governor’s veto. ■

# MEET THE SENATOR

## Senator Smith gets straight to business

Even though he recently retired from Omaha Public Power District (OPPD), Omaha Sen. Jim Smith has not had much time to enjoy retirement. In fact, he said operating his small business is what he considers to be his hobby — although he said he does like to golf once in a while.

And he has carried that work ethic with him to the Legislature.

“I have much less time on my hands now,” Smith said. “Before [being elected to the Legislature], I was involved in a lot of community organizations and boards. But now, having retired from OPPD, this is my other full-time job.”

But how does he consider this job to be different?

“Unlike the others, I take it home more frequently,” he said. “You are not off the clock, even on recess days and weekends, because you are meeting with constituents.”

But Smith says, the time and commitment are worth it.

“As small business owners, my wife and I have seen first hand some of the struggles small businesses have in competing in this economy and creating and retaining jobs,” he said.

It was for that reason that Smith decided to run for the Legislature. He wanted to bring diverse ideas, from a small business owner’s perspective, to the lawmaking process with the hopes of creating a better economy for the state. But he has discovered his motivating factor to create laws would be just one of many.

“I think, probably as any senator would say, there are moments that are frustrating. Things do not always go the way you



Sen. Smith at his family business, Norm’s Door Service, planning a project with the field manager.

would expect them to with 48 other perspectives,” Smith said.

There are bills that appear like they would be easy to move forward, he said, but end up being opposed. But, in the end, he said, the frustration that comes along with the position is usually offset by the rewards.

“It is just nice being able to watch, listen and learn from folks who have been in public service for long time,” he said. ■

## Individual income tax revenues raise forecasting projections

Greater expectations of individual income tax revenues by the Nebraska Economic Forecasting Advisory Board resulted in a higher forecast April 28.

The board provides an advisory forecast of general fund receipts that the Legislature uses to craft the state’s budget. The April meeting of the board provides the last forecast on which the state budget will be based this legislative session.

During its February forecast, the board set revenue projections at \$3.4

billion for fiscal year 2010-11, \$3.5 billion for FY2011-12 and \$3.6 billion for FY2012-13.

The board projected that revenues for the current fiscal year would be \$82.5 million greater than their February forecast, mostly due to an anticipated \$95 million increase in individual income taxes. Sales and use tax revenues and miscellaneous revenues curtailed some of the income tax gains.

Projections for FY2011-12 and FY2012-13 were increased by \$91 mil-

lion and \$60 million, respectively. Again, individual income taxes led the growth with projections that were \$155 million more during the next biennium than the previous forecast.

Five members of the nine-member board are appointed by the Legislature’s Executive Board and four are appointed by the governor. Appointees must demonstrate expertise in the field of tax policy, economics or economic forecasting.

The next meeting of the board is Oct. 27. ■

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## Banking, Commerce & Insurance

### Small business assistance bill advanced

A bill that would implement a state-wide pilot program to provide technical assistance to small businesses was advanced from general file April 26.

Lincoln Sen. Danielle Conrad, sponsor of LB345, said the bill was based on research indicating that small businesses often lack access to the demographic data and sophisticated market analysis needed to expand and succeed.



Sen. Danielle Conrad

“What we’re really talking about is putting market data in the hands of small businesses who otherwise wouldn’t be able to afford it,” she said.

A Banking, Commerce and Insurance Committee amendment, adopted 30-0, became the bill and would establish the Small Business Innovation Act.

Under the bill, the state Department of Economic Development would administer the pilot program, which would assist up to 40 Nebraska-based growth businesses, at least one half of which would be located



in counties with fewer than 50,000 inhabitants.

A qualifying business would have between five and 50 employees and annual sales revenue between \$500,000 and \$2.5 million.

“The reason that definition was chosen,” Conrad said, “was to ensure that we’re targeting these resources to businesses that have the ability to create high-wage jobs.”

Conrad said the bill would assist companies too small to qualify for Nebraska’s traditional economic development tools for recruiting and retaining businesses, such as the Nebraska Advantage Act.

Sen. Galen Hadley of Kearney agreed, saying the bill would fill a gap in the state’s economic development plan.

“We all have businesses in our communities that started small and that grew into large, vibrant companies,” he said.

Conrad offered an amendment to clarify the bill’s funding mechanism.

The amendment would appropriate \$200,000 from the general fund in fiscal year 2011-12 and FY2012-13 to carry out the pilot program, which would be offset by reducing the total amount of tax credits granted under

the Community Development Assistance Act by \$200,000 per year for the same time period.

Following adoption of the Conrad amendment 29-0, senators advanced LB345 on a 31-0 vote.

### Bill would consolidate economic development reports

Senators gave first-round approval April 26 to a bill that would consolidate the state’s economic development reporting process.

LB404, introduced by Omaha Sen. Pete Pirsch, would authorize the state Department of Economic Development to include in its annual report the status of all programs the department administers that require reports to the Legislature.



Sen. Pete Pirsch

The bill would consolidate individual reports from the following programs into one annual report:

- Rural Development Commission statutes;
- Civic, Cultural and Convention Center Financing Act;
- Nebraska Affordable Housing

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Act;

- Business Development Partnership Act;
- Microenterprise Development Act;
- Nebraska Operational Assistance Act;
- Agricultural Opportunities and Value-Added Partnerships Act; and
- various job-training grant statutes.

The bill also would require that the annual status report be submitted on the first working day of July rather than the first working day of October.

Pirsch said the bill likely would save in printing costs and allow DED employees time to work on other projects.

LB404 advanced to select file on a 29-0 vote.

## Education

### Governor vetoes blood lead level testing bill for children

A lead testing bill passed by the Legislature April 20 that would require the testing of children attending public and parochial schools was vetoed by the governor April 26.

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



Sen. Brenda Council

Under the bill, blood-lead testing would 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.

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

Council filed a motion to override the governor's veto, but it has not yet been scheduled for debate.

### School bonds will fund energy efficiency projects

Senators passed a bill April 28 that expands an existing authority of school districts to levy property taxes and issue bonds for capital projects to include energy efficiency projects.

LB283, introduced by Malcolm Sen. Ken Haar, includes energy efficiency projects in the \$0.052 levy school districts receive for the Qualified Capital Purpose Undertaking Fund (QCPUF).



Sen. Ken Haar

Currently, QCPUF allows expenditures for environmental hazards, accessibility barriers, life safety code violations, indoor air quality and mold

abatement.

Under the bill, energy efficiency projects also will include:

- inspection and testing regarding energy usage;
- maintenance to reduce, control or eliminate energy usage; or
- restoration or replacement of material in new or existing school grounds or buildings that would reduce or eliminate energy usage.

The bill passed on a 27-19 vote.

### Postsecondary institution minimum standard requirements created

Senators gave final round approval April 28 to a bill that creates minimum operation standards for private and out-of-state postsecondary institutions.

York Sen. Greg Adams introduced LB637, a bill that requires the Coordinating Commission for Postsecondary Education to establish minimum standard requirements and levels of operations, establish rules and regulations, review applications for postsecondary institutions and investigate violators of the bill. If the commission finds that a postsecondary institution has violated the rules and regulations, the institution's authorization to operate could be suspended or revoked.



Sen. Greg Adams

Any private postsecondary career school or institution that is regulated by a federal agency will be exempt from the bill.

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The bill also will:

- enable the University of Nebraska to offer certificates in additional fields upon approval from the commission if the preponderance of the courses comprising any such certificate are above associate-degree level;
- require a study of the need for uniform policies and practices regarding dual-enrollment courses and career academies; and
- allocate \$160,000 to the state Department of Education for a three-year pilot project in participating school districts for the administration of a standard college admission test for 11th grade students beginning in fiscal year 2011-12.

The bill passed on a 48-0 vote.

## Government, Military & Veterans Affairs

### Election bill amended to prohibit party candidates from sitting out primaries

A political party member seeking election to a partisan office could not sit out the primary election and mount a petition campaign under a bill amended and advanced from select file April 26.

LB449, introduced by Sen. John Nelson of Omaha, contains a number of changes to election laws. Among other provisions, it



Sen. John Nelson

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. This provision was removed by a Government, Military and Veterans Affairs Committee amendment on general file.

On select file, Nelson brought an amendment that would prevent a person who is registered to vote with a party affiliation on or before March 1 in a general election year from pursuing a petition campaign or accepting a party's nomination.

Nelson said his amendment would ensure that "normal and reasonable selection procedures" associated with elections are not circumvented. He said his amendment would not affect independent campaigns or processes for filling vacancies.

Lincoln Sen. Bill Avery opposed Nelson's amendment, citing a 1977 court decision by the 8th U.S. Circuit Court of Appeals. Avery said the court declared that state laws restricting voters' choices on election ballots must be justified by a compelling state interest.

"I, quite frankly, don't know what the compelling state interest is in this particular amendment," Avery said.

Omaha Sen. Scott Lautenbaugh said Nelson's amendment does not require a compelling state interest because it affects only the process for becoming a party's nominee.

"We've already set up a partisan election process in certain races and this simply clarifies how you become that nominee," Lautenbaugh said.

Nelson's amendment was adopted 25-5 and LB449 advanced from select file on a voice vote.

## Health & Human Services

### Foster care changes approved

Senators gave final approval April 28 to a bill that makes several changes to the Nebraska foster care system.

LB177, introduced by Lincoln Sen. Kathy Campbell, requires the state Department of Health and Human Services to notify adult relatives within 30 days of a child's removal from his or her home. An exception is provided if an adult relative's history of domestic or family violence would make notification inappropriate.



Sen. Kathy Campbell

The bill also requires that HHS and the court make reasonable efforts to place siblings together and provide visitation or ongoing interaction when siblings are not placed together. An exception is provided if joint placement or visitation would be contrary to the safety and well-being of any sibling.

Finally, the bill requires the department to develop an individual proposal for each child transitioning out of foster care into adulthood. Such a proposal will include assessment of a foster child's educational, employment, housing, health care and other support needs.

The bill passed on a 47-0 vote.

### Child-care reimbursement rates lowered

Nebraska child care reimbursement rates will be lowered under a bill

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given final approval April 28.

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

Instead, the bill lowers to the 50th percentile the minimum rate that HHS may pay for the next two years, beginning July 1, 2011. In addition, the rate paid to child-care providers may be no lower than the rate paid in the preceding fiscal year.

Lawmakers passed the bill 42-2.

## Judiciary

### Juvenile truancy provisions revised, advanced

Senators gave second-round approval April 27 to a bill that would revise juvenile truancy and excessive absenteeism policies and practices.

LB463, introduced by Omaha Sen. Brad Ashford at the request of the governor, would require that at least 50 percent of the Learning Community Coordinating Council operating funds be used for truancy intervention programs that incorporate evidence-based practices pursuant to a plan developed by participating superintendents.



Sen. Brad Ashford

Under the bill, excessive absenteeism policies must include a provision indicating how the district and the county attorney will handle cases in

which excessive absences are due to documented serious illnesses. The bill also would authorize the council to administer pilot projects related to truancy initiatives that would share information regarding at-risk youth and would provide a grant program for Court Appointed Special Advocates.

“[Early] intervention is critical with these young people,” Ashford said. “If we can reduce excessive absenteeism, we can get to the root of the issue that keeps these young people from learning.”

Norfolk Sen. Mike Flood offered an amendment containing provisions from two bills that would revise the process for sealing juvenile records. These provisions originated from LB669, introduced by Flood and LB301, introduced by Ashford.

Under the amendment, adopted 35-0, inspections of juveniles’ sealed records would be allowed by:

- a person who is the subject of the record;
- the court, city attorney or county attorney for purposes of collection of any remaining parental support or obligations;
- a law enforcement agency if such a person applies for employment with an agency; and
- the state Department of Correctional Services, the Office of Juvenile Services, a juvenile assessment center or a criminal or juvenile detention facility where an individual is committed.

Ashford also offered an amendment to the bill that would add to the definition of at-risk youth a student who has been absent from school for more than five days per quarter or the hourly equivalent, except when

excused by school authorities or for a documented illness.

Omaha Sen. Brenda Council spoke in support of the amendment. When children start missing 10 or more days of school, she said, there are serious losses of instructional time.

“I believe LB463 with the amendment moves us closer towards ensuring that all children in the state of Nebraska receive a quality and comprehensive education,” Council said.

The Ashford amendment was adopted 32-0 and the bill advanced from select file on a voice vote.

### Lawmakers approve foster care placement notifications

Senators gave final approval April 28 to a bill that establishes notification requirements for child foster care placement court reviews and hearings.

LB648, introduced by Imperial Sen. Mark Christensen, requires the state Department of Health and Human Services or contract agency to make a child’s placement information available for courts to use when notifying foster parents of placement hearings. The notice must be mailed or personally delivered to the counsel or party at least five days before the review or hearing.



Sen. Mark Christensen

The bill also requires the court to ask a foster parent, preadoptive parent or relative caring for the child present at the hearing about the well-being of the child.

The bill passed on a 44-0 vote.

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## Natural Resources

### Natural resource program to employ at-risk youth advanced

Senators advanced a bill from general file April 26 that would create a program to employ at-risk youth in natural resource conservation jobs.

Omaha Sen. Brenda Council introduced LB549, a bill that would create the Nebraska Youth Conservation Program. A Natural Resources Committee amendment



Sen. Brenda Council

replaced the original provisions of the bill and would require that participants in the program be unemployed, at-risk youth between the ages of 16 and 21. Participants in the program would be paid minimum wage.

The amendment also would require the state Game and Parks Commission to administer the program and collaborate with government, educational and community partners for the benefit of participants.

The purpose of the program is to encourage at-risk youth to be productive in society and engage in projects that could enhance the state's parks and recreation facilities, Council said, instead of engaging in harmful and unproductive behavior.

Omaha Sen. Brad Ashford spoke in support of the bill and said it would help address the problem of youth and gang violence throughout the state. When youth work programs were made available in Omaha, he said, it resulted in a significant lessening of

violence in the area.

"My experience in working on these issues has been that receiving a paycheck from an employer is a wonderful event for young people who have never received that," Ashford said. "This [bill] is a magnificent example of playing to the strengths of Nebraska."

The amendment was adopted 36-0 and the bill advanced from general file on a 36-0 vote.

## Retirement

### School, state patrol retirement contributions increased

Employee contribution rates for the school employee, Class V school employee and state patrol retirement plans will increase under a bill given final approval April 28.

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



Sen. Jeremy Nordquist

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

Beginning Sept. 1, 2011, the member contribution rate in the School

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

In addition, the bill extends 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 will 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 will sunset in FY2013-14.

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

LB382 passed on a 43-0 vote.

## Revenue

### Proposal to expand county sales tax uses narrowed to public safety

A proposal to expand the authority of counties to enact sales taxes was narrowed in scope during general file debate April 26.

Current law allows counties to enact sales taxes up to 1.5 percent to support public services provided by a public safety commission or an agreement executed under the Interlocal Cooperation Act or Joint Public Agency Act. County voters must ap-



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prove such sales taxes, which cannot be levied in municipalities that have a local option sales tax.

LB106, introduced by Ogallala Sen. Ken Schilz, would have extended the use of county sales taxes to include public safety services and transportation infrastructure projects.



Sen. Ken Schilz

Schilz said LB106 would be a “reasonable expansion” of acceptable uses for county sales tax revenues. By removing the interlocal agreement requirement, he said, county sales taxes could be used in unincorporated areas such as Whiteclay.

A Revenue Committee amendment, adopted 31-0, removed transportation projects from the proposal and clarified that public safety services include crime prevention, offender detention and police services.

Ellsworth Sen. LeRoy Loudon offered an amendment to the committee amendment to further expand public safety services to include firefighter, police, medical, ambulance or other emergency services and permit the use of sales tax revenues to finance such services.

Loudon said counties could use county sales tax revenues to support fire and emergency services under his amendment. Such revenues could help counties that are close to their levy lid, he said.

Lawmakers voted 30-0 to approve Loudon’s amendment and 31-0 to adopt the Revenue Committee amendment. The bill advanced from general file on a 26-3 vote.

## Sales tax exemption for indoor tanning services dropped for Wyuka Cemetery exemption

A sales tax exemption for tanning services was removed from a bill advanced from general file April 26 in favor of providing a sales tax exemption for Wyuka Cemetery.

LB252, introduced by Bellevue Sen. Abbie Cornett, would have created a sales tax exemption for indoor tanning services admission receipts, effective July 1, 2011.

Cornett said a 10 percent federal excise tax affecting indoor tanning enacted as part of the 2010 Patient Protection and Affordable Health Care Act has led to an “unprecedented tax burden” on indoor tanning businesses. Furthermore, the new excise tax is applied unfairly because select businesses that offer tanning services as part of membership fees are exempt, she said.

A number of Revenue Committee members said they advanced the bill from committee to discuss the federal excise tax but could not support a tax exemption for every business affected by federal tax policy.

An amendment offered by Lincoln Sen. Colby Coash replaced the provisions of the bill with a proposal to exempt from sales and use tax purchases made by Wyuka Cemetery.

The amendment also would designate the state Auditor of Public Accounts as the state official who receives itemized reports of receipts and expenditures incurred by the Wyuka Cemetery board of trustees for the man-

agement of the cemetery. Currently, the secretary of state receives such reports.

The amendment also would push back the deadline for such reports from the second Tuesday in March to the second Tuesday in June.

Coash said his amendment would clarify the cemetery’s tax exempt status, which is in question due to an informal attorney general opinion. The nonprofit, charitable organization has never paid sales taxes on its purchases, he said, adding that the tax exemption would not apply to services and products the organization provides to others, such as casket and urn sales.

“We are not, through this amendment, giving Wyuka any kind of economical advantage, because they have already been operating as tax exempt,” Coash said.

Coash offered a motion to suspend the germaneness rule in order for the body to consider his amendment. Lawmakers voted 30-2 to suspend the rule and adopted Coash’s amendment 28-0. LB252 advanced from general file 31-0.

## Renewable energy tax credit expansion amended into wind bill

A bill that would eliminate the zero-emission standard for renewable energy tax credits was amended April 27 into a bill affecting wind energy taxation.

LB360, introduced by Bellevue Sen. Abbie Cornett, would clarify that depreciable tangible personal property used to generate electricity from wind would continue to be exempt from property taxes, but real property would not be exempt.

The bill also would limit nameplate capacity tax credits to property taxes paid



Sen. Abbie Cornett

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on depreciable personal property that exceed what would have been required under the nameplate capacity tax.

The bill would take effect Jan. 1, 2010.

Lincoln Sen. Ken Haar offered an amendment, adopted 38-0, that incorporated provisions of LB359. His amendment would strike language that limits renewable energy tax credits to zero-emission facilities, which are facilities whose operation results in no pollution or emissions certified as harmful to the environment by the state Department of Environmental Quality. An eligible facility must use wind, moving water, solar, geothermal, fuel cell, methane gas or photovoltaic technology as its energy source.

The amendment also would decrease the maximum amount of renewable energy tax credits from \$750,000 to \$50,000. The credit currently is 0.075 cent per kilowatt-hour for electricity generated.

Haar said his amendment would open up the credits to methane digesters, which can produce emissions that render them ineligible under a zero-emission standard.

O'Neill Sen. Tyson Larson offered an amendment he later withdrew to eliminate credits for the amount of personal property tax paid on wind facilities prior to the enactment of the nameplate capacity tax that exceed the new tax.

LB360 advanced on a voice vote.

## Bill refining cigarette regulations for MSA compliance advanced

Cigarette regulations intended to keep Nebraska compliant with the Master Settlement Agreement (MSA) were

advanced from general file April 27.

The Master Settlement Agreement was entered into on Nov. 23, 1998, between the state and tobacco product manufacturers.

LB590, introduced by Grand Island Sen. Mike Gloor, would change laws regulating tobacco licenses, tobacco sales, cigarette taxes, the state directory of cigarettes, escrow deposits under the MSA and reporting requirements. The bill also would authorize the state to negotiate a compact with Native American tribes regarding tobacco products.

Under the MSA, Gloor said, tobacco companies provide annual payments to states to cover public health costs associated with tobacco use. States must implement qualifying statutes to require companies that are not part of the agreement to put money in escrow as if they were paying their share of the settlement, he said.

Gloor said tobacco manufacturers have disputed state enforcement of escrow requirements and have claimed that they are entitled to an adjustment of their annual payments. Consequently, arbitration commenced in July 2010 to resolve payments made from 2003-2010, Gloor said, adding that \$46 million is in dispute for Nebraska.

LB590 is needed to ensure compliance with the MSA and prevent a loss of revenue, Gloor said.

"If this bill does not pass, there could be some fairly severe financial ramifications for this state and our legislative budgeting process," Gloor said.

Among other provisions, enforce-

ment measures in the bill would include:

- requiring nonparticipating manufacturers to post bond if their cigarettes have not been sold in the state or they fail to make escrow deposits;
- requiring nonparticipating manufacturers to make escrow payments on a quarterly basis;
- increasing the frequency of stamping agent reports and holding agents liable for nonparticipating manufacturers escrow payments if their products are stamped;
- revoking stamping agent licenses for inadequate reporting, outstanding escrow deposits or sales of unstamped cigarettes;
- requiring cigarette manufacturers and importers to report all sales into Nebraska within 15 days;
- removing manufacturers from the state directory that fail to submit required reports; and
- revoking stamp agent licenses and removing manufacturers from the state directory for violations of similar laws in other states.

A Revenue Committee amendment, adopted 35-0, would require that compact agreements with tribes include provisions to require that tribal taxes are imposed equally on all cigarettes and other tobacco products. The agreement also would require that all cigarette packages bear the state stamp or a tribal stamp and would prohibit the sale of cigarettes not included in the state directory unless the cigarettes include a tribal stamp and the tribe makes escrow deposits.

After adopting a technical amendment offered by Kearney Sen. Galen Hadley 35-0, lawmakers voted 38-0 to



Sen. Mike Gloor

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advance LB590 from general file.

## Bill offering assistance for sewer projects bracketed

Lawmakers will delay until next year further consideration of a bill providing state assistance for select sewer projects.

During select file debate April 27, Omaha Sen. Heath Mello offered a motion to bracket LB682 until Jan. 4, 2012.

LB682, introduced by Mello, would offer state assistance to finance the construction, acquisition or improvement of sewer infrastructure to address combined sewer overflows. Assistance would be calculated based on the amount of state sales tax collected from increased fees and charges to complete such projects.

The bill would require cities to dedicate any increased local option sales tax revenues generated from increased sewer fees to the combined sewer overflow project in order to receive state assistance.

The bill was bracketed by unanimous consent.



Sen. Heath Mello

## Transportation & Telecommunications

### State highway encroachment provisions advance

Senators advanced a bill April 27 pertaining to the use of state highways and right-of-ways for special events.

Current law gives the State Department of Roads complete authority over the use of, and any encroachments on, state highways or right-of-ways.

Papillion Sen. Jim Smith introduced LB589, a bill containing provisions for the temporary use of highways and right-of-ways. A Transportation and Telecommunications Committee amendment replaced the original provisions of the bill and would allow a county, city or village temporary use of the state highway system, other than a freeway, that is located within their jurisdiction for special events.



Sen. Jim Smith

The amendment, adopted 40-0, also would hold the county, city or village liable if damages or injuries occur during the event.

Smith said events are held on highways in Papillion that attract people from other states and countries and create pride in the community. The criteria for state highway encroachments depends largely on input from the local engineer, he said, so permission to use the roads has been granted inconsistently.

LB589 advanced from general file on a 41-0 vote.

## Urban Affairs

### Redevelopment bond repayment bill passed

A bill intended to make the repayment time frame of a redevelopment bond more closely reflect the life of a project received final approval April 28.

Currently, the 15-year repayment period of development bonds begins on the date that a municipality's redevelopment plan goes into effect.

Under LB54, sponsored by Omaha Sen. Heath Mello, the repayment period will not begin until the date identified in the project redevelopment contract or in the resolution authorizing bond issuance.

The bill passed on a 46-0 vote. ■

## 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

### Thursday, May 5

#### Redistricting

Room 1525 - 3:00 p.m.

LB699 (Redistricting Committee)

Change boundaries of Supreme Court judicial districts

#### Videoconference Sites:

**Scottsbluff:** High Plains Room, Panhandle Research & Extension Ctr., 4502 Avenue I (2:00 p.m. M.S.T.)

**Omaha:** Room 207, State Office Bldg., 1313 Farnam St.

### Monday, May 9

#### General Affairs

Room 1510 - 1:00 p.m.

Appointment Tuma, Bryan - Liquor Control Commission

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