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# UPDATE

## Compromise reached on water, environmental funds



Sens. Chris Langemeier, Mike Flood and Bill Avery (from left) discuss Langemeier's amendment to LB229.

The Water Resources Cash Fund would receive funds from the Nebraska Environmental Trust Fund under a bill amended on general file March 30, but less than half of the amount initially proposed. The remainder would be appropriated by the Legislature.

LB229, introduced by Valentine Sen. Deb Fischer, originally would have provided for annual transfers of

\$7 million from the Environmental Trust Fund to the Water Resources Cash Fund for 10 years. The Water Resources Cash Fund is used by the state Department of Natural Resources primarily to aid water management actions taken by natural resource districts in overappropriated and fully appropriated basins bound by an interstate compact, decree or agreement.

Fischer said the bill would provide

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## Bill calls for testing of kids' lead levels

Senators advanced a bill March 28 that would require that children's blood lead levels be tested before they enroll in kindergarten.

LB204, introduced by Omaha Sen. Brenda Council, would require blood lead level testing of children between the ages of 18 months and four years, and within six months of enrollment for transfer students older than four.

The parent or guardian of a student whose blood level is 10 micrograms or higher of lead per deciliter of blood must be notified by the state Department of Health and Human Services about the availability of special education services or resources for their children.

The bill would provide a means to ensure that all children in Nebraska are screened for elevated levels of lead while they are still young, Council said. Lead poisoning in children can lead to reduced intelligence, behavioral problems and learning disabilities, she said, which can affect school performance.

Under the bill, students would not be required to have blood level testing if they have a signed physician's statement stating that they are very low risk for elevated blood lead levels. A child could be considered low risk if he or she has not:

- lived in or spent significant time

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Bill could make healthful foods more available

• Meat and poultry inspection study advanced

# A CLOSER LOOK

## Compromise reached on water, environmental funds

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a dedicated revenue stream for water projects. If the state does not meet its obligations for projects like the Platte River Recovery Implementation Program, Fischer said, it could face lawsuits and large financial losses.

An amendment offered by Schuyler Sen. Chris Langemeier would use the existing application process for trust fund grants to provide \$3.3 million annually to the Water Resources Cash Fund for three years. The state Department of Natural Resources would submit an application to the trust and the application would be awarded 50 points in the project ranking process if the Legislature would provide matching \$3.3 million annual appropriations for three years.

The amendment would provide two appropriations of \$600,000 from the general fund to the Water Resources Cash Fund. It also would direct the department to apply to the trust for another three-year grant if certain criteria are met.

Langemeier said the Legislature already provides \$2.7 million annually to the Water Resources Cash Fund, so an increase of \$600,000 provided in his amendment would be needed to meet the matching requirement. He also said his amendment would avoid potential constitutional problems regarding allocation of Environmental Trust Fund monies by relying on the trust fund's established grant process.

Ogallala Sen. Ken Schilz spoke in support of the amendment and the bill, calling it the Legislature's first commitment to fund water issues long-term.

Omaha Sen. Brenda Council com-

mended senators for coming to a compromise in Langemeier's amendment but still opposed the idea, saying the bill would require the Environmental Trust to engage in unconstitutional conduct. A constitutional amendment adopted in 2004 removed the authority of the Legislature to determine the distribution of lottery funds, she said.

The trust receives 44.5 percent of Nebraska lottery profits, which are used to carry out the provisions of the Nebraska Environmental Trust Act. It has netted \$13.2 million to \$14 million annually since fiscal year 2007-08.

"No compromise can trump or override the will of the people of the state of Nebraska as evidenced by their vote on [the 2004 constitutional amendment] that dictated how lottery funds were to be distributed in this state," Council said.

Nebraska's constitution states that

the Environmental Trust Fund shall be used as provided in the Nebraska Environmental Trust Act, Fischer said, which is a state law that has been amended several times. Therefore, the Legislature has the authority to direct trust fund monies to the Water Resources Cash Fund, she said.

Ellsworth Sen. LeRoy Loudon spoke in opposition to the bill, saying an ethanol excise tax would be a better source of funding for the Water Resources Cash Fund than the Environmental Trust Fund.

After adopting Langemeier's amendment 41-2, lawmakers adopted a Natural Resources Committee amendment 33-0 to prohibit transfers from the Water Resources Cash Fund to the General Fund and provide for a technical change.

LB229 was advanced from general file on a 41-3 vote. ■



Sen. Deb Fischer (left), the introducer of LB229, discusses the amendment with Sen. Chris Langemeier.

# A CLOSER LOOK

## Bill calls for testing of children's lead levels

(continued from front page)

- in any building built before 1960;
- lived or frequently come in contact with an adult who works with lead;
- lived near a battery manufacturing plant, battery recycling plant, lead smelter or other source of significant lead emissions;
- been born in or spent more than three months in Mexico, Central America, Eastern Europe or Southeast Asia;
- ingested food, candy, nonfood items or remedies containing lead;
- played with toys, jewelry or other items recalled by the federal Consumer Product Safety Commission due to lead contamination; or
- had significant exposure to a product determined to contain lead by the federal Environmental Protection Agency, department of Housing and Urban Development, Centers for Disease Control and Prevention or Food and Drug Administration.

The bill's fiscal note estimates a cost of \$100,000 for testing Medicaid eligible children over the next two fiscal years.

Omaha Sen. Jeremy Nordquist spoke in support of LB204, saying the state has a vested interest in identifying children who have high blood lead levels. The bill would create a pathway to early identification of high blood lead levels in children, Nordquist said.

Valentine Sen. Deb Fischer spoke in opposition to the bill, saying it does not solve the problem of lead exposure in children.

An Education Committee amendment would allow students of private or parochial schools to be exempt from blood lead screenings, require additional assessments for children who test high for blood lead levels and make the bill effective immediately if passed.

Wilber Sen. Russ Karpisek offered an amendment to the committee amendment that would reinstate private, denominational and parochial schools to the list of schools requiring the test.

"If it is good for one [school], I do not know why it



Sen. Brenda Council explains the effects of lead exposure.

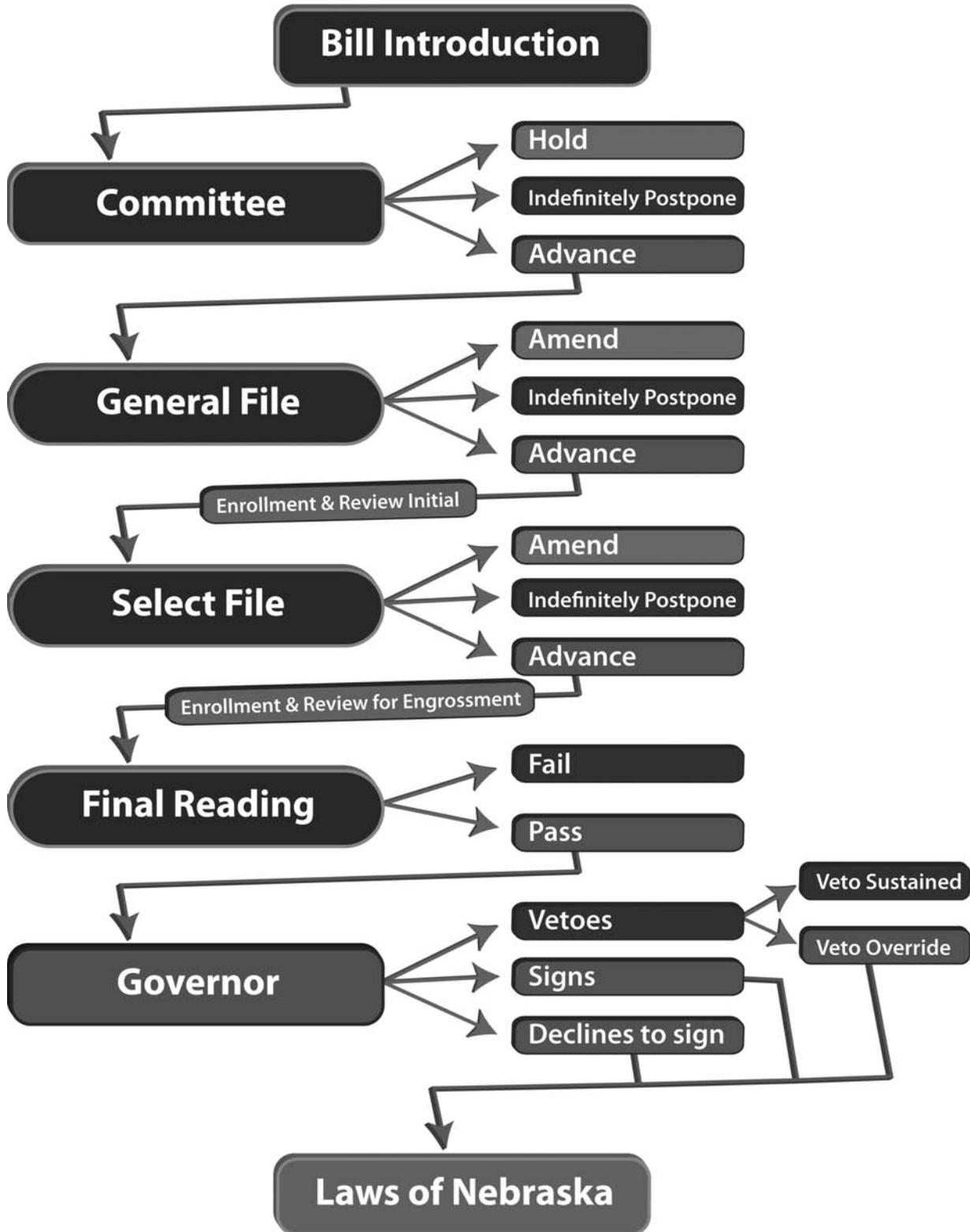
would not be good for the other," he said.

He later withdrew his amendment.

Council also offered an amendment to the committee amendment, adopted 47-0, that would make the bill effective for students entering kindergarten after July 1, 2012. The amendment would change the effective date to give parents enough time and notice for their children to receive blood lead tests prior to entering kindergarten, Council said.

The committee amendment was adopted 29-0 and the bill advanced from general file on a 29-9 vote. ■

# HOW A BILL BECOMES LAW



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## Agriculture

### Bill could make healthful foods more available

A new financing program to encourage the development of grocery retailers in high-poverty areas advanced from general file March 31.

LB200, introduced by Omaha Sen. Brenda Council, would direct the Rural Development Commission to create a financing program to stimulate grocery retail in underserved communities, which would be defined as high-poverty areas with limited access to healthful food retailers.

Projects eligible for financing would include new construction of grocery retail structures, grocery store renovation, expansion and infrastructure upgrades, establishment of farmers markets, community gardens, mobile markets and delivery projects that increase capacity of food retailers to obtain fresh produce.

Qualifying applicants would provide regular offerings of fruits and vegetables and accept benefits through the Supplemental Nutrition Assistance Program and the Special Supplemental Nutrition Program for Women, Infants and Children. Applicants would be required to demonstrate how the project would be implemented, a need for public



Sen. Brenda Council



financing, how incurred debt would be repaid, the extent to which the project would provide new markets for Nebraska-grown food items and the degree to which the project will have a positive economic impact on the underserved community.

The bill would establish the Nebraska Healthy Foods Financing Initiative Cash Fund to which any appropriated funds and other funds acquired through gifts, grants and transfers would be deposited. The bill originally would have provided annual transfers of \$100,000 from the Agricultural Opportunities and Value-Added Partnerships Cash Fund during the next biennium.

An Agriculture Committee amendment, adopted 37-5, changed the funding source for the Nebraska Healthy Food Financing Initiative Cash Fund from the Agricultural Opportunities and Value-Added Partnerships Cash Fund to the state's general fund. To provide additional monies to cover the program, the amendment would reduce the maximum tax credits offered under the Community Development Assistance Act from \$350,000 to \$200,000.

The committee amendment also removed a section of the bill directing the commission to use up to \$60,000

from the new fund for a report regarding food availability.

Council said a recent interim study focusing on food availability found that both urban and rural areas of the state suffer from inadequate access to fresh vegetables, fruits, lean meats, whole grains and low-fat dairy products.

A study conducted in Douglas County found that areas with the highest rates of obesity, type 2 diabetes and cardiovascular diseases had low access to healthful food, Council said. LB200 would provide seed money to start farmers markets or grocery stores in these areas, she said, which would address health concerns and provide an additional market for producers.

"LB200 is a small first step toward the elimination of food deserts in Nebraska," Council said. "This is a small investment that could reap immeasurable returns for this state."

Lincoln Sen. Colby Coash spoke in support of the bill, saying it could help fight childhood obesity. Thirty-one percent of Nebraska children are overweight or obese, he said, adding that studies suggest greater access to supermarkets is associated with reduced risk of obesity.

Ellsworth Sen. LeRoy Loudon doubted that many start-ups would be helped by the bill, which he said could provide

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funding for large companies that use token expansions to their stores or delivery routes to become eligible.

Elk Creek Sen. Lavon Heidemann also spoke in opposition to the bill, saying a number of existing programs could fund the projects addressed in LB200.

Lawmakers voted 34-9 to advance the bill from general file.

## State meat and poultry inspection proposal pared back to study, advanced

The state would research the feasibility of a meat and poultry inspection program under a bill advanced from general file March 30.

LB305, introduced by O'Neill Sen. Tyson Larson, originally would have directed the state Department of Agriculture to create a cooperative state inspection program under federal law by 2013. To fund the program, the Cooperative State Meat and Poultry Inspection Cash Fund would have been created and funded with two transfers of \$100,000 from the Commercial Feed Administration Cash Fund.



Sen. Tyson Larson

Larson offered an amendment, adopted 40-0, that reduced the scope of the bill to require the department to submit a report to the Legislature describing actions necessary to implement a state meat and poultry inspection program. The amendment would permit use of the Commercial Feed Administration Cash Fund for expenses related to the report and a cooperative agreement with the USDA Market News reporting program.

Larson said the department estimates that the report will cost \$25,000.

Twenty-seven other states have meat and poultry inspection programs, Larson said, including five neighboring states. These programs permit producers to tap niche markets and increase inspector accessibility, he said, adding that the 2008 federal farm bill includes a provision that could allow state-inspected meat to be shipped across state lines.

Finally, a state inspection program could pave the way for the development of a horse processing facility in Nebraska, Larson said. Congress eliminated funds for federal inspection of horse meat, he said, which effectively ended horse slaughter in 2007.

"LB305 is the first step toward a solution for horse owners and others who are concerned about the increased number of unwanted horses," Larson said.

Wilber Sen. Russ Karpisek, who cast the lone vote against LB305 in committee, questioned the need for a state inspection program.

"To have state meat inspection that does nothing more than federal [inspections] except cost you more money ... is not going to help," Karpisek said.

LB305 advanced from general file on a 35-1 vote.

## Banking, Commerce & Insurance

### Bill would update surplus lines insurance provisions

Lawmakers gave first-found approv-

al March 30 to a bill that would 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, would amend several sections of the Surplus Lines Insurance Act to conform to federal law passed in 2010 as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act.



Sen. Rich Pahls

A Banking Commerce and Insurance Committee amendment, adopted 28-0, replaced the bill.

Among other provisions, the bill would allow the state director of insurance to join the Nonadmitted Insurance Multi-State Agreement (NIMA).

Pahls said NIMA allows states to allocate surplus lines taxes among themselves based on location of risk, rather than on the basis of the home state of the insured as otherwise required by federal law. This would allow Nebraska to continue to collect surplus lines taxes to the fullest extent, he said, adding that the state currently collects approximately \$3.9 million per year.

"We will preserve as much of that as possible," Pahls said.

The bill also would repeal an additional tax levied by Nebraska because NIMA requires participating states to have a single tax rate. LB70 would take effect July 21, 2011 to comply with federal law.

The bill advanced on a 28-0 vote.

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## Education

### Allowance provisions for focus and magnet schools and programs could change

Senators advanced a bill March 29 that would allow multiple-member school districts to collaborate on focus and magnet schools and programs.

Currently, if multiple-member school districts collaborate on a focus or magnet school or program, one of the districts must be designated as the primary district that maintains legal, financial and academic responsibility. These schools and programs may be included in member school districts pursuant to a diversity plan developed by the learning community coordinating council.

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.



Sen. Jeremy Nordquist

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.

Nebraska has the largest race achievement gap in the country, Nordquist said, and the bill is a step towards eliminating that gap by encouraging development and collaboration among school districts. Collaboration brings a breadth of experience and knowledge to schools, he added.

Cedar Rapids Sen. Kate Sullivan spoke in support of the bill, saying it gives more flexibility to the learning community. Focus schools and programs engage students in the education system, she said, which could narrow the achievement gap.

Lincoln Sen. Amanda McGill supported the bill and said that a focus school operating in a single member district is at a greater risk of closing in tough economic times. The bill allows schools to be collaborative in their efforts, she said, which could reduce the risk of losing focus schools.

Valentine Sen. Deb Fischer opposed the bill and said she is concerned that shifting funds within the learning community could increase their needs and affect state aid among schools.

An Education Committee amendment would require 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 committee amendment was adopted 40-0 and the bill advanced from general file on a 33-1 vote.

## General Affairs

### Bill would continue support of wine and grape industry

Out-of-state liquor shipping application fees will continue to be directed to the state's Winery and Grape Producers Promotion fund under a bill given first-round approval March 30.

Currently, individuals who apply

for a license to ship liquor from out of state directly to a customer in Nebraska are charged a \$500 application fee. Diversion of the fee to the Winery and Grape Producers Promotion fund is scheduled to end April 30, 2012.

LB286, introduced by Omaha Sen. Bob Krist, would remove the sunset date. Krist said the fund has been well managed and is "one of the most effective economic development programs in Nebraska."



Sen. Bob Krist

Elk Creek Sen. Lavon Heidemann supported the bill, saying the program should continue even though it would result in approximately \$154,000 being diverted to the winery board over the next two fiscal years, rather than flowing to the state's general fund.

"This is such a good program," he said.

Senators voted 36-0 to advance the bill.

## Government, Military & Veterans Affairs

### Campaign rule violators could be charged hearing costs

Violators of Nebraska's campaign accountability laws could be ordered to pay hearing costs in contested cases under a bill advanced from general file March 31.

LB176, introduced by Lincoln Sen.

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Bill Avery, would allow the Nebraska Accountability and Disclosure Commission to issue an order requiring a person who has violated the Political Accountability and Disclosure Act to pay hearing costs in a contested case. Funds received would be deposited in the commission's cash fund.



Sen. Bill Avery

A Government, Military and Veterans Affairs Committee amendment, adopted 29-2, would limit the bill's provisions to only violators who do not appear personally or are not represented by counsel at a hearing.

Avery said the change was made to address concerns that the bill as introduced would discourage accused violators from contesting a finding to avoid being required to pay hearing costs if they lost. As amended, the bill likely would reduce the commission's reliance on general fund appropriations by approximately \$2,000 per year, Avery said.

"It's a modest amount of money," he said.

Omaha Sen. Scott Lautenbaugh questioned whether the amount of money saved through enacting LB176 would be worth the resources expended to pass it.

"We aren't doing anything that puts us money ahead," he said.

The bill advanced to select file on a 26-3 vote.

## Bill would provide greater flexibility for public audits

Certain audits currently required to be performed annually or biennially would be performed when the state au-

ditor deems them necessary under a bill given first-round approval March 29.

Under LB337, introduced by Lincoln Sen. Tony Fulton, the following audits would be conducted when the auditor of public accounts determines them necessary:



Sen. Tony Fulton

- 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.

Fulton said the change would allow the auditor greater flexibility in determining staffing needs and the timing of audits.

A Government, Military and Veterans Affairs Committee amendment, adopted 35-0, removed a provision requiring the plan years for the county and state employee retirement plans to span a fiscal year as opposed to a calendar year.

Lincoln Sen. Bill Avery said changing the retirement plan timelines would have been too costly.

Senators voted 36-0 to advance the bill to select file.

## Election provisions could change

Senators advanced a bill March 30

that would change election procedures and requirements.

LB499, introduced by Bellevue Sen. Scott Price, would:



Sen. Scott Price

- prohibit an elected official from running for the same office while he or she is in the middle of a term for the same office;
- require a candidate petitioning on the ballot to file a sample copy of the petition with the filing officer prior to circulating;
- require affidavits that remove a person's name from a petition to be submitted by the time the petition is submitted for verification;
- require military voters to include absent voters in addition to overseas voters;
- harmonize deadline registrations between two statute sections; and
- require a voter who is present in his or her county on election day to vote at an assigned polling site.

Price said LB499 was brought by the secretary of state to address issues that arose during the past few election cycles.

A Government, Military and Veterans Affairs Committee amendment removed provisions from the bill that would have required that each sheet of petition signatures be from the same county and submitted as one document.

Lincoln Sen. Bill Avery, chairperson of the committee, said the requirement could be burdensome on

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petition circulators.

The committee amendment was adopted 31-0 and the bill advanced from general file on a 32-0 vote.

## Bill would allow vehicle donations

Political subdivisions would be allowed to donate certain motor vehicles to charitable organizations under a bill advanced from general file March 29.

LB628, introduced by Omaha Sen. Tanya Cook, would allow a political subdivision to donate to a charitable organization any motor vehicle that has reached the end of its useful life. Cook said surplus vehicles could provide reliable work transportation for people in need.



Sen. Tanya Cook

“LB628 addresses one of the major barriers to the self-sufficiency of low-income Nebraskans,” she said.

Hoskins Sen. Dave Bloomfield opposed the bill, saying local governments can benefit from selling older vehicles, even if the profit is only a few hundred dollars. A vehicle that is donated instead of sold represents money not returned to local coffers, he said.

“At some point the taxpayer has to be protected,” Bloomfield said.

Sen. Scott Lautenbaugh of Omaha offered an amendment, adopted 30-0, which includes provisions from LB139, which he introduced. The amendment would authorize a county to sell obsolete mobile equipment with a value of less than \$5,000 without going through a standard competitive bidding process.

Lautenbaugh said the amendment would allow counties flexibility in disposing of surplus property while providing them a small revenue stream.

The bill advanced to select file on a vote of 36-1.

## Health & Human Services

### Child welfare agency accreditation sought

Lawmakers gave first-round approval March 29 to a bill designed to provide oversight of certain aspects of Nebraska’s child welfare reform efforts.

Introduced by Omaha Sen. Gwen Howard, LB95 would require any lead agency contracting with the state Department of Health and Human Services to be accredited by a national accrediting entity with respect to out-of-home services provided to those under the age of 18.



Sen. Gwen Howard

A Health and Human Services Committee amendment, adopted 34-3, would raise the age of those served to 19 and clarify that an agency must obtain accreditation within 18 months of entering into a contract with HHS or of the bill’s passage.

Howard said the two lead agencies currently under contract are seeking accreditation, and that the amendment allows ample time to complete the process.

“[This bill] is a way for the Legislature to hold child welfare lead agen-

cies accountable for the services they provide Nebraska’s most vulnerable children,” she said.

Sen. Colby Coash of Lincoln expressed concern that agencies would divert resources from service provision in order to comply with accreditation requirements.

“Accreditation is not a bad thing,” he said, “but it’s not a free thing. When we require agencies to jump through hoops at the same time that we’re asking them to do more with less money, we need to take a look at that.”

Omaha Sen. Brenda Council said having an accreditation requirement in statute would provide notice to any agency wishing to contract with the state that their business plan must incorporate the cost of accreditation. Doing so should remove concern that services to children would be compromised in order to meet accreditation requirements, she said.

“Clear legislative mandates in particular situations are important,” Council said.

The amendment also would prohibit the department, until June 1, 2012, from entering into any contract with a new lead agency for service coordination or case management in an area of the state where services previously were provided through contract with Boys and Girls Home. The amendment would require that HHS provide services to those areas during the moratorium.

Coash offered and later withdrew an amendment that would have removed the moratorium, saying it would unnecessarily limit the department’s options.

“What I believe HHS needs is flexibility,” he said. “They don’t

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need micromanagement; they need boundaries.”

Lincoln Sen. Kathy Campbell said the proposed moratorium was the result of several hearings about child welfare reform conducted by the Health and Human Services Committee over the interim. She said providers, families and judges all suggested that the pace of reform be slowed.

Howard said the state spent \$131 million on child welfare last year and has a vested interest in making sure that the reform effort is successful.

“For that amount of money, we have the right and we have the responsibility to expect the best possible standard of service that we can obtain,” she said.

Fremont Sen. Charlie Janssen offered an amendment, adopted 34-0, which would permit a child-caring agency to be organized as a corporation or a limited liability company.

Senators voted 35-7 to advance LB95 to select file.

## Health care peer review bill advances

A bill that would address confidentiality in the health care peer review process advanced from general file March 28.

LB431, introduced by Kearney Sen. Galen Hadley, would adopt 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

Hadley said Nebraska law should

be updated to accommodate the state’s wide range in hospital size and to help health care providers improve the quality of care. He said the bill would provide more peer review committee options while maintaining protections for those who participate in the process.

Under the bill, no health care provider, individual or employee who serves on a peer review committee would be held liable for activities within the scope the committee. In addition, no individual who supplies information to a peer review committee would be subject to legal action as a result of the information.

A Health and Human Services Committee amendment, adopted 34-0, clarifies that the bill would provide immunity only to individuals who act without malice. The amendment also specifies that a peer review committee must be created by the governing board of a health care facility and adds officers, directors, employees and members of governing boards to the list of protected individuals under the bill’s provisions.

Sen. Mike Gloor of Grand Island supported the bill and the amendment, saying the peer review process allows health care professionals to ask each other difficult questions about treatment decisions.

“This is an issue of professionals learning how to provide better care,” he said.

LB431 also would clarify that a peer review committee process is confidential and not subject to discovery or evidence in a civil action and that no person working with a committee would be allowed or compelled to testify in a civil action.

Finally, the bill stipulates that an

incident or risk management report would not be subject to discovery or 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 could not testify as to the contents of the report in any civil action.

An amendment offered by Omaha Sen. Steve Lathrop, adopted 32-1, clarifies that only documents created specifically for the peer review process would be excluded from discovery in a civil action.

Senators voted 39-0 to advance the bill.

## Judiciary

### Minor assault victims could give consent for treatment

Senators advanced a bill March 31 that would change 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 could be examined and treated by a physician without the consent or notification of a parents or guardian.



Sen. Steve Lathrop

LB479 would help to ensure that treatment and evidence collection in assault cases happen in a timely manner, Lathrop said. A significant number of 18-year-old assault victims are in college and fear telling their

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parents about the assault, he said, so they may not seek appropriate medical treatment.

Scottsbluff Sen. John Harms spoke in support of the bill, saying it is needed for young victims of sexual assault. The sooner they seek treatment, he said, the better off they will be.

A Judiciary Committee amendment removed physicians' civil and criminal liability from the bill.

A Lathrop amendment making technical changes was adopted 38-0 and the committee amendment was adopted 39-0.

LB479 advanced from general file on a 39-0 vote.

## Mental health records could be more accessible in firearm purchases

Senators advanced a bill March 29 that would make mental health records accessible when conducting background checks for firearm purchases.

LB512, introduced by Imperial Sen. Mark Christensen, would remove a maximum five-year retention requirement for mental health records at the state Department of Health and Human Services. Records would include whether a person is disqualified from purchasing or possessing a handgun and would be made available to the National Instant Criminal Background Check System. The Nebraska State Patrol could access the system when determining a person's eligibil-



Sen. Mark Christensen

ity to own a gun.

Additionally, the bill would enable a person who has been barred from buying or possessing a gun for mental health reasons to resubmit an application if he or she no longer suffers from the disqualifying condition. An individual could request a mental health board hearing at which the board would consider:

- circumstances surrounding the subject's mental health commitment;
- the subject's record, including mental health and criminal history records; and
- the subject's reputation, developed through character witness statements, testimony or other character evidence.

This bill provides a necessary piece of information that could prevent firearms from falling into the wrong hands, Christensen said, while it provides an opportunity for others to own a firearm if they are no longer considered a threat to society.

A proposed Judiciary Committee amendment outlined the process to appeal a denial of requested relief and also would require the courts to send an order to remove a subject's firearm-related disability to HHS and the state patrol within 30 days.

Omaha Sen. Scott Lautenbaugh offered an amendment to the committee amendment that was originally introduced as LB138. The provisions, adopted 35-0, would recognize valid handgun permits issued by previous states of new Nebraska residents.

The committee amendment was adopted 39-0 and the bill advanced from general file on a 38-0 vote.

## Natural Resources

### Bill would designate city-owned mid-sized electric facilities as separate emitters

Mid-sized electric generation facilities owned by municipalities would be considered as separate air pollution emitters under a bill debated on general file March 29.

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, would expand the definition of mid-sized electric generating facility so facilities that are permitted with another general unit larger than 115 megawatts under separate ownership would be considered a separate emission source for the purpose of paying emission fees.



Sen. Dennis Utter

Utter said the bill would prevent the electric generation facility in Hastings from being considered a large facility. A new 220-megawatt plant owned by a partnership of cities and public power entities will be operated jointly with the mid-sized Hastings facility and could require the smaller generator to pay fees under the higher cap, he said.

"This means that customers of the Hastings electric utility will pay emission fees higher than the emission fees

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paid by customers of other utilities,” Utter said.

Lawmakers voted 29-0 to advance LB156 to general file.

## Transportation & Telecommunications

### Oversize vehicle permit extension advanced

Permits to haul overweight and overlength loads of grain, sugar beets and other seasonally harvested products would last longer under a bill advanced from general file March 28.

LB35, introduced by Scottsbluff Sen. John Harms, would increase to 200 days the renewal maximum for a state Department of Roads overweight or overlength permit. Currently, such permits may be purchased for 30 or 60 days and renewed for a maximum of 120 days per year.

Harms said Nebraska’s sugar beet harvest frequently lasts longer than 120 days and that failing to extend the permit period would result in unprocessed crops.

“This change would especially help the sugar beet industry,” he said.

Sen. Mark Christensen of Imperial supported the bill, saying farmers need more time to haul beets to processing locations before the crop freezes.

“This is a very important bill for the sugar beet industry,” he said. “Farmers are racing against the clock.”

A Transportation and Telecom-

munications Committee amendment, adopted 34-0, would increase the maximum renewal period to 210 days. Valentine Sen. Deb Fischer said the change would maintain the renewal period increment of 30 days, which is compatible with the department’s electronic permit system.

Senators advanced LB35 on a 34-0 vote.

### Bill exempting HHS service contractors from PSC regulation advances

Contractors providing case management and coordination services for the state Department of Health and Human Services would be exempt from Public Service Commission motor carrier regulations under a bill advanced from general file March 29.

An opinion issued by the attorney general in August revealed that service contractors, which receive lump sum compensation, were subject to PSC regulation because they provide transportation services. The opinion also stated that service contractors could not qualify under an existing exemption for escort services, which involve an attendant or caregiver accompanying a minor or a person who is physically, mentally or developmentally disabled and unable to travel or wait without assistance or supervision.

LB112, introduced by Lincoln Sen. Colby Coash, originally created an exemption for comprehensive services transport, which it defined as

transportation provided by a person with an HHS comprehensive services contract or subcontract.

Coash said the intent of the bill is to allow HHS contract providers to continue offering transportation as a part of their overall care.

A Transportation and Telecommunications Committee amendment, adopted 32-0, replaced the bill. The amendment would create two exemptions from PSC regulation for residential care transportation services and supported transportation services that meet HHS safety requirements.

Residential care transportation services would be defined as transportation services provided as part of an HHS services contract or subcontract to a minor or a person who is physically, mentally or developmentally disabled and resides in a residential home facility or HHS-regulated facility.

Supported transportation services would include transportation services offered to a minor and their family member or a person who is physically, mentally or developmentally disabled by a person who is required to assist and supervise the passenger. Such services must be part of an HHS services contract or subcontract, and drivers must meet training, reporting and age requirements.

The amendment also would rename escort services as attended services and extend the exemption to motor carriers with a subcontract with HHS or any agency organized under the Nebraska Community Aging Services Act.

Lawmakers voted 31-0 to advance LB112 from general file.



Sen. John Harms



Sen. Colby Coash

# ISSUES UPFRONT

## Motor vehicle industry changes advanced

Senators advanced a bill March 30 dealing with manufacturers and dealers of motor vehicles.

Under LB477, introduced by Valentine Sen. Deb Fischer, a motor vehicle manufacturer could not require new motor vehicle dealers in the state to:



Sen. Deb Fischer

- retain parts or accessories that were not obtained through a specific order and not sold within 12 months;
- maintain exclusive sales facili-

ties or display space, personnel, service, parts or administrative facilities for a line-make, unless it is justified by reasonable business considerations;

- disclose consumer information that consumers have opted out of; 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.

A manufacturer would be required to compensate a new dealer for warranty 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 non warranty 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 results from agreements between motor vehicle manufacturers and dealers, Fischer said, and is intended to increase protections between them.

A Transportation and Telecommunications Committee amendment, adopted 34-0, clarified agreements in the bill.

LB479 advanced from general file on a 32-0 vote. ■

# COMMITTEE HEARINGS

## Tuesday, April 5

### Government, Military & Veterans Affairs

Room 1507 - 9:30 a.m.

LR141 (Price) Designate the Honor and Remember Flag as the State of Nebraska's emblem of service and sacrifice by members of the United States Armed Forces who have given their lives in the line of duty and urge Congress to pass H.R. 546  
LR123 (Cornett) Endorse the proposition that Taiwan participate in the International Civil Aviation Organization as an observer

### Judiciary

Room 1113 - 12:00 p.m.

AM873 to LB460  
AM969 to LB460

## Wednesday, April 6

### Health and Human Services

Room 1510 - 1:00 p.m.

Appointment: Lomicky, Carol - Commission for the Deaf and Hard of Hearing

## Thursday, April 7

### Natural Resources

Room 1525 - 12:30 p.m.

Appointment: Stuart, James, Jr. - Environmental Trust Board  
Appointment: Dunn, Paul - Environmental Trust Board  
Appointment: Erickson, Gloria - Environmental Trust Board

## Wednesday, April 13

### Health & Human Services

Room 1510 - 1:00 p.m.

Appointment: Reel, Jill - Foster Care Review Board  
Appointment: Delts, Dillard - Commission for the Deaf and Hard of Hearing  
Appointment: Kasch, Amy - Commission for the Deaf and Hard of Hearing  
Appointment: Coleman, Janet - State Board of Health

# LEGISLATIVE GLOSSARY

**“A” Bill** - see Appropriation Bill.

**Amendment On File** - an amendment of 10 or more pages, not printed separately or in the Journal, that is available in the Clerk’s Office (Room 2018).

**Amendment Printed Separate** - an amendment of 10 or more pages, printed separately from the Journal, that is available in the Bill Room (Room 1102).

**Appropriation Bill (“A” Bill)** - a bill to appropriate funds to finance another bill bearing the same number.

**Attorney General’s Opinion** - a written analysis of a question of law prepared by the attorney general for the governor, the head of an executive department or any state senator.

**Bill** - see Legislative Bill.

**Bracket** - to delay consideration of a bill.

**Call of the House** - a procedure used to compel attendance of unexcused senators in the chamber.

**Carry-over Legislation** - bills and resolutions introduced during the regular session in an odd-numbered year and held over for consideration during the regular session in an even-numbered year.

**Chair** - the presiding officer.

**Cloture** - a parliamentary action to cease debate on a bill and vote immediately on its advancement. A motion for cloture may be made after eight hours of debate on most bills and after 12 hours on appropriation bills introduced by the Appropriations Committee.

**Constitutional Amendment Resolution** - a proposal to amend the state constitution, ratify or reject an amendment to the U.S. Constitution, or petition Congress about amending the U.S. Constitution. State CA resolutions have the suffix “CA” by the resolution number, and they must be approved by the voters as well as the Legislature.

**Consent Calendar** - a portion of the agenda in which relatively noncontroversial bills are considered and quickly advanced to the next legislative stage. Usually, a bill on consent calendar can be debated for no more than 15 minutes.

**“E” Clause** - see Emergency Clause.

**E&R** - see Enrollment and Review.

**Emergency Clause (“E” Clause)** - a provision that allows a bill or a portion of a bill to take effect immediately after the governor signs it or after the Legislature overrides the governor’s veto.

**Engrossment** - the process of preparing a bill for Final Reading by incorporating all adopted amendments.

**Enrollment and Review (E&R)** - the process of incorporating adopted amendments into a bill and reviewing the bill for technical and grammatical accuracy.

**Executive Session** - a closed meeting of a committee to discuss and act on bills and resolutions. An executive session is open only to committee members, committee staff and the media.

**Final Reading** - the third and last stage at which a bill is considered by the entire Legislature. The clerk reads the entire bill aloud, unless final reading is waived, and senators vote without debate on whether to submit the bill to the governor.

**Fiscal Note** - a statement prepared by the Legislative Fiscal Office estimating the effect a bill would have on state and/or local expenditures and revenue.

**Floor** - the area of the legislative chamber where the senators sit. When a committee advances a bill “to the floor,” that means the bill is being sent to the full Legislature for consideration.

**General File** - the first stage at which a bill is considered by the full Legislature. Bills on General File may be amended, returned to committee, indefinitely postponed or advanced to Select File.

**Hearing** - a regularly scheduled committee meeting to receive public comment on proposed bills and resolutions.

**House Under Call** - the term used when all unexcused senators are required to be in their seats in the chamber and unauthorized personnel must leave the floor.

**Indefinitely Postpone (IPP)** - to kill a bill.

**Interim** - the period between regular legislative sessions.

**Interim Study Resolution** - a resolution authorizing a committee to study an issue following adjournment of a legislative session.

**IPP** - see Indefinitely Postpone.

**Journal** - see Legislative Journal.

**Laws of Nebraska (Session Laws)** - bound compilation of all laws and constitutional amendment resolutions passed in a legislative session, the state Constitution, and subject and section indexes.

**Legislative Bill (LB)** - a proposal to create, change or delete one or more laws.



**Legislative History** - the committee and floor debate records for any bill. A history includes transcripts of the bill's hearing and all floor debate.

**Legislative Journal** - official record of legislative floor action, including all motions, the number of yeas and nays on each vote, etc.

**Legislative Resolution (LR)** - a proposal to make a formal expression of opinion, intent or recognition; amend the state or federal constitution; or authorize a study of an issue during the interim. See also Constitutional Amendment Resolution, Interim Study Resolution.

**Line-Item Veto** - the power of the governor to make specific reductions in any part of a budget bill passed by the Legislature.

**Machine Vote** - a vote taken by electronic voting system. The voting board shows how each senator voted, but only vote totals are entered in the Legislative Journal.

**Major Proposal** - a bill or constitutional amendment resolution that the speaker designates as important enough for scheduling priority. Each session, up to five bills may be chosen as major proposals, all of which must be senator priority bills and must get the approval of two-thirds of the Executive Board.

**One-liner** - a one-line description of a bill or resolution.

**Override a Veto** - see Veto Override.

**President of the Legislature** - the lieutenant governor. While senators address whomever is in the chair as Mr. or Madame President, the lieutenant governor alone holds that official title.

**Presiding Officer** - the senator currently presiding over legislative proceedings.

**Priority Bill** - a bill that has priority status and generally is considered ahead of other bills in debate. Each senator may select one priority bill, each committee may select two priority bills, and the speaker may select up to 25 priority bills.

**Record Vote** - a vote on which a record is kept of how each senator voted. The vote is taken by electronic voting system, and the senators' names and corresponding votes are then printed in the Legislative Journal.

**Regular Session** - the annual session that begins the first Wednesday after the first Monday in January.

**Resolution** - see Legislative Resolution.

**Revisor Bill** - a bill, prepared by the Office of the Revisor of Statutes, proposing a technical correction or the repeal of an obsolete statute.

**Roll Call Vote** - a vote during which the senators vote one at a time as the clerk reads their names. Senators cast their votes verbally, and their names and corresponding votes

may be printed in the Legislative Journal.

**Select Committee** - a permanent committee with a subject-matter jurisdiction related to the administration of the Legislature.

**Select File** - the second stage at which a bill is considered by the entire Legislature. Bills on Select File may be amended, returned to committee, indefinitely postponed or advanced to Final Reading.

**Session** - a period of time, usually a number of days, during which the Legislature meets and transacts business.

**Session Laws** - compilation of all laws and constitutional amendment resolutions passed in a session.

**Sine Die** - without setting a future date for reconvening. When the Legislature adjourns sine die, the legislative session is finished for the year.

**Slip Law** - a bill or constitutional amendment resolution printed individually in its approved form after being enacted into law or submitted to voters.

**Speaker of the Legislature** - the officer of the Legislature, elected from among the senators, who prepares the daily agenda and the session calendar and who presides in the absence of the lieutenant governor.

**Special Committee** - a committee created by law for a specific reason. Except for the Executive Board, special committees have no jurisdiction over bills or resolutions.

**Special Session** - a limited legislative session called for a specific purpose by the governor or two-thirds (33 members) of the Legislature.

**Standing Committee** - a permanent committee with a subject-matter jurisdiction related to an area of public policy. Almost all bills and resolutions are referred to one of the 14 standing committees.

**Summary Sheet** - a daily list of all legislative activity that has taken place in one legislative day, including action taken on bills and resolutions.

**Veto** - the power of the governor to reject bills passed by the Legislature. The governor has five days, excluding Sundays, to either sign or veto a bill. The Legislature then has an opportunity to override the veto.

**Veto Override** - the power of the Legislature to pass a bill over the governor's veto. A veto override requires the approval of three-fifths (30 members) of the Legislature.

**Voice Vote** - a vote in which senators cast their votes orally and no totals are recorded.

**Worksheet** - a list, prepared daily, that indicates the status of all bills and resolutions at the end of that legislative day.



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## LEGISLATIVE RESOURCES

### STATUS OF BILLS OR RESOLUTIONS

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

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### SENATORS' MAILING ADDRESS

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P.O. Box 94604  
Lincoln, NE 68509-4604

### NEBRASKA BLUE BOOK

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