

THE NEBRASKA LEGISLATURE'S
WEEKLY NEWS PUBLICATION

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UPDATE

Compromise reached on labor commission

Lawmakers amended and advanced a proposal May 20 that would make changes to the Nebraska Commission on Industrial Relations (CIR), the state's arbiter of labor disputes between public sector employees and government employers.

Omaha Sen. Steve Lathrop introduced LB397, which he described as an attempt to bring greater predictability and consistency to the process of resolving labor disputes.



Sen. Steve Lathrop

During general file debate May 4, Lincoln Sen. Tony Fulton offered an amendment that would have replaced the bill with a proposal that he said better met the need of public employers to contain costs. Lathrop agreed to further negotiations and Fulton withdrew his amendment.

On select file, Lathrop offered an amendment, adopted 42-0, that he said reflected the product of those continued negotiations.

"We have treated this fairly ... and we have preserved in a meaningful way collective bargaining for public employees," he said.

The amendment replaced the bill and would make a number of substan-

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Congressional, legislative redistricting plans advance

Senators continued their redistricting work by amending and advancing two bills May 19 that would redraw the state's congressional and legislative district boundaries.

The Legislature is responsible for drawing governmental boundaries every 10 years after the decennial census for districts pertaining to the U.S. House of Representatives and the Legislature.

Guidelines

Under guidelines adopted by lawmakers earlier this session, individual districts may vary in size from the ideal population within allowable limits. The resolution calls for congressional districts to be drawn with an overall population range of deviation of no more than 1 percent, with a goal of zero deviation. The remaining districts are to be drawn with an overall range of deviation of no more than 10 per-



Sens. Scott Lautenbaugh (left), Russ Karpisek and Chris Langemeier discuss the proposed redistricting maps.

cent and no district is to deviate from the ideal population by more than plus or minus 5 percent.

Districts are to follow county lines whenever practicable and form districts that are compact and contiguous. The requirement of following county lines may be waived if it causes a redistricting plan to fall out of compliance with constitutional case law established by the U.S. Supreme Court.

Districts are to be easily identifiable, understandable and should preserve the core of prior districts.

When possible, district lines are to follow boundaries of cities and villages and are not to be drawn to favor a politi-

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Legislature advances redistricting plans

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cal party or any other group or person. In addition, no consideration in drawing boundaries is to be given to the political party affiliations of registered voters, demographic information other than population figures or results of previous elections except as required by law.

District boundaries cannot unlawfully dilute the voting strength of any minority population.

Congressional districts

Nebraska remains entitled to three congressional districts. Under the Redistricting Committee's initial proposal, LB704, Congressional District 1 would have a population of 608,781. The two remaining districts would have populations of 608,780 each.

The committee offered an amend-

ment, adopted 30-11, that would alter these numbers by approximately 250 individuals, increasing the overall population deviation from zero to 0.06 percent.

Schuyler Sen. Chris Langemeier, chairperson of the committee, said the change reflected the committee's effort to place all of Merrick County in Congressional District 3 and to avoid dividing the town of Silver Creek. Under the initial proposal, a small portion of Merrick County was placed in District 1.

The main change in the committee's proposal would place the city of Bellevue and Offutt Air Force Base in Congressional District 1. The cities of Papillion and La Vista, also in Sarpy County, would be placed in Congressional District 2.

Langemeier said the committee's rationale in regard to Sarpy County

was to keep whole as many cities as possible rather than divide them between districts.

But Sen. Brenda Council of Omaha said the change would violate the redistricting principle of maintaining the core of existing districts. She said it was clear from testimony at the May 13 public hearing on LB704 that voters in Bellevue consider themselves part of District 2.

"We should honor that to the greatest extent practicable," she said.

Sen. Scott Price of Omaha supported the committee amendment. As a senator from Sarpy County, he said voters there realize that some division is inevitable.

"Sarpy County was going to be split one way or the other," Price said. "There is no configuration that doesn't split it."

Omaha Sen. Heath Mello called the committee plan disruptive, saying it moves too many voters from one congressional district to another.

"We have over 226,000 Nebraskans who were moved from their original congressional district to a new congressional district," he said. "That fact alone should raise concerns."

Mello offered an alternative map, which he said would require moving only 77,000 people to new districts. Under Mello's amendment, Bellevue and Offutt Air Force Base would have remained in the District 2 and western Sarpy County would have been placed in District 1.

Langemeier opposed the amendment, saying the committee's proposal



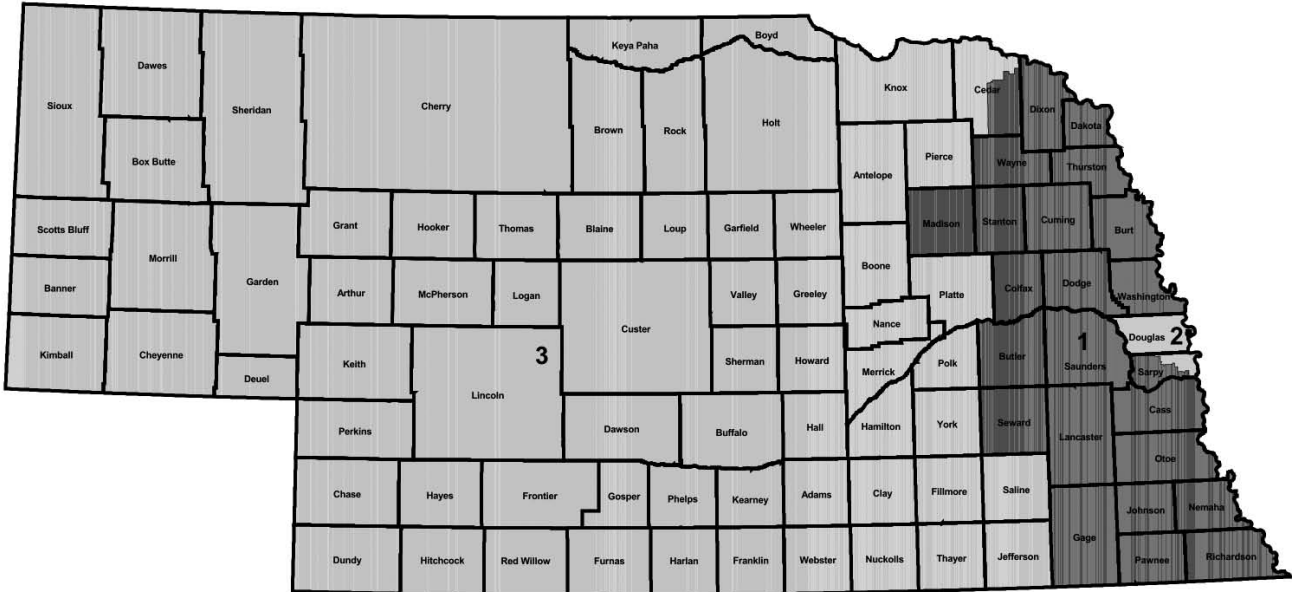
Sens. Heath Mello and Danielle Conrad visit during the debate. Mello offered an alternative to the committee's proposed congressional map.

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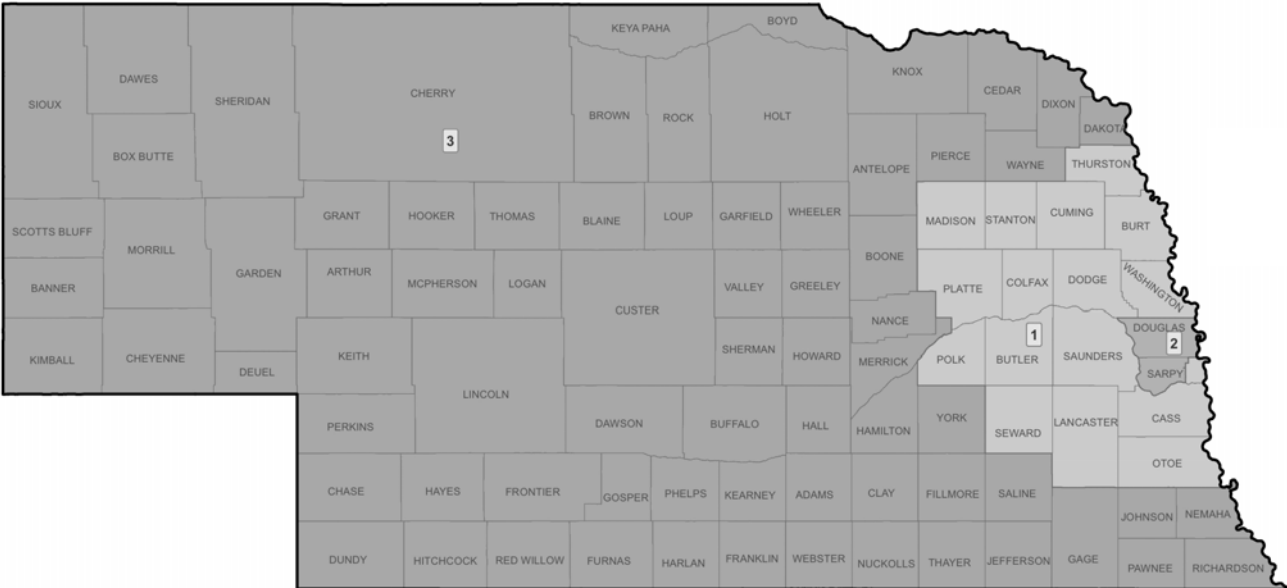
CONGRESSIONAL MAPS

For larger versions of these and other redistricting maps, visit the Redistricting Committee's web page at: <http://news.legislature.ne.gov/red>

Current congressional district map



Congressional district map as amended into LB704



A CLOSER LOOK

Legislature advances redistricting plans

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would divide only one county, while Mello's would split both Sarpy and Johnson counties between districts. The committee's desire to keep all but one county entirely within a given district resulted in a slightly higher overall population deviation, he said, but for good reason.

"There are legitimate reasons to have some deviation," Lange-meier said.

Sen. Russ Karpisek of Wilber also offered an alternative map. Among other changes, it would have moved Saline County, which

includes Legislative District 32, from the 3rd to the 1st Congressional District. The county became part of the 3rd Congressional District during the last round of redistricting 10 years ago, he said, but has more in common with District 1.

Council said either the Mello or Karpisek proposal would be a better choice than the committee map. Both proposals contain smaller deviations, which she said the Supreme Court has determined should be the primary consideration for drawing congressional districts.

"The criteria for the U.S. House of Representatives has nothing to do with splitting counties," she said. "It has to do with absolute equality of population. That's the standard we are charged with achieving."



Sen. Russ Karpisek also introduced an alternative proposal.

The Mello amendment failed on a 16-30 vote. Karpisek withdrew his amendment, saying committee members had agreed to discuss a possible compromise before select file debate.

Other changes in the amended committee proposal would include shifting Dakota, Dixon and Wayne counties along the state's northern border from District 1 to District 3. Gage, Johnson, Nemaha, Pawnee and Richardson counties along the southern border also would shift from District 1 to District 3.

Legislative districts

State law calls for 49 single-member legislative districts. According to the

2010 census, the ideal population for a legislative district is 37,272.

LB703, introduced by the committee, would make numerous boundary changes across the state to account for population shifts. The proposed changes include making Scotts Bluff County a single district and moving Legislative District 49 from western Nebraska to Sarpy County.

Under the original committee proposal, Box Butte County and the city of Alliance would have been divided between District 43 and District 47. Currently, the county is part of District 49.

During the committee hearing on LB703, several testifiers expressed concern about using Nebraska Highway 2, which runs east and west through the city of Alliance, as the boundary line between districts 43 and 47.

The committee offered an amendment, adopted 40-0, which would place all of the city of Alliance within Legislative District 43.

Sen. Scott Lautenbaugh of Omaha supported the committee proposal, saying it would not satisfy all senators or communities but represented the committee's best effort to follow its redistricting guidelines.

"If we're waiting for the perfect map to be visited upon us, we're going to be here for a long time," he said.

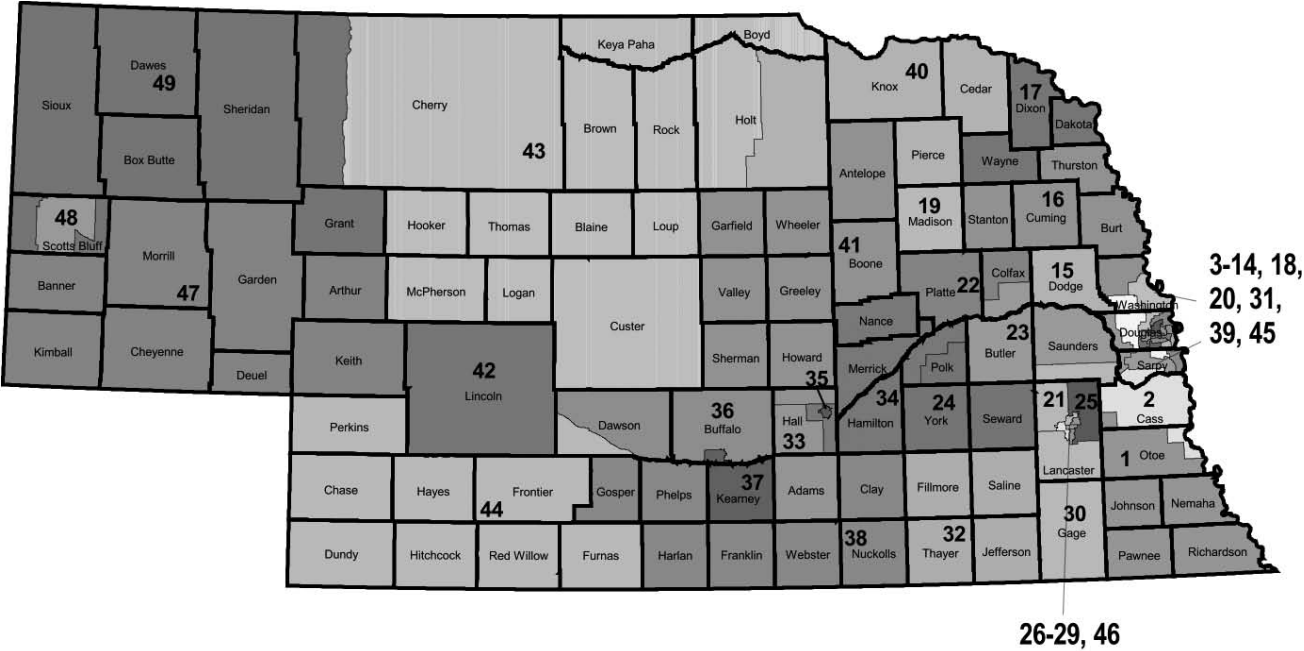
Scottsbluff Sen. John Harms offered an alternative proposal, developed with Sen. LeRoy Loudon of Ellsworth. Among other changes, the amendment would have kept District 49 in western Nebraska and moved

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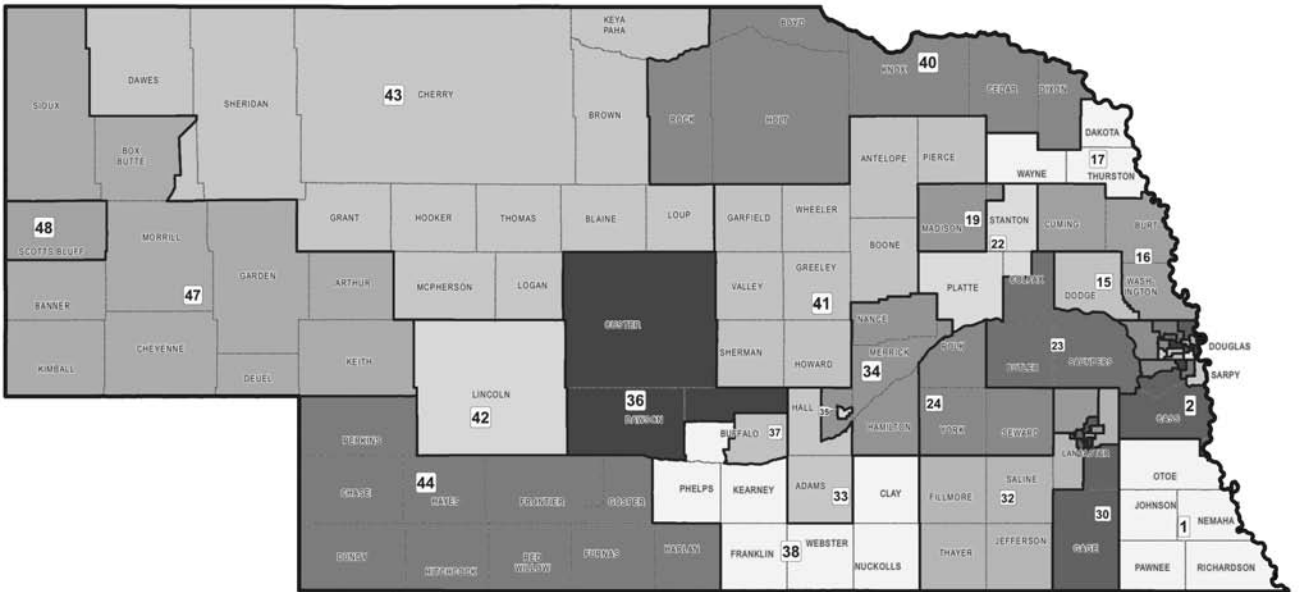
LEGISLATIVE MAPS

For larger versions of these and other redistricting maps, visit the Redistricting Committee's web page at: <http://news.legislature.ne.gov/red>

Current legislative district map



Legislative district map as amended into LB703



A CLOSER LOOK

Legislature advances redistricting plans

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District 47 to Sarpy County.

Harms said his goal was to create compact and contiguous districts that retained important communities of interest in rural Nebraska. He said the redistricting process is happening at a time when rural areas are losing businesses and consolidating schools, so senators should consider ties that can strengthen districts. Such ties include common tourism, trade, governance and education, he said.

Sen. Deb Fischer of Valentine said the committee proposal would make “drastic changes” to District 43, which she has represented since 2004. She said constituents in Custer County have expressed concerns about moving from a ranching district to the Platte Valley farming area of District 36.

Fischer added that the 1,700 square-mile area she serves would prove difficult to represent under the committee proposal.

“I would characterize District 43, under the committee map, as being unmanageable,” she said.

Sen. Mike Gloor of Grand Island opposed the Harms amendment, saying changes made to accommodate rural western communities of interest have negative ramifications for the eastern part of the state.

Grand Island is the state’s third largest city, Gloor said, and therefore has predominantly urban concerns. The city would be served by three senators under the Harms proposal, he said, adding that the change would place more Grand Island residents in predominantly rural districts.



Sens. Deb Fischer (left) and Chris Langemeier review the various map proposals.

“This is a problem and it’s not fair to those individuals,” he said.

Fullerton Sen. Annette Dubas opposed the Harms map, but said she understood the desire to keep rural communities of interest together as western Nebraska faces population decline and other challenges.

“The angst in rural Nebraska is very real and it’s very palpable,” she said. “I don’t think we can minimize what anyone is saying ... because that’s the reality.”

Among other changes, the committee proposal also shifts Dawes, Sheridan and Grant counties from District 49 to District 43. Rock, Boyd and Holt counties would move from District 43 to District 40 and Gosper County would move from District 38 to District 44.

Other political boundaries

Other bills in the committee’s redistricting package currently are in various stages of the legislative process.

LB699, which changes the boundaries for Nebraska Supreme Court districts, was passed by the Legislature May 20.

Three additional bills were advanced from select file by voice vote May 20:

- LB700, which would change the boundaries of the Public Service Commission;
- LB701, which would change the boundaries for the University of Nebraska Board of Regents; and
- LB702, which would change the boundaries for the state Board of Education. ■

A CLOSER LOOK

Compromise reached on labor commission

(continued from front page)

tive changes to the previous version of LB397.

The most significant changes relate to cost containment, Lathrop said, an issue of great importance to political subdivisions attempting to balance budgets with limited resources.

Under the previous proposal, the CIR would freeze wages of Nebraska public sector employees found to be receiving compensation higher than the average wage of comparators in an array using an hourly rate value calculation. Wages would be frozen for twice as long as the time it takes the other employees in the array to achieve a comparable hourly rate value.

Employees would be able to negotiate decreases in their retirement or health insurance plans to reduce their hourly rate value and end a wage freeze.

The amendment removed the wage-freeze provision and replaced it with a formula that would allow wages to be adjusted over a three-year period to bring them within an accepted range. Lathrop said replacing the true average with a range

of between 98 percent and 102 percent of the average – and between 95 percent and 100 percent during periods of recession – would give public employers the flexibility they need.

A recession would be defined as two consecutive quarters in which net state sales and use tax, individual income tax and corporate income tax receipts are less than the same quarters for the prior year.

Sen. Brad Ashford of Omaha supported the inclusion of the range, saying it demonstrates recognition on the part of labor negotiators that difficult economic times require sacrifice and accommodation.

The amendment also would:

- remove provisions allowing for public and private wage comparisons;
- remove consideration of ability to pay from provisions governing schools; and
- lower the preferred array size from between seven and 13 to between seven and nine.

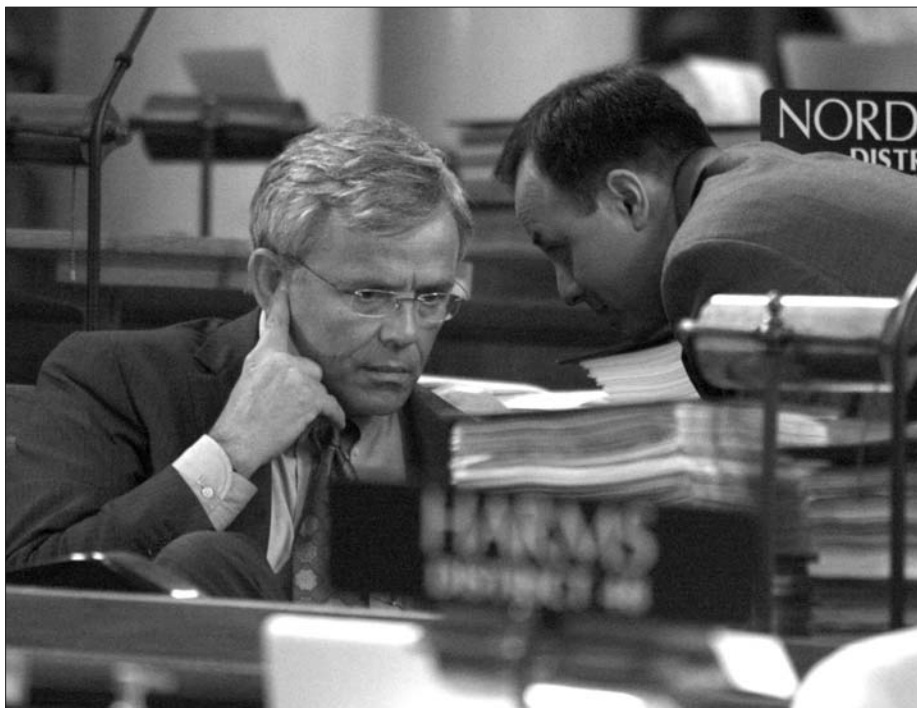
Hastings Sen. Dennis Utter supported the amendment, saying he originally supported abolishing the CIR.

“When I see something that isn’t working, my first reaction is to get rid of it,” he said. “And I admit that this was my first reaction [to the CIR].”

Utter said he came to believe that an arbiter in labor disputes is needed to determine fair wages and benefits for public employees and that reform, rather than abolition, was the solution.

“This bill that you’re looking at today meets my definition, anyway, of meaningful, comprehensive and significant [reform],” he said.

Sen. Mike Flood of Norfolk also praised the amendment, saying it resulted from a difficult negotiation process and reflected willingness on



Sens. Steve Lathrop (left) and Tony Fulton discuss the CIR reform compromise.

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Compromise reached on labor commission

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the part of all parties to compromise. He said other states have not been able to do what was necessary to resolve disputes about the role of collective bargaining.

“We didn’t have drums beating in the rotunda,” Flood said. “We didn’t engage in hysteria. We sat across the table ... and had good faith efforts to make the right public policy happen. [This amendment] represents the Nebraska approach to solving problems like this.”

Lathrop offered a second amendment, adopted 38-0, which made additional changes.

Under the amendment, a public vote would be required on the last, best offer of either a union or a public employer before a dispute could be taken to the CIR. Lathrop said the provision would create accountability among elected officials who may be reluctant to vote on a proposal for political reasons.

“It is our hope that this will result in fewer cases being decided by the CIR,” he said.

The amendment also would require that three CIR commissioners be involved in cases regarding wage disputes and would make other technical changes.

Among other provisions, LB397 as amended would:

- remove the rule of evidence requirement;
- provide a preference for geographic proximity;
- eliminate use of a special master in education labor disputes;
- authorize appeals directly from the CIR to the Nebraska Supreme Court;
- incorporate health insurance and pension benefits



Sens. Brad Ashford (left) and John Harms examine Lathrop’s proposal.

into an hourly rate value;

- require that wage information be adjusted to reflect Nebraska’s cost of living;
- specify a 70 percent match of duties performed and time spent performing those duties; and
- set criteria for the size of comparable out-of-state cities and metropolitan statistical areas.

Following adoption of two technical amendments offered by Sen. Bob Krist of Omaha and Sen. Lavon Heide- mann of Elk Creek, lawmakers advanced LB397 to final reading by voice vote. ■

COMMITTEE HEARINGS

Wednesday, May 25
General Affairs
Room 1510 - 1:00 p.m.
 Appointment: Feller, Helen Abbott -
 State Racing Commission

Thursday, May 26
Transportation & Telecommunications
Room 1113 - 8:30 a.m.
 Appointment: Cerny, Dean - Motor Vehicle Industry Licensing Board
 Appointment: Reagan, Sammy - Motor Vehicle Industry Licensing Board

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Agriculture

Healthful food financing program reconsidered, passed

A financing program to improve access to healthful foods in underserved communities was reconsidered and passed by lawmakers May 18.

LB200, introduced by Omaha Sen. Brenda Council, directs the Rural Development Commission to create a financing program to increase access to fresh fruits, vegetables and other nutritional foods in low-income areas that have limited access to healthful food retailers.



Sen. Brenda Council

Projects eligible for financing 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 would increase capacity of food retailers to obtain fresh produce.

Qualifying applicants must 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 must demonstrate how their projects will be implemented, a need for public financing, how incurred debt will be repaid, the extent to which the project will 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 creates the Nebraska Healthy Foods Financing Initiative Cash Fund, which is funded with annual transfers of \$150,000 from the general fund. To provide additional monies to offset the general fund transfers, the bill reduces the maximum tax credits offered under the Community Development Assistance Act from \$350,000 to \$200,000.

LB200 fell three votes short of final reading approval on May 12 and Omaha Sen. Brad Ashford filed a motion to reconsider the vote. According to legislative rules, motions to reconsider bills that fail on final reading require 30 votes.

Ashford urged the body to support his motion and said the Legislature traditionally has valued legislation that promotes access to healthful foods.

Council said recent research on the prevalence of food insecure areas in Nebraska suggest that LB200 could be used to increase healthful food choices and help decrease the number of people moving away from areas due to inadequate food access.

“With a minimal investment, we

could make a significant impact on increasing healthy food choices,” Council said.

Enacting LB200 also could leverage funding offered under the federal Healthy Food Financing Initiative, Council said, which will provide \$400 million to bring food retailers to underserved areas.

Fullerton Sen. Annette Dubas spoke in favor of the reconsideration motion and the underlying bill. The citizens of Wolbach recently opened a member-owned grocery store to provide grocery access, she said, and LB200 could aid similar programs in other communities.

“There is a growing demand and support for these kinds of efforts,” Dubas said.

Lawmakers voted 30-18 to reconsider the final reading vote on LB200 and voted 30-16 to approve the bill.

Banking, Commerce & Insurance

New economic development program approved

Senators passed a measure May 18

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that eliminates three existing economic development programs and replaces them with the Business Innovation Act.

LB387, introduced by Kearney Sen. Galen Hadley at the request of the governor, requires the Department of Economic Development (DED) to establish five programs to provide financial assistance to:



Sen. Galen Hadley

- microenterprise entities;
- companies or individuals creating prototypes;
- programs to identify commercial products and processes;
- companies receiving federal Small Business Innovation Research grants; and
- companies using Nebraska public college and university researchers and facilities for applied research projects.

DED also is required to establish an innovation in value-added agriculture program to support small enterprise formation in Nebraska's agricultural sector.

All programs created by the bill will be capped at between \$1 million and \$3 million per year.

Forty percent of financial assistance funds are reserved for economically distressed areas of the state, defined as a municipality, a county with a population of fewer than 100,000 according to the most recent census, an unincorporated area within a county or a census tract that:

- has an unemployment rate that exceeds the statewide average;
- has a per capita income below the statewide average; or

- had a population decrease between the two most recent federal censuses.

The bill repeals the Agriculture and Value-Added Partnerships Act, the Microenterprise Development Act and the Building Entrepreneurial Communities Act.

LB387 takes effect immediately and will discontinue in 2016.

The bill passed on a 49-0 vote.

Tourism development board created

The state Department of Economic Development is required to establish a tourism development board under a bill passed May 18.

LB684, introduced by Ogallala Sen. Ken Schilz, establishes the Travel and Tourism Division Advisory Committee. The committee will develop a statewide strategic plan to cultivate and promote tourism in Nebraska.



Sen. Ken Schilz

Contents of the plan will include:

- 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 department is authorized to

hire a consultant to assist with the statewide strategic plan.

The committee will include at least one representative each from the state Game and Parks Commission, the Nebraska Travel Association, the Nebraska Hotel and Motel Association, the Nebraska Association of Convention and Visitors Bureaus and a tourism attraction that draws 2,000 or more out-of-state visitors per year.

Lawmakers passed LB684 on a 48-0 vote.

Business & Labor

Workers' Compensation Court relocation approved

Senators passed a bill May 19 that removes a requirement that the Workers' Compensation Court maintain offices in the state Capitol.

LB151, introduced by Omaha Sen. Steve Lathrop, allows the Workers' Compensation Court to maintain offices outside of the Capitol and allows involved parties to conduct hearings via telephone or video conference.



Sen. Steve Lathrop

The bill also eliminates the court's three judge review panel and a requirement that compensation court judges reside in Lancaster County unless the court approves residence elsewhere.

LB151 passed on a 45-0 vote.

Medical fees for workers' compensation could be revised

Senators advanced a bill from general

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file May 17 that would change medical fee schedules for workers' compensation.

Omaha Sen. Steve Lathrop introduced LB152, which contained provisions for the workers' compensation medical fees schedules. A Judiciary Committee amendment, adopted 42-0, replaced the bill's original provisions and would reimburse a hospital 160 percent of its Medicare rate for inpatient trauma care.

Under the bill, additional compensation would be provided for the outlier trauma cases that require unusual expenses. The stop loss threshold for such cases would be 1.25 times the basic reimbursement rate. If the billed charges were greater than the stop loss threshold amount, hospitals would be reimbursed the basic reimbursement rate plus an additional 65 percent of the amount above the stop loss threshold.

Lathrop said hospitals have raised concerns about covering increasing trauma care costs. In a significant number of trauma cases, patients are spending time in intensive care units and are not required to pay any costs associated with those services, he said.

Kearney Sen. Galen Hadley supported the amendment and said cost shifting is becoming harder for hospitals to do. Forty percent of patients who received these types of services at Creighton University Medical Center were either not insured or underinsured, he said.

"We need to help hospitals as much as we can," Hadley said.

The bill advanced from general file on a 41-0 vote.

Small business assistance bill approved

A statewide pilot program to

provide technical assistance to small businesses was given final approval by senators May 18.

LB345, sponsored by Lincoln Sen. Danielle Conrad, establishes the Small Business Innovation Act.

Under the bill, the state Department of Economic Development will administer the pilot program, which will assist up to 40 Nebraska-based growth businesses, at least one half of which will be located in counties with fewer than 50,000 inhabitants.

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

The program will be funded by \$200,000 from the general fund in fiscal year 2011-12 and FY2012-13, which will 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.

LB345 takes effect immediately and passed on a 47-2 vote.

Executive Board

Time frame requirement for state agency regulations approved

A proposal that requires state agencies to promulgate rules and regulations within a specific time frame received final legislative approval May 19.

LB617, introduced by Omaha Sen. Heath Mello, requires that a public

hearing be held on any rule or regulation to be adopted, amended or repealed pursuant to a bill within 12 months of the legislation's effective date. The governor may extend the time frame for up to six months with good cause and the regulation process must be completed within one year of the hearing date.

An agency that does not complete the regulation process within one year will be required to submit a written explanation to the Executive Board and the legislative committee with subject matter jurisdiction over the issue.

All agencies with pending rules and regulations will be required to submit yearly reports to the Legislature's Performance Audit Committee, including the status of any appropriations provided to the agency to carry out the regulation process.

LB617 applies only to rules and regulations adopted after its passage and only bills requiring a regulation process are subject to its provisions.

The bill passed 45-0.



Sen. Heath Mello



Sen. Danielle Conrad

General Affairs

Horse racing bill passes

Senators narrowly passed a bill May 18 that clarifies the terms of members of the State Racing Commission and attempts to assist Lincoln's horse racing industry.

Introduced by Wilber Sen. Russ Karpisek to harmonize the terms of two new State Racing Commission members, LB256 includes provisions

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of LB299, also introduced by Karpisek.

The bill allows a racetrack licensee to contract with another licensee to conduct all but one day of live race meetings on its behalf, and allows a racetrack licensee in a county with a city of the primary class to contract with another licensee to conduct all live race meetings on its behalf.

Lincoln is the state's only primary class city.

LB256 passed on a 26-17 vote.



Sen. Russ Karpisek

Lautenbaugh, LB142 increases the cap on non-individual contributions that candidates choosing to abide by voluntary campaign spending limitations may accept.

The bill increases the cap from 50 percent to 75 percent of the overall spending limitation for a given office.

LB142 passed on a 44-0 vote.



Sen. Scott Lautenbaugh

Vehicle donation bill approved

Political subdivisions are allowed to donate certain motor vehicles to charitable organizations under a bill given final approval May 18.

LB628, introduced by Omaha Sen. Tanya Cook, allows a political subdivision to donate to a charitable organization any motor vehicle that has reached the end of its useful life.

A donation is prohibited if an employee of the charitable organization or the vehicle recipient is an immediate family member of the political subdivision's governing body.

The bill passed on a 42-1 vote.



Sen. Tanya Cook

Judiciary

Striking public safety officers with bodily fluids qualifies as assault

Senators passed a bill May 18 that creates a crime of assault with a bodily

fluid against a public safety officer — a tactic commonly used by inmates.

Under LB226, introduced by Grand Island Sen. Mike Gloor, a person who intentionally strikes a public safety officer with a bodily fluid could be found guilty of a Class I misdemeanor. If the offender knows he or she is infected with HIV, AIDS or hepatitis B or C, the offense could be a Class IIIA felony.

The bill passed on a 40-5 vote.



Sen. Mike Gloor

Revised court provisions advance

Senators gave second-round approval May 18 to a bill that would revise state and county court provisions.

LB669, introduced by Norfolk Sen. Mike Flood, would:

- expand the state Supreme Court's options for funding sources to compensate court interpreters;
- provide for clerks and staff of the district and country courts to assist one another on court services;
- create a new position of Judicial Hearing Officer and allow the court to appoint officers as needed;
- provide courts greater scheduling flexibility;
- clarify the authority for delivery of service by a commercial courier;
- provide various deadlines for filing a jury demand in civil cases



Sen. Mike Flood

Government, Military & Veterans Affairs

Campaign finance changes approved

Lawmakers passed a bill May 20 that makes changes to the state's campaign finance laws.

Introduced by Omaha Sen. Scott

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depending on the role of the litigant doing the filing;

- eliminate the requirement that divisions of a county court be located outside the county seat and that certain cases be filed with the county court clerk in the county seat;
- authorize a court to order that a juvenile be placed directly with the state Department of Health and Human Services to obtain a pre-adjudication evaluation; and
- clarify the responsibilities of the county and the state for covering costs incurred during a juvenile's detention period prior to adjudication.

Lincoln Sen. Colby Coash offered an amendment, adopted 36-0, that contained provisions from LB296, a bill he introduced that would allow the electronic filing of complaints and information in criminal cases.

"This change would allow for efficient use of resources while maintaining the integrity of the court system," Coash said.

Omaha Sen. Brad Ashford offered an amendment, adopted 34-0, that would require that agreements between the district courts and county clerks be signed and stipulated to by the state court administrator, the county board and the clerk of the district court after obtaining input from the clerk of the county court, a district court judge, a county court judge and the county attorney.

Lincoln Sen. Tony Fulton offered an amendment, adopted 30-0, that would allow for a divorce decree to be entered without a hearing if both parties have certified that they have made every reasonable effort to reconcile.

The amended bill was advanced from select file on a voice vote.

Judges could have more authority over juvenile probation terms

Senators advanced a bill from general file May 17 that would give the Juvenile Court more authority over a juvenile's probation conditions.

LB670, introduced by Norfolk Sen. Mike Flood, would allow the Juvenile Court to order a juvenile placed on probation to:

- obtain employment, attend school or pursue a prescribed course of study and obey the rules where such education is provided;
- complete any problem-solving court program, including any sanctions imposed;
- refrain from using alcohol or drugs and submit to testing for the presence of alcohol or drugs;
- participate in any evaluations, offender assessment screens and rehabilitative treatment;
- perform community service under the direction of his or her probation officer;
- be placed on house arrest or curfew monitored by tracker or electronic surveillance device and, if the juvenile has the financial ability, pay the cost of the device;
- pay for all costs imposed by the court if the juvenile has the financial ability;
- comply with any sanctions imposed by the court which are to take effect upon the violation

of a condition of probation by the juvenile;

- pay restitution for any property stolen or damaged or for any medical expenses incurred if the juvenile has the financial ability; and
- remain within the jurisdiction of the juvenile court, report to the court or probation officer as directed, notify the court or probation officer of any change in address, employment or school program, permit a probation or law enforcement officer to visit the home, school or place of employment, submit to any searches requested by a law enforcement or probation officer and agree to waive extradition if found in another jurisdiction.

Flood said the bill would allow the Juvenile Court to order a more meaningful probation to ensure a juvenile will lead a law-abiding life.

A Judiciary Committee amendment, adopted 36-0, eliminated the provision that would have allowed the court to order juveniles on probation to attend or reside in instruction, recreation or staff secure detention institutions or facilities.

Lincoln Sen. Colby Coash supported the amendment, saying it could prevent an additional demand on the state's better established detention facilities.

The bill advanced from general file on a 37-0 vote.

Divorce provisions for support liens and military families pass

Senators passed a bill May 18 related to support liens and military

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families in divorce cases.

LB673, introduced by Norfolk Sen. Mike Flood, requires a court to order a judgment creditor to pay a judgment debtor's court costs and attorney fees when the judgment creditor has refused, without a good faith reason, to execute a release of the judgment for child support, spousal support or subordination of a lien.



Sen. Mike Flood

Under the bill, a showing that all support payments are current shall be evidence that the judgement creditor did not have a good faith reason to refuse to execute such release or subordination.

The bill also provides procedural protections in custody and visitation cases for military parents who are moving or deploying.

The bill passed on a 49-0 vote.

Penalties increased for driving under the influence

Senators passed a bill May 20 that revises penalties for drinking and driving under the influence and the duty to stop at motor vehicle accidents.

LB675, introduced by Omaha Sen. Pete Pirsch, increases penalties for DUI offenders with prior convictions and creates felony penalties for failing to stop after an accident that results in serious injury or death.



Sen. Pete Pirsch

The bill also will:

- increase a probation fine to

\$2,000;

- increase the fine amount for Class W misdemeanors from the current range of \$400 to \$600 to a \$500 to \$1,000 range;
- change the look-back period for sentence enhancement purposes to 15 years;
- create a new offense of a prior DUI offender with a blood alcohol content level of .02 or higher, which will be a Class IIIA misdemeanor; and
- require a person who has at least four prior convictions to serve a minimum of two years and complete a diagnostic evaluation before being eligible for parole.

The bill passed on a 46-0 vote and goes into effect Jan. 1, 2012.

Minors' abortions could require parental consent

A bill that would amend parental notification requirements related to abortion was advanced from general file May 18.

LB690, introduced by Sen. Lydia Brasch of Bancroft, would require the notarized written consent from a minor's parent or guardian before the minor could have an abortion, except in cases of medical emergency. Current law requires that the parent or guardian be notified of the procedure by registered or certified mail with return receipt requested.



Sen. Lydia Brasch

Under the bill, the consent requirement could be waived if a judge finds, by clear and convincing evidence, that

a minor is both sufficiently mature and well informed to decide whether to have the abortion. If the minor is a victim of abuse by the parent, a physician could accept notarized written consent from a sibling at least 21 years of age, a stepparent or grandparent. An unauthorized person providing consent would be guilty of a Class III misdemeanor.

A Judiciary Committee amendment, adopted 30-7, narrowed that provision to allow only grandparents to give consent in cases of abuse and removed the requirement that the court find a pattern of abuse by a parent or guardian when providing a judicial bypass of the consent requirement for abuse by a parent or guardian.

Under the amendment, if a court finds by clear and convincing evidence that an abortion is in the best interest of the pregnant minor despite not having parental consent, the abortion may still be performed.

Brasch said a young woman facing a decision about abortion should have the guidance of a parent or guardian. Science proves that adolescents' brains are not fully developed, making them less capable of making good decisions, she said, particularly about something as irreversible and life-altering as an abortion.

Sen. Brenda Council of Omaha said the bill is unnecessary, as a parent already is present for abortion procedures in an overwhelming majority of abortions performed on minors. Further, she said, the current requirement for parental notification already gets the parent involved and current statute already provides a judicial bypass procedure.

Lincoln Sen. Danielle Conrad also opposed the bill, saying that current parental notification laws for minor

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abortions have proven sufficient. The bill would do nothing more than inhibit access to the procedure for young women, she said.

Lincoln Sen. Amanda McGill brought an amendment to the bill that would provide prenatal care for undocumented minors who are pregnant. The amendment was in response to legislation considered last session that would have provided prenatal care to undocumented women, she said. The bill sponsor requested that the bill be bracketed and it later was indefinitely postponed by the Legislature.

If abortion is the wrong decision for teens to make, McGill said, the Legislature should ensure sure that all teens can get prenatal care.

“Babies know no border and they have committed no crime,” she said. “The frenzy over whether someone is here legally or not has trumped what is right.”

Brasch challenged the germaneness of the amendment. According to legislative rules, only amendments found to be germane, or relevant, to the bill may be considered during debate. The chair ruled the amendment to be not germane to LB690.

McGill challenged the ruling of chair, saying the bill includes provisions about prenatal care and public assistance, as does her amendment.

Grand Island Sen. Mike Gloor agreed, saying that providing prenatal benefits to teens is relevant to the abortion legislation. If these children are born, the state will be responsible for their delivery, he said, so appropriate prenatal care should be provided.

“I can’t play two different sides of the street on this issue,” he said.

Sen. Bob Krist of Omaha said the

prenatal care was worthy of debate but that it should follow legislative procedure and be brought as its own bill.

The attempt to overrule the chair failed on a 16-28 vote.

Much of the debate centered on the bill’s proposed requirement that the parental consent form be notarized.

Council said involving a notary was a severe flaw in the bill because it would disclose private medical information. Further, she said, the bill was unclear and inconsistent about when the notary would be necessary.

“In a small town, everybody would know,” she said. “The mere fact that the notary knows is a breach of confidentiality.”

Brasch said the notary requirement would prevent a person from posing as the minor’s parent and coercing her into having an abortion. Twenty-five states have parental consent laws, she said, and those states have seen an 18 percent reduction in abortions performed on minors. While the number of abortions has generally been declining nationally, she said, she would like to see the numbers lower.

“There is a loss of life that will never come back,” she said. “Other states have shown that they can decline more.”

Lincoln Sen. Ken Haar said 40 percent of unintended pregnancies end in abortion, so if the goal is to prevent abortions, the Legislature should consider legislation to prevent unintended pregnancies. He said he shared concerns about the bill’s notary requirement and said it should be clarified.

Haar introduced an amendment to clarify that the consent form should not mention the specific medical procedure requiring the consent but withdrew

the amendment after Brasch agreed to work with him on drafting a suitable amendment for select file debate.

Council brought an amendment that would have removed language from the bill that would provide public assistance benefits to a pregnant minor who is denied financial support by her parent or guardian due to her refusal to have an abortion, whether or not she is a resident of the state.

This language provides public assistance benefits to teens that the state Department of Health and Human Services is currently under no obligation to provide, Council said. In order to be consistent with the ruling that Sen. McGill’s amendment was not germane, this language also should be removed, she said.

The amendment failed 8-24 and LB690 advanced to select file on a 33-7 vote.

Natural Resources

Senators override veto, state park permit fees increased

Lawmakers overrode a veto administered by the governor on a bill that authorizes the Nebraska Game and Parks Commission to increase park entry permit fees May 17.

LB421, introduced by Louisville Sen. Dave Pankonin, will increase the maximum annual entry permit fee from \$20 to \$25 for resident motor vehicles and from \$25 to \$30 for nonresident motor vehicles. The maximum fee also



Sen. Dave Pankonin

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will increase from \$4 to \$5 for temporary resident entry permits and from \$5 to \$6 for nonresidents.

The fee collected by entities issuing permits as reimbursement for clerical work also will increase. The current range for the fee is 25 to 35 cents, which will be dropped for a standard fee of \$1.

Finally, the bill will require the placement of park permits on the driver's side of vehicle windshields.

LB421 has an effective date of Jan. 1, 2012.

The bill was vetoed by Gov. Dave Heineman on May 11. In his veto message, the governor said raising fees is not the appropriate way to maintain state parks, and reducing expenditures should be the focus.

Pankonin filed a motion to override the governor's veto. State parks receive 9 million visitors every year, Pankonin said, adding that state parks account for 15 of the top 25 tourist attractions in Nebraska. Parks are suffering from deferred maintenance, valued at \$34 million, he said, so a fee increase is needed.

"This is the best way for a statewide resource to continue to produce economic benefits for Nebraskans," Pankonin said, adding that the proposed increase still would result in the lowest entry fee among states that fund parks through user fees.

Imperial Sen. Mark Christensen agreed, saying the commission has resorted to returning some parks to local communities to reduce maintenance costs. An entry fee increase is needed to avoid reduced services and deferred maintenance in existing parks, he said.

Lexington Sen. John Wightman called the proposed \$5 fee increase a

reasonable measure to support parks.

"We are going to be better served by having nicer state parks than we are for having the lowest fee among all of the states for state parks," Wightman said.

Columbus Sen. Paul Schumacher said the fee increase should be thought of as a "currency adjustment." The entry fee proposed, adjusted for inflation, is slightly less than the 1978 fee, he said.

"Our currency is worth less over time. We have to adjust just to hold even," Schumacher said.

Hoskins Sen. Dave Bloomfield opposed the motion to override the governor's veto, saying the commission has made land acquisitions, which suggest it currently has the funds to support maintenance.

"We still have money to buy more land and take more property off the tax rolls" Bloomfield said, adding that fees need to remain affordable.

Lawmakers voted 42-5 to override the governor's veto.

Pipeline safety bill amended to guarantee land restoration

A bill that would have held pipeline companies liable for oil leaks and required proof of financial responsibility was amended to address land restoration during general file debate May 19.

LB629, introduced by Cedar Rapids Sen. Kate Sullivan, originally would have prohibited the construction or operation of a pipeline transporting a hazardous liquid unless the pipeline carrier presents evidence to

the Public Service Commission of a bond or escrow account as proof of financial responsibility.

The bill also would have held pipeline companies liable for damages resulting from leaks and required them to immediately clean them up.

The bill was replaced by a Natural Resources Committee amendment. Under the amendment, a pipeline company would be responsible for restoring areas where its pipeline is constructed or operated. Restoration costs covered would include those incurred to rehabilitate real and personal property, natural resources, wildlife and vegetation.

The amendment also would permit local governments and state agencies to pursue compensation from a pipeline company to pay for maintenance and repair of roads, bridges or other infrastructure affected by pipeline construction and operation.

Sullivan said the amended bill is a first step for interstate pipeline regulation. While pipelines can be beneficial for Nebraska's economy, she said, they need to be managed correctly to protect the natural resources of the state.

Much of the discussion on the bill referred to the proposed Keystone XL pipeline. Slated for construction in Nebraska in 2011, the 1,700-mile oil pipeline will connect Canadian crude oil suppliers to Texas refineries. The pipeline will run through Boone, Fillmore, Garfield, Greeley, Hamilton, Holt, Jefferson, Keya Paha, Merrick, Nance, Rock, Saline, Wheeler and York counties.

Lincoln Sen. Colby Coash said the reclamation standards set forth in the amendment are important in the Sandhills. The Bassett native said



Sen. Kate Sullivan

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there is an area near his former home that still has not recovered from disturbances caused by pioneers traveling through the area. A growing hole that continues to reveal pioneer artifacts is evidence that pipeline companies need to fully restore land upheaved for construction, he said.

York Sen. Greg Adams said the amendment would offer the state some protection when pipelines are constructed. While there are legitimate questions regarding the siting of the proposed Keystone XL pipeline over the Ogallala Aquifer and through the Sandhills, he said, the Legislature shouldn't pass legislation that delays the inevitable.

"There isn't a whole lot we can do on interstate pipelines," Adams said, adding that federal authorities are regulating the construction of the Keystone XL pipeline.

Malcolm Sen. Ken Haar said the amended bill would be a good first step, but the state can take a more active role in regulating pipelines. According to a Congressional Research Service letter sent to Rep. Lee Terry, he said, the state has the primary authority in siting pipelines.

Lincoln Sen. Bill Avery supported the bill but said it would have been better if it also addressed liability issues, alternative dispute resolution procedures, financial responsibility or siting concerns. He cited Montana as an example of a state that has an active role in pipeline siting. Before a company can construct a pipeline there, it must submit three routes from which the state can choose, he said.

Lawmakers voted 45-0 to adopt the committee amendment and 47-0 to advance the bill from general file.

Redistricting

Supreme Court redistricting bill amended, advanced

Senators advanced from select file May 17 the first of six redistricting bills that lawmakers will consider this session.

LB699, introduced by the Redistricting Committee, would redraw boundary lines for the six judicial districts of the Nebraska Supreme Court.

Sen. Mike Flood of Norfolk offered an amendment that would alter the boundary lines of all but one of the six judicial districts.

Under the amendment, adopted 37-4, District 3 would expand into western Douglas and Sarpy counties. Flood said the change would bring the more rural parts of those counties into the northeast district, which currently comprises over 20 counties, many of them sparsely populated.

"The true character of the district is rural in nature," Flood said, adding that rural officers of the court share concerns such as ensuring adequate resources for county clerks and citizen access to judges.

"That's the difference between urban Nebraska and rural Nebraska," he said.

But Omaha Sen. Scott Lautenbaugh said the changes offered in the amendment seemed to be more about perception than genuine differences in the practice of law between urban and rural areas of the state.

"I don't know how much of a difference this makes in reality," he said.

Sen. Annette Dubas of Fullerton supported the amendment, saying the

distance traveled in rural Nebraska to obtain services is an important issue for her constituents.

"There's much concern [about] the potential consolidation and elimination of courts and court services," she said.

Other changes in the amendment would include moving Seward County from District 5 to District 1 and moving all of Cass County into District 5.

Lincoln Sen. Danielle Conrad said the proposed combination of Seward and Lancaster counties in District 1 makes sense because judges in the two counties currently assist each other in addressing workload issues.

"The amendment represents a much more acceptable map," she said.

Following adoption of the Flood amendment, senators advanced LB699 to final reading by voice vote.

Education, PSC redistricting bills clear first round

Senators advanced three redistricting bills from general file May 18 that would redraw lines for the Public Service Commission, University of Nebraska Board of Regents and the state Board of Education.

District boundaries must be redrawn every 10 years to reflect population changes throughout the state.

LB700, introduced by the Redistricting Committee, would redraw boundary lines for the five districts of the Public Service Commission.

According to the 2010 census, the ideal population for each district is 365,268. The proposed changes include moving Antelope, Greeley, Howard, Knox and Wheeler counties from District 5 to District 4 and moving

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Burt, Cuming, Dodge and Thurston counties from District 3 to District 4.

The bill advanced on a 39-0 vote.

LB701 and LB702, also introduced by the committee, would redraw boundary lines for the eight districts of the University of Nebraska Board of Regents and the state Board of Education.

Sen. Chris Langemeier of Schuyler, chairperson of the committee, said maps for the two entities have been drawn identically since 1971 because they contain the same number of districts.

According to the 2010 census, the ideal population for each district is 228,293. The changes proposed to both maps would include moving Knox and Pierce counties from District 6 to District 3 and Custer County from District 6 to District 7. In addition, Butler County would move from District 3 to District 5 and Washington County from District 2 to District 3.

Senators advanced LB701 on a 42-0 vote and LB702 on a 43-0 vote.

Revenue

County sales tax uses expanded

Counties may use revenues derived from a county option sales tax for more public safety purposes under a bill passed by the Legislature May 18.

Counties are able 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 approve such sales taxes, which cannot be levied in municipalities that have a local option sales tax.

LB106, introduced by Ogallala Sen. Ken Schilz, clarifies that public safety services may be funded with county option sales tax revenues. The bill defines public safety services to include firefighter, police, medical, ambulance or other emergency services.



Sen. Ken Schilz

The bill passed 43-3.

Wyuka Cemetery sales tax exemption approved

A bill approved by the Legislature May 18 exempts Wyuka Cemetery from sales and use tax.

LB252, introduced by Bellevue Sen. Abbie Cornett, also designates 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 management of the cemetery. The bill changes the deadline for such reports from the second Tuesday in March to the second Tuesday in June.

Lawmakers voted 42-4 on final reading to approve LB252.

Angel investment tax credits passed

Refundable income tax credits for investments in high-tech business are offered by a bill approved by the Legislature May 18.

LB389, introduced by Bellevue Sen. Abbie Cornett at the request of the governor, provides up to \$3 million in annual tax credits for investments made in a business with at least

51 percent of its work force and payroll in Nebraska and 25 or fewer employees primarily engaged in researching, developing or using products and services in the high-tech field.

The bill defines high-tech field to include aerospace, agricultural processing, renewable energy, energy efficiency and conservation, environmental engineering, food technology, cellulosic ethanol, information technology, materials science technology, nanotechnology, telecommunications, biosolutions, medical device products, pharmaceuticals, diagnostics, biologicals, chemistry and veterinary science.



Sen. Abbie Cornett

To qualify for tax credits, an individual must invest at least \$25,000 in a calendar year and qualified funds — composed of three or more investors — are required to invest at least \$50,000.

Refundable credits equaling 35 percent of the investment are granted to investors with caps of \$350,000 for married couples filing joint returns and \$300,000 for all other filers. Credits may not exceed \$1 million per taxable year for any one business.

Refundable credits of 40 percent are offered for investments made in a business that is located in a distressed area, which is defined as a city; a county with a population of fewer than 100,000 residents; an unincorporated area within a county; or a census tract that has an unemployment rate that exceeds the statewide average, a per capita income below the statewide average or a population decrease between the two most recent censuses.

The bill funds the tax credits by

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reducing the amount of credits offered under the Nebraska Advantage Rural Development Act from \$4 million to \$1 million. The new limit will be imposed in 2012, and the angel investment program will expire after 2017.

LB389 passed 49-0 on final reading.

Transportation & Telecommunications

Low-speed vehicles legalized for use on state roads

Low-speed vehicles will be permitted for use on state roads under a bill passed by the Legislature May 18.

LB289, introduced by Omaha Sen. Heath Mello, will authorize the operation of low-speed vehicles on highways with a speed limit of 35 mph or less. Under the bill, local governments and the state Department of Roads will be able to restrict low-speed vehicle use further for public safety purposes.



Sen. Heath Mello

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

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

The alternative fuel fee will replace the alternative fuel tax.

Owners of low-speed vehicles will be required to obtain license plates. A base fee of \$50 for the motor vehicle tax and \$10 for the motor vehicle fee associated with low-speed vehicles will be implemented.

The bill has an operative date of Jan. 1, 2012.

LB289 was approved 49-0 on final reading.

State highway encroachment provisions pass

Senators passed a bill May 19 per-

taining to the use of state highways and right-of-ways for special events.

LB589, introduced by Papillion Sen. Jim Smith, allows a county, city or village temporary use of the state highway system, other than a freeway, that is located within its jurisdiction for special events.



Sen. Jim Smith

Under the bill, the county, city or village will be liable if damages or injuries occur during the event.

The bill passed on a 45-0 vote. ■

Senators passed a bill May 19 per-

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- Public gives input on redistricting proposals** (Published May 13th, 2011)
- Remotely administered chemical abortions could be banned** (Published May 13th, 2011)
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At the bottom, there is a 'State budget advanced from second round' entry and a calendar for May 2011.

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