

- the Nebraska Legislature's news source since 1977
- stories published daily at [update.legislature.ne.gov](http://update.legislature.ne.gov)

## UPDATE

## Attempt to end death penalty stalls

After eight hours of debate spanning two days, an attempt to force a vote on a bill that would repeal Nebraska's death penalty failed May 14.

LB543, as introduced by Omaha Sen. Ernie Chambers, would replace death penalty provisions with the sentence of life without the possibility of parole. The provisions of the bill would apply retroactively to inmates currently serving capital punishment sentences. It was the 37th time that Chambers has introduced such legislation.

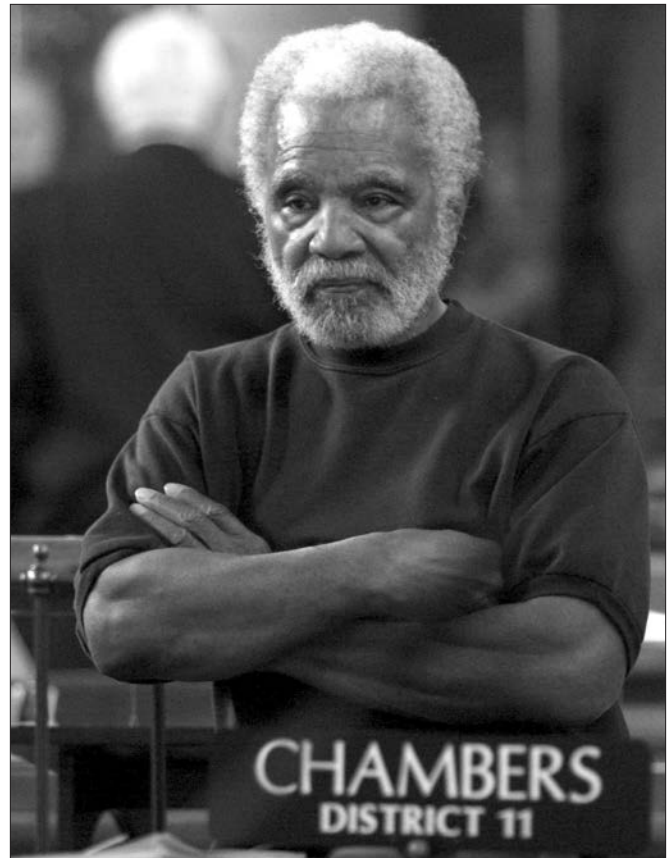
The bill also would allow the court to require payment to a victim's estate for any pain and suffering to the victim caused by the offense.

Chambers said the death penalty is random, arbitrary and has no clear standards for how it is applied statewide. He said the "vilest" criminal still is a human being who should be treated with basic human dignity.

"Some who oppose the bill may wave the bloody shirt and try to play on emotions with horrendous crimes," Chambers said. "People who say they support the death penalty do not know what a grotesque ceremony it is."

Lincoln Sen. Colby Coash offered an amendment May 13 that he said was technical and would eliminate language in statute referring to "capital punishment" and replace it with "life without the possibility of parole." The amendment was later divided into three components.

(continued page 2)



This is the 37th year that Sen. Ernie Chambers has introduced a bill to abolish the death penalty in Nebraska.

## Veto overridden, teacher retirement changes adopted

Lawmakers successfully overrode a veto May 14 of a bill that makes changes to the state's school retirement plans.

LB553, introduced by Omaha Sen. Jeremy Nordquist, creates a new tier of reduced benefits for employees under the School Employees Retirement System (SERS) who begin work for

the first time on or after July 1, 2013.

Senators had passed the bill May 7 on a 34-0 vote. In his veto letter, Gov. Dave Heineman said the bill does not represent a sustainable long-term solution and called for a thorough study of alternative solutions.

"This bill does not present comprehensive, long-term solutions to the

defined benefit pension plans," he said. "The taxpayers should also have a seat at the negotiating table to develop transparent, long-range solutions."

Nordquist filed a motion to override the veto, saying the school retirement plan's liability is an obligation of the state that must be addressed.

"No matter what we do to this plan

(continued page 4)

# Attempt to end death penalty stalls

(continued from front page)

Coash said he has come to support the repeal of the death penalty because it is unlikely that it ever will be carried out. Without an execution the death penalty is meaningless, he said.

Chambers supported the amendment, saying it would streamline the bill.

Fremont Sen. Charlie Janssen opposed the bill and the divided amendment, saying the death penalty is a deterrent to others who might commit violent crimes and also provides authorities leverage when seeking confessions in homicide cases.

Sen. Beau McCoy of Omaha also opposed the bill and the divided amendment. He offered, and later withdrew, a motion to bracket the bill until June 5, 2015.

“There are communities that have experienced the most heinous crimes,” he said. “I believe that the individuals on death row belong there.”



Sens. Beau McCoy (left) and Colby Coash discuss the bill during debate.

Scottsbluff Sen. John Harms supported the bracket motion, citing details of a homicide that occurred in his community.

“There are some crimes that are so heinous they deserve death,” he said.

Chambers disagreed and said the term “heinous” itself is ambiguous and often misused in homicide cases. The federal court has overturned many death penalty cases because the language was inappropriately utilized during the trial, he said.

Kearney Sen. Galen Hadley—who once supported the death penalty—opposed the bracket motion, saying his convictions about the death penalty have

evolved. He said that he attended the execution in support of the death penalty for Charles Starkweather, who murdered 11 people in Nebraska and Wyoming in the 1950s. Since that time, he said, studies have suggested that the death penalty is applied disproportionately, so he no longer supports it.

“More minorities are on death row than white people,” Hadley said. “If the victim was a white person, then the chances of the perpetrator getting the death penalty are significantly higher than if the victim was a minority.”

Omaha Sen. Steve Lathrop also opposed the bracket motion. Since 1973, 1,600 homicides have occurred in Nebraska, he said, but only 33 of those who were convicted of first-degree murder were sentenced to death. The death penalty should be repealed because such sentences cost the state roughly three times more than a sentence of life without the possibility of



Sen. Galen Hadley explained how evidence of unfair application of the death penalty has changed his opinion.

(continued next page)

parole, he said, and they are unlikely to be carried out.

Lincoln Sen. Danielle Conrad said death penalty cases are costly because they are unique, litigated differently and must have three separate trials. At each stage there are at least 40 different grounds for appeal, she said, and without the death sentence the cost involved in the second and third trials would be eliminated.

Omaha Sen. Brad Ashford also offered a motion to bracket the bill in an attempt to gauge how senators would vote on the bill and the Coash amendments.

“This vote, in my view, is a vote in favor of or against LB543, and that is why I brought the motion,” he said. “A vote for the bracket motion is a vote against the bill and a vote against the bracket motion is a vote for the bill.”

The motion failed on an 18-26 vote. Twenty-five votes are required for passage of a bill; thirty are needed to override a governor’s veto.

Holdrege Sen. Tom Carlson offered an amendment, adopted 26-6, which would add the following language: Life is the most valuable possession of a human being. The State of Nebraska should exercise utmost care to protect its residents’ lives, born and unborn, from homicide, accident and arbitrary taking by the state.

If the death penalty were repealed, Carlson said, concern about taking innocent lives should be extended to include unborn babies.

Chambers opposed the amendment and called it vindictive and irrelevant. He filed a motion to reconsider the vote taken on the amendment, which was adopted 29-5.

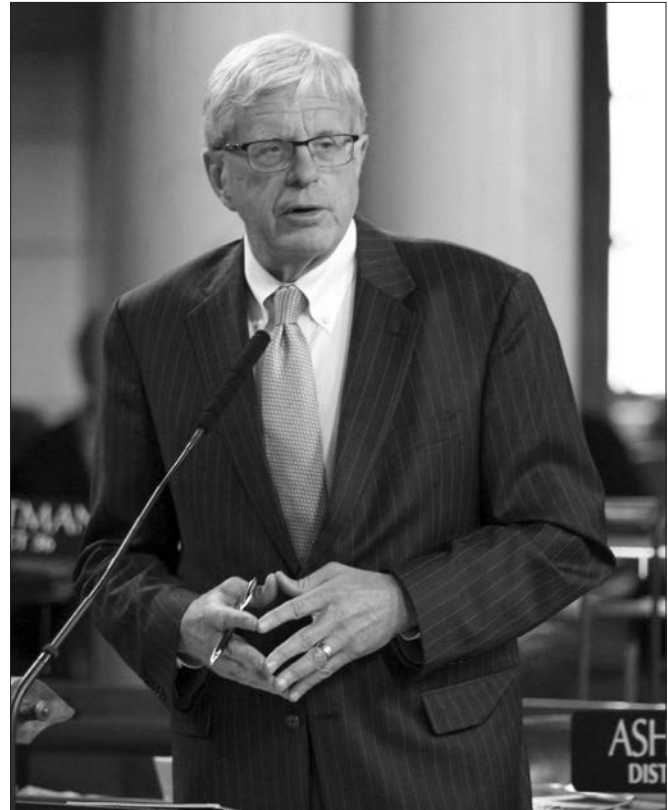
Carlson withdrew his amendment.

On May 14, Chambers introduced a motion to bracket the bill until May 21, saying additional work needed to be done on the bill. He later withdrew

the motion.

Ashford offered an amendment that would eliminate the proposed retroactive provisions and said it would rectify some senators’ concerns about releasing those who were convicted in prior homicide cases. The amendment would make the bill apply only to future homicide cases, he said.

“As a [legislative] body we are trying not to take the stand that we will overrule what the court previously has determined in those decisions,” he said. “We are attempting to come up with policy that will make the public safe, and the simple fact is that the homicide rate in Nebraska fluctuates while the death penalty has been in effect.”



Sen. Brad Ashford proposed an amendment that would prevent the bill from applying to those currently on death row.

Chambers offered a motion to invoke cloture, an attempt to cease debate and force a vote on the bill. The motion failed 28-21, five votes short of the number required for adoption.

A failed cloture motion results in debate on a bill ceasing for the day. ■

## QUALIFICATIONS TO RUN FOR THE LEGISLATURE

To qualify to run for office in the Nebraska Legislature, a candidate must:

- be at least 21 years of age;
- be a resident of Nebraska, and specifically a resident of the legislative district he or she wishes to serve, for at least one year prior to the general election; and
- never have been convicted of a felony.

For more detailed information on qualifications and filing for office, please contact your local county clerk or election commissioner, or visit the Nebraska Secretary of State’s website at [www.sos.ne.gov](http://www.sos.ne.gov).

## Veto overridden, teacher retirement changes adopted

(continued from front page)

going forward, [the liability] will still be there,” he said. “If we skip out on our pension obligation, there’s the possibility that it will affect the credit rating of the state and all of the school districts who pay into the retirement plan.”

Omaha Sen. Steve Lathrop supported the motion to override, saying that sustaining the veto would mean using the state’s cash reserves to address the problem.

“We cannot stick our head in the sand on this,” Lathrop said. “[If we don’t override the veto,] we will have to spend \$98 million over the biennium for no reason.”

O’Neill Sen. Tyson Larson opposed the motion to override the veto. He said the bill would not address fundamental issues with the school retirement plan.

“If we don’t address this with real sweeping change, we’re going to continue to have this problem five or 10 years down the road,” he said.

Senators voted 32-1 to override the governor’s veto. Thirty votes were needed. The bill goes into immediate effect.

The new benefits tier will take



Sen. Jeremy Nordquist explained potential repercussions if the bill were not to pass.

into account a five year salary average to determine benefits instead of the three year average used currently. The maximum cost-of-living adjustment will be 1 percent instead of the current 2.5 percent adjustment figure. The changes will not apply to members of SERS prior to July 1, 2013.

The bill also makes a series of other changes to the plans, some of which include:

- the state statutory contribution rate will be increased from 1 percent to 2 percent of total compensation of all school employees beginning July 1, 2014;
- the amortization method in the School Employees Retirement Act will be changed from level dollar to level percentage of salary beginning July 1, 2013;
- eligibility for membership in the school retirement plan will be changed from 15 hours per

week to 20 hours; and

- the sunset will be eliminated from the school budget and lid exclusions for expenditures above the Class V employer contribution rate of 7.37 percent and the school employer contribution of 7.35 percent.

LB553 also incorporates provisions from three other bills introduced by Nordquist.

LB554 applies the provisions of LB553 to all Class V school employees hired after July 1, 2013.

LB305 changes the amortization method in the Nebraska State Patrol Retirement Act from level dollar to level percentage of salary beginning July 1, 2013.

LB306 changes the amortization method in the Judges Retirement Act from level dollar to level percentage of salary beginning July 1, 2013. ■



# Appropriations

## Budget package clears second round

Lawmakers gave second-round approval May 14 to the eight bills comprising the state's \$7.8 billion budget package. The state budget is structured on a two-year basis, with the budget enacted during legislative sessions held in odd-numbered years.

Among the amendments considered on select file was a change to LB195, offered by Omaha Sen. Ernie Chambers, which would increase funding to the Nebraska Commission on Indian Affairs by \$18,000 per year in fiscal years 2013-14 and 2014-15.



Sen. Ernie Chambers

The commission does important work for Nebraska's Native peoples, Chambers said, with minimal funding and assistance from the state. Additional funding would help support their mission, he said.

"It will create, in that office, the opportunity to do a bit more than is being done now," Chambers said.

Lincoln Sen. Bill Avery supported the amendment, saying the commission underwent severe budget cuts during the recent recession and long has been understaffed.

"That agency is run by some of the most competent people in state government," he said.

The amendment was adopted 36-0. Following adoption of a technical amendment on a 39-0 vote, LB195 advanced to final reading by voice vote.

Lincoln Sen. Colby Coash offered an amendment to LB199, a bill that would make various cash fund transfers. The amendment would incorporate provi-

sions of LB504, originally introduced by Coash, which would expand the commission's ability to utilize the agency's Designated Collection Fund.



Sen. Colby Coash

Coash said the fund was established by the Legislature in 2010 to address alcohol issues near Whiteclay, Nebraska. However, he said, the law was crafted so narrowly that the commission has not been able to utilize the funds.

Under the amendment, a political subdivision would be redefined to mean a city, village or county within a 60-mile radius of an Indian reservation or a tribal government that owns land within the 60-mile radius. Current law defines a political subdivision as a city, village or county within 30 miles of a census designated place.

"Those very narrow parameters assured that only ... Whiteclay could apply for those funds," Coash said. "These limitations on this fund have proven to be too limiting."

The amendment also would:

- expand grant eligibility to include nonprofit corporations;
- remove the requirement that a political subdivision's application receive a public hearing;
- add education to the list of items for which a political subdivision may use the funds; and
- allow the commission to use funds directly for economic development, education, health care and law enforcement if no applicants are approved.

Chairperson Sen. Heath Mello said the Appropria-



Sen. Heath Mello

tions Committee normally opposes changes to the budget package, but that the Coash amendment did not monetarily alter LB199.

"It has no fiscal impact on the budget at all," he said. "It simply provides flexibility to the Indian Commission."

Following adoption of the Coash amendment 37-0, senators adopted a technical amendment on a 38-0 vote and advanced the bill to final reading by voice vote.



Sen. Annette Dubas

Fullerton Sen. Annette Dubas offered an amendment to LB194 that would require the Legislative Council to contract for an independent study on whether the state should purchase a plane and, if so, which plane would best fit the state's needs.

Senators amended the bill on general file to remove funding for the purchase of a 2001 King Air and to require the state Department of Aeronautics to contract for a study of the issue.

Dubas said the Legislature is the best choice to provide oversight for the study because it is the entity responsible for appropriating any funds that would be spent to purchase a plane.

Hoskins Sen. Dave Bloomfield supported the amendment, saying Nebraska has many options that should be explored fully.

"Let's get the study done, let's decide whether or not the state needs to own a plane and then let's follow where the study leads," he said.

Sen. Scott Price of Bellevue expressed concern about not providing funds in this budget cycle to purchase the plane, saying he felt "hood-winked." Price said several senators had thought that funds for the plane could be appropriated now and used later this year based on the results of

an independent study.

“I am concerned that we are being told that we have no ability to put dollars towards a program and have that acted on,” he said.

Mello explained that the Legislature cannot, in this circumstance, appropriate funds to a state agency and stipulate at a future date how it may be spent. He said lawmakers must wait until next year to take action on the results of the study.

“That’s the only way you can do this without crossing the separation of powers issue,” Mello said.

The Dubas amendment was adopted 25-0 and the bill advanced by voice vote.

Also advanced to final reading were:

- LB196, which would provide for the \$12,000 annual salaries of Nebraska’s 49 state senators;
- LB197, which would fund salaries and benefits for judges and constitutional officers;
- LB198, which would fund capital construction projects and property acquisition;
- LB200, which would provide transfers from the cash reserve; and
- LB536, which would approve claims against the state.

## Banking, Commerce & Insurance

### Insurance navigator bill advanced

Senators advanced a bill from general file May 16 that would regulate individuals and entities applying for and acting as navigators in the state’s health benefit exchange.

The exchange will be established in Nebraska under the Affordable Care Act (ACA), which requires that all exchanges include programs to assist individuals in navigating the new system.

Nebraska’s exchange must be operational by Oct. 1, 2013, and states have the authority to license and regulate navigators.

LB568, introduced by Omaha Sen. Burke Harr, would establish a regulatory system within the state Department of Insurance for navigators in Nebraska.

A Banking, Commerce and Insurance Committee amendment, adopted 35-0, became the bill. Under the amendment, navigators would be required to be licensed by the department and could:

- conduct public education activities;
- distribute fair and impartial general information concerning enrollment in qualified health plans and public insurance programs offered in the exchange;
- facilitate enrollment in qualified health plans without suggesting a particular plan;
- provide referrals to appropriate state or federal agencies; and
- provide information in a culturally and linguistically appropriate manner.

Harr said that once the exchange is in place, the state will have until January 2014 to sign up approximately 217,000 people who will be eligible to purchase health insurance through the new system.

Many of those individuals never will have had health insurance before, Harr said, and will need the assistance of navigators to understand the pro-

cess. Others may lack English language or literacy skills, he said.

“The bill provides accountability and oversight for those who assist the working poor,” Harr said.

An initial navigator license fee would be established by the department and could not exceed \$50 for an individual license and \$100 for an entity. Licenses would be issued for two years and could be renewed for a fee, conditional on ongoing training and continuing education requirements.

Navigators would be prohibited from:

- engaging in any activities that would require an insurance producer license;
- offering advice about which health plan is better or worse for a particular individual or employee;
- recommending or endorsing a particular health plan;
- advising consumers about which health plan to choose;
- providing information or services related to health plans not offered in the exchange;
- accepting compensation dependent on whether a person enrolls in or purchases a qualified health plan; or
- failing to respond to an inquiry from the director.

Lincoln Sen. Danielle Conrad opposed the bill and the amendment during debate May 15. She offered a motion to recommit LB568 to the Banking, Commerce and Insurance Committee, followed by a series of amendments.

Conrad said that all of the prohibited navigator activities outlined in the bill already are actionable under state and federal law, so there is no reason for the Legislature to rush into regulating navigators at the state level.

She said the committee had worked



Sen. Burke Harr

hard on the bill, but that ever-changing federal regulations regarding health exchanges make it unclear how the state should proceed.

"I think at this stage in the game we have far more questions than we have answers," Conrad said.

The Legislature adjourned for the day before voting on the motion. When lawmakers reconvened May 16, Conrad said that several senators were working on a compromise amendment that would be offered on select file. As a result, she withdrew the motion to recommit the bill to committee and the additional amendments.

LB568 advanced to select file on a 37-0 vote.

## Education

### New public school funding adjustments adopted

Lawmakers passed a bill May 15 that adjusts the state aid funding formula for public schools under the Tax Equity and Educational Opportunities Support Act (TEEOSA).

LB407, introduced by Cedar Rapids Sen. Kate Sullivan, reduces the base limitation rate for school districts from 2.5 percent to 1.5 percent for the 2013-14 school year. The rate will revert to 2.5 percent for each subsequent school year.

The bill includes additional changes to the funding formula, including:

- a base limitation rate of 1.5 percent for fiscal year 2013-14 and 2.5 percent thereafter;
- a local effort rate of \$1.03 for FY2013-14 and FY2014-15 and \$1.00 thereafter;



Sen. Kate Sullivan

- an averaging adjustment threshold equivalent to the average basic funding for all school districts with 900 or more formula students;
- a teacher education allowance of \$30 million with distribution based on teacher education points;
- 50 percent of teacher education allowance paid as teacher education aid;
- an instructional time allowance of \$20 million with distribution based on the average days in session in excess of 175 days multiplied by formula students;
- 50 percent of instructional time allowance paid as instructional time aid; and
- 2 percent additional budget growth with 75 percent board approval with the expenditures included in the general fund operating expenditures for FY2013-14 only.

The bill eliminates the local choice adjustment beginning in FY2013-14 and limits the summer school allowance to reported summer school expenditures that are not included in other allowances. It also clarifies that expenditures included in the poverty and limited English proficiency allowances cannot be included in other allowances.

Additional budget authority for early childhood education will be included in the calculation of TEEOSA aid when programs move away from grant funding. Voluntary termination agreements will be excluded from the budget, but only when districts can prove a net savings in salary and benefits over a five-year period.

The bill passed on a 47-0 vote.

## Health & Human Services

### Children's behavioral health bill advances

Senators gave first-round approval May 16 to a bill intended to expand the use of telehealth services to address children's behavioral health needs in Nebraska. Lincoln Sen. Amanda McGill, introducer of LB556, said one out of five children in the United States suffers from a mental health condition. Of those children, she said, only 20 percent receive any form of treatment, leaving them at risk for school failure, entry into the juvenile justice system and suicide.



"We need to accept that mental health is a children's health issue," McGill said.

A Health and Human Services Committee amendment, adopted 39-0, became the bill. As amended, LB556 would require the state Department of Health and Human Services to develop rules and regulations for utilizing telehealth services for children's behavioral health.

The bill also would remove a current restriction on coverage for utilizing telehealth services if comparable services are within 30 miles of a child's place of residence.

Committee chairperson Sen. Kathy Campbell of Lincoln said the bill would remove barriers to the state's limited children's behavioral health services by expanding access to the telehealth system.

The bill would establish a pilot program for telehealth behavioral ser-

vices that would include three clinics, with at least one urban and one rural clinic. Parents of children in pediatric practices within the pilot clinics would be offered routine mental and behavioral health screenings for their child during required school physical exams or at the request of a parent.

Children identified through screening as being at risk could be referred for further evaluation and treatment, and faculty and staff of several programs at the University of Nebraska Medical Center would be available via telehealth to the primary care practice.

The bill would require that an appropriately trained staff member or employee be available in person to a child receiving telehealth services in case of an emergency situation. The requirement could be waived by the parent.

"[The bill] gives parents the option to exercise discretion regarding their child's needs," Campbell said.

McGill offered an amendment, adopted 34-0, that would require development of a safety plan prior to the provision of an initial telehealth service in cases where there is a threat that a child may harm himself or herself or others.

Data from the pilot programs would be collected and evaluated by the Munroe-Meyer Institute and the pilot program would terminate after two years.

Sen. Annette Dubas of Fullerton supported the bill and the amendments. She said the pilot program is an important step in helping parents of children with behavioral and mental health problems - which continue to be stigmatized - to get the help that they need.

"This bill is meant to support parents who, more often than not, feel very lost, scared and confused," Dubas said.

Senators advanced the bill to select file on a 35-0 vote.

## Judiciary

### Cloture attempt on death penalty abolition fails

After eight hours of debate spanning two days, an attempt to force a vote on a bill that would repeal Nebraska's death penalty failed May 14.

LB543, as introduced by Omaha Sen. Ernie Chambers, would replace death penalty provisions with the sentence of life without the possibility of parole. The provisions of the bill would apply retroactively to inmates currently serving capital punishment sentences. It was the 37th time that Chambers has introduced such legislation.

The bill also would allow the court to require payment to a victim's estate for any pain and suffering to the victim caused by the offense.

Chambers said the death penalty is random, arbitrary and has no clear standards for how it is applied statewide. He said the "vilest" criminal still is a human being who should be treated with basic human dignity.

"Some who oppose the bill may wave the bloody shirt and try to play on emotions with horrendous crimes," Chambers said. "People who say they support the death penalty do not know what a grotesque ceremony it is."

Lincoln Sen. Colby Coash offered an amendment May 13 that he said was technical and would eliminate language in statute referring to "capital punishment" and replace it with "life without the possibility of parole." The amendment was later divided into

three components.

He said he has come to support the repeal of the death penalty because it is unlikely that it ever will be carried out. Without an execution the death penalty is meaningless, he said.

Chambers supported the amendment, saying it would streamline the bill.

Fremont Sen. Charlie Janssen opposed the bill and the divided amendment, saying the death penalty is a deterrent to others who might commit violent crimes and also provides authorities leverage when seeking confessions in homicide cases.

Sen. Beau McCoy of Omaha also opposed the bill and the divided amendment. He offered, and later withdrew, a motion to bracket the bill until June 5, 2015.

"There are communities that have experienced the most heinous crimes," he said. "I believe that the individuals on death row belong there."

Scottsbluff Sen. John Harms supported the bracket motion, citing details of a homicide that occurred in his community.

"There are some crimes that are so heinous they deserve death," he said.

Chambers disagreed and said the term "heinous" itself is ambiguous and often misused in homicide cases. The federal court has overturned many death penalty cases because the language was inappropriately utilized during the trial, he said.

Kearney Sen. Galen Hadley—who once supported the death penalty—opposed the bracket motion, saying his convictions about the death penalty have evolved. He said that he attended the execution in support of the death penalty for Charles Starkweather, who murdered 11 people in Nebraska and Wyoming in the 1950s. Since that time, he said, studies have suggested that the death penalty is applied dis-



Sen. Ernie Chambers



proportionately, so he no longer supports it.

“More minorities are on death row than white people,” Hadley said. “If the victim was a white person, then the chances of the perpetrator getting the death penalty are significantly higher than if the victim was a minority.”

Omaha Sen. Steve Lathrop also opposed the bracket motion. Since 1973, 1,600 homicides have occurred in Nebraska, he said, but only 33 of those who were convicted of first-degree murder were sentenced to death. The death penalty should be repealed because such sentences cost the state roughly three times more than a sentence of life without the possibility of parole, he said, and they are unlikely to be carried out.

Lincoln Sen. Danielle Conrad said death penalty cases are costly because they are unique, litigated differently and must have three separate trials. At each stage there are at least 40 different grounds for appeal, she said, and without the death sentence the cost involved in the second and third trials would be eliminated.

Omaha Sen. Brad Ashford also offered a motion to bracket the bill in an attempt to gauge how senators would vote on the bill and the Coash amendments.

“This vote, in my view, is a vote in favor of or against LB543, and that is why I brought the motion,” he said. “A vote for the bracket motion is a vote against the bill and a vote against the bracket motion is a vote for the bill.”

The motion failed on an 18-26 vote. Twenty-five votes are required for passage of a bill; thirty are needed to override a governor’s veto.

Holdrege Sen. Tom Carlson offered an amendment, adopted 26-6, which would add the following language: Life is the most valuable possession of a human being. The State of

Nebraska should exercise utmost care to protect its residents’ lives, born and unborn, from homicide, accident and arbitrary taking by the state.

If the death penalty were repealed, Carlson said, concern about taking innocent lives should be extended to include unborn babies.

Chambers opposed the amendment and called it vindictive and irrelevant. He filed a motion to reconsider the vote taken on the amendment, which was adopted 29-5.

Carlson withdrew his amendment.

On May 14, Chambers introduced a motion to bracket the bill until May 21, saying additional work needed to be done on the bill. He later withdrew the motion.

Ashford offered an amendment that would eliminate the proposed retroactive provisions and said it would rectify some senators’ concerns about releasing those who were convicted in prior homicide cases. It would make the bill apply only to future homicide cases, he said.

“As a [legislative] body we are trying not to take the stand that we will overrule what the court previously has determined in those decisions,” he said. “We are attempting to come up with policy that will make the public safe, and the simple fact is that the homicide rate in Nebraska fluctuates while the death penalty has been in effect.”

Chambers offered a motion to invoke cloture, an attempt to cease debate and force a vote on the bill. The motion failed 28-21, five votes short of the number required for adoption.

A failed cloture motion results in debate on a bill ceasing for the day.

## Retirement

### Senators override veto; school retirement plan changes adopted

Lawmakers successfully overrode a veto May 14 of a bill that makes changes to the state’s school retirement plans.

LB553, introduced by Omaha Sen. Jeremy Nordquist, creates a new tier of reduced benefits for employees under the School Employees Retirement System (SERS) who begin work for the first time on or after July 1, 2013.



Senators had passed the bill May 7 on a 34-0 vote. In his veto letter, Gov. Dave Heineman said the bill does not represent a sustainable long-term solution and called for a thorough study of alternative solutions.

“This bill does not present comprehensive, long-term solutions to the defined benefit pension plans,” he said. “The taxpayers should also have a seat at the negotiating table to develop transparent, long-range solutions.”

Nordquist filed a motion to override the veto, saying the school retirement plan’s liability is an obligation of the state that must be addressed.

“No matter what we do to this plan going forward, [the liability] will still be there,” he said. “If we skip out on our pension obligation, there’s the possibility that it will affect the credit rating of the state and all of the school districts who pay into the retirement plan.”

Omaha Sen. Steve Lathrop supported the motion to override, saying that sustaining the veto would mean using the state’s cash reserves to ad-

dress the problem.

“We cannot stick our head in the sand on this,” Lathrop said. “[If we don’t override the veto,] we will have to spend \$98 million over the biennium for no reason.”

O’Neill Sen. Tyson Larson opposed the motion to override the veto. He said the bill would not address fundamental issues with the school retirement plan.

“If we don’t address this with real sweeping change, we’re going to continue to have this problem five or 10 years down the road,” he said.

Senators voted 32-1 to override the governor’s veto. Thirty votes were needed. The bill goes into immediate effect.

The new benefits tier will take into account a five year salary average to determine benefits instead of the three year average used currently. The maximum cost-of-living adjustment will be 1 percent instead of the current 2.5 percent adjustment figure. The changes will not apply to members of SERS prior to July 1, 2013.

The bill also makes a series of other changes to the plans, some of which include:

- the state statutory contribution rate will be increased from 1 percent to 2 percent of total compensation of all school employees beginning July 1, 2014;
- the amortization method in the School Employees Retirement Act will be changed from level dollar to level percentage of salary beginning July 1, 2013;
- eligibility for membership in the school retirement plan will be changed from 15 hours per week to 20 hours; and
- the sunset will be eliminated from the school budget and lid exclusions for expenditures above the Class V employer

contribution rate of 7.37 percent and the school employer contribution of 7.35 percent.

LB553 also incorporates provisions from three other bills introduced by Nordquist.

LB554 applies the provisions of LB553 to all Class V school employees hired after July 1, 2013.

LB305 changes the amortization method in the Nebraska State Patrol Retirement Act from level dollar to level percentage of salary beginning July 1, 2013.

LB306 changes the amortization method in the Judges Retirement Act from level dollar to level percentage of salary beginning July 1, 2013.

## Revenue

### Alternative minimum tax repeal discussed

Senators began debate May 16 on a bill that would make changes to the computation of income taxes.

LB308, introduced by Columbus Sen. Paul Schumacher, would eliminate the federal alternative minimum tax (AMT) calculation for individual state income tax purposes for taxable years beginning Jan. 1, 2014.

Schumacher said the AMT originally was intended to apply only to the very wealthy, but in fact impacts many people making more than \$75,000 annually.

“The alternative minimum tax calculation no longer serves its original purpose of targeting tax dodgers,” he said. “Instead, it targets the exact kind of hardworking, educated and productive people we want to attract

to Nebraska.”

The proposed changes would apply to estates and trusts required to pay state income taxes. It also would eliminate the federal credit for prior year AMT for taxable years beginning in 2014.

A pending Revenue Committee amendment would incorporate provisions of LB457, originally introduced by Omaha Sen. Bob Krist. The amendment would increase the carry-forward period for a net operating loss (NOL) from five years to 20 years for taxable years beginning in 2014. Currently, taxpayers can deduct a NOL for five taxable years following the year of loss.

Revenue Committee chairperson Sen. Galen Hadley said only five other states have shorter carry-forward periods than Nebraska’s.

“[The current policy] is penalizing startup businesses,” Hadley said. “These are the very businesses we want to come to Nebraska, stay here and be successful.”

Omaha Sen. Ernie Chambers introduced an amendment that would have implemented provisions of LB266, a bill he originally introduced, that would repeal a 2012 law allowing municipalities to vote for an increase in local option sales taxes.

Chambers said any municipalities that already have increased their local option sales taxes could be grandfathered in.

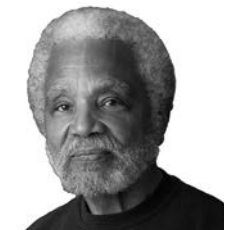
“This is a regressive tax that [disproportionately] affects the poor,” he said.



Sen. Bob Krist



Sen. Paul Schumacher



Sen. Ernie Chambers

“The richest person who purchases something pays no higher rate than the poorest person.”

Omaha Sen. Brad Ashford, a co-sponsor of LB266, supported the amendment. He said Nebraska must act to become more competitive with neighboring states.

“We’re on the verge of making significant tax reform in our state,” Ashford said. “The only realistic way to do that is to remove many of the loopholes and exemptions we’ve created in our tax code since 1967.”

Wahoo Sen. Jerry Johnson opposed the amendment, saying municipalities have not had enough time to take advantage of the law.

“Taking away the local option sales tax right now is premature,” he said. “We should let the [proposed] tax commission study look at all phases of this and let it correct any issues we may find.”

The Chambers amendment failed on a 23-16 vote. Omaha Sen. Beau McCoy filed a motion to reconsider the vote.

The motion to reconsider and both amendments were pending when the Legislature adjourned for the week. ■

## COMMITTEE HEARING

**Monday, May 20**

**Natural Resources  
Room 1525 - 9:00 a.m.**

LR171 Dubas -- Support the development and designation of a continuous Chief Standing Bear Trail from Nebraska to Oklahoma ■

## CAPITOL CONTACT

### State government office phone numbers

Governor’s Office .....	(402) 471-2244
Lt. Governor’s Office .....	(402) 471-2244
Secretary of State’s Office.....	(402) 471-2554
State Capitol Tours.....	(402) 471-0448

### Popular legislative website features

Nebraska Legislature website .....	<a href="http://www.nebraskalegislature.gov">www.nebraskalegislature.gov</a>
Bills & documents.....	<a href="http://www.nebraskalegislature.gov/bills">www.nebraskalegislature.gov/bills</a>
Unicameral Update Online .....	<a href="http://update.legislature.ne.gov">update.legislature.ne.gov</a>

### Helpful legislative phone numbers

Legislative Hot Line (Lincoln).....	(402) 471-2709
Legislative Hot Line (Nebraska outside Lincoln) .....	(800) 742-7456
24-Hour Automated Request Line .....	(402) 471-2877
Bills, resolutions or Legislative Journals (SUBSCRIPTIONS) ..	(402) 471-2271
Bills, resolutions or Legislative Journals (INDIVIDUAL COPIES) ...	(402) 471-2877
Nebraska Blue Book .....	(402) 471-2788
Warner Institute for Education in Democracy .....	(402) 471-2788

### Legislative division phone numbers

Clerk of the Legislature .....	(402) 471-2271
Fiscal Office.....	(402) 471-2263
Legislative Research Division.....	(402) 471-2221
Ombudsman.....	(402) 471-2035
Revisor of Statutes.....	(402) 471-2225

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

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

## UNICAMERAL UPDATE

The Unicameral Update is a free newsletter offered weekly during the legislative session. It is produced by the Clerk of the Legislature's Office through the Unicameral Information Office. For print subscriptions, call (402) 471-2788 or email [uio@leg.ne.gov](mailto:uio@leg.ne.gov).



On Twitter at  
[twitter.com/UnicamUpdate](https://twitter.com/UnicamUpdate)



By RSS feed at  
[update.legislature.ne.gov](http://update.legislature.ne.gov)



Online at  
[update.legislature.ne.gov](http://update.legislature.ne.gov)

Clerk of the Legislature: Patrick J. O'Donnell

Editor: Heidi Uhing

Contributors: Nicole Behmer, Bess Ghormley,  
Kate Heltzel and Ami Johnson

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

## LEGISLATIVE RESOURCES

### STATUS OF BILLS OR RESOLUTIONS

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

### BILLS, RESOLUTIONS OR LEGISLATIVE JOURNALS

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

### LIVE VIDEO STREAM OF THE LEGISLATURE

[www.nebraskalegislature.gov](http://www.nebraskalegislature.gov)

### SENATOR WEB PAGES

[www.nebraskalegislature.gov/senators](http://www.nebraskalegislature.gov/senators)

### SENATORS' MAILING ADDRESS

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

### NEBRASKA BLUE BOOK

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

### STUDENT PROGRAMS AT THE LEGISLATURE

Unicameral Information Office: (402) 471-2788  
[www.nebraskalegislature.gov/education/  
student\\_programs.php](http://www.nebraskalegislature.gov/education/student_programs.php)