

THE NEBRASKA LEGISLATURE'S  
WEEKLY NEWS PUBLICATION

Stories published daily at  
update.legislature.ne.gov

## UPDATE

## Senators advance bill to allow cities to request 0.5-cent added sales tax

Cities could ask voters for an additional 0.5 percent in local option sales tax under a bill that narrowly advanced from general file April 12.

Current law permits cities to impose a local option sales tax of 0.5 percent, 1 percent or 1.5 percent with voter approval.

LB357, introduced by Omaha Sen. Brad Ashford, would permit cities to levy a 2 percent local option sales tax. A description of the proposed use for local option sales tax revenues would be provided on the ballot if a rate increase were proposed.

Ashford said the Legislature has

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Sens. Brad Ashford (left), Abbie Cornett and John Harms confer during the sales tax debate.

## Hearing held on labor dispute compromise

The Business and Labor Committee heard testimony April 13 on a proposed amendment 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 an amendment, AM1116 to LB397, which he said would address concerns regarding consistency and predictability in the state's dispute resolution process. The CIR acts according to general guidelines found

in state law, Lathrop said, but most of the rules governing their actions have been established by case law.

The goal of the amendment, he said, is to provide specific guidelines in state law in a number of areas that impact labor disputes. Lathrop said the proposal is a compromise between labor and management that resulted from months of negotiations.

"We did not hear a call for repeal of the CIR," he said, "nor did we hear a call to end collective bargaining. What we heard was a call to reform the Commission on Industrial Relations."

Among other provisions, the amendment would set the following criteria for choosing an array for wage comparison purposes:

- remove the rule of evidence requirement;
- provide a preference for geographic proximity;
- specify a 70 percent match of duties performed and time spent performing those duties;
- set criteria for the size of comparable out-of-state cities and metropolitan statistical areas;
- allow public and private com-

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# A CLOSER LOOK

## Senators advance bill to allow cities to request 0.5-cent added sales tax

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not allowed municipalities to increase their local option sales tax for 33 years. Over that period of time, the state has “eroded” the sales tax base with exemptions and incentives, he said.

LB357 would give city voters the opportunity to decide whether to fund local services with property taxes or sales taxes, Ashford said, adding that cities would have to present a plan to voters to receive additional sales tax authority.

“Local voters, local taxpayers are prudent,” Ashford said. “They are going to agree to utilize their sales tax base and expand that sales tax base if they see a plan.”

Bellevue Sen. Abbie Cornett supported the bill, saying citizens of a municipality should have the ability to choose how they fund infrastructure needs.

“If the people choose to pass this half-cent sales tax rather than incur a property tax increase, then that is their decision,” Cornett said.

Kearney Sen. Galen Hadley said sales taxes are an efficient way to collect revenue, as a dollar generated from sales tax results in only 17 cents of economic damage. Meanwhile, he said, each dollar of revenue generated by corporate income taxes produces \$1.55 in economic damage and every dollar from individual income tax costs 56 cents

in economic activity.

Hastings Sen. Dennis Utter opposed the bill, saying it would give up the state’s sales tax base. In addition, if the state experiences a robust economic recovery, he said, political pressure could prevent the local option sales tax authority from being reduced.

North Platte Sen. Tom Hansen also spoke in opposition to the bill. Many

higher sales tax because people from surrounding towns would help pay it, he said.

Elk Creek Sen. Lavon Heidemann offered an amendment to restrict the additional local option sales tax authority to municipalities with city property tax levies of 40 cents per \$100. He said the amendment would replicate provisions of state aid to education that reduce assistance to school districts with property tax levy rates that are below 95 cents per \$100.

Omaha Sen. Bob Krist opposed Heidemann’s amendment. With current levies, he said, only cities that encompass 15 percent of the state’s population could enact a higher local option sales tax.

“We cannot rely on property taxes and we cannot give that as the only opportunity for political subdivisions to solve their problems,” Krist said.

After Heidemann’s amendment failed on a 10-25 vote, lawmakers considered an amendment offered by Omaha Sen. Heath Mello. It proposed

that at least 5 percent of the additional half-cent local option sales tax authority be deposited in a fund to provide property tax relief. Mello later withdrew the amendment.

LB357 advanced from general file on a 27-14 vote. ■

**“If the people choose to pass this half-cent sales tax rather than incur a property tax increase, then that is their decision.”**

**– Sen. Abbie Cornett  
Revenue Committee chairperson**

of the larger communities that would take advantage of the extra sales tax authority have property tax levies that are less than half the municipal lid, he said, so they should explore that as an option first. Furthermore, voters in cities that have large trade areas would have an incentive to enact a

# A CLOSER LOOK

## Hearing held on labor dispute compromise

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Sen. Dennis Utter, a key participant in the negotiation, expresses his support for the agreement.

parisons when matches are appropriate and available; and

- set the preferred array size at between seven and 13, with as few as five allowed if all array members are Nebraska employers.

If a comparison were made with an out-of-state city or metropolitan statistical area, the amendment would require that wage information be adjusted to reflect Nebraska's cost of living.

"I call it 'Nebraska-tizing' the numbers," Lathrop said.

The amendment also would incorporate health insurance and pension benefits into an hourly rate value. Lathrop said the provision would allow cities to receive credit

for benefits provided to workers, rather than relying solely on wage comparisons within an array.

Lincoln Mayor Chris Beutler supported the amendment, saying it represents a reasonable compromise. The proposal will not solve all concerns with the CIR, he said, but added that incremental reform can be meaningful.

"Compromise is the nature of how we all get along and how we move ahead as a society to make progress," Beutler said. "It is always finding the center of things – finding the balance – that is the art of the democratic process."

Jerry Pigsley, a Lincoln labor lawyer, also supported the amendment, saying it will increase predictability in labor disputes.

"The guidelines will no longer be guidelines, they will be rules," he said.

Tonn Ostergard, testifying on behalf of the Lincoln, Omaha and Nebraska chambers of commerce, opposed the amendment. He said the compromise fails to include cost containment measures and does not allow elected officials to manage their own budgets.

Dave Nability of the Omaha Alliance for the Private Sector also opposed the proposal, saying it puts management at a "huge disadvantage" in labor disputes. Cities should be allowed to determine staffing and public safety needs, he said, while also finding ways to limit expenditures.

"Omaha needs to be able to cut costs," Nability said. "Omaha is in a crisis situation."

The committee voted 6-1 to advance the proposal to general file. ■



Sen. Steve Lathrop explains the compromise amendment before a crowded hearing room.

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## Agriculture

### Ethanol labeling bill postponed

A bill that would eliminate a requirement to label pumps containing ethanol gasoline was laid over April 13.

Current law requires the labeling of gas pumps providing fuels with ethanol or methanol concentrations of 1 percent or more.

LB698, introduced by Imperial Sen. Mark Christensen, originally would have ended the requirement altogether but was amended during general file debate to increase the labeling threshold to pumps containing 11 percent ethanol or methanol.



Sen. Mark Christensen

The bill met a filibuster on select file April 13.

Christensen said gasoline containing 10 percent ethanol comprised 85 percent of fuel sales in the state last December so the ethanol distinction is no longer necessary.

Holdrege Sen. Tom Carlson supported the bill, saying it would help support Nebraska's agriculture industry by promoting the use of ethanol. The bill would not prevent a gas station from labeling pumps, he said, so owners still could label them if they get requests from customers to do so.

Omaha Sen. Scott Lautenbaugh said both people who use ethanol and those



who avoid the additive support labeling because it lets them know if ethanol is in the fuel they purchase. Further, the current labeling requirement has not prevented ethanol from achieving great market penetration, he said.

Wilber Sen. Russ Karpisek also opposed the bill. Removing the labeling requirement could be perceived as an underhanded way to increase sales of ethanol-blended fuels, he said.

"Let's not hide what is in our gas," Karpisek said.

Carlson offered an amendment he later withdrew to instead require the labeling of nonethanol fuels and Lautenbaugh offered a motion to bracket the bill until the last scheduled day of the session. Christensen then filed a motion to indefinitely postpone the bill and elected to lay over LB698 until next session.

## Banking, Commerce & Insurance

### Commercial site development bill amended, advanced

Senators expanded and gave second-

round approval April 14 to a bill intended to facilitate development of industrial sites and buildings in Nebraska.

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



Sen. John Wightman

The fund would be administered by the state Department of Economic Development (DED) and could provide loans, grants, subsidies, credit enhancements and other financial assistance.

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

As amended on general file, the bill would transfer \$1 million per year for two years from the Affordable Housing Trust Fund to the Site and Building Development Fund. Continued funding would be provided by



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directing to the development fund 25 cents of every \$1.75 remitted to the state annually from the Real Estate Documentary Stamp Fee.

Norfolk Sen. Mike Flood offered an amendment during select file debate, adopted 34-0, that would add to the bill a new Industrial Recovery Fund. The fund would be administered by DED and consist of unused funds remitted from projects receiving Affordable Housing Trust Fund dollars.

Flood said approximately \$280,000 per year is returned by housing authorities across the state.

The amendment would divert up to \$1 million of that returned money to the Industrial Recovery Fund to provide assistance to cities in which a significant private-sector entity downsizes or closes. Funds could be used to upgrade or replace vacant manufacturing facilities quickly, Flood said, preventing extended job loss.

“This emergency fund gives us the ability as a legislature to grant DED authority to step in and do something,” he said. “If this happens in your community, you don’t need affordable housing – you need jobs.”

After adopting the Flood amendment, lawmakers advanced LB388 to final reading by voice vote.

## Education

### Blood lead level testing proposed for all students

A lead testing bill was expanded April 12 to require testing of children attending both parochial and public schools.

LB204, introduced by Omaha Sen. Brenda Council, would require blood lead level testing of children between the ages of 18 months and four years as a condition of enrolling in public schools.



Sen. Brenda Council

A Council amendment adopted on select file also would require the testing for enrollment in parochial schools and would allow testing to be completed by age six. Under the amendment, blood-lead testing would not be required if a student submits:

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

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

Council offered a second amendment, adopted 26-0, that would eliminate the requirement for testing to take place prior to the age of six.

School representatives pointed out that some students do not enroll in kindergarten until they are six years of age, Council said, so this amendment was offered to take those children into consideration.

The Council amendment was adopted 28-0 and LB204 was advanced from select file on a voice vote.

## Government, Military & Veterans Affairs

### Electioneering reporting bill stalls

A bill that would require reporting of electioneering activity under the Nebraska Accountability and Disclosure Act failed to advance from select file April 14.

LB606, introduced by Lincoln Sen. Bill Avery, would require a person who makes an electioneering communication in the amount of more than \$250 to file a report with the Nebraska Accountability and Disclosure Commission.



Sen. Bill Avery

An electioneering communication is defined as any communication that:

- refers to a clearly identified candidate;
- is publicly distributed in the 30 days before an election; and
- is directed to the electorate of the office sought by the clearly identified candidate.

The definition would not include a contribution or expenditure, communication by the media, a candidate debate or a communication by a membership organization to its members.

Under the bill, a corporation, labor organization or business association making an electioneering communication with a value of more than \$250 would be required to file a report disclosing the date, nature and

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value of the communication and the name, address, occupation, employer and principal place of business of each person who contributed more than \$250 to the communication.

A report would have to be filed within 10 days.

Omaha Sen. Bob Krist offered an amendment during select file debate that would have removed a requirement that organization members be defined as those who have paid a fee or submitted a written document indicating intent to be a member. He said the bill as written would allow some groups but not others to engage in electioneering without being required to report their activities.

"This amendment would ensure that all membership organizations are treated equitably under LB606," Krist said.

Avery opposed the amendment, saying it would create a "gaping loophole" in the bill's reporting requirements.

Avery said the reporting exception was written narrowly to prevent organizations with a defined membership from being caught up in electioneering reporting requirements when they communicate information to their members. Failing to specify how membership is defined would open the exception to abuse, he said.

Sen. Scott Lautenbaugh of Omaha expressed concern that churches and other religious organizations could be required to report activities such as advising their congregations about elected officials' positions on issues of concern to them.

"Under the definition set forth in this bill, we would be targeting churches," he said.

Omaha Sen. Heath Mello dis-

agreed, calling discussion of the bill's potential impact on churches "disingenuous." Churches and other religious organizations are not allowed to engage in electioneering activity under current federal law, he said.

"If they are engaging in political activity, they are breaking the law," Mello said.

The Krist amendment failed on a 24-14 vote, one vote short of adoption.

Omaha Sen. John Nelson offered an amendment that would have required the Nebraska Accountability and Disclosure Commission to promulgate rules and regulations regarding electioneering in accordance with federal election law.

Avery opposed the amendment, saying Nebraska should develop its own election law based on local needs.

"LB606 is a law that we ought to interpret ourselves," he said.

The Nelson amendment failed on a 15-16 vote and the bill failed to advance to final reading on a vote of 20-7.

## Vehicle donations expanded to veterans, advanced

Political subdivisions would be allowed to donate certain motor vehicles to charitable organizations under a bill given second-round approval April 13.

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

people in need.

Hoskins Sen. Dave Bloomfield offered an amendment, adopted 25-9, which would prohibit a donation if an employee of the charitable organization or the vehicle recipient were an immediate family member of the political subdivision's governing body.

"All this amendment seeks to do is to limit who [the recipient] might be," Bloomfield said. "If we're going to be giving away vehicles, we shouldn't be giving them to relatives."

Cook opposed the amendment, saying it would hinder local control.

A second Bloomfield amendment would have required a political subdivision to publish a newspaper notice within 30 days after a donation specifying the recipient, the vehicle year, make, model and value and the date and location of the donation.

Lincoln Sen. Bill Avery opposed the amendment, saying current open meeting laws already require sufficient public notice.

Cook also opposed the amendment, which failed on a 12-26 vote.

"This would add an additional financial burden on political subdivisions," she said.

A third Bloomfield amendment would add 501(c)3 and 501(c)19 organizations to the list of charitable entities eligible to participate in a vehicle donation program. He said the change would allow veterans' organizations such as the American Legion and Veterans of Foreign Wars to benefit from the bill.

Following adoption of the final Bloomfield amendment on a 37-0 vote, senators advanced the bill to final reading by voice vote.



Sen. Tanya Cook

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## Health & Human Services

### Child welfare agency accreditation bill stalls

A motion was offered April 12 to bracket a bill designed to provide oversight of certain aspects of Nebraska's child welfare reform efforts.

Introduced by Omaha Sen. Gwen Howard, LB95 would require any lead agency contracting with the state Department of Health and Human Services to be accredited by a national accrediting entity, within 18 months of entering into a contract with HHS or of the bill's passage, with respect to out-of-home services provided to those under the age of 19.

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

Lincoln Sen. Cathy Campbell, chairperson of the Health and Human Service Committee, offered the motion to bracket the bill until Jan. 4, 2012. She said Gov. Dave Heineman informed the committee that HHS will voluntarily implement the moratorium outlined in the bill and

cooperate fully with a legislative review of reform efforts.

The Legislature adjourned without taking action on the pending bracket motion.

## Judiciary

### Juvenile truancy provisions revised, CASA grants advance

Senators advanced a bill April 11 that would revise the juvenile truancy and excessive absenteeism policies and practices.

LB463, introduced by Omaha Sen. Brad Ashford at the request of Gov. Dave Heineman, would require that at least 50 percent of the learning community coordinating council operating funds be used for truancy intervention programs that incorporate evidence-based practices pursuant to a plan developed by participating superintendents. The funds would be provided until the learning community's annual rate of truancy, or absenteeism of more than 10 days, is reduced by 50 percent from the rate in fiscal year 2010-11.

Under the bill, excessive absenteeism policies must include a provision indicating how the district and the county attorney will handle cases in which excessive absences are due to documented serious illnesses. The bill also would allow law enforcement agencies to have access to applicants' sealed juvenile records.

Ashford said the state's schools saw more than 23,000 trancies last

year — a number he called "alarming." This bill directly addresses the issue of truancy in schools by requiring early intervention with children who are excessively absent, he said.

Lincoln Sen. Kathy Campbell spoke in support of the bill, saying that student truancy should raise a concern.

"Truancy is one of those red flags, one of those things that first comes up in a young person's life that can be the first step into a gateway in terms of entries into the juvenile justice system," Campbell said.

A Judiciary Committee amendment would strike the original provisions of the bill requiring information sharing and the creation of a truancy intervention plan and instead would authorize the Learning Community Coordinating Council to administer pilot projects related to truancy initiatives that would share information regarding at-risk youth. It also would appropriate \$150,000 from the learning community to the Nebraska Commission on Law Enforcement and Criminal Justice in FY2011-12 and \$30,000 for each subsequent fiscal year for an information management system.

Also included in the amendment were provisions from LB79, a bill originally introduced by Lincoln Sen. Amanda McGill that would provide a grant program for Court Appointed Special Advocates (CASAs). The grants would be funded by transferring \$100,000 from the Commission on Public Advocacy Operations Cash Fund to the CASA Cash Fund in 2011 and \$200,000 would be transferred in 2012.

Approximately 1,500 people in the state are currently receiving help and support from CASA volunteers, Ash-



Sen. Gwen Howard



Sen. Brad Ashford

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ford said, and these types of services are difficult to find in rural areas. Funding the programs is a “tremendous investment,” he said, because it could assist in recruiting volunteers to help more children throughout the state, making them less likely re-enter the system.

“Our goal in the committee over the last few years [has been] to unclog the juvenile system by preventing people from coming in,” he said. “That is what the truancy initiative is all about.”

Omaha Sen. Jeremy Nordquist supported the amendment and the bill, saying that the data-sharing component and CASA program funding are critical. Many students in the learning community are state wards or are on probation, he said, so HHS and probation need to know when these students are absent from school.

Furthermore, Nordquist said, CASA volunteers serve a critical function of the state. Children with CASA volunteers spend four months less in out-of-home care than those without volunteers, he said, so the funds invested in CASA will come back many times over in savings to the state’s foster care system.

Ashford offered an amendment to the committee amendment, adopted 33-0, that also would require the learning community to establish goals to reduce excessive absenteeism and authorize the council to fund public or private entities in the juvenile justice system that would reduce excessive absenteeism and unnecessary involvement with the system.

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

## Bill amended to allow guns for private security at schools

Senators amended a firearms records bill April 12 to allow contracted school security officers to carry firearms.

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

Additionally, the bill would enable a person who has been barred from buying or possessing a gun for mental health reasons to resubmit an application if he or she no longer suffers from the disqualifying condition.

Christensen introduced an amendment on select file containing provisions from LB618, a bill originally introduced by Omaha Sen. Burke Harr. The amendment would allow peace officers or other duly authorized law enforcement officers to possess firearms when contracted by a school to provide school security or school event control services.

The amendment would provide a great option for schools to allow private security on their property for school functions, Christensen said.



Sen. Mark Christensen

The amendment was adopted 29-0 and the bill was given second-round approval on a voice vote.

## Natural Resources

### Criteria added to water projects funding proposal

Reports detailing the efficacy of water projects would be required under an amendment adopted April 13 to a bill providing transfers to the Water Resources Cash Fund.

The Water Resources Cash Fund is used by the state Department of Natural Resources primarily to aid water management actions taken by natural resource districts in overappropriated and fully appropriated basins bound by an interstate compact, decree or agreement.

As amended during general file, LB229, introduced by Valentine Sen. Deb Fischer, would require the state Department of Natural Resources to submit an application to the Nebraska Environmental Trust Fund for a three-year \$9.9 million grant to aid management actions taken to reduce consumptive uses of water, to enhance stream flows, to recharge groundwater or to support wildlife habitats in any fully appropriated or overappropriated river basin.

The application would be awarded 50 points in the project ranking process if the Legislature provides matching \$3.3 million annual appropriations for three years. Funds would be transferred to the Water Resources Cash Fund.



Sen. Deb Fischer



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In order to provide \$3.3 million to match the trust grant, the bill would provide two appropriations of \$600,000 from the general fund to the Water Resources Cash Fund to complement existing appropriations of \$2.7 million per year. It also would direct the department to apply to the trust for another three-year grant if certain criteria are met.

Such criteria were the subject of an amendment offered on select file by Schuyler Sen. Chris Langemeier. In order for the department to apply for an additional three-year grant, the amendment would require that:

- projects and activities funded by the first grant contribute to the conservation, enhancement, and restoration of Nebraska's ground water and surface water resources;
- the Legislature's Natural Resources Committee submit by Dec. 1, 2012, a report detailing water needs, funding sources and recommendations for legislation; and
- the department provide a report verifying that natural resources districts provided matching funds for projects, 10 percent or less of the matching funds were provided by in-kind contributions and all other projects received matches of at least 40 percent from other funding sources.

Langemeier said the amendment would establish benchmarks and make the department's application process identical to other applicants'.

Lincoln Sen. Danielle Conrad questioned whether the bill is unconstitutional on the grounds that it would violate the integrity of the

trust, which is set forth in the state constitution.

Senators voted 37-1 to adopt Langemeier's amendment and 34-4 to advance LB229 from select file.

## Revenue

### Grants awarded by civic center fund could increase

The maximum grants awarded by the Local Civic, Cultural and Convention Center Financing Fund could increase under a bill advanced from select file April 13.

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

LB297, introduced by Fullerton Sen. Annette Dubas, would rename the fund as the Civic and Community Center Financing Fund and change the purpose of the fund from supporting projects that attract new civic, cultural and convention activity from outside of Nebraska to supporting projects that foster maintenance or growth of communities.

The bill also would reduce the cash match required of local funds from 80 percent to 50 percent. In addition,

current language prohibiting the use of fund assistance for planning would be eliminated and planning would be made a criterion for project selection.

The bill would add libraries to the definition of civic centers.

Dubas offered an amendment on select file, adopted 29-0, to adjust the maximum grants awarded under the act if the balance of the fund would reach \$2.5 million. Until the fund would recede below \$1 million, the maximum grants for cities would be:

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

Dubas said her amendment would provide a framework to offer more grants if revenues to the fund are increased by arenas planned in Lincoln and Ralston.

Senators also considered amendments by Norfolk Sen. Mike Flood to exempt libraries from matching funds required under the act, Omaha Sen. Burke Harr to include metropolitan class cities in the act and Lincoln Sen. Bill Avery to change the definition of civic center to civic and community project. All three senators withdrew their amendments.

LB297 advanced from select file on a voice vote.



Sen. Annette Dubas

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## Proposal to eliminate state energy conservation program scaled back

A bill intended to eliminate the Energy Conservation Improvement Fund was amended on select file April 12 to retain the energy conservation improvements the fund supports, albeit with a sunset date.

The fund supports the Low-Income Home Energy Conservation Act, which offers grants to public and nonprofit electric utilities providing matching funds to complete energy conservation improvements for Nebraska homeowners whose income is at or below 150 percent of the federal poverty level. The fund receives revenues from up to 5 percent of state sales taxes collected on electricity bills of participating utilities.

LB385, introduced by Hastings Sen. Dennis Utter at the request of the governor, originally would have terminated the fund on June 30, 2012.



Sen. Dennis Utter

Omaha Sen. Heath Mello introduced an amendment to suspend the program until July 1, 2014, at which point the Legislature would appropriate \$250,000 to the fund each biennium. Utilities participating in the program could dedicate up to \$50,000 per fiscal year to be matched by the fund.

Mello's amendment would end the program on July 1, 2019.

After adopting Mello's amendment 29-1, lawmakers advanced LB385 from select file on a voice vote.

## Transportation & Telecommunications

### Towing bill amended into proposal to extend oversized vehicle permits

A bill expanding current law permitting overlength and overweight tows was amended into a related bill on select file April 12.

LB35, introduced by Scottsbluff Sen. John Harms, would increase to 210 days the maximum life of a state Department of Roads overweight or overlength permit for hauling loads of grain, sugar beets and other seasonally harvested products. Currently, such permits may be purchased for 30 or 60 days and renewed for a maximum of 120 days per year.



Sen. John Harms

Omaha Sen. Scott Lautenbaugh offered an amendment to the bill that incorporated provisions of LB353, a bill he introduced to address towing load restrictions.

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

Under Lautenbaugh's amendment, the 150-foot limitation would not apply to tows of single vehicles to a place of repair or storage. The amendment also would exempt tows of multiple vehicles and permitted oversize vehicles as long as such vehicles are towed to the first and nearest location that can accommodate them. Afterwards, a special single trip permit could be ac-

quired to transport an oversize vehicle.

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

Lautenbaugh said his amendment was based on a Missouri law that provides for the safe and quick removal of damaged vehicles from roads.

Lawmakers voted 34-0 to adopt Lautenbaugh's amendment and advanced LB35 from select file on a voice vote.

### Exemption from PSC regulation for HHS service contractors amended, advanced

Contractors providing transportation services for the state Department of Health and Human Services would be exempt from PSC motor carrier regulations under a bill advanced from select file April 12.

As amended during general file, LB112, introduced by Lincoln Sen. Colby Coash, would create two exemptions from PSC regulation for residential care transportation services and supported transportation services that meet HHS safety requirements.



Sen. Colby Coash

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

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

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

Coash offered an amendment to add an exemption for licensed care transportation services, which would include transportation provided by licensed child-caring agencies, child-placing agencies or child care facilities to a client or family member when the person providing the transportation also assists and supervises the passenger. Licensed care transportation services would be incidental to social services provided by the agency or facility to the passenger.

His amendment also would require motor carriers providing licensed care transportation services to meet PSC minimum driver standards, equipment standards and insurance requirements, which would be consistent with HHS requirements for attended services, residential care transportation services and supported transportation services.

Coash said the amendment would ensure that HHS service contractors are exempt from PSC motor carrier regulation, which was the case before

an August 2010 opinion issued by the attorney general. Failing to adopt the amended bill could cost the state and service providers \$18 million, he said.

Lawmakers adopted Coash's amendment 37-0 and advanced LB112 from select file on a voice vote.

## Penalty reduction proposed for obstruction of a driver's view

Placing or hanging objects in a vehicle that obstruct or interfere with the view of the operator would become a secondary offense under a bill advanced from general file April 11.

Currently, operating a vehicle with such objects is a Class V misdemeanor, which calls for a maximum fine of \$100.

LB500, introduced by Omaha Sen. Tanya Cook, would downgrade this violation to a traffic infraction. Violators would be charged one point on their driving records and fined \$50 for first offenses, \$100 for second offenses

and \$150 for subsequent offenses.

The bill would make the enforcement of the law a secondary action, meaning the driver first would have to be cited or charged with some other violation.

"Our constituents should not face a traffic stop or a criminal record because of an air freshener, rosary or the ubiquitous pair of fuzzy dice," Cook said, adding that an Omaha Police Safety Auditor report found that stops for windshield obstruction disproportionately affect minority groups.

After adopting a Transportation and Telecommunications Committee amendment 35-0 to restrict windshield obstruction to objects that "significantly and materially" obstruct or interfere with the view of a driver, lawmakers voted 32-0 to advance LB500 from general file. ■



Sen. Tanya Cook



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03-23-05

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## UNICAMERAL UPDATE

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