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UPDATE

101st Legislature adjourns sine die



Speaker Mike Flood, with Sens. Annette Dubas (left) and Abbie Cornett, greets Gov. Dave Heineman as he enters the George W. Norris Chamber to address the Legislature before it adjourns.

The 101st Legislature, second session, adjourned sine die April 14. In even-numbered years, lawmakers convene for 60 legislative days.

Senators passed 196 bills this session and debated all 101 priority bills. Norfolk Sen. Mike Flood, Speaker of the Legislature, called fiscal responsibility the hallmark of the session, noting the state's \$307 million cash reserve balance.

"It speaks well for the restraint we've shown," he said.

Among the major accomplishments this session, Flood named wind

energy legislation, juvenile justice reform, economic development proposals and changes to state aid funding for community colleges.

Gov. Dave Heineman congratulated senators on their accomplishments. In his address to the body the governor highlighted legislation regarding the state's economy, specifically mentioning LB1018, introduced by Bellevue Sen. Abbie Cornett, which created the Nebraska Advantage Transformational Tourism and Redevelopment Act, and LB1048, introduced by the Natural Resources Committee, which creates a process

for private renewable wind energy development.

The Legislature recognized three senators who will not return next session.

Papillion Sen. Tim Gay, elected in 2006, is not running for re-election this year. As chairperson of the Health and Human Services Committee, Gay said he had been honored to serve Nebraskans and work for solutions to difficult problems.

"It's been an awesome responsibility," he said. "I wouldn't change it for the world."

Sen. Tom White of Omaha also is not seeking re-election. Elected to the Legislature in 2008, he served on the Business and Labor, Revenue, and Urban Affairs Committees. White emphasized the importance of conviction in public service.

"[Words] don't mean anything if they're just spoken," he said.

Sen. Arnie Stuthman of Platte Center will not return to the Legislature due to term limits. During his time in the Unicameral, he served on the Health and Human Services Committee and was vice chairperson of the Transportation and Telecommunications Committee. First elected in 2002, Stuthman said he enjoyed his time in the Legislature.

"Being the senator from District 22 has been one of the most stressful jobs that I've ever had, but it has also been one of the most rewarding," he said.

Senators voted unanimously to adjourn sine die. The 102nd Legislature is scheduled to convene next year on Jan. 5. ■

DEPARTING SENATORS



*Above (top to bottom): Sens. Tim Gay of Papillion (District 14), Tom White of Omaha (District 8) and Arnie Stuthman of Platte Center (District 22) delivered farewell addresses to the Legislature April 14.
Right: Foyer of the Nebraska State Capitol Building*



LEGISLATURE ADJOURNS



Clockwise from top left: Sens. Chris Langemeier, Steve Lathrop, Bob Giese, Galen Hadley, Tom White and Greg Adams; Sens. Russ Karpisek, Tanya Cook and Kent Rogert; Sen. Galen Hadley greets the legislative pages; Sens. Charlie Janssen and Ken Schilz; Sens. Kent Rogert, Steve Lathrop, Annette Dubas and Amanda McGill.

ISSUES UPFRONT



Banking, Commerce & Insurance

Property appraisal and evaluation bill approved

Lawmakers gave final approval April 12 to a bill that makes changes to the Nebraska Real Property Appraiser Act.

LB931, sponsored by Cedar Rapids Sen. Kate Sullivan, addresses the authority of the Appraisal Standards Board and the Appraiser Qualifications Board to establish criteria for the state regulator of real property appraisers.



Sen. Kate Sullivan

The bill requires that courses of study for credentialing purposes be taken at degree-awarding institutions. It was amended to include provisions of LB818.

Also sponsored by Sullivan, LB818 allows a broker's price opinion (BPO) or a comparative market analysis (CMA) prepared by a real estate licensee to be used to obtain, extend or modify financing in a non-federally related transaction. The bill requires that a BPO or CMA be signed and dated and include a disclosure that the evaluation is not an appraisal.

LB931 passed 45-0.



Business & Labor

Senators pass employee classification bill

Senators passed a bill April 12 that addresses the misclassification of employees as independent contractors.

LB563, introduced by Omaha Sen. Steve Lathrop, defines an independent contractor as one who is registered under the Contractor Registration Act and is assigned a combined tax rate or is exempt from unemployment insurance coverage. A violation will result in employers being fined \$500 per misclassified employee for the first offense and \$5,000 per misclassified employee for subsequent offenses.



Sen. Steve Lathrop

Under the bill, public construction contractors are required to submit an affidavit attesting that each employee has completed an I-9 form and is properly classified and that the contractor has complied with E-verify, the federal program that verifies the legal resident status of newly hired employees.

The bill requires the state Department of Labor to establish and operate a hotline and Web site to accept

reports of suspected violations. LB563 passed on a 43-1 vote.

Expansion of convention center financing approved

A bill authorizing expansion of the state's Convention Center Facility Financing Assistance Act was given final approval April 12.

The act provides a mechanism for using sales tax revenue to fund the construction or enhancement of certain facilities. Sales tax revenue generated by a qualifying facility – and by retailers within a specified vicinity – is “turned back” to assist in paying down the debt incurred to develop and build the facility. The Legislature has authorized the use of turnback funds for the Qwest Center in Omaha and a proposed Lincoln arena.

LB779, introduced by Omaha Sen. Steve Lathrop, permits use of the turnback mechanism for smaller sports arena facilities. The bill defines an eligible sports facility as one that:

- is publicly owned;
- is enclosed and temperature-controlled;
- has a permanent seating capacity of 3,000 to 7,000;
- is financed by a general obligation bond;
- is initially occupied after July

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1, 2010;

- is not bonded for more than 20 years; and
- does not exceed \$50 million in state assistance.

Also eligible under the bill is any racetrack enclosure licensed by the State Racing Commission that is initially occupied on or after July 1, 2010, including concession areas, parking facilities and onsite administrative offices connected with operating the racetrack.

Under the bill, retailers located within 600 yards of an eligible facility will be subject to the turnback formula. Any increase in sales tax revenue from retailers that existed 24 months prior to the facility's completion and all sales tax revenue collected by retailers that began operation up to 24 months prior to, or 24 months after, completion of the facility can be used for the turnback provision.

Under the formula, 70 percent of turnback revenue will be used to retire debt on the qualifying facility and 30 percent will be directed to the Local Civic, Cultural and Convention Center Financing Fund, which provides grants for rural community improvement projects.

During the final 10 years of financing, turnback funds cannot exceed the highest amount turned back in any single year of the first 10 years of financing.

LB779 also allows cities of the primary and metropolitan class to adopt biennial budgets in even-numbered years. Currently, budgets must be adopted in odd-numbered years.

Senators approved the bill on a 48-0 vote.

Bill seeks federal unemployment stimulus funds

Lawmakers gave final approval April 13 to a bill intended to pave the

way for Nebraska to accept federal stimulus funds for unemployment benefits.

LB1020, sponsored by Sen. Steve Lathrop of Omaha, was originally introduced to make a technical change to Employment Security Law. As amended, the bill provides a way for the state to accept \$43.6 million in American Recovery and Reinvestment Act (ARRA) funds by increasing certain unemployment benefits and tightening other qualifications to offset the cost of providing those benefits.

Beginning July 1, 2011, individuals who are determined ineligible for unemployment benefits based upon wages earned during the first four of the five most recent calendar quarters will be entitled to a redetermination. The redetermination will be based on the last four completed calendar quarters immediately preceding the first day of the claimant's benefit year.

In addition, an individual who otherwise is eligible for unemployment will not be deemed ineligible solely for seeking part-time work if the majority of the weeks of work in his or her base period include part-time work.

An individual who has exhausted all regular unemployment benefits will continue to be eligible for up to 26 additional weeks if, among other provisions, such an individual:

- was voluntarily separated from employment as a result of a permanent reduction of the employer's operation;
- is enrolled and making satisfactory progress in an approved training program that is preparing the individual for entry into a high-demand occupation; and
- is not receiving a similar stipend or other training allow-

ances for non-training costs.

Among other provisions, the bill also extends disqualification periods:

- from 12 to 14 weeks for a misconduct discharge;
- from 12 to 13 weeks for voluntarily leaving employment without good cause; and
- from 1 to 2 weeks for voluntarily leaving employment to accept other employment.

LB1020 passed on a 49-0 vote.

Education

Teacher performance pay from wind, solar leases approved

Senators gave final approval April 12 to a bill that distributes income from proceeds of wind and solar leases on school lands.

LB1014, sponsored by Malcolm Sen. Ken Haar, allows proceeds from wind and solar leases of the Board of Educational Lands and Funds to be used to fund teacher performance pay.

School districts and their collective bargaining agreements will be required to set performance factors that could include improving professional skills and knowledge, classroom performance or instructional behavior and instructional outcomes.

Beginning in 2016, if 75 percent of school districts reach such an agreement in a given year, the commissioner of education will be required to notify school districts of the amount of their apportionment attributable to wind and solar leases and available for teacher performance pay. The



Sen. Ken Haar

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amount available for performance pay is capped at \$10 million per year.

If a school district fails to include a system for teacher performance pay within its local collective-bargaining agreement, funds specified in the bill will be returned to the state treasurer within one month for statewide redistribution on a per-pupil basis.

If the 75 percent requirement is not met in 2016, 2017 or 2018, the bill's provisions will be eliminated.

Income from solar and wind leases will be accounted for separately but will not be placed in a separate fund and will not accumulate.

LB1014 passed on a 45-2 vote.

Bill addressing student data sharing, ESU council issues passed

Senators passed an education bill April 12 that changes administrative procedures ranging from state aid formula deadlines to student data sharing.

LB1071, introduced by York Sen. Greg Adams, sets Oct. 15 as the deadline for schools to provide to the state Department of Education information relating to the state aid to schools formula. Currently, different deadlines are set for different types of information.



Sen. Greg Adams

Under the bill, the deadline for the certification of state aid is changed from Feb. 1 to April 1 for 2011, and March 1 for each year thereafter.

LB1071 provides for the calculation of state aid for unified systems and makes changes related to the early childhood education programs to be included in the calculation of

state aid, as well as district responsibilities for students participating in open enrollment.

The bill also changes the graduate program requirements for the Enhancing Excellence in Teaching Program to include graduate studies other than teacher education programs.

The bill includes provisions from two other bills introduced by Adams that relate to schools.

Provisions from LB957 require the board to adopt a policy for sharing student data with the University of Nebraska Regents, the Nebraska State Colleges board of trustees and the board of governors from each community college area.

Provisions from LB1069 define the educational service unit coordinating council as a political subdivision, but do not grant taxing authority.

The ESU funding formula currently contains two hold harmless provisions based on aid received in prior years. Under LB1069, the hold harmless provisions instead are based on prior year needs and the distance education and telecommunications allowance will be subtracted.

LB1069 requires that only school purchases of technological hardware totaling more than \$10,000 be subject to approval of the Nebraska Information and Technology Commission. The bill also clarifies that schools are not required to join Network Nebraska, a series of service contracts providing access for schools and government to a high-speed telecommunications network.

Among other provisions, LB1071:

- removes a redundant reporting requirement for county assessors to certify taxable value of school districts;
- clarifies residency provisions

for school districts;

- modifies qualifications for pre-school programs that receive state aid funds; and
 - makes the calculation of unused budget authority consistent with recent changes in the budget authority provisions for school districts.
- LB1071 was passed on a 49-0 vote.

Community college funding changes approved

Senators passed a bill April 12 aimed at resolving funding disputes between state community colleges.

LB1072, introduced by York Sen. Greg Adams, terminates the current funding formula and dissolves the Nebraska Community College Association on June 30, 2011. The bill retains the amount of aid for each community college for the 2010-11 school year as follows:

- \$27.1 million for Southeast Community College;
- \$18.4 million for Metropolitan Community College;
- \$12.8 million for Northeast Community College, including Nebraska Indian Community College and Little Priest Tribal College;
- \$12 million for Western Community College;
- \$8.3 million for Central Community College; and,
- \$8.3 million for Mid-Plains Community College.

The six community college presidents will work together to develop a new funding formula and reorganize a community college association.

LB1072 was passed on a 49-0 vote.

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Government, Military & Veterans Affairs

Lead paint control program passes

Lawmakers approved a bill April 12 that creates a program to control health hazards caused by lead-based paint.

Original provisions of LB987, introduced by Omaha Sen. Bob Krist to establish a lung cancer study, were replaced by an amendment offered by Omaha Sen. Brenda Council proposing a Lead-Based Pain Hazard Control Program.

The revised bill directs the state Department of Economic Development to award a \$200,000 grant to a city of the metropolitan class if the city is able to secure grant funding for lead-based paint abatement from the federal Department of Housing and Urban Development. Omaha is the state's only city of the metropolitan class. The Nebraska Health Care Cash Fund is designated as the grant's funding source.

LB987 passed 46-0.



Sen. Brenda Council

Health & Human Services

Hospital licensure moratorium approved

Senators gave final approval April 13 to a bill that provides for a temporary moratorium on the issuance of new hospital licenses in Nebraska.

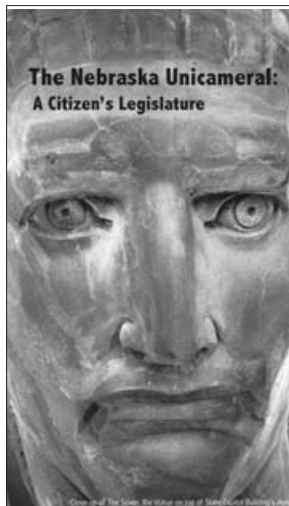
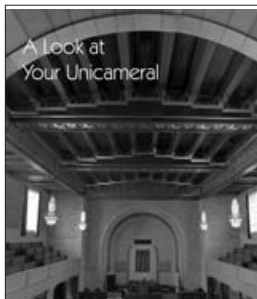
LB999, sponsored by Lincoln Sen. Kathy Campbell, directs the



Sen. Kathy Campbell

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state Department of Health and Human Services to not accept applications from or issue licenses to new hospitals from Sept. 1, 2010 through Sept. 15, 2011. The bill makes an exception for critical access hospitals and any hospital that has begun construction prior to May 1, 2010.

Under the bill, the Legislature's Health and Human Services Committee will conduct a study that examines:

- referral practices;
- ownership disclosure;
- community benefit;
- uncompensated and under-compensated patient care;
- different types of hospitals and limited-service facilities;
- compliance with the federal Emergency Medical Treatment and Active Labor Act; and
- the impact of federal health care reform.

LB999 passed on a 41-6 vote.

Judiciary

Senators pass domestic violence bill

Senators passed a bill April 12 that changes prosecution procedures for domestic violence cases and ensures access to prenatal services for pregnant victims of domestic violence.

LB507, introduced by Omaha Sen. Pete Pirsch, allows a prosecutor to use a prior conviction to enhance the penalty for domestic assault when the prior case involved a different intimate partner.

Under the bill, domestic assault is defined as intentionally, knowingly causing bodily injury to an intimate

partner or threatening an intimate partner in a menacing manner.

The bill also removes the 12-year limitation on the use of a prior domestic assault conviction for enhancement and creates a new Class I misdemeanor offense of third degree domestic assault when a person threatens an intimate partner in a menacing manner. Subsequent convictions will result in a felony charge.

LB507 also allows pregnant women who are victims of domestic violence to receive Medicaid services even if they do not provide the names of their children's fathers to the state Department of Health and Human Services workers.

The bill includes provisions from LB984, introduced by Omaha Sen. Gwen Howard. These provisions increase the penalty for child abuse from a Class III felony – carrying a penalty of 1 to 20 years – to a Class II felony,



Sen. Pete Pirsch

Unicameral Youth Legislature held in June



The Unicameral Youth Legislature is a four-day legislative simulation for ages 14-17 in which students take on the role of lawmakers. Student senators sponsor bills, conduct committee hearings, debate legislation and discover the unique process of the nation's only unicameral.

This legislative simulation gives behind-the-scenes access to students who have an interest in public office, government, politics, law, public policy, debate or public speaking. Students will learn about the inner workings of the Legislature directly from senators, staff and lobbyists.

Sponsored by the Legislature and UNL's Extension Office, the camp takes place at the Nebraska State Capitol and the UNL campus from June 13 - 16.

Register by May 1 at www.NebraskaLegislature.gov/education/unicamyouth.php or contact the Unicameral Information Office for details at (402) 471-2788 or uio@leg.ne.gov.

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which carries a penalty of 1 to 50 years. LB507 passed on a 49-0 vote.

Abortion screening bill passes

Senators passed a bill April 12 that requires a physician to perform a risk evaluation before performing an abortion.

LB594, introduced by Ewing Sen. Cap Dierks, requires abortion providers to evaluate patients, at least one hour before the abortion, to identify any risk factors associated with abortion. Risks can include physical, psychological, emotional, demographic and situational factors.



Sen. Cap Dierks

Under the bill, doctors are required to discuss with the patient risk factors based on research reports from peer-reviewed journals. Violations entitle the patient to a civil cause of action.

The bill also requires the state Department of Health and Human Services to maintain a printable list of public and private mental health service providers on the department's Web site.

LB594 passed on a 40-9 vote.

Increased penalties for offenses against HHS employees approved

Senators passed a bill April 12 that increases penalties for offenses against employees at regional centers.

Under LB771, introduced by Norfolk Sen. Mike Flood, offenses against employees of the state Department of Health and Human Services who work in a regional center facility can be categorized as felonies. The bill allows the filing of felony charges against dangerous sex offenders con-

finied in a regional center.

The bill passed on a 49-0 vote.

Juvenile justice reform bill passed

Senators passed a bill April 12 that reforms various aspects of Nebraska's juvenile justice system.

LB800, sponsored by Omaha Sen. Brad Ashford, addresses early intervention, parental involvement, school attendance and alternatives to detention by bringing together law enforcement, courts, schools, parents and the community to solve problems related to youth crime.

Among other provisions, LB800 requires each school district to develop a policy on excessive absenteeism in collaboration with the county attorney. A district is required to report a case to the county attorney after a student has been absent 20 days in a given year, whether excused or unexcused. School districts are required to report truancy issues to the state Department of Education on a monthly basis.



Sen. Brad Ashford

The bill also codifies the authority of probation officers to impose administrative sanctions on juveniles who violate the conditions of their probation and phases out the practice of sending status offenders to secure detention by Jan. 1, 2013.

A status offender is a juvenile who has been charged with or adjudicated for conduct that would not be a crime if committed by an adult.

The bill includes provisions of LB923, introduced by Ashford, which specifies the process for sealing records of interactions with the state's juvenile justice system.

Under the bill, the sealing process

is available for juveniles who are:

- offered pretrial diversion or mediation by a county attorney;
- filed upon in juvenile court for a misdemeanor, felony, status or traffic offense; or
- filed upon in a county court for a misdemeanor offense or infraction, except for waivable traffic offenses.

An individual whose records are sealed may respond on an employment application as if the incident leading to the record did not occur.

Among other measures, LB800 also:

- establishes a Truancy Intervention Task Force;
- eliminates the use of three-judge appeal panels;
- establishes a time frame for hearings on evaluation results;
- makes penalties for minor in possession of marijuana consistent with those of minor in possession of alcohol;
- establishes a civil citation pilot project in Omaha, allowing issuance of civil citations to juveniles for minor offenses;
- authorizes the juvenile court to suspend driving privileges of truant juveniles and to issue fines not exceeding \$500 or order community service for parents of truant juveniles; and
- allows law enforcement to take a juvenile into temporary custody when there are reasonable grounds to believe the juvenile is truant or has committed a misdemeanor offense.

LB800 also transfers \$350,000 from the Probation Program Cash Fund to the Violence Prevention Cash Fund. The funds will be distributed to various entities through a grant process administered by the Office of Violence Prevention for programs to

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reduce street, gang and gun violence. LB800 passed on a 48-0 vote.

20-week abortion ban approved

Senators passed a bill April 13 that bans abortions after 20 weeks of gestation, except when the abortion would preserve the life of a patient or a fetus in the womb.

LB1103, introduced by Norfolk Sen. Mike Flood, requires abortion providers to determine the probable post-fertilization age of the fetus. If the fetus is determined to be at 20 weeks or more, an abortion is prohibited.



Sen. Mike Flood

The 20-week ban is based on medical evidence that suggests fetuses can feel pain by that point. Abortions currently are banned only beyond the stage of pregnancy at which a fetus is capable of living outside the womb, which is generally at approximately 24 weeks.

The bill provides a cause of action against doctors who violate the act for actual damages for the patient or the father of the fetus. In any civil or criminal proceedings, the anonymity of the patient will be preserved. No penalty can be assessed against the patient.

LB1103 passed on a 44-5 vote and will go into effect Oct. 15.

Revenue

Future sales tax exemption for nonprofit health clinics vetoed

Health care clinics owned by a single nonprofit hospital will continue paying sales tax after a bill providing them an exemption was vetoed.

LB420, introduced by Kearney Sen.

Galen Hadley, was approved by the Legislature April 12. Under the bill, nonprofit health clinics receiving federal funds through the U.S. Public Health Service and serving medically underserved populations also could have claimed the sales and use tax exemption.



Sen. Galen Hadley

After senators passed the bills 42-3, LB420 was vetoed April 13 by Gov. Dave Heineman. In his veto message, the governor criticized the bill's July 1, 2013, implementation date, adding that passage this year would leave the budget "imbalanced."

"This bill deserves to be passed on its own merits when it can fit into a current two-year budget cycle," he wrote.

A motion to override the governor's veto was not offered.

'Cloud computing' included in tax incentive programs

Certain businesses offering cloud-computing services will qualify for tax incentives under a bill passed April 12.

Cloud computing enables users to access and store applications, data and information on the Internet rather than on a personal computer.

Currently, qualified businesses under tiers 1-5 of the Nebraska Advantage Act include those engaged in the sale of software development services, computer system design, product testing and other computing services if at least 75 percent of the sales or revenue is generated from sales or licensing to non-related, out-of-state customers or the federal government.

LB918, introduced by Kearney Sen. Galen Hadley, adds companies that sell or deliver these services and

products via the Internet or other electronic means to the list of qualified businesses.

The bill expands the definition of a qualified business under tiers 2-5 to include enterprises performing research, development and maintenance of a data center. Data centers meeting levels of investment and employment for tiers 2 and 5 also are eligible for a personal property tax exemption for computer systems.

Senators passed the bill on a 49-0 vote.

Grant program approved for Whiteclay area

A grant program proposed to address problems resulting from alcohol sales in Whiteclay to residents of the Pine Ridge Reservation was approved by the Legislature April 12.

Introduced by Ellsworth Sen. LeRoy Loudon, LB1002 provides \$25,000 for economic development, health care and law enforcement grants within a 30-mile radius of a census-designated place.



Sen. LeRoy Loudon

The bill defines a census-designated place as an area situated in a county with fewer than 6,400 residents that lacks a municipal government, resembles an incorporated village and is associated with a reservation.

Political subdivisions or tribal governments may apply for the grants, which are administered by the Commission on Indian Affairs. The accompanying appropriation bill, which also was approved, includes a \$41,990 appropriation to the commission for coordinating the grant program.

LB1002 passed 47-1. ■

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